

THE BILLY WRIGHT INQUIRY – REPORT

CHAIRMAN: THE RIGHT HONOURABLE LORD MACLEAN

The Billy Wright Inquiry – Report

Chairman: The Right Honourable Lord MacLean

Panel: Professor Andrew Coyle CMG
The Right Reverend John Oliver

Presented to Parliament pursuant to Section 26 of the Inquiries Act 2005

Ordered by the House of Commons to be printed on 14 September 2010

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ISBN: 9780102969108

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002355581 09/10 2323 19585

Printed on paper containing 75% recycled fibre content minimum.

Foreword

This was throughout a complex and absorbing Inquiry carried out between the main office in Edinburgh and the Court House at Banbridge, Northern Ireland, where the hearings were held. There was, in addition, a local office in Belfast. I wish to thank the administrative staff for the smooth running of the Inquiry, despite difficulties which arose. In particular I wish to express my gratitude to Mrs Oonagh McIntosh for her work in securing and in adapting Banbridge Court House for our needs. It served us well.

I must also pay tribute to the legal staff who applied themselves diligently and effectively throughout the Inquiry. We were fortunate to have the inestimable services of Mr Henry Palin whose great experience as an Inquiry Solicitor is unsurpassed and was hugely valuable at numerous times throughout the Inquiry. Happily, when he retired from the Civil Service which he did in the course of the Inquiry, he was able to return in the role of a Consultant. When that happened, Mrs Pauline Henderson ably took over, having been Deputy Solicitor from the outset.

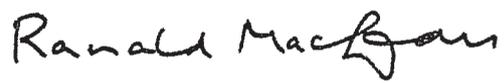
I would also like to thank Counsel to the Inquiry and particularly Mr Murdo MacLeod QC for taking over at very short notice the duties of leading Counsel to the Inquiry, which he fulfilled well until the appointment of Mr Angus Stewart QC to that position.

Finally, I cannot praise too highly the contributions and support of my Panel Members, Professor Andrew Coyle and Bishop John Oliver. Their companionship, unflagging enthusiasm and good sense will always be treasured by me. Without them I doubt if we could have got through our work as expeditiously as I think we have.



Lord MacLean
September 2010

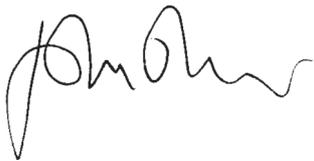
Delivered to the Secretary of State for Northern Ireland in terms of Section 24(1) and (4) of the Inquiries Act 2005:



The Rt Hon Lord MacLean



Professor Andrew Coyle CMG



The Rt Rev John Oliver

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1

Background to the Inquiry

Introduction

- 1.1 Shortly before 10.00 am on Saturday 27 December 1997, William Stephen Wright (Billy Wright) was murdered in the forecourt of H Block 6 (H6) at HMP Maze, Northern Ireland. He was shot several times while in a prison van in which he was being transported from his cell block to the visits area.
- 1.2 Billy Wright was a loyalist paramilitary and the leader of a faction known as the Loyalist Volunteer Force (LVF). He was a prisoner at HMP Maze, serving a term of eight years for two offences: doing an act with intent to pervert the course of justice and making a threat to kill. His sentence was one of eight years' imprisonment on each charge, those sentences to run concurrently. Along with other members of the LVF he was imprisoned within wings C and D of H6 at HMP Maze. There is at Appendix A a chart showing the key dates in 1997 in relation to Billy Wright.
- 1.3 Billy Wright's murderers were Christopher (Crip) McWilliams, John Kenneway and John Glennon. They were all members of the Irish National Liberation Army (INLA), a republican paramilitary faction. The murderers were also imprisoned in H6 at HMP Maze but in wings A and B. The murderers gained access to the forecourt of H6 by climbing over the roof of A wing of the block. A hole had previously been cut in the wire fence from the exercise yard to the rear of wings A and B. Once a hole had been cut in the fence, access to the roof was comparatively easy as the blocks themselves were of single-storey construction.
- 1.4 As they were opposing factions of paramilitary groups, it was commonly known that there was antagonism between the LVF and the INLA.

Before the Inquiry

- 1.5 In the weeks following the murder of Billy Wright there were a number of retaliation killings. A total of ten people were killed by the LVF or the Ulster Freedom Fighters.
- 1.6 Expressions of concern regarding the murder of Billy Wright were immediate. This was not surprising as it involved the shooting by other prisoners of a prisoner held in lawful custody. Guns had clearly been smuggled into the prison and the

shooting was by members of a paramilitary faction opposed to Billy Wright and the LVF. This was a murder that took place within the confines of an H block of HMP Maze, which was considered by the Northern Ireland authorities to be one of the most secure prisons of its time.

- 1.7 In the period between the murder and the inquest into Billy Wright's death, which commenced on 22 February 1999, a number of questions arose. These included the fact that warnings were said to have been given regarding the housing of the LVF and the INLA in the same H block, the movement of the visits lists for the day of the murder, the movement and positioning of the visits vans on the day of the murder, the standing down of the watchtowers and the operation of observation cameras in H6.
- 1.8 At the time of his murder Billy Wright was the subject of threats to his life from more than one organisation. In addition, both the LVF and the INLA were known to be opposed to the Northern Ireland Peace Process and were not on ceasefire. Billy Wright's prominence as the LVF leader was another factor causing concern to the authorities, given the political situation in Northern Ireland at the time.
- 1.9 As a result of the above matters, allegations of collusion soon emerged regarding Billy Wright's murder.
- 1.10 The Weston Park talks held in the summer of 2001, in relation to the implementation of the Good Friday Agreement of 1998, made reference to the murder of Billy Wright and a number of other individuals, both in the Republic of Ireland and in Northern Ireland, in respect of which concerns continued. As part of those talks, the British and Irish Governments announced their intention to appoint a judge of international standing from outside both jurisdictions to undertake a thorough investigation of allegations of collusion in the case of the murder of Billy Wright and others. It was said that the appointed judge would be asked to review all of the papers, interview anyone who could help, establish the facts and report with recommendations for further action. At the time both Governments acknowledged that these cases were the source of great public concern and said they were determined that, where there were allegations of collusion, the truth should emerge.
- 1.11 In accordance with the announcement at Weston Park, the Honourable Mr Justice Peter Cory, a retired member of the Canadian Supreme Court, was appointed in May 2002 to look into a number of deaths. Judge Cory was asked by the Government of the United Kingdom:

'to investigate allegations of collusion by members of the security forces in the context of the deaths of Patrick Finucane, Robert Hamill, Rosemary Nelson and Billy Wright and to report with recommendations for any further action'.

- 1.12 Judge Cory made it clear how he intended to interpret his terms of reference. His task was not to make final determinations of fact or attributions of responsibility. He said he had the preliminary role of assessing whether there was a case to be answered as to possible collusion, in a wide sense, by members of the security forces such as to warrant further and more detailed inquiry. He said that it necessarily followed from that role that his findings would be provisional only, and could not be taken to be a final determination of any matter.
- 1.13 Judge Cory presented a number of reports to the Secretary of State for Northern Ireland (SOSNI) on 7 October 2003, including one in respect of Billy Wright. In his report into the murder of Billy Wright Judge Cory summarised his findings as follows:

'My review of the relevant documents has led me to conclude that there must be a public inquiry. Taken together they have satisfied me that there is sufficient evidence of collusive acts by prison authorities to warrant the holding of a public inquiry.'

These collusive acts could be found as occurring in the following incidents:

- i. First and foremost: The transfer of Billy Wright together with other LVF prisoners to C & D wings of H Block 6 at a time when INLA prisoners, including McWilliams and Kennaway were to be housed in A & B wings of the same H Block 6. This act must be considered in light of the lack of control and security in the Maze, particularly the ease of access to the roof, and the violent nature of these rival factions. This action in and of itself, is sufficient evidence of collusion to warrant the holding of a public inquiry.**
- ii. The apparent turning of a blind eye to the warnings of officers regarding dangers of housing INLA and LVF factions in the same H Block.**
- iii. The threats from INLA to murder Billy Wright.**
- iv. The failure to take any steps to protect Billy Wright, either by moving the LVF or by improving security in H Block 6.**
- v. The possession of firearms by McWilliams and Kennaway while they were located in H Block 6 after it was known that they had obtained firearms in Maghaberry with a view to killing Billy Wright.**
- vi. The circulation of the lists of visits for both the INLA and LVF prisoners on 27 December 1997.**

- vii. The standing down of the guard for the Observation Tower overlooking A and B wings.**
- viii. The failure to have repaired or replaced the important but malfunctioning camera overlooking A and B wings.**
- ix. The positioning of the van in the forecourt of H6 on the morning of the murder.**
- x. The cumulative effect of incidents vi through ix inclusive.'**

1.14 On 1 April 2004 the then SOSNI, Mr Paul Murphy, published Judge Cory's Report into the murder of Billy Wright. A number of redactions had been made to the published version, all of which were necessary to ensure that the privacy and right to life of individuals were protected, and that the Government's obligations in relation to ensuring justice and protecting national security were maintained. This Inquiry has seen the full unredacted Cory Report, and none of the redactions related to Judge Cory's findings or his recommendations.

Announcement of the Inquiry

- 1.15 At the time of publication of Judge Cory's report on 1 April 2004, the SOSNI announced in Parliament that there would be a full Public Inquiry into Billy Wright's death and that the Inquiry would start work as soon as possible.
- 1.16 On 8 July 2004, the SOSNI announced and published governing principles which set out the framework within which the Billy Wright Inquiry and other Inquiries would operate. This document set out five general principles:
- (a) Independence
 - (b) Transparency consistent with the interests of justice and national security
 - (c) Fairness and respect for individuals
 - (d) Power to seek to establish the facts
 - (e) Access to necessary resources and avoidance of unnecessary expenditure.
- 1.17 On 16 November 2004, the SOSNI announced the names of the Chairman and Panel members for the Billy Wright Inquiry, and the Inquiry's Terms of Reference.
- 1.18 In making his various statements regarding the Inquiry, the SOSNI made it clear that the Inquiry would be independent, that it would have all necessary powers to carry out its work, that it would receive the cooperation of government and that no relevant information would be withheld from the Inquiry.
- 1.19 Work on the Inquiry did not commence immediately when the Inquiry was announced, as the Chairman of the Inquiry was still a serving Judge in Scotland. In addition, office premises had to be secured in Edinburgh and an Inquiry Team had to be appointed.

Terms of Reference and their Meaning

1.20 The Terms of Reference for the Inquiry announced by the SOSNI were:

'To inquire into the death of Billy Wright with a view to determining whether any wrongful act or omission by or within the prison authorities or other state agencies facilitated his death, or whether attempts were made to do so; whether any such act or omission was intentional or negligent; and to make recommendations.'

1.21 The Terms of Reference were considered carefully by the Inquiry Panel. In addition, interested parties, including the solicitors representing Mr David Wright, Billy Wright's father, and the family, were consulted. Some comments were received but, after consideration, it was decided that the Terms of Reference were adequate and, accordingly, no changes were requested.

1.22 It is important to note that Judge Cory in his findings based his view that there should be a Public Inquiry in the case of Billy Wright on what he described as evidence of collusive acts. Further, his Report is entitled **'Cory Collusion Inquiry Report'**. Judge Cory defined collusion **'in a wide sense'**. He also pointed out that his findings were provisional only and could not be taken to be a final determination on any matter.

1.23 It is also of some significance that in April 2004 when publishing the Cory Report the SOSNI drew attention to the fact that Judge Cory's definition of collusion was very wide. When he announced the Inquiry's Terms of Reference and the Panel members on 16 November 2004 the SOSNI said the Terms of Reference had been deliberately drawn to allow the Inquiry to consider both the allegations of collusion that had been made in this case and the issues of possible negligence.

1.24 Accordingly, appreciating the intention of the SOSNI, the Inquiry Panel have considered collusion in relation to the evidence, even though the term itself does not form part of the Terms of Reference. That said, the Inquiry Panel's findings are within the Terms of Reference.

1.25 As the Inquiry has now been converted to one under the Inquiries Act 2005 (the 2005 Act), this has to be considered in terms of section 2 of the 2005 Act, which provides:

'2. No Determination of Liability

(1) An inquiry panel is not to rule on, and has no power to determine, any person's civil or criminal liability.

(2) But an inquiry panel is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.'

- 1.26 It has never been the function of a Public Inquiry to rule on or seek to determine any person's civil or criminal liability. To that extent it seems that section 2 of the 2005 Act does no more than put in statute what has always been the case. Under the law, only a court of competent jurisdiction, civil or criminal, has the power to determine liability.
- 1.27 In 2007 the Crown Solicitor's Office (CSO), Northern Ireland asked the SOSNI to revise the Inquiry's Terms of Reference in a way that would avoid an expressed intention to reach conclusions as to the liability of individuals or organisations. When this request was refused, the CSO, on behalf of a number of prison service personnel, made an application for a judicial review of this refusal by the SOSNI. That application failed as is explained in more detail in Chapter 2.
- 1.28 In their written submissions to the Inquiry, the Treasury Solicitors and their Counsel, representing the Northern Ireland Prison Service (NIPS) and the Northern Ireland Office (NIO), invited the Inquiry to give a preliminary view as to the correct interpretation of its Terms of Reference in advance of oral submissions. At the same time they pointed out that the Inquiry Chairman had indicated, on day 109 of the hearings, that this was a question that would have to be dealt with. Given what had been said in the judicial review proceedings brought by the CSO in the summer of 2007, the Inquiry Panel do not consider that was an appropriate course of action prior to the oral submissions. However, it is acknowledged that it should be dealt with now.
- 1.29 The Terms of Reference do, of course, use the word **'negligent'** and other terms such as **'wrongful act or omission'** and **'facilitated'**. However, in view of what has been said previously, and given the terms of section 2 of the 2005 Act, the Inquiry has considered these expressions and indeed all of the words used in the Terms of Reference in a non-technical and non-legal sense only. This was confirmed by the Inquiry Chairman in his response to the CSO request to the SOSNI in 2007 and in the subsequent proceedings in the High Court referred to above.
- 1.30 That said, the Inquiry has the power to determine facts as it finds them, and section 2 (2) of the 2005 Act makes it clear that the Inquiry is not to be inhibited in that process by any likelihood of liability being inferred from its findings or recommendations.
- 1.31 The Inquiry Panel are first required to consider whether or not there has been a wrongful act or omission and only where they determine there has been such an act or omission can they go on to consider whether that facilitated the death of Billy Wright and/or whether that act or omission was intentional or negligent. In considering whether an act or omission is wrongful, as indicated above, the Inquiry has considered that term in a non-technical and non-legal way and taken it

to mean unjustified, inappropriate, erroneous or simply wrong. For the avoidance of doubt, where in this Report the Inquiry has concluded that a particular act or omission facilitated the death of Billy Wright, this is always on the basis that the act or omission in question was wrongful.

Meaning of Collusion

1.32 As stated above, the definition of collusion by Judge Cory was very wide. He defined collusion at paragraphs 3.182 to 3.189 of his Report as follows:

'3.182 At the outset it is essential to state the definition of collusion that applies in assessing the actions of state authorities.

3.183 The term collusion was defined for the purposes of the Inquiry into the murder of Patrick Finucane. For the purposes of the Hamill case, this definition was modified slightly to meet the unique circumstances of the case.

3.184 The definition in this case will be essentially the same. However some slight modification is required in order to apply it to the particular circumstances of this case.

3.185 The applicable definition is as follows:

How should collusion be defined? Synonyms that are frequently given for the verb to collude include: to conspire; to connive; to collaborate; to plot; and to scheme;

The verb connive is defined as to deliberately ignore; to overlook, to disregard; to pass over; to take no notice of; to turn a blind eye; to wink; to excuse; to condone; to look the other way; to let something ride; see for example the Oxford Compact Thesaurus Second Edition 2001.

Similarly the Webster dictionary defines the verb collude in this way: to connive with another: conspire, plot.

3.186 It defines the verb connive:

- 1. to pretend ignorance or unawareness of something one ought morally, or officially or legally to oppose;
to fail to take action against a known wrongdoing or misbehaviour – usually used with connive at the violation of a law.**

2. (a) to be indulgent, tolerant or secretly in favour or sympathy;
- (b) wink at youthful follies;
- (c) to cooperate secretly: to have a secret understanding.

3.187 In the narrower context how should collusion be defined for the purposes of the Billy Wright case? At the outset it should be recognised that members of the public must have confidence in the actions of Government agencies, including those of the prison services. There cannot be public confidence in a Government agency that is guilty of collusion or connivance in serious crimes. Because of the necessity for public confidence in Government agencies the definition of collusion must be reasonably broad when it is applied to their actions. This is to say that prison services must not act collusively by ignoring or turning a blind eye to the wrongful acts of their officers or of their servants or agents. Nor can the prison services act collusively by supplying information to assist those committing wrongful acts or by encouraging them to commit wrongful acts. Nor can any Governmental agency act collusively by failing to supply to prisons services reasonably reliable information they have received which indicates that a dangerous situation has, or is likely to arise within a prison. Any lesser definition would have the effect of condoning, or even encouraging, state involvement in crimes, thereby shattering all public confidence in important Government agencies.

3.188 This case will turn primarily on the response to these questions. First, and most importantly, did the Northern Ireland Prison Service turn a blind eye to the very dangerous situation they knew or ought to have known would arise from billeting the INLA and LVF prisoners in the same H Block in the Maze? Similarly, did another Governmental agency fail to advise or supply to the Prison Service information they had received and considered reasonably reliable which indicated that a dangerous situation had arisen or was arising in the prison?

3.189 In determining whether there are indications of state collusion in the murder of Billy Wright, it is important to look at the issue from two perspectives. First, it must be seen whether the documents indicate that the action or inaction of the prison

authorities might have directly contributed to the killing of Billy Wright or hindered the investigation of his murder or perverted the course of justice. In addition it is necessary to examine collusive acts which may have indirectly contributed to his killing by INLA prisoners on 27 December 1997 or frustrated the investigation of his death. In this regard it is necessary to examine collusive acts which may have indirectly contributed to the killing by generally facilitating or encouraging or turning a blind eye to the actions or behaviour of the INLA prisoners. That is, the evidence may reveal a pattern of behaviour by a Government agency that comes within the definition of collusion. This evidence may add to and form part of the cumulative effect which emerges from a reading of the documents. Both perspectives will be considered in determining whether the evidence indicates that there have been acts of collusion.'

- 1.33 It may be that the very wide definition of the word collusion that Judge Cory adopted was due to his concentration on one of the synonyms, namely the verb connive. We have been concerned throughout the Inquiry by the width of the meaning applied by Judge Cory, having in mind in particular that the word is not to be found in our Terms of Reference. For our part we consider that the essence of collusion is an agreement or arrangement between individuals or organisations, including government departments, to achieve an unlawful or improper purpose. The purpose may also be fraudulent or underhand. It seems to us that the situations envisaged by Judge Cory in paragraphs 3.187 to 3.189 of his Report, especially those in which he refers to prison services or the NIPS 'turning a blind eye', would amply be covered by the Terms of Reference without attempting to analyse them in terms of collusion. We have in mind here **'wrongful acts or omissions'**, including attempts, which **'facilitated his [Billy Wright's] death'**, whether **'intentional or negligent'**.
- 1.34 We have considered carefully the submissions made with reference to collusion by Counsel for Mr David Wright and the family. They adopt wholesale Judge Cory's definition of collusion. However, we must have primary regard to our Terms of Reference and, for the reasons expressed in the preceding paragraph, we consider that these Terms would amply cover the kinds of situations referred to in the Wright family's submissions, without having to resort to the words 'collusion' or 'collusive'.

Inquiry Procedure and the Standard of Proof

- 1.35 At its preliminary hearing held in Belfast on 22 June 2005, the Chairman said that the Inquiry would follow closely the rules which would apply to civil court proceedings and that the standard of proof would be proof on the balance of probabilities. The Chairman went on to say that if the Inquiry were to receive evidence which could support an inference of criminal conduct the same standard would apply, but evidence would require to be of sufficient weight and cogency before any such inference could be drawn. It should be made clear that there was never any intention in using those words to suggest that this Inquiry would seek to determine any liability, civil or criminal, which is something the Inquiry cannot do.

The Prison Act (Northern Ireland) 1953

- 1.36 The Inquiry was first established under section 7 of the Prison Act (Northern Ireland) 1953 (the Prison Act). That section, which was repealed by the Inquiries Act 2005, provided:

‘Sworn Inquiries

(1) The Minister may cause an inquiry to be held where it appears to him advisable to do so in connection with any matter arising under the Act or otherwise in relation to any prison.

(2) For the purposes of such inquiry the provisions of section sixty-five of and the Seventh Schedule to the Health Services Act (Northern Ireland), 1948 (which relates to inquiries) shall have effect for the purposes of this Act in like manner as they have effect for the purposes of that Act.’

- 1.37 Premises for the Inquiry offices in Edinburgh were secured in early 2005 and the Inquiry team was assembled from that date. Leading Counsel and two Junior Counsel were appointed and they joined the Inquiry in April 2005.
- 1.38 Although the Inquiry was set up by the SOSNI and has been funded from the budget of the NIO, it has been wholly independent of Government and the NIO. This was something the Inquiry Panel identified and declared as important at an early stage, particularly given that the Terms of Reference required them to examine the actions of state agencies, which included the NIO. It is also a matter that the Inquiry continued to emphasise throughout its work.

The Inquiries Act 2005

- 1.39 As the Inquiry set about its work in early 2005 and wrote to a number of agencies and organisations requesting information, the Inquiry Panel became concerned that their powers under the Prison Act were limited. Section 7 was restrictive

in that it only referred to an Inquiry into matters arising under the Prison Act or otherwise in relation to a prison. In addition, the Prison Act was a piece of legislation applying only to Northern Ireland. The Inquiry Panel were concerned that their Terms of Reference required them to examine and investigate matters relating to the actions of state agencies, including those operating outside Northern Ireland and whose work was clearly not related to prison matters.

- 1.40 Whilst it was acknowledged that the Inquiry had been promised the full cooperation of government, the Panel's concerns were that they should have a clear statutory base and appropriate powers, particularly as that had been promised by the SOSNI on 1 April 2004. Furthermore, it became apparent during the first half of 2005 that some of the material the Inquiry would have to examine was likely to be of an extremely sensitive nature in that it involved intelligence and the operation of intelligence systems across a number of agencies. This was clearly not going to be an easy or straightforward process and the Panel were concerned that they should be equipped with the maximum available powers appropriate to their work.
- 1.41 On 7 April 2005 the Inquiries Act 2005 received Royal Assent.
- 1.42 What became the 2005 Act had met with a great deal of opposition on its passage through Parliament, particularly in the context of Northern Ireland. Put briefly, there were concerns that the legislation would give a Minister power to interfere with the public nature of an Inquiry, through the making of restriction notices, and the power to bring an Inquiry to an end.
- 1.43 These concerns were well publicised and the matter was considered carefully by the Panel, but we came to the clear view that it was an appropriate course of action to ask the SOSNI to convert the Billy Wright Inquiry from an Inquiry under the Prison Act to one under the 2005 Act. This was the only statute available by that time because the 2005 Act had repealed the Tribunals of Inquiry (Evidence) Act 1921, the legislation that had been referred to by the SOSNI when he announced the Inquiry on 1 April 2004.
- 1.44 A formal announcement that the Inquiry proposed to apply to the SOSNI for conversion was made at the Inquiry's preliminary hearing on 22 June 2005. The events and procedures that followed in relation to that process and the 2005 Act generally are considered in Chapter 2.

2

Conduct of the Inquiry

Collection of Evidence

- 2.1 At an early stage, the Inquiry had to decide whether it considered the Terms of Reference were adequate. It also had to determine what matters arose out of those Terms of Reference. It could then set about obtaining all of the information relevant to its work.
- 2.2 A List of Issues was drawn up which set out how the Inquiry would go about its work. All interested parties, including the solicitors representing Billy Wright's father Mr David Wright and his family, were consulted on both the Terms of Reference and the List of Issues. Known parties were written to and a Notice was posted on the Inquiry's website in May 2005. After comments had been received the List of Issues was revised and the final version was sent to represented and interested parties, and posted to the Inquiry's website. The List of Issues is as follows:

'List of Issues for Consideration by the Inquiry

1. The Inquiry will consider all of the facts and circumstances relevant to the death of Billy Wright in The Maze Prison on 27th December 1997 with a view to determining whether any intentional act or failure to act, or any reckless or negligent act or omission by or within the Prison Authorities in Northern Ireland or by or within other State Agencies, facilitated, or amounted to an attempt to facilitate, the death of Billy Wright.

In determining whether any intentional act or omission facilitated the death, or attempted to do so, or whether any reckless or negligent act or omission facilitated it, the Inquiry will consider the political context in Northern Ireland at the relevant time and the significance, if any, of the death of Billy Wright in that context.

2. In particular, the Inquiry will seek to establish the facts and circumstances surrounding –

- i. the admission of Billy Wright to Maghaberry Prison prior to his conviction and sentence in March 1997;**

- ii. the decision to transfer Billy Wright from Maghaberry Prison to The Maze Prison on the 26th April 1997;
- iii. the taking hostage of a prison officer at Maghaberry Prison on the 28th April 1997 by members of the INLA;
- iv. the decisions to house members of the LVF and members of the INLA in close proximity in H Block 6 at The Maze Prison, and to continue to house them there until the 27th December 1997;
- v. the decisions to transfer Christopher McWilliams and John Kenneway from Maghaberry Prison to The Maze Prison on 1st May 1997 and the decision to house them in H Block 6 in close proximity to Billy Wright, and to continue to house them there;
- vi. control and security at The Maze Prison;
- vii. the intelligence information available to the Prison Authorities or other State Agencies relevant to the safety and security of Billy Wright, including the nature and extent of that intelligence information;
- viii. any warnings given or concerns expressed to the Prison authorities by Prison staff or others in respect of the security of H Block 6 or threats relevant to the death of Billy Wright;
- ix. the “standing down” of a prison officer from the observation tower overlooking A and B wings of H Block 6 on the morning of the 27th December 1997;
- x. the preparation and availability of Visitors Lists within The Maze Prison;
- xi. the malfunctioning of, and failure to replace or repair the PTZ camera overlooking A and B wings of H Block 6 in December 1997;
- xii. the unlawful possession of firearms by members of the INLA within The Maze Prison, and in Maghaberry Prison;
- xiii. accessibility of the roof of H Block 6 to prisoners and the breach, in December 1997, of the wire security fence between the exercise yard of A and B wings and H Block 6;
- xiv. the positioning in the forecourt to H Block 6 of vans and, in particular, the van designated to take Billy Wright to the visiting area on the morning of the 27th December 1997; and
- xv. the closing of the inner gates giving vehicular egress from the forecourt of H Block 6 on 27th December 1997.

3. The Inquiry will also consider what effect, if any, each of the issues addressed in paragraph 2, independently or cumulatively, facilitated, or amounted to an attempt to facilitate, the death of Billy Wright.'

- 2.3 At the same time that the Terms of Reference and the List of Issues were being considered, letters were written to a number of organisations and bodies, asking them to provide the Inquiry with all relevant papers they might hold in relation to the murder of Billy Wright. These included the Northern Ireland Prison Service (NIPS), the Police Service of Northern Ireland (PSNI), the Ministry of Defence (MOD), the Northern Ireland Office (NIO), the Cabinet Office and the Security Service. The solicitors representing Mr David Wright and the family were also asked to submit any papers or material they held that they considered relevant. In addition, through the Cabinet Office and the NIPS, the Inquiry recovered all papers that had been returned from Judge Cory's Inquiry. These were not in the best order and some questions remain regarding a few documents. The Inquiry has found it impossible to have these answered but there is no concern that the documents in question are of any significance.
- 2.4 It was perhaps inevitable that as papers were received this would lead to further lines of investigation which, in turn, would lead to further requests for material. This process was continuing in 2009 when the Inquiry's oral hearings were complete but a Public Inquiry must always be open to receive material that is relevant to its work.
- 2.5 Recovering documents over a period of four years may appear to some to be a long time, but with an investigation of this nature, it is certainly not unusual. This is particularly so given the sensitive nature of some of the enquiries that had to be made and the highly sensitive nature of some of the material recovered. Billy Wright was a paramilitary leader and he was murdered in HMP Maze by other prisoners who had smuggled guns into the prison. As the Terms of Reference required the Inquiry to look at the actions of state agencies, this involved the examination of large amounts of intelligence material, most of which remains sensitive to this day.
- 2.6 The Inquiry Panel and members of the Inquiry team also benefited from a number of site visits to HMP Maze, HMP Maghaberry and HMP Magilligan. At HMP Maze, they were able to look carefully at H Block 6 and other parts of the prison and this process assisted people's understanding of the matters they were to investigate. An inspection of the van in which Billy Wright was travelling when he was shot was also made possible.

The Inquiry's Use of its Statutory Powers

- 2.7 At the start of its work, the Inquiry relied upon the promise of cooperation by the Government (see 1.18 above). However, after the Inquiry's conversion to one under the Inquiries Act 2005 (the 2005 Act) was confirmed on 23 November 2005, the Inquiry Panel decided that the proper and best course of action would be to serve notices, under section 21 of the 2005 Act, on all of the principal agencies with whom the Inquiry might be concerned or from whom the Inquiry required information.
- 2.8 This was explained at the Inquiry's second preliminary hearing, on 13 December 2005, when the Inquiry Chairman commented on the fact that the Inquiry Panel were concerned at the slow response to the Inquiry's requests by a number of government departments. At the same time the Chairman explained that there were two reasons why the decision to serve these notices had been made: first, because there was a clear need to make speedier progress and second, because the Inquiry wished to make it clear to everyone that its search for relevant material had been thorough and wide ranging. In addition, the serving of these notices demonstrated the Inquiry's independence, treated all major bodies or organisations in the same way and was an attempt by the Inquiry to make clear what it required in terms of documentation.
- 2.9 Such notices were served between November 2005 and January 2006. Attached to these notices were lengthy and detailed specifications of the documents and/or information required. Whilst the requirements in the specifications were often general in nature, they were detailed, and the bodies receiving these notices had known since at least 1 April 2004 that the Inquiry was going to be established. Accordingly, the notices should have come as no real surprise.
- 2.10 Some recipients complained saying they did not really understand the nature of what it was the Inquiry wanted. However, the Inquiry team met often with the representatives of these bodies and there were lengthy exchanges of correspondence. Ultimately, it was only the recipients themselves who knew what information they held that might be relevant. The Inquiry could not possibly have had that knowledge and therefore it could only rely on the recipients' goodwill and their interpreting the requests in such a way that all potentially relevant information would be provided. This process was assisted by the numerous meetings that took place; this was the only possible course. The Inquiry Panel also had in mind the very clear promise of government cooperation that had been made.

- 2.11 An example of such a specification is to be found at Appendix B. This is the specification served on the NIPS, and the question of the recovery of documents from the NIPS was dealt with specifically at oral hearings held in October, November and December 2006. This is covered in Chapter 6.
- 2.12 The Inquiry served a number of further notices on various bodies during the course of its investigation. These were either in relation to specific material or sometimes to obtain information that would have been subject to data protection.

Preliminary Hearings

- 2.13 The Inquiry held two preliminary hearings, on 22 June and 13 December 2005. Both hearings were held at the Europa Hotel in Belfast. The purpose was to advise parties of the progress being made with the investigation, to deal with other matters regarding the Inquiry's procedure and to hear applications for representation and funding. Before and after the first preliminary hearing the Inquiry Chairman granted representation to various individuals and organisations and some of those were granted funding at public expense. A list of participants at the oral hearings can be found at Appendix C.

Conversion to an Inquiry under the Inquiries Act 2005

- 2.14 As indicated in Chapter 1, at the Inquiry's preliminary hearing on 22 June 2005, it was formally announced that the Inquiry proposed to apply to the Secretary of State for Northern Ireland (SOSNI) for conversion of the Inquiry to one under the 2005 Act. The solicitors acting for Mr David Wright and the family had been notified of this decision, but only shortly before that hearing and after consideration of the matter they said they wished to make representations regarding the proposed application for conversion.
- 2.15 On 23 June 2005, the Inquiry notified the solicitors for Mr David Wright and the family that the Inquiry would consider any representations or submissions that were made. Following that, submissions were received on behalf of Mr David Wright and from others, including British Irish Rights Watch, the Committee for the Administration of Justice and Amnesty International.
- 2.16 All of these submissions were fully considered, and on 12 July 2005 the Inquiry Chairman issued a formal decision and confirmed that it was still the Inquiry Panel's view that a conversion of the Inquiry to one under the 2005 Act was the proper course of action. The 2005 Act gave the Inquiry a broader base than that provided by the Prison Act (Northern Ireland) 1953 (the Prison Act), and gave it powers more appropriate to the work it had to carry out.

- 2.17 This decision was notified to all parties, and on 13 July 2005 the SOSNI was formally requested to exercise his power under section 15 of the 2005 Act and convert the Billy Wright Inquiry from one under the Prison Act to one under the 2005 Act. Following this, Mr David Wright and his solicitors had a meeting with the then SOSNI, objecting to the Inquiry's application for conversion but, as stated above, the conversion was confirmed by the SOSNI on 23 November 2005.
- 2.18 On 9 December 2005, the solicitors acting for Mr David Wright advised the Inquiry that they had instructions from their client to institute judicial review proceedings against the SOSNI, seeking to quash his decision to convert the Inquiry. The Inquiry joined these proceedings as an interested party. The question of leave in respect of this application for judicial review was heard at the High Court in Belfast and initially partial leave was granted.
- 2.19 There was then an appeal by Mr David Wright in respect of those aspects of leave which had been unsuccessful. This appeal was successful in part and there followed a further leave hearing before the first instance Judge.
- 2.20 The judicial review eventually came for hearing before the High Court in Belfast before the summer of 2006 and on 21 December 2006 Mr Justice Deeny gave his Judgement in the matter in favour of Mr David Wright. No relief was granted at that time and it was significant that at a subsequent remedies hearing, on 29 January 2007, Mr David Wright did not pursue a claim for Certiorari to have the conversion set aside, but asked only for a declaratory judgement in the case. Mr Wright's Counsel said this was for his client's **'pragmatic and personal reasons'**. The Inquiry was by this time well advanced and had conducted substantial work using its powers under the 2005 Act. Accordingly, this action by Mr Wright was helpful in that it enabled the Inquiry to continue without the work it had done up to that time being called into question.
- 2.21 The SOSNI appealed against the decision of Mr Justice Deeny on the grounds that the learned Judge erred in concluding that the independence of an Inquiry under the Inquiries Act 2005 was compromised by the existence of section 14(1)(b) of that Act; that the learned Judge was wrong to conclude that the SOSNI had been incorrectly advised that an equivalent power (to bring an Inquiry to an end) existed under the Prison Act; and that the learned Judge was in error in concluding that the SOSNI had been advised that there was a presumption in favour of acceding to the request of the Inquiry.
- 2.22 The Court of Appeal gave Judgement on 28 June 2007 when they reversed Mr Justice Deeny's decision, thereby confirming the SOSNI's Order for Conversion.

Further Judicial Reviews – The Terms of Reference

- 2.23 During the course of hearings there were further judicial review proceedings in respect of the Inquiry. There were also a number of judicial review proceedings in respect of the Inquiry's anonymity and screening decisions and these are dealt with at paragraphs 2.113 to 2.119 below.
- 2.24 The Inquiry commenced its main oral hearings at Banbridge Court House (BCH) at the end of May 2007 and at that time Leading Counsel to the Inquiry in his opening statement included the following:

'We have looked at the evidence available with a view to allowing the Panel to answer a number of questions. Firstly, whether there is prima facie evidence of any wrongful act or omission, and we have taken that phrase as covering both civil and criminal responsibility. Secondly, whether there were any Government or State agencies or individuals who may have been involved in any such wrongful conduct.'

The terms '**determining**', '**wrongful act**', '**omission**' and '**negligent**' are all used in the Inquiry's Terms of Reference and, whilst misconstrued by some, the above statement was not something the Panel considered inappropriate at the time. In any event, they were terms used by Leading Counsel to the Inquiry and not the Inquiry Panel. It is clear to all that section 2 of the 2005 Act states that a Public Inquiry under that Act has no power to determine any person's civil or criminal liability. In addition, this section of the legislation states the obvious. In our view no Public Inquiry at any time has ever had such power. The power to determine civil liabilities is vested in the civil courts and the power in respect of criminal liability in the criminal courts.

- 2.25 The use of the above words, however, caused concern with the Crown Solicitor's Office (CSO) and a number of its clients at that time. The CSO said that the words, when read with the Inquiry's Terms of Reference, required the Inquiry to make a determination of civil and criminal liability. As a result, without first raising any concerns with the Inquiry and without notifying the Inquiry, the CSO wrote to the SOSNI saying that the Inquiry's Terms of Reference were incompatible with and *ultra vires* section 2(1) of the 2005 Act and asking him to revise those Terms in a way which it said would avoid an expressed intention to reach conclusions as to the liability of individuals or organisations.
- 2.26 The CSO had written to the SOSNI on 8 June 2007 but did not notify the Inquiry of this until 20 June 2007. The Inquiry Chairman then himself wrote to the SOSNI setting out what he considered to be the legal position. A copy of this letter was forwarded to the CSO at the same time.

- 2.27 On 26 June 2007, the SOSNI notified the CSO and the Inquiry that he would not change the Inquiry's Terms of Reference.
- 2.28 Following this, the CSO, on behalf of six of its individual clients, made an application for leave for judicial review of the SOSNI's refusal to amend the Inquiry's Terms of Reference. This matter came before the High Court in Belfast on 3 August 2007. Judgement refusing leave was given on 6 August 2007.
- 2.29 The Inquiry Panel are compelled to say that the manner in which these proceedings were commenced was not helpful, particularly as any concerns of the CSO clients might have been more immediately and easily resolved if the CSO and its Counsel had first raised their questions or concerns with the Inquiry Panel, for example, at the time Leading Counsel made his opening comments on 30 May 2007. In judicial review proceedings it is often argued by the applicant that the decision maker has not given him/her a proper opportunity to make representations, but by proceeding in the way it did the CSO was itself acting in a similar way. Had the CSO proceeded differently as suggested, or even by consulting with the NIO, the Inquiry might have been able to give sufficient reassurances as to what the Inquiry could do in its Report.
- 2.30 The Panel consider that making a first direct approach to them would have been a more effective way of dealing with the matter. At the time in 2007, it was not something that could have been considered as urgent.

The Chairman's Ruling on the Questioning of a Witness

- 2.31 On the morning of Monday 23 March 2009 when a police witness ciphered ZBS, a former Head of Special Branch (SB), was giving evidence, his answer to one question led the Inquiry into the difficult area of Article 2 of the European Convention on Human Rights (ECHR), and the question of whether a risk to the safety of the life of an individual had arisen.
- 2.32 As a consequence, the Chairman made an immediate ruling that further questioning of that witness in respect of a certain matter would not be allowed by Counsel representing Mr David Wright and the family. Immediately after lunch that day the Chairman made a further ruling and order under section 19 of the 2005 Act prohibiting the publication or disclosure by any person of the evidence given by Witness ZBS to the Inquiry on 23 March.
- 2.33 On the evening of 23 March the solicitors acting for Mr David Wright and the family notified the Inquiry Solicitor, by e-mail and telephone, that they had received instructions to judicially review the decision referred to in the paragraph above and seek an interim injunction halting the resumed testimony of Witness

ZBS and the witness Sir Ronnie Flanagan, a former Chief Constable of the Royal Ulster Constabulary (RUC), until such time as the High Court had adjudicated on the Chairman's ruling. The e-mail notified the Solicitor to the Inquiry that the matter was to be heard at 9.00 am in Belfast High Court on 24 March 2009.

- 2.34 There were discussions between the Inquiry Solicitor and the solicitors acting for Mr David Wright and the family during the course of the evening of 23 March, and the outcome was that the solicitors asked for their application to be stayed at the hearing on the Tuesday morning.
- 2.35 There were further discussions with the Solicitor and Counsel for the family, and this resulted in an amendment to the section 19 order to enable Counsel for the family to deal with the matter in a proper and appropriate way, while at the same time addressing the Article 2 questions that had arisen.
- 2.36 The Panel consider this was a far better way of dealing with a contentious matter that troubled a party. At all times the Inquiry Panel have been approachable on all matters. In the Panel's view, if in a Public Inquiry any party has a difficulty or a problem with a course of action that is proposed, the best way forward is to make approaches to the Inquiry, either to obtain a clearer understanding of the reasoning or to try to resolve any problem that has arisen.

The Transcripts for Hearing Days 128 and 129

- 2.37 On 5 and 6 February 2009 three witnesses gave evidence to the Inquiry in respect of a meeting they had had in October 2006. The evidence came out in such a way that, once again, questions in relation to Article 2 of ECHR, to the safety of individuals and to national security, arose.
- 2.38 Inadvertently, the transcript of the evidence for day 128 (5 February 2009) was posted to the Inquiry's website for a short period of time. It was removed from the website by lunchtime on Friday 6 February. The transcript for Friday 6 February was never posted to the Inquiry website at all.
- 2.39 The Inquiry received representations regarding the transcripts for these two days' evidence and, in view of what was said and the various redactions that were considered necessary to deal with the matters referred to above, the Inquiry Chairman decided that these transcripts should not be posted to the Inquiry website in the way that other transcripts had been.
- 2.40 Following this, the solicitors acting for Mr David Wright and the family wrote to the Inquiry Solicitor asking if the Chairman would review his decision that the transcripts in question should not be posted to the Inquiry website. The Inquiry Chairman considered this but decided he would not review his original decision.

This was on the basis that there was no requirement for the Inquiry to post its transcripts to the website and, in any event, for the purposes of the Inquiry proceedings the solicitors had livenote copies of the transcripts in question.

- 2.41 On 12 March 2009, the solicitors for Mr David Wright notified the Inquiry that they had instructions to judicially review the Chairman's decision not to post the transcripts for these two days to the Inquiry website.
- 2.42 On 26 March 2009, the Inquiry Chairman formalised his decision in relation to the transcripts for days 128 and 129 and made an order under section 19 of the 2005 Act, limiting or restricting the use that could be made of the evidence that the Inquiry had heard on 5 and 6 February 2009.
- 2.43 The leave application came before the court on 31 March 2009 and on 22 April 2009. On the first occasion Mr Justice Weatherup adjourned the matter for the Inquiry to consider further a revised Order 53 statement that had been filed a few hours before the hearing. On the second occasion, the Judge adjourned the matter for the family solicitors to make formal representations to the Inquiry Chairman regarding the section 19 order. One of the reasons for this was that they were arguing that the Chairman had made the section 19 order without giving them the opportunity to make such representations.
- 2.44 Written representations were duly received from the solicitors acting for the family and, after thorough consideration, a decision was issued by the Inquiry Chairman on 21 May 2009. This decision effectively maintained the Chairman's position that he would not post the two transcripts to the Inquiry website but the Chairman did amend his section 19 order to allow public sight and use of the redacted transcripts for days 128 and 129.
- 2.45 When the matter came back before the Court on Monday 1 June 2009, the application for leave to judicially review was withdrawn.

Mr Ian Paisley Junior

- 2.46 On 12 February 2008, the solicitors acting for Mr David Wright and the family wrote to the Inquiry, enclosing a letter their client had received from Mr Ian Paisley Jnr, Member of the Legislative Assembly. This related to information Mr Paisley Jnr had received from a senior prison officer regarding the destruction of files for money by the NIPS in 2002. As the letter from Mr Paisley Jnr was dated 21 June 2007, there was a delay between Mr Paisley Jnr writing to Mr David Wright and Mr David Wright's solicitors advising the Inquiry of the matter. However, no blame for that loss of time could be attributed to the Inquiry.

- 2.47 On 9 June 2008 the Inquiry interviewed Mr Paisley Jnr in order to take a witness statement from him, but he refused to name the prison officer who had provided him with the information contained in his letter to Mr David Wright. His reason for this was that the prison officer had given him this information on a confidential basis and did not wish his name to be disclosed. Without the name of the officer the Inquiry was not able to investigate the matter further, and on 19 June 2008 the Inquiry Chairman served on Mr Paisley Jnr a notice under section 21 of the 2005 Act. This notice required Mr Paisley Jnr to provide the Inquiry with the name and any other identifying information of the prison officer who had contacted him in or around June 2007 and which had prompted him to write to Mr David Wright on 21 June 2007.
- 2.48 Mr Paisley Jnr did not provide the name. He did provide the Inquiry with a written statement but that statement made it clear that he was not willing to provide the name of the prison officer, notwithstanding that the notice had been served. After further correspondence, the Inquiry commenced proceedings in the High Court in Belfast under section 36 of the 2005 Act in order for the Chairman's notice of 19 June 2008 to be given effect.
- 2.49 These proceedings took some considerable time as Mr Paisley Jnr's representatives raised preliminary issues in relation to the nature of the proceedings and discovery. There was eventually a full hearing of the matter and on 3 April 2009, Mr Justice Gillen ordered that Mr Paisley Jnr should disclose to the Inquiry the name of the prison officer concerned.
- 2.50 Once again, Mr Paisley Jnr refused to name his source, and contempt proceedings against Mr Paisley Jnr were instigated. These proceedings came before the High Court in Belfast on 29 and 30 June and 1 July 2009 when Mr Paisley Jnr was fined a sum of £5,000 and ordered to pay £3,000 as a contribution towards the Inquiry's costs in the contempt proceedings.

Legal Proceedings Against the Northern Ireland Office by the Wright Family

- 2.51 In 2000 Billy Wright's three children, by their mother (the Plaintiff), issued civil proceedings against the NIO (the Defendant) in the High Court of Justice in Northern Ireland. They alleged Billy Wright's murder had been caused by the Defendant's negligence.
- 2.52 In November 2002 the solicitors acting for the Defendant, for the purposes of the legal action only, made an admission of negligence. In 2004 the Defendant entered an Amended Defence which for the purpose of those proceedings admitted that the Defendant was guilty of negligence and that it had failed to take reasonable care to prevent another prisoner attacking and murdering Billy Wright.

Representation

- 2.53 As a result of the judicial review proceedings in relation to the Inquiry's Terms of Reference referred to at 2.28 above, the solicitors representing Mr David Wright and the family raised a question in relation to the status of the CSO Belfast in continuing to have full represented party status before the Inquiry.
- 2.54 At an early stage in the Inquiry and before the first preliminary hearing held on 22 June 2005, the CSO was formally granted represented party status as representing both the NIO and the NIPS. The interest of these two bodies in the overall subject matter and business of the Inquiry was clearly beyond question. At the same time the CSO said it also represented a number of NIO and NIPS staff.
- 2.55 That was the position during the NIPS document recovery hearings in relation to the NIPS held in 2006 and referred to in Chapter 6. In addition, at that time the CSO had instructed counsel from the Northern Ireland Bar.
- 2.56 However, in April 2007 the Inquiry was notified that the NIO, the NIPS and a number of present and former NIO and prison service staff were from thereon to be represented by the Treasury Solicitor's Office (TSol), London, who would be instructing London counsel. From that point the CSO represented only individuals who were present or former prison service staff and it too instructed London counsel.
- 2.57 The solicitors representing Mr David Wright and the family took the view that this matter came into sharp focus during the judicial review proceedings referred to above in relation to the Inquiry's Terms of Reference, and on 13 August 2007 they wrote to the Inquiry Solicitor formally asking the Inquiry Panel to rule on the continued representation by the CSO of a group of individual officers and further to rule on the position of the CSO having full represented party status.
- 2.58 The Inquiry Panel considered this at a meeting in August 2007 and decided that they would hear oral representations in respect of this application on 17 and 18 September 2007 at Banbridge.
- 2.59 Skeleton arguments were filed by the solicitors acting for Mr David Wright and the family, the TSol and the CSO, and oral submissions were heard.
- 2.60 The Inquiry Panel gave a decision on this matter on 1 October 2007 and this is available from the Inquiry website. Essentially, the effect of the decision was that the Panel was satisfied that the split in representation between the TSol and the CSO was rational and in accordance with the governing principles set down for the Inquiry by the SOSNI in April 2005. The individuals represented by the CSO were entitled to representation which must be representation of their choice.

The decision went on to say that from the time of the split in representation, as the CSO represented individuals only, it had no automatic right to be present throughout the hearings. However, the Panel acknowledged that, as some of the CSO clients' interests were so central to the issues under consideration by the Inquiry, it would be right for it to be present.

The Collection and Handling of Evidence

- 2.61 The collection of evidence falls into two areas, namely the taking of witness statements and recovery of documentary evidence or material. At an early stage in 2005 the Inquiry posted to the Inquiry website two Protocols, one dealing with witnesses and one dealing with the handling of documents and evidence.
- 2.62 With regard to witness statements, the Inquiry also set about establishing a statement taking team whose task it would be to interview witnesses in order to take statements from them. At the same time an initial list of all identifiable potential witnesses was drawn up and a system was established for making appointments for interviews. When the SOSNI made his statement on the governing principles for the Inquiry in July 2004, he had said that, where witnesses were called to give evidence to the Inquiry, the reasonable cost of their legal assistance, to enable them to prepare for and deliver their evidence, would be met from the public purse. This meant that every witness or his/her solicitor had to be notified of this, and where applications for representation and funding were made, these had to be dealt with in accordance with the Inquiry's Costs Protocol. This Protocol was supplied to witnesses and/or their representatives and posted to the Inquiry website.
- 2.63 In cases where witnesses decided they did not want or require representation, the Inquiry had to be sure that the witnesses understood that it was their decision alone and not something the Inquiry would influence in any way.
- 2.64 The witness statement taking team comprised lawyers and non-legally qualified staff. The majority of witnesses were interviewed by a qualified lawyer with a note taker in attendance. A small number of the minor witnesses were interviewed by former police officers, again with a note taker in attendance.
- 2.65 Inquiry Counsel approved which witnesses needed to be seen and what particular matters they needed to be questioned about, and decided when an interview was appropriate in terms of timing. One difficulty was that the Inquiry did not wish to interview witnesses before all relevant documents had been recovered and all matters they might be able to assist with had been identified. In some cases potential witnesses had to be interviewed in a specific order, and often witnesses were identified by other witnesses as they were seen.

- 2.66 Whilst it would have been ideal that the Inquiry would not commence the interviewing process before it had recovered at least what it believed to be the bulk of the documentary evidence, in practice this was simply not possible. The result was that some witnesses had to be seen more than once, in order to consider further documentation. Others had to be seen again to deal with questions arising from the interviews of others.
- 2.67 The process of interviewing witnesses, which continued throughout the Inquiry hearings, was not straightforward. The last witness was interviewed in 2009. In all, the Inquiry conducted in excess of 300 witness interviews with several witnesses being interviewed more than once. Some of these interviews did not result in a statement that the Inquiry used, usually because the interview had ascertained that the person had no relevant or additional information to give. Over 200 Inquiry witness statements were issued as part of the Inquiry evidence. There were in addition police witness statements and the coroner's depositions which were recovered with the Cory papers.
- 2.68 After interview, draft witness statements had to be prepared and distributed for consideration and signature. Often, amendments to the drafts were necessary before they were finally signed.
- 2.69 The Inquiry examined hundreds of thousands of pages of documents. These all had to be considered for relevance. In seeking documentation, the Inquiry had kept its requests general, so large amounts of the paperwork provided to the Inquiry as being of possible relevance turned out to have no relevance at all. Only small parts of many other documents were relevant. This was particularly true of the intelligence material, which often contained information relevant to the whole situation in Northern Ireland at the time and was not specific to those matters which were clearly the Inquiry's main areas of interest, namely Billy Wright, the Loyalist Volunteer Force or the Irish National Liberation Army.
- 2.70 In some cases documents were delivered directly to the Inquiry, but often the Inquiry team visited organisations or departments to make an initial assessment of the material that had been identified as potentially relevant and select what was of interest and might be relevant. Thereafter, the selected material had to be delivered to the Inquiry, and where the material was sensitive in nature special arrangements for delivery and storage had to be made.

Redaction and Scanning

- 2.71 Once signed witness statements were returned to the Inquiry, they were scanned onto the Inquiry database but then had to be checked for redaction and ciphering. Where statements dealt with intelligence and other sensitive matters,

the organisation or departments the witness worked for and others had to be consulted about redaction. CIPHERING had to take place to take account of those witnesses who had been granted anonymity and the names of non-senior personnel who the Inquiry had decided would not be named. This is explained later in this Chapter.

- 2.72 Only when this process was complete were witness statements ready for distribution to represented parties for use at the oral hearings.
- 2.73 Documents identified as relevant were scanned onto the Inquiry database but the suppliers of the documents then had to be asked whether they wished any material to be redacted. In some cases the Inquiry decided that only parts of documents were relevant and the supplier of the document would then be asked to comment only on the identified parts. With sensitive intelligence documents this process was very time consuming. Often, more than one agency had to be consulted and the redaction requests of those supplying the documents had to be discussed further.
- 2.74 The Inquiry's approach was that redaction to relevant material should occur only where it was justified in accordance with the matters set out in section 19(3) of the 2005 Act. At all times the Chairman had in mind that this was a Public Inquiry and he was always aware of his obligation under section 18 of the 2005 Act to take such steps as he considers reasonable to ensure that the public are able to obtain or to view a record of evidence and documents produced or provided to the Inquiry.
- 2.75 Accordingly, not all redaction requests from the suppliers of documents were agreed to. Sometimes the suppliers had to accept that the information concerned was of such importance to the work of the Inquiry that disclosure was necessary. In other cases where there remained serious concerns about the sensitivity of the material, a summary of the necessary information was agreed. This is dealt with at paragraphs 2.102–2.105 below.
- 2.76 Documents also had to be checked for name cIPHERING in the same way as witness statements, and only after this process was complete could the documents be distributed to parties for use at the oral hearings.
- 2.77 The Inquiry scanned and issued over 31,000 pages of witness statements and documents. The process was time consuming but considering the sensitivity of much of the material and the cIPHERING issues, it was important that it was done carefully and accurately. This could only be achieved by multiple checks both manual and electronic.

Those Facing Criticism or Adverse Comment

- 2.78 In 2005, the Inquiry posted to its website a Witness Protocol which said that any witness who the Inquiry considered might be the subject of potential criticism by the Inquiry, or who might be subjected to questioning by the Inquiry that tended to suggest some wrongdoing, would be advised, in advance of being called to give oral evidence, of any such matters and of the evidence in support of them. The Protocol went on to say that any such notification would be given in sufficient time for the witness to prepare his/her response and that any such witness would be entitled to be legally represented.
- 2.79 The Inquiry considered this process would apply similarly to any party or organisation that might face a potential criticism. It followed the principles recommended by the Rt Hon Lord Justice Salmon (as he then was) in the Report of the Royal Commission on Tribunals of Inquiry 1966. Such letters of notification have become known since 1966 as ‘Salmon letters’, though it is to be noted that the recommendations of the Royal Commission on Tribunals of Inquiry 1966 serve as guidance only and do not carry the force of law. In fact since 1966, whilst many public inquiries have followed the recommendations of Lord Justice Salmon, there are a number of public inquiries that have not.
- 2.80 Inquiries established under the 2005 Act are governed by The Inquiry Rules 2006 (SI 2006/1838), which now make statutory provision for the sending of warning letters, but significantly, the Rules do not require warning letters to be sent in advance of the calling of the evidence or the witness. Further, those Rules do not apply to this Inquiry as it is an Inquiry converted under section 15 of the 2005 Act and not an Inquiry established under section 1 of the 2005 Act.
- 2.81 The underlying requirement for this Inquiry is to act fairly and ensure that any witness or party facing criticism is given notice of that criticism and an adequate opportunity to respond to or comment on that criticism and question any evidence supporting it.
- 2.82 In this Inquiry the intention at the outset was to follow the ‘Salmon’ principles and to provide warning letters to witnesses in advance of their being called to give oral testimony, and generally to organisations before relevant evidence was heard. This principle was repeated by the Chairman at the Inquiry’s first preliminary hearing, on 22 June 2005 in Belfast, when the Chairman said that any witness who might be subject to questioning tending to suggest that he or she might have acted wrongly, or who might be the subject of other criticisms, would be advised in advance of giving evidence by the Inquiry of any such allegations or criticisms made against him or her and of the evidence in support of them. This was to be within a sufficient timeframe to allow the witness adequate opportunity to put his or her case.

- 2.83 At the same preliminary hearing the Inquiry Chairman went on to say that if other represented parties intended to make criticisms in relation to witnesses they must give notice to the Inquiry so that the matter could be properly considered, and that a failure to give such a notice was likely to result in questioning designed to criticise a witness being restricted in the interests of fairness.
- 2.84 This principle was repeated by the Inquiry Chairman in a short statement at the start of main oral hearings on 30 May 2007.
- 2.85 Whilst the Inquiry's original intention was to notify witnesses or parties in advance of all criticisms arising, this procedure proved to be harder to follow than had originally been anticipated. The outcome was that the nature of the Inquiry's investigation and the way in which evidence was provided to the Inquiry made the process of sending out detailed warning letters in advance impossible to fulfil.
- 2.86 The Inquiry was in a position to identify general areas in which witnesses and organisations or parties might face criticism or adverse comment, but to give full details and specifically point to the evidence in support was simply not possible. Much of this was because some documents were missing and other documents did not clearly indicate where responsibilities lay. The result was that the hearing of the evidence itself was necessary before matters became clearer.
- 2.87 Accordingly, the Inquiry decided that a modification to its procedures was necessary and this was announced by the Chairman on 27 May 2008 when he indicated that the Inquiry would continue wherever possible to advise witnesses of criticism that might arise in the course of questioning and of the basis of that criticism. However, he said that where such specification was not possible, the Inquiry would advise witnesses in advance of their being called of the general area where they might be considered to be vulnerable but that no further detail would be provided at that time. The Chairman went on to say that any criticisms or adverse comments that the Panel considered appropriate for inclusion in their Report, whether of individuals or organisations, would be notified to those parties or their legal representatives and a further opportunity to respond would be given before the Report was finalised.
- 2.88 Closing submissions to the Inquiry made comment on the question of fairness in terms of those facing criticism and those submissions have been fully considered by the Panel in writing this Report. The Panel considered the modified procedure referred to above to be fair and that it provided adequate and appropriate protection for witnesses and organisations in terms of any criticisms contained in this Report. The Panel remain of this view. Witnesses have not been taken by surprise and a full opportunity to comment has been given in accordance with the revised procedure. All comments and submissions received by the Panel on their

drafts have been considered carefully and thoroughly, and have been taken into account in the production of this final Report. It must be remembered that this has been a Public Inquiry, charged with investigating matters that gave rise to serious public concern. Such an Inquiry should not be fettered in the way it conducts its work or in the thoroughness of its investigation, provided it proceeds in a fair and open way and acts fairly towards individuals and organisations the subject of that investigation. The Panel believe that requirement has been fully complied with in this case.

Hearings

- 2.89 Following the two preliminary hearings in June and December 2005 which were held at the Europa Hotel Belfast, in the summer of 2006 the Inquiry Panel decided that it was necessary to hold oral hearings specifically in relation to the recovery of documentation from the NIPS, particularly in response to the Inquiry's requests for relevant documentation and the notice served on it. These hearings also took place at the Europa Hotel over a period of six days. This was the whole of the week commencing 30 October 2006 and again on 4 December 2006.
- 2.90 At the time of these hearings the Inquiry had not secured what was to become its permanent hearing chamber at BCH. In addition the document scanning process had not started. Accordingly, the NIPS document recovery hearings at the Europa Hotel did not use scanned documentation. Hard copy records were used for those hearings, and the documents concerned, statements and exhibits, were later scanned into the Inquiry's database.
- 2.91 The Inquiry next sat to hear oral evidence on 30 May 2007. This was at the Inquiry's permanent hearing room at BCH and on a total of 15 days between 30 May 2007 and 26 June 2007 the Inquiry heard scene setting evidence in relation to the political background of Northern Ireland and the paramilitary organisations and HMP Maze.
- 2.92 Over the course of days 12 and 13 of these hearings, Governor Austin Treacy (then Deputy Governor of HMP Maghaberry) provided the Inquiry with a detailed description of the physical and operational structure of HMP Maze; the day-to-day running of an H block; and a breakdown of the personnel occupying various posts within HMP Maze in 1997. Mr Treacy had been a Governor V at HMP Maze in the 1990s. Whilst this evidence is not referred to specifically in this Report, the Panel are grateful to Mr Treacy. They found his evidence to be of great assistance in informing their understanding of HMP Maze in the many days of evidence that followed. The Panel consider this evidence was also of assistance to other represented parties.

- 2.93 When the Inquiry adjourned for the summer on 26 June 2007, the Inquiry Chairman said the Inquiry should be ready to resume hearing oral evidence on 10 September 2007.
- 2.94 Unfortunately that was not possible. Represented Parties were notified of a delay to the restart of the hearings on 15 August 2007 and the Inquiry re-convened on Monday 17 September at Banbridge for the Inquiry Chairman to make a statement about the delay.
- 2.95 There were several reasons for the delay which included: the longer than anticipated time it was taking the Inquiry to agree redactions to sensitive documents; difficulties arising from the Inquiry having to deal with a large number of anonymity applications; a difficulty that had arisen with regard to some MOD evidence; and, most significantly, a decision by the Chief Constable of the PSNI, Sir Hugh Orde, to set up a review to examine the question of whether the Inquiry had received all of the information it had sought under notices served since November 2005. The Inquiry felt that whilst this review was ongoing, it was unable to continue with oral hearings and accordingly the PSNI was given a deadline of 15 October 2007 for that review to be delivered to the Inquiry.
- 2.96 The PSNI review was delivered to the Inquiry on 18 October 2007 and the Inquiry next sat at Banbridge on Monday 21 January 2008. The purpose of that hearing was to enable the Inquiry to distribute a Position Paper in respect of the recovery of documents and material from the PSNI. The Inquiry then adjourned until 28 January 2008 when full oral hearings were resumed. Further details regarding the PSNI review, the Inquiry's Position Paper and the PSNI response to it are dealt with in Chapter 6.

Closed Hearings

- 2.97 During the oral hearings the Inquiry heard certain evidence in closed session from which the public were excluded and those parties permitted to be present were limited. The first batch of this evidence was from a number of RUC SB Agent Handlers and other serving or former SB officers. At all times the Inquiry Chairman was conscious of the expectation in a Public Inquiry that matters would be dealt with in a public and open way and of his statutory duty under section 18 of the 2005 Act to take reasonable steps to make the evidence heard by the Inquiry available to the public. The closed session evidence amounted to less than a total two days of more than 150 days of hearings, which of itself demonstrates that closed session evidence did not constitute a substantial part of the Inquiry's business.

- 2.98 The representatives of Mr David Wright and family expressed concern at the use of closed session evidence but it must be understood that there will be occasions, particularly in Public Inquiries such as this one, where such a course of action is unavoidable. When detailed evidence in relation to agent handling has to be heard, questions under Article 2 of the ECHR, in relation to the safety of individuals and in relation to national security, are likely to arise. It was in those circumstances that the Inquiry Panel decided that certain evidence would have to be heard in closed session.
- 2.99 However, acknowledging the difficulty of that process for Mr David Wright and the family, and in order to make every effort to accommodate that, the solicitors and counsel acting for them were invited to put written questions forward for consideration.
- 2.100 Questions were submitted for consideration and after the Inquiry Panel had heard the closed session evidence they were satisfied with the evidence they heard. The Panel are also entirely satisfied that nothing of significance has been withheld from Mr David Wright and the general public as a result of closed session evidence.
- 2.101 It is important to emphasise that whilst this is a Public Inquiry, it is the Inquiry Panel that conduct the Inquiry and the Inquiry Panel that must satisfy themselves that they have completed their investigation and asked all necessary and appropriate questions. The work of the Inquiry is of course subject to public scrutiny and publication of its Report but there should be no doubt that in dealing with certain types of material sometimes only the Panel can be informed. The public have to accept that and put their confidence and trust in the Inquiry. The Panel can only repeat that they were entirely satisfied with the evidence they heard in closed session and can assure Mr David Wright and his family, and the public, that whatever their concerns about being excluded from this small section of the evidence, those concerns have no foundation and there is nothing further of material relevance they could have learned had they been present.

Summarised Evidence

- 2.102 As indicated above, a great deal of redaction had to be applied to much of the material the Inquiry considered, particularly in relation to intelligence documents. In three instances the Inquiry was unable to agree an appropriate level of redaction to documents that were considered by the Inquiry to be essential to its work. The Inquiry had full sight of the information in these documents but the organisations with ownership of the material contained in them would not permit use of the documents even in a redacted form. In all three cases the objections were that Article 2 ECHR issues arose: that the life or the safety of individuals would be in immediate danger, and that questions of national security arose.

- 2.103 The background and reasoning for this was fully explained to the Inquiry Panel, and as a way forward a summary of the relevant material was agreed for public use. The two most significant documents were those scanned at SS01-0218 and SS01-0358. The fact that these documents were examined and discussed so frequently during the Inquiry hearings of itself demonstrates how important the information contained in them was.
- 2.104 Once again, those representing Mr David Wright and the family raised concerns about the fact that this evidence in its full form had been excluded from them, which left them with a suspicion that there was important relevant information in relation to the murder of Billy Wright which had been withheld. In agreeing these summaries of evidence the Inquiry Panel were careful to ensure that all information relevant to the Inquiry's Terms of Reference was included and, therefore, had been disclosed.
- 2.105 It must be understood that it is the Inquiry that must be satisfied in these matters, and where matters such as Article 2 ECHR and a risk to safety or life are raised it would be most dangerous to suggest that information should be disclosed publicly. Whilst a balancing act may have to be conducted between these matters and the public interest, it is difficult to envisage circumstances in which a person's life or safety might be put at risk. The benefit of a Public Inquiry is that the Inquiry Panel see all of the material and consider it in its fullest form. Therefore, when they came to consider their Final Report, the Panel did so with the benefit of having considered all of the material they had been provided with.

Anonymity

- 2.106 The question of anonymity for NIPS and NIO staff was raised at an early stage. In February 2007, Mr Douglas Bain, the Director of Services at the NIPS, wrote to the Inquiry Solicitor and by a subsequent letter this was supported by the NIO. The basis of the letters was that anonymity should be given to Northern Ireland civil servants and prison officer staff in the NIPS on the basis that it was not generally known that such people were civil or public servants. With regard to prison officers, it was also said that they should receive anonymity because they had been subjected to threats and violence (including murder) in the past and should be awarded anonymity as a measure of general protection.
- 2.107 The Inquiry considered this matter carefully but had to balance the views expressed by the NIPS and the NIO against the fact that it was dealing with evidence from witnesses at a Public Inquiry where there was an expectation that all matters would be dealt with publicly, including the naming of individuals who gave evidence. In addition, there was the question of the legal test for anonymity which had been set down by the Court of Appeal in England and Wales, as a result of litigation arising from the Bloody Sunday Inquiry.

- 2.108 Essentially, the people involved in terms of anonymity fell into two categories: witnesses, and those other persons who were not witnesses but whose names appeared on documents or in the witness statements of witnesses. There was never any suggestion or application made that senior civil service personnel and prison staff should receive anonymity, whichever category they fell into.
- 2.109 The Inquiry decided that, in the case of persons who were not to be witnesses and who were non-senior personnel but were simply named on documents or in the witness statements of others, there was no need for them to be identified and named. Nothing was to be gained by naming them and, accordingly, these names would be redacted.
- 2.110 The related question of screening also had to be considered, as many witnesses wished to be both anonymous and unseen.
- 2.111 In respect of witnesses, the Inquiry Panel decided that individual witnesses seeking anonymity and/or screening should make a formal individual application to the Panel which would then be determined in accordance with the law. This procedure was explained in the early Protocols on witnesses and evidence, and in June 2006 an Anonymity Protocol was posted to the Inquiry's website. In addition, as witnesses were contacted for interview they or their solicitors were notified of the right to make an application for anonymity and/or screening and the manner in which it should be done if that was a course of action they wished to pursue.
- 2.112 Witnesses from other organisations such as the PSNI, the Security Service and the MOD were also supported by their employers in their applications for anonymity and screening but they still had to make individual applications.
- 2.113 The first batch of anonymity and screening applications the Inquiry dealt with were in respect of a number of witnesses who were to give evidence at the Inquiry document recovery hearings in respect of the NIPS, in October 2006. Eight such decisions were issued in October 2006 and five of the persons who were refused anonymity sought leave to judicially review the Inquiry's decision.
- 2.114 In making these first decisions on anonymity and screening, the Inquiry had sought to apply the tests as laid down by the Court of Appeal in England and Wales.
- 2.115 However, by the time these applications for judicial review came for determination before the High Court in Belfast, the Robert Hamill Inquiry had taken a case concerning its anonymity decisions to the Northern Ireland Court of Appeal and this case had resulted in a Judgement setting down a different test for determining anonymity from that established by the Court of Appeal in England and Wales.

- 2.116 The result was that the five judicial reviews against the Inquiry's initial anonymity decisions were successful on the basis that the Inquiry had applied the wrong test, and the Inquiry was required to consider its decisions again.
- 2.117 Unfortunately the matter was not so straightforward. The Robert Hamill Inquiry appealed the decision of the Northern Ireland Court of Appeal to the House of Lords. This Inquiry therefore could not deal further with the five decisions where the application for judicial review had been successful, or any other outstanding anonymity applications, until it was known whether or not the House of Lords would approve the test set down by the Northern Ireland Court of Appeal.
- 2.118 In July 2007 the House of Lords gave Judgement in the Hamill case and set down a new test for anonymity. From this point the Inquiry was in a position to continue consideration of anonymity applications.
- 2.119 A number of decisions on outstanding anonymity applications then followed, and in June 2008 three prison officers sought leave to judicially review the Inquiry's refusal of anonymity and screening. The Court granted leave in two of these cases on the basis that there was an arguable case that the Panel had failed to consider certain medical evidence. The Judge listed the cases for review on Friday 8 June 2008, and in the meantime the Inquiry wrote to the solicitors acting for the two applicants advising them that all matters had been taken into account, including the medical evidence referred to by the court. Once this matter was clarified, the two applications were withdrawn. Thereafter, there were no further challenges to the Inquiry's decisions on anonymity or screening.
- 2.120 Whilst the majority of witnesses gave their evidence in the oral hearings openly and without anonymity or screening, there were a number of witnesses whose applications were granted. One consequence of this, coupled with the Panel's decision that all those non-senior personnel who were named in documents or statements but were not to be called should not be named, was that during the oral hearings a high number of ciphers and witness designations had to be used.
- 2.121 This meant that all witnesses had to be warned not to name people without first checking the lengthy cipher lists that were available. In all there were over 270 names on the cipher and designation lists. At times this slowed the proceedings down and on occasions it was perhaps inevitable that slip-ups occurred. However, it was a process in which all parties cooperated even if, at times, it was extremely difficult and sometimes confusing.

Witnesses

- 2.122 The Inquiry's investigation was made more difficult by the fact that it was unable to hear evidence from a number of important witnesses. Some of these, such as the Governor of HMP Maze in late 1997, Mr Martin Mogg, and a Security

Governor at HMP Maze in 1997, were deceased before the Inquiry came to hear evidence. The Head of the Intelligence Management Group in SB in 1997, Witness ZBE, was ill and subsequently died. Other witnesses were unable to give evidence because of illness. Examples of these were the Governor of HMP Maze earlier in 1997, Mr Johnston Baxter, and the prison officer who was in the van with Billy Wright on the day he was murdered. This was unavoidable but it meant that certain evidence could not be explored in the way the Inquiry would have liked.

Closing Submissions

2.123 The last day of oral testimony was Tuesday 12 May 2009. By this time the Inquiry had sat on 152 days in addition to the preliminary hearings. There was a seven-week adjournment for the presentation of written submissions and in the week commencing Monday 29 June 2009, the Inquiry re-convened at BCH to hear oral submission from parties. The written submissions submitted were thorough and extensive and the oral submissions from parties lasted for four days. The Inquiry Panel found both the written and oral submissions of great benefit when they came to write this Report.

3

Historical and Political Context

The Background

- 3.1 The Northern Ireland Troubles of the last three decades of the 20th century have been comprehensively chronicled and there is no need here to record in detail the events of those years leading up to the murder of Billy Wright in HMP Maze on 27 December 1997, with the exception of three major issues of importance to this Inquiry. Two of them concern the origin and nature of the two relatively small paramilitary organisations involved, the Irish National Liberation Army (INLA), three of whose members carried out the murder, and the Loyalist Volunteer Force (LVF), which was led by Billy Wright. These concerns will be addressed later in this Chapter.
- 3.2 The third issue, and arguably the most important, is the means by which the Peace Process came about as a gradual transition took place from paramilitary violence to engagement with constitutional politics, and the way in which these events impinged in particular on the management of HMP Maze. The importance of this last issue was highlighted in the course of evidence to the Inquiry on many occasions, notably by Mr Alan Shannon, who was at the time of the murder of Billy Wright the Chief Executive of the Northern Ireland Prison Service (NIPS). Asked whether prison policy was influenced by the Peace Process, his answer was that that policy was not only influenced by it but controlled by it.
- 3.3 Numerous other witnesses also emphasised how wider political considerations had an impact on the way in which HMP Maze in particular was run and on what the prison authorities believed it was possible to achieve inside the prison, bearing in mind the enormous influence that paramilitary prisoners could exercise in the wider community from within the prison.
- 3.4 Professor Richard English, professor of politics at Queen's University Belfast, acted as expert consultant to the Inquiry; he prepared a number of background papers, gave evidence himself on days 7, 8 and 121 and commented on the evidence of certain key witnesses. This chapter draws extensively on Professor English's contribution.

- 3.5 Before setting out a brief history of the relationship between military action and political pragmatism, and tracing the evolution of the Peace Process, it is necessary at this stage to indicate how unusual were the circumstances of the prison regime in Northern Ireland during the Troubles and how different they were from those in other parts of the United Kingdom. It is normally the case that imprisonment removes a convicted criminal from his or her place in ordinary society and protects society from that particular threat for the duration of the sentence. However the nature of the struggle in Northern Ireland meant that imprisonment of paramilitary offenders worked in a way which was radically different from this normal picture.
- 3.6 Paramilitary activity was regarded by the state as a form of criminality but by its proponents as a form of political action, and there was constant tension throughout the Troubles between these two viewpoints. Paramilitary prisoners bitterly resented the criminalisation of their activities and briefly enjoyed what was known as special category status, granted in 1972 following the introduction of internment without trial. This status reflected the paramilitaries' view of themselves as political activists rather than criminals and it gave them considerable privileges compared with most prisoners. The withdrawal of special category status as a result of the recommendations of the Gardiner Report in 1975 triggered a ferocious and unrelenting conflict between the prison authorities and the imprisoned.

Inside HMP Maze

- 3.7 The building of HMP Maze began in 1975 and was completed by the end of that decade. It was built to replace the temporary Nissen hut accommodation of Long Kesh, also known as Maze Compound, and to cope with the enormous increase in the number of prisoners. HMP Maze, technically Maze Cellular to distinguish it from Maze Compound, consisted of eight H blocks, so called because the layout of each was in the form of a letter H, with four wings and a central administrative area.
- 3.8 HMP Maze was designed to hold nearly 800 prisoners, each block holding 96 and each wing 24, and it was believed that breaking down the prisoners into the relatively small numbers present in each wing would facilitate control compared with the much larger numbers present in a wing of a conventional prison like HMP Belfast. In practice, although there were times when HMP Maze was more or less full it was the case that the number of prisoners steadily declined during the 1990s, and by the beginning of December 1997 the prison population stood at 560.
- 3.9 There were constant problems in allocating separate paramilitary factions to different blocks since the principle of segregation was the one on which HMP Maze operated. However, the control theory failed to take account of the special

circumstances of paramilitary prisoners who, unlike ordinary individual criminals, tended to be a concerted, coordinated, disciplined group sharing a fierce ideology, determined to regard themselves as prisoners of war and strongly supported by their families, friends and colleagues in the wider community. This put the prisoners in a very strong position increasingly to assert their own control by intimidating staff and by threats and acts of violence outside the prison committed by their supporters.

- 3.10 It is notable that during the Troubles 29 prison officers were killed, all but one of them outside the prison and many in their own homes. Thus it was that the prison regime could be influenced to a unique extent by the prisoners themselves, and they exploited to the full the power which they realised they could exercise over those supposedly in control of them.
- 3.11 As the Peace Process gradually took shape from the early 1990s, the authorities – the Northern Ireland Office (NIO) and the NIPS – were extremely reluctant to make any attempt to reassert conventional control over the prisoners. The withdrawal of prison staff from the wings of HMP Maze in the summer of 1994 represented a very significant concession to the prisoners and a notable loss of oversight and control. These matters will be examined in detail later in this Report, but at this stage the point is made that the authorities knowingly acquiesced in this diminution of control.
- 3.12 Professor English emphasised the impossibility of understanding events within HMP Maze unless they were related to the wider political conflict of Northern Ireland of which they were to form such a pivotal part. This is strongly backed up by much that was said by Mr Shannon himself, for example, a propos of 24 hour unlock which was introduced in the summer of 1994. Mr Shannon spoke of a deliberate acceptance that there would be some loss of control in return for a much bigger prize: **‘... I think, looking back on it now, knowing what we know, it would be very hard to say that was wrong’**. He also said **‘... we were constantly under pressure to take some risks for the wider strategy, and, of course, by the time we were getting to the Good Friday Agreement we had a Secretary of State who was constantly saying publicly, “We have to take risks”’**.
- 3.13 There was in practice a constant balancing act between what might be desirable within the prison walls and the political imperatives and pressures at work outside. This opinion accords also with what was said by Mr Adam Ingram, who was Minister of State in 1997: **‘... what was happening at the Maze was, as I said earlier, very much part of the overall peace process ...’**. As both sides in the conflict retreated from the polarised positions they had adopted at the start of

the Troubles in 1969, the Peace Process became an overwhelmingly important factor. It is therefore important to consider the interaction between violence and compromise in its historical context and to look briefly at the stages by which a peaceful solution emerged from a position of entrenched polarisation and a reliance by both sides on military force.

The Origin of the Troubles: Landmarks on the Way to Peace

- 3.14 The Good Friday Agreement of April 1998 represented the culmination of a very long process. The Inquiry heard evidence that related to some of the stages by which agreement was finally reached and the process by which the paramilitary groups on both sides became convinced that it was possible to find a formula for peace which, while not meeting all their aspirations and in some respects meaning abandoning their objectives, was preferable to the continuing killing and political stalemate which had endured from 1969.
- 3.15 The year 1969 marked the beginning of the Troubles, with the deployment of the British Army on the streets of Belfast and Londonderry in response to the violent sectarian riots which erupted during that summer. The previous year had seen a programme of modest reforms introduced by the then Northern Ireland Prime Minister, Terence O'Neill, to attempt to deal with perceived injustices suffered by the catholic community in Northern Ireland over housing, employment and voting rights. These proposals angered the unionist majority and did not satisfy the catholic minority, and the end of 1969 saw the emergence of the Provisional Irish Republican Army (PIRA), a group which broke away from the long-established Irish Republican Army (IRA) with the stated aim of defending northern catholic communities which had come under sectarian attack. In addition they wanted to pursue a militant and violent campaign to undermine and ultimately destroy Northern Ireland, which the PIRA held to be illegitimate, undemocratic and based on a wrongful partition of what should have been a united Ireland. In their view, the official leadership of the IRA had become too preoccupied with left-leaning, quasi-parliamentary politics and insufficiently robust in opposition to the UK Government. The PIRA was also strongly critical of the Irish Government which, in their view, had done too little to help and support the nationalists in Northern Ireland.
- 3.16 There was swift reaction also to O'Neillism on the part of the loyalist community, and in 1971 the Democratic Unionist Party (DUP) was established by the Rev Dr Ian Paisley and Desmond Boal, then MP for the strongly protestant area of Shankill in Belfast. The DUP stood for hard-line but non-violent unionism, was opposed to any concessions to republican or nationalist constitutional demands and keenly defended the union with Great Britain. By the time of the Good Friday Agreement

the DUP had gained very considerable strength, although in the 1970s it was very much the junior partner of the Ulster Unionist Party (UUP) in defending the unionist cause. It was however an important influence in the undermining of the first major attempt at a peaceful settlement of the Troubles, the 1973 Sunningdale Agreement, which made possible a short-lived power-sharing executive in Northern Ireland between the UUP, the Alliance Party and the Social Democratic and Labour Party (SDLP).

- 3.17 The Alliance Party was formed in 1970, in the wake of the outbreaks of violence the previous year, with a view to attracting support from both sides of the Northern Ireland community on an avowedly anti-sectarian basis. It was the only party in Northern Ireland which set out specifically to bridge the sectarian divide and did in fact attract considerable and sustained levels of electoral backing. It was in effect a unionist party, in that it wanted Northern Ireland to remain part of the UK as long as the majority in Northern Ireland wanted it. The SDLP, also founded in 1970, was a moderate nationalist party which sought to achieve a united Ireland, but only on the basis of consent; it repudiated absolutely the use of violence, believing that such violence, whether perpetrated by republicans, loyalists or the security forces, merely served to accentuate the divisions in Northern Ireland. It was supportive of the involvement of the Dublin Government in any long-term solution to the problems of Northern Ireland. It has in recent years lost ground to Sinn Fein, the political wing of the PIRA, but it could be argued that the policies of pragmatism and compromise originally espoused by the SDLP were ultimately vindicated, and in the long struggle towards the Peace Process the influence of the SDLP, and in particular of its leader for many years John Hume, was of the utmost importance.
- 3.18 After the collapse of the Sunningdale power-sharing executive, a subsequent initiative was the Anglo-Irish Agreement in 1985. The 1970s and early 1980s had seen a relentless escalation of violence, and the British and Irish Governments continued the search for a formula that would bring the violence to an end. The Anglo-Irish Agreement reiterated the principles which had been enunciated at Sunningdale, with a renewed emphasis on the need for the two Governments to work together. This once again angered the unionists in Northern Ireland, and both the DUP and the UUP opposed the north/south dimension of the Agreement. This time, however, there was no attempt to set up any form of power-sharing executive; the importance of the Anglo-Irish Agreement lay in the way in which it stressed the determination of the two Governments to work together, despite the fact that it was to be some years before they could carry their communities with them.

- 3.19 The involvement of the Irish Government was eventually to prove essential, and it was over this principle in particular that unionism gave ground in the following decade. All who valued the union were conscious of the more extreme forms of traditional Irish socialist republicanism, stretching back to 1916 and the Easter Rising, which had in turn generated a powerful two-pronged campaign, both against British rule and against a capitalist economy, and unionists in the north saw the objectives of the PIRA and of Sinn Fein in the light of such memories, which may be thought by some to explain the deep hostility felt by many unionists to any involvement at all by Dublin. This was to change dramatically by 1993 and the next landmark agreement, the Downing Street Declaration.
- 3.20 The Downing Street Declaration of December 1993 was launched by the respective Prime Ministers of the United Kingdom and the Republic of Ireland, John Major and Albert Reynolds, and it emphasised that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the consent of the majority of the people of Northern Ireland. The declaration drew on a number of strands which had been coming together from the mid-1980s: a weariness with the ongoing conflict; a series of conversations involving the mainstream Northern Ireland parties, including the Brooke–Mayhew talks of 1991–92, which involved London, Dublin, the UUP, the DUP, the SDLP and the Alliance Party; and behind-the-scenes channels of communication which had been opened between the UK Government and the PIRA and between Dublin and paramilitary loyalists from Northern Ireland.
- 3.21 A further important development had taken place as far back as 1986, when Sinn Fein had tentatively begun to reverse the policy of what was known as ‘abstentionism’, the principle by which republicans were resolutely opposed to discussing or advocating the taking of Parliamentary seats, whether in London, Dublin or in Northern Ireland. It was a previous attempt on the part of the IRA to abandon ‘abstentionism’ that had been one of the factors in provoking the formation of the PIRA in 1969. In 1983, Gerry Adams of Sinn Fein had been elected to represent West Belfast in the Westminster Parliament, but on the principle of ‘abstentionism’ had refused to take up his seat. During the 1980s Sinn Fein’s attitude began to change, and although in 1986 the new provision related only to seats in the Irish Dáil, it was the first step along the road back to political involvement on the part of militant republicans.
- 3.22 The Downing Street Declaration represented a major turning point in the search for peace. This was for two reasons. First, it represented a significant new joint declaration between London and Dublin, with the two Governments standing shoulder to shoulder in their attitude towards the Peace Process, speaking with a united and harmonious voice about how that process should develop.

Second, it represented a very significant change in the way that the notion of self-determination was understood. It was a serious attempt to reconcile Irish nationalist commitment to self-determination, traditionally seen by nationalists as involving the view of the people of Ireland as a whole, with the unionist conviction that the views of the majority in Northern Ireland must be respected.

- 3.23 The Downing Street Declaration affirmed that self-determination was indeed an important part of how matters should be resolved in relation to the Northern Ireland conflict, but that self-determination occurring within Northern Ireland, representing the view of the majority of people within the north, was crucial to any viable political process. This represented a significant concession by the Dublin government, offered important reassurance to the loyalist community in the north, and opened the way to a solution to the long-running difficulty of enshrining the principle of self-determination in any long-term solution to the Irish problem. This refinement of the notion of self-determination was a key feature of the Downing Street Declaration, and it was to lie at the heart of the Good Friday Agreement.

The First Ceasefire, 1994–95: a Crucial Year

- 3.24 At last an end to the violence seemed to be in sight. At Easter 1994 the PIRA announced a three-day suspension of operations and on 31 August 1994 the complete cessation of military operations. The first real ceasefire had begun, and it was followed on 13 October by a similar announcement from the Combined Loyalist Military Command (CLMC), an umbrella body set up in the early 1990s for the main loyalist paramilitary groups in Northern Ireland. These ceasefires represented the second major turning point on the road to peace, opening the way for radical new developments which would ultimately lead to the Good Friday Agreement. For all its uncertainties and imperfections (and there were many breaches of the ceasefire) it was an enormous milestone on the road.
- 3.25 It was also a milestone which was specifically linked by Alan Shannon, in his evidence to the Inquiry, with a decision taken in the summer of 1994 not to try to reassert conventional levels of control in HMP Maze. Mr Shannon wrote to Sir John Wheeler, the then Prisons Minister, on 24 June 1994 about the implications of 24 hour unlock. His paper is a thorough and perceptive analysis of the courses of action open to the NIPS, and it points out that all have their difficulties, not least the last option, which was effectively to do nothing but to acquiesce in the new freedom which the prisoners were enjoying. Mr Shannon acknowledged in his evidence that he felt very uncomfortable in choosing this last option, but he concluded: **'in all the discussions we had, it seemed to be the right thing to do. Looking back on it now, if we hadn't done that, I'm absolutely convinced we wouldn't have had the ceasefire at the end of August.'**

- 3.26 Talks were planned to begin in December 1994 following the ceasefires, and the prospect for the future looked genuinely hopeful for the first time. It is important to understand the reasons why the PIRA had become willing to enter into talks, and these were spelled out by Witness HAG in evidence to the Inquiry. Intelligence had been received during the course of 1994 indicating a significant change of heart on the part of the PIRA, and in particular Witness HAG pointed to three factors: the UK Government appeared to be offering the PIRA entry into talks without preconditions; a consensus had been reached about the potential outcome of the negotiations between Sinn Fein, the SDLP, the Irish Government, the Roman Catholic Church and Irish America (the so-called ‘nationalist consensus’); and the PIRA leadership believed that they had reached a point at which they could prevail on the movement in general at least to acquiesce in a ceasefire, to allow the opportunity to be exploited. The leadership emphasised that it was a tactical decision; if it failed to produce results, the PIRA would quickly return to violence. On the unionist side, the Downing Street Declaration had given an assurance, with its re-definition of self-determination, that the union was safeguarded. Both sides looked forward to the possibility, if the talks were successful, of the release of their paramilitary prisoners.
- 3.27 Accordingly the talks began in December 1994 in Belfast, and the Peace Process made its faltering way forward over the next three years. It was very significantly helped by the invaluable efforts of the United States Senator George Mitchell, who was appointed by President Clinton as Special Adviser on 1 December 1994, and acted as Chairman of the Northern Ireland Peace Talks from 1995 to 1998.
- 3.28 There were many other significant developments at this time: on 9 December 1994 the first meeting took place between a Sinn Fein delegation, led by Martin McGuinness, and officials of the NIO. This was the first time for more than 20 years that such a meeting had happened. Shortly afterwards, on 15 January 1995, the UK Government announced formally that the ban on ministers engaging in contact with political parties linked to paramilitary groups would end. This meant that the way was open for talks to take place between UK Government ministers and representatives of Sinn Fein, the Ulster Democratic Party (the political wing of the Ulster Defence Association (UDA)) and the Progressive Unionist Party (PUP) (the political wing of the Ulster Volunteer Force (UVF)). The first known meeting between Sinn Fein representatives and a UK minister did in fact take place on 10 May 1995, with the minister concerned being Michael Ancram.
- 3.29 There was further involvement from the USA when President Clinton called on 25 May 1995 for an end to all paramilitary violence, punishment beatings and intimidation. This reflected the fact that the ceasefires had by no means brought peace and harmony to Northern Ireland, but progress was being made. On 17

August Gerry Adams said that the republican movement was willing to make 'critical compromises' in order to achieve peace. The following week the CLMC announced that there would be no first strike by loyalist paramilitaries, provided that the rights of the people of Northern Ireland were upheld.

3.30 In February 1995 the British and Irish Governments had issued Framework Documents in an attempt to sketch out in some meaningful detail the way in which they saw a possible future for Northern Ireland. This included the provision for a 90-member Assembly, to be elected by proportional representation. The issue of the decommissioning of arms was to prove one of the most difficult and contentious of all the obstacles which stood in the way of progress. The Secretary of State for Northern Ireland, Sir Patrick Mayhew, made an important speech in Washington on 7 March 1995 setting out the UK Government's policy on the decommissioning of arms. This was that some decommissioning must precede inclusive talks, but it was possible to envisage decommissioning as a progressive process. This point was taken up by Senator Mitchell, who issued his first significant report in January 1996, including what became known as the Six Mitchell Principles, which set out the conditions that should be met by all who were involved in any future negotiations. These were that they should:

- (1) Commit themselves to democratic and exclusively peaceful means of resolving political issues;
- (2) Commit themselves to the total disarmament of all paramilitary groups;
- (3) Agree that such disarmament must be verifiable to the satisfaction of an independent commission;
- (4) Renounce for themselves and oppose for others any efforts to use or threaten force as a way of influencing the course or outcome of the negotiations;
- (5) Agree to abide by the terms of an agreement reached in the talks, and to use only democratic and exclusively peaceful means to alter what they might consider to be distasteful aspects of such an agreement; and
- (6) Urge that punishment beatings and killings should stop, and take effective action to bring this about.

A further unexpected – indeed unprecedented – political exchange took place in February 1996 when a delegation of the PUP travelled to Dublin to meet the Taoiseach (the Irish Prime Minister) and Irish Foreign Minister. This was a notable cross-border initiative, and the first time that a loyalist delegation, especially one which was linked to the paramilitary activity of the UVF, had been received diplomatically in Ireland.

Setbacks on the Road to Peace

- 3.31 Despite the encouraging events of 1995, the path towards a final settlement proved to be extremely difficult, with many setbacks. Not the least of these was the resumption of violence by the PIRA in 1996 with the Canary Wharf bomb in February, the Manchester bomb in June, and the Thiepval Barracks bomb in October. Despite the major PIRA atrocities which imposed a very great strain on the UVF and UDA ceasefires, elections to the Northern Ireland Forum did in fact take place in May 1996, and the results, thanks to proportional representation, reflected the extraordinary diversity of political conviction in Northern Ireland. The UUP won 30 seats, the DUP 24, the SDLP 21, Sinn Fein 17, the Alliance Party 7, with the remaining 11 seats divided between five smaller parties.
- 3.32 The Forum met for the first time on 14 June 1996. Multi-party talks began at Stormont in Belfast, jointly chaired by the British and Irish Prime Ministers, and subsequently by Senator Mitchell. Sinn Fein was not admitted because of the breach of the PIRA ceasefire in February. It was significant that the PIRA return to violence was at a lower and less intense level than that which they had previously maintained and appeared to be intended to pressurise London into creating a Peace Process more to their own republican liking. Progress was slow, and the multi-party talks became deadlocked and were adjourned in March 1997, but they had shown that many shades of Northern Ireland political opinion could be involved in creative political dialogue.
- 3.33 This had been achieved against a background of many acts of violence, perpetrated mainly by the paramilitary groups which were not on ceasefire. In the summers of 1995 and 1996 these centred on the marching season, and in particular on the notorious flash point of Drumcree, just outside Portadown. This will be referred to later in this Chapter, but the point to be made here is that the movement towards a peaceful solution was gathering momentum, and it is not in the least surprising that the Peace Process dominated the way in which HMP Maze was run in the years immediately preceding the murder of Billy Wright. This was even more true after the third significant turning point in the search for peace: the reinstatement in July 1997 of the PIRA ceasefire, a final acknowledgement by the dominant republican paramilitary group that some kind of compromise would have to be reached.

The Smaller Paramilitary Groups

- 3.34 In the years between the ceasefires of 1994 and the Good Friday Agreement of 1998 the smaller paramilitary groups came into particular prominence because of their continued use of military violence. The LVF was of very recent origin, in the summer of 1996, but the INLA had emerged much longer before, as a result

of one of the many disagreements within wider republican circles. The Official IRA, which remained in being when the PIRA broke away in December 1969, was focused especially on left-wing political ideals, and when it suspended military operations in 1972 there was a group within the Official IRA who wished to pursue more militant policies and socialist republicanism of an aggressive nature. In December 1974 the breakaway members founded the Irish Republican Socialist Party (IRSP), together with its military wing, the INLA, which carried out some very vicious operations, including the murder of Conservative politician Airey Neave in London in 1979.

- 3.35 The INLA was much given to internecine strife, and 1996 was a murderous year of internal conflict. The INLA had not followed the example of the PIRA in calling a formal ceasefire in 1994, although it did observe a *de facto* ceasefire, encouraged by its then Chief of Staff Hugh Torney. There was however considerable opposition to this policy from a more militant faction led by Torney's deputy Gino Gallagher. Torney and three colleagues were arrested in Dublin in April 1995, and Gallagher took charge. Torney was released on bail in June 1995, and a fierce power struggle ensued in which Torney was 'dismissed' from the organisation.
- 3.36 Gallagher's leadership seemed secure, but he was assassinated in Belfast on 30 January 1996, probably by Torney's supporters, and was in turn succeeded by his deputy, Joe Keenan. Torney's group, now calling itself the INLA General Headquarters (GHQ) Staff, called on the Keenan faction to disband or face direct action, a threat followed by the shooting and wounding of Keenan and a close ally, James Joseph Bradley. Two of Torney's colleagues were killed in quick succession, and Keenan offered an amnesty to GHQ members. Torney was himself shot dead in September 1996, and this marked the end of the bloody INLA feud, after which the survivors attempted to consolidate their position and rebuild their strength.
- 3.37 The military and political wings were very closely related, and there was in practice little distinction between the military wing (the INLA) and the political wing (the IRSP). The INLA executive was known as the Army Council and constituted the leadership of the military wing. The Ard Chomhairle was the executive of the political wing, the IRSP. There was much overlap of personnel in the two leaderships. The military capacity of the INLA was relatively limited, and its *modus operandi* consisted primarily of close-quarter assassinations and under-vehicle devices.
- 3.38 The INLA, and in particular its political wing, was also notably hostile not merely to the UK presence in Ireland, but also to the Dublin Government, which it believed to be fatally compromised by its dialogue with Westminster and by its acquiescence in a capitalist economy. The INLA was proscribed on 3 July 1979, under the Prevention of Terrorism (Temporary Provisions) Act 1976.

The Irish National Liberation Army and the Provisional IRA

- 3.39 There is an interesting question over the relationship between the INLA and the PIRA. The INLA had broken from the Official IRA in the very early years of the troubles, but its philosophy came in practice to be closer to that of the PIRA, not least in its emphasis on violence and paramilitary activity. There seems to have been no love lost between the INLA and the PIRA in the early days of the INLA's existence, but by the time of Billy Wright's murder it has been suggested that there was contact between the leadership of the two organisations and in particular that the murder of Billy Wright by three members of the INLA would not have taken place without the prior knowledge and sanction of the PIRA. Evidence on this point is conflicting, and the Security Service assessment in January 1998 was that the PIRA had no prior knowledge of, and did not sanction, the murder of Billy Wright. This is significant, because the Service viewed the relationship between the PIRA and the INLA as a controlling one, with the PIRA as the dominant organisation. There were regular contacts and friendships and acquaintances on an individual level between members of the two organisations, but the INLA was very much the junior relation. On the other hand, the majority of Royal Ulster Constabulary (RUC) reporting on the murder of Billy Wright after the event appeared to indicate that the PIRA did have prior knowledge of the operation and had sanctioned it. These matters are dealt with fully in Chapter 15 of this Report.
- 3.40 There were some signs of a gradual rapprochement between the PIRA and the INLA and it has emerged in the course of this Inquiry that a possibility existed by late 1997 of accommodating the INLA and the PIRA prisoners in the same H block, to avoid the co-location of the INLA and the LVF prisoners in H Block 6. A reference to this possibility is found in a manuscript note recording the visit of the International Committee of the Red Cross to HMP Maze in November 1997. Mr Martin Mogg, HMP Maze Governor I, raised the possibility of a block being shared by the PIRA and INLA, and the same idea had been aired by the Security Governor at HMP Maze, Mr Steve Davis, in a memo which followed on from information received on 23 September 1997 relating to comments of 2ic PIRA on the INLA's attitude to the proposed return of the LVF to H6. Mr Davis believed that the interest expressed by the PIRA in the INLA might be indicative of a coming together of the two organisations, but he believed that it was too soon to make a judgement about this.
- 3.41 It has also been suggested that, if tenuous links existed between the PIRA and the INLA leaderships, the PIRA could have made use of the INLA members to carry out acts of violence during the PIRA ceasefire without the ceasefire technically being broken; Sinn Fein's participation in the Peace Process, which was resumed once the PIRA declared a second ceasefire in July 1997, depended on there being

no break of the ceasefire. Professor Richard English gave tentative support to the thesis that a dissident paramilitary group could act as surrogate for a larger and more powerful group and shield the latter from blame for a terrorist action.

The Emergence of the Loyalist Volunteer Force

3.42 The circumstances in which the LVF came into being once again reflect the tendency of paramilitary groups to subdivide, and to coalesce round a particular charismatic leader. The UVF Mid-Ulster Brigade, based in the predominantly loyalist town of Portadown, was inevitably involved each year in the marching season in July, in particular because of the traditional Orange Order celebrations on or near 12 July each year. These celebrations included a service in the somewhat isolated parish church at Drumcree, just outside the western edge of Portadown, and a march from there into the centre of the town along the Garvaghy Road, which is the most direct route but which also happens to be part of a catholic quarter of the town. Feelings always ran high here over the march, and this conflict came to a head during the final years of the Peace Process, 1995 and 1996.

Drumcree

3.43 Following the inauguration of the December 1994 talks a Framework Document was published on 22 February 1995, jointly issued by the UK and Irish Governments and setting out the possible shape of a peace agreement. It provided for an elected Assembly for Northern Ireland and also for north/south institutions. It was this last point which, as in previous attempts at a settlement, aroused deep suspicions among loyalists and made it particularly important for them to continue to exercise what they regarded as their rights during the marching season.

3.44 In July 1995 there was a tense standoff at Drumcree between loyalists and security forces, in line with a history of loyalist rioting in Portadown over parade route arguments which stretched back to 1985. In the end, the concession was granted to allow 500 Orange Order members to march down the Garvaghy Road, an outcome which was greeted with triumphant jubilation by David Trimble, the UUP leader, and Dr Paisley, the DUP leader. This was a rare example of agreement between the two, since their attitudes to the Peace Process were becoming increasingly divergent, with Dr Paisley leading the DUP into fierce opposition to the terms which seemed to be emerging, and in the end also to the Good Friday Agreement itself.

3.45 One of the loyalist leaders on the UVF side in July 1995 was Billy Wright. His militancy was in clear opposition to the more conciliatory approach which had been adopted by the UVF leadership in Belfast, epitomised in the UVF support for the Peace Process and the decision to join the CLMC ceasefire in October 1994.

Billy Wright detested what he saw as concessions to nationalists enshrined in the tentative Peace Process, and accused the leaders of unionism and loyalism of betraying the cause. In January 1996 Billy Wright announced that the Mid-Ulster UVF would no longer operate under the auspices of the Belfast Brigade Staff. The scene was set for a major showdown, and the birth of the LVF later that year.

The Threat to the Life of Billy Wright

- 3.46 In July 1996 there was even greater trouble at Drumcree. Billy Wright was now the undisputed leader of the militant faction in the Mid-Ulster UVF and he orchestrated the loyalist faction in a direct challenge to the security forces which were attempting to prevent the Orange Order from taking the Garvaghy Road route into Portadown. The march was to take place on Sunday 7 July, by an alternative route, and this led to extensive loyalist rioting.
- 3.47 On Thursday 11 July 1996 the authorities, seriously alarmed by the extent and violence of loyalist action in Portadown and elsewhere, relented, and the Orange Order members were after all allowed to march down the Garvaghy Road. This led, predictably, to widespread rioting in nationalist areas, exacerbated by the fact that on 8 July a catholic taxi driver, Michael McGoldrick, had been murdered near Lurgan, allegedly on the authority of Billy Wright.
- 3.48 This murder, breaking the UVF ceasefire, also angered the UVF leadership in Belfast, and it was announced on 2 August 1996 that the Portadown unit was to be disbanded in view of its refusal to abide by the decision to observe the ceasefire. On 28 August the CLMC went further, and ordered Billy Wright, together with the UDA member Alex Kerr, to leave Northern Ireland by 1 September or face summary justice.
- 3.49 Billy Wright defied this threat, and remained in Portadown, claiming that the UVF's leaders were themselves out of step with grass roots loyalist opinion. His role, he believed, was to continue to do as he had resolved 20 years previously on the occasion of the Kingsmill massacre, which was to defend the protestant cause by all available means.
- 3.50 So the LVF was born, a breakaway group of loyalists who regarded the Peace Process as a betrayal of their interests, who were fiercely committed to the continuation of Northern Ireland as a part of the United Kingdom, and who were prepared to continue to use paramilitary violence to further their cause. Billy Wright was particularly angry at the continued restraint which was being shown by the UDA and the UVF in the face of the provocation caused by the PIRA's return to violence in 1996, albeit initially in England rather than in Northern Ireland. This restraint was not without its problems for the larger loyalist paramilitary groups, which came under severe pressure from many of their members to retaliate

against republicans, but it was the conviction of the leadership that it should try if possible to maintain the moral high ground. This was not an argument which appealed to Billy Wright, and it spurred him and his supporters on to their actions at Drumcree. The LVF was proscribed in June 1997, under the Northern Ireland (Emergency Provisions) Act 1996 (Amendment) Order, Statutory Instrument 1997 No 1403 (4 June 1997).

The Threat from the Combined Loyalist Military Command

3.51 The Inquiry has heard conflicting evidence about the seriousness, strength and duration of the CLMC threat. It was issued on 28 August 1996, and the Security Service perceived as early as 9 September that the CLMC had become aware of the difficult situation it had created for itself and did not intend to take any action **'in the near future'**. By the end of September the Service were reporting that it was unlikely that any action would be taken against Billy Wright but the evidence given to the Inquiry by the Police Service of Northern Ireland is different, and clearly indicates that the RUC Special Branch (SB) believed that the threat remained active and valid. On 15 January 1997 Billy Wright went on trial in Belfast on two offences, doing an act with intent to pervert the course of justice and making a threat to kill. He was convicted and on 7 March he was sentenced to a total of eight years' imprisonment. The NIPS was again told by SB that the CLMC threat remained a real one, and this led to Billy Wright's continued incarceration in the Punishment and Segregation Unit at HMP Maghaberry for his own safety. The CLMC threat is examined in greater detail in Chapter 4.

Billy Wright and the Political Parties

3.52 Billy Wright and his followers had no official link with any political party, but there were some occasions when loyalist and unionist politicians demonstrated a degree of support for him or sympathy with his views. During the Drumcree rioting in 1996 the UUP leader David Trimble met Billy Wright to try to dissuade him from violent action, and was sharply criticised by nationalists who accused him of hypocrisy for associating with a loyalist paramilitary. This meeting showed that Billy Wright had become a conspicuous figure at Drumcree, but it also gave some impression that he was a significant player in political terms. Following his expulsion from the UVF, he was on another occasion joined on the platform at a support rally by the Rev William McCrea, a DUP Member of Parliament. This was particularly significant since the DUP had been gathering political support and was also strongly opposed to the terms of the Peace Process.

3.53 In his evidence to the Inquiry, Professor Richard English stated that these were the only two known instances of Billy Wright being seen formally in public with leaders of mainstream political parties, and it is not possible to discern any pattern

of regular engagement with mainstream unionism. The fact that these two occasions have received so much publicity is due to their being so exceptional and they in no sense reflect a regular relationship. There were undoubtedly some unionists who sympathised with Billy Wright's view, at least insofar as he was opposed to the Peace Process, but very few would have thought that his mode of opposition was anything other than illegal and reprehensible.

- 3.54 The DUP was totally committed to peaceful and democratic methods, whereas the LVF was not. To this extent, the LVF was not represented at the political level by any significant players among the Northern Ireland political parties and remained a relatively small organisation, albeit one that was able to cause many deaths and harness some of the more extreme and angry loyalist reactions to the compromises inherent in the Peace Process.

Billy Wright's Influence from Prison

- 3.55 Following his conviction and sentence, the authorities were relieved that Billy Wright was in custody. Mr Stephen Leach (NIO Associate Director of Policing and Security in 1997) spoke to the Inquiry of Billy Wright as a violent and unpredictable figure, and of the satisfaction on the part of the authorities that he had been convicted and sentenced to custody. But imprisonment did not diminish Billy Wright's influence. His leadership of the LVF was undisputed and charismatic in character, and his imprisonment, far from having a negative impact on the organisation, led to an increase in its membership. This rose to 40–50 by June 1997 and to as many as 150–200 by October of that year, many of them former UVF members disillusioned with the continuing support being given by the UVF/UDA to the ceasefire.
- 3.56 Billy Wright's deputy, Mark Fulton, assumed nominal leadership of the LVF during Billy Wright's imprisonment, but the difference in the nature of the leadership of the LVF from that of the INLA is striking. The INLA were constantly dogged by factional infighting and the leadership was bitterly contested, whereas in the LVF Billy Wright continued to be in practice the acknowledged and undisputed leader even when in prison, and he continued to direct operations from his prison cell, whether initially from HMP Maghaberry or subsequently from HMP Maze.
- 3.57 Such was the perception by the Security Service of the seriousness of Billy Wright's influence that discussions took place in September and October 1997 with Alan Shannon about the feasibility of the installation of technical surveillance devices in the LVF accommodation and visits area at HMP Maze. This was ruled out on grounds of practicality, but the fact that it was even suggested is a significant indication of the power which Billy Wright could wield even from within HMP Maze.

The End in Sight

- 3.58 The major loyalist paramilitary organisations, the UVF and the UDA, had by 1997 come to accept that some degree of compromise was essential if there was to be a peace agreement, and their change of heart therefore reflected, although in a much less dramatic way, the process of transition in which the nationalist paramilitaries were involved. The smaller paramilitary groups with which this Inquiry has been particularly concerned, the INLA and the LVF, continued to stand outside the Peace Process and to frustrate it as far as they could. But it has to be acknowledged that they were relatively small players, and neither commanded more than very limited support in the wider community.
- 3.59 The final stages of the negotiations which culminated in the Good Friday Agreement were not without their difficulties and setbacks. The Labour Government which took power at Westminster in May 1997 brought renewed energy to the process, and Tony Blair in his famous speech in Belfast urged Sinn Fein to be committed fully to the Peace Process: **'The settlement train is leaving.'** Talks started once again on 3 June 1997, and the new Secretary of State for Northern Ireland, Dr Marjorie (Mo) Mowlam, was perceived to be slightly more friendly towards the nationalist cause than her predecessor. This helped to keep Sinn Fein on board in the negotiations, but it inevitably alienated unionist opinion, and the DUP and the United Kingdom Unionist Party delegations walked out of the talks on 16 July 1997 never to return, leaving the UUP to represent unionist opinion.
- 3.60 There was trouble also inside HMP Maze, where loyalist prisoners threatened to withdraw support for the Peace Process (as they had previously in 1996, when Dr Mowlam visited the prison in her capacity as opposition Northern Ireland spokesperson). The loyalist community remained ambivalent, with much mistrust of what appeared to be an essentially pro-nationalist process. The withdrawal of the DUP from the talks made progress easier for the UUP under David Trimble but did nothing to reassure more conservative unionist opinion.
- 3.61 Following the Republic of Ireland general election in June 1997 the Fianna Fáil leader, Bertie Ahern, became Taoiseach, in a nationalist-leaning government which, in its continued support for the Peace Process, could deal more effectively with Sinn Fein and had a better chance of retaining credibility with republicans in the north.
- 3.62 One of the key issues which had to be addressed was the decommissioning of weapons: should it precede talks or take place simultaneously? Paramilitary groups on all sides showed extreme reluctance to engage with this process, which most outside the direct conflict regarded as an absolute prerequisite for an enduring

peace. Senator Mitchell's advice in early 1996 was that decommissioning should take place during, not before, talks; this in itself was a modification of the stronger line taken by Sir Patrick Mayhew in Washington in March 1995, when he asserted that some decommissioning must precede talks. In September 1997 the Independent International Commission on Decommissioning, which had had a shadowy existence from December 1995, was formally set up. It struggled valiantly but – at the time – vainly with the matter. In the end decommissioning took place only some time after the conclusion of the Good Friday Agreement.

- 3.63 Periodic breakdowns of the ceasefire took place, and the talks were briefly suspended. There were many false dawns, and Senator Mitchell had his moments of despair. In December 1997 he spoke of time running out, of a sense of failure developing, and a feeling that the process was doomed. But there were others who, with hindsight, believe that the process had developed a momentum which was unstoppable. Christopher Maccabe (Head of the NIO Political Affairs Division in Belfast from 1992 to 2000) spoke to the Inquiry of the sense that they were on a conveyor belt; there were infringements of the ceasefire, occasional atrocities, even temporary expulsions of parties from the talks, but none of this would actually stop the momentum.
- 3.64 The murder of Billy Wright on 27 December 1997, and the outbreak of revenge killings which it provoked, posed one of the most serious threats to the progress of the talks. Dr Mowlam said dramatically of the murder that it almost killed the Peace Process, but the storms were weathered and on Good Friday, 10 April 1998, the Agreement was signed.

The Aftermath

- 3.65 The agreement of April 1998 is generally regarded as marking the end of the Troubles. In fact violence continued, sporadically but damagingly, for many more years and political progress was painfully slow. Decommissioning of weapons, originally intended to precede the negotiations, then to take place simultaneously with the talks, was finally achieved only after the agreement was reached, and at the end of the Inquiry's hearings was still not complete on the loyalist side, or on the part of dissident republican groups. In an attempt to break the political deadlock, the British and Irish governments met at Weston Park in 2001, and as an indirect outcome of those talks this Inquiry was set up, together with the Rosemary Nelson and Robert Hamill Inquiries, to address some of the bitterest and most resented episodes of the last years of the Troubles, and to try to lay to rest a lingering sense that justice had not been done in each case.

4

Background to Billy Wright

- 4.1 Billy Wright was born in Wolverhampton, England on 7 July 1960. When he was four years old, the family returned to Northern Ireland. The Troubles affected his life from 1969 onwards and he was caught up in the loyalist paramilitary cause, joining, at the age of 15, the Young Citizens Volunteers, the youth wing of the Ulster Volunteer Force (UVF). Almost immediately, he was arrested by the Royal Ulster Constabulary (RUC) and subsequently he was arrested again and served a term of imprisonment at HMP Maze, which at that time included a young persons' wing, housing both republican and loyalist prisoners. He also served for ten months in HMP Belfast. So, as a young man, Billy Wright was already familiar with prison life and with the constant threat both of attack by his adversaries and of arrest for his own paramilitary activities. This constitutes the background to the particular threats with which this Inquiry has been concerned.

Republican Threats to Billy Wright

- 4.2 It could be said that Billy Wright lived all his adult life under threat from one quarter or another. He was actively involved in paramilitary activity and ran all the risks which that entailed. His natural enemies were republican paramilitaries, who were members of the Provisional Irish Republican Army (PIRA) and the Irish National Liberation Army (INLA). The Inquiry has obtained details from the Security Service and from the RUC Special Branch (SB) of many specific threats from those sources.
- 4.3 On 28 March 1991 Billy Wright was informed by the RUC that he was the subject of a threat from republican terrorists and on 22 October 1992 he was also informed by the RUC that subversives might well have been in possession of his personal details.
- 4.4 On 23 October 1992 there was an attempt to murder him by placing a bomb under his car. The bomb was discovered by Billy Wright following a report that a man had been observed crouching suspiciously next to the car in West Street, Portadown. The bomb had fallen from the car. A device containing about 1 lb of Semtex explosive was recovered from the scene and the action was considered to be the work of the PIRA. Very soon after that, on 30 October 1992, the RUC passed on a further warning to Billy Wright that he was being targeted by the PIRA.

- 4.5 In February 1993 there was a definite attempt on Billy Wright's life by two gunmen in Portadown. He noticed one of the gunmen carrying what he thought to be an AK47 rifle as he drove away from a public house at about 11.15 pm. He managed to evade the gunmen and a report recorded that **'This is probably the third attempt on his life in the last 6 months. It is likely that further operations against him ... will be attempted by PIRA.'**
- 4.6 On three further occasions in 1993, in March, April and June, Billy Wright was informed by the RUC that he was being targeted by the PIRA and he was given advice as to his personal safety.
- 4.7 In August 1993 the PIRA Northern Command was believed by the Security Service to be planning an attack on Billy Wright. The Dundalk Unit was to carry out the action using a bomb but needed specific information about Billy Wright's movements.
- 4.8 The following year, in May 1994, information was received to the effect that the PIRA intended to shoot Billy Wright in particular circumstances. In early June 1994 Billy Wright was the target of a car bomb attack in Portadown. He escaped with cuts and bruises to his arm and leg. As a result of receiving a report that someone had been seen tampering with his car the police visited Billy Wright. They informed him of the circumstances and requested him to carry out a search of his car. The police were present while he searched round and under the car and appeared to be satisfied that there was no device attached to the vehicle. Billy Wright then got into the car and as he turned on the ignition there was an explosion in the engine compartment, which set the car on fire. Billy Wright was again able to escape with minor injuries. The bomb was estimated to be 1–1½ kg of explosives, and the North Armagh Brigade of the PIRA called a local radio station following the explosion and claimed responsibility for it.
- 4.9 There were further intelligence reports in August 1994 which indicated that the PIRA intended to kill Billy Wright 'imminently', prior to the declaration of the PIRA ceasefire. Billy Wright was informed in respect of two of these threats.
- 4.10 The next specific threat to Billy Wright's life which the Inquiry has seen dates from March 1995. Significantly, it relates to a threat from the INLA, who were not bound by the ceasefire agreement, having decided not to be committed to it. (The documents behind this intelligence say simply 'republican or 'RSF/INRA' but clearly INRA is a mistake and the reference must be read as referring to the INLA.)
- 4.11 At the end of January 1996 the Security Service was aware that Billy Wright had travelled to Belfast and announced that the UVF Mid-Ulster Force based at Portadown would no longer operate under the auspices of the Belfast Brigade

Staff. This declaration of autonomy presaged the split which would occur later in the year, after the violent disturbances of Drumcree. Meanwhile Billy Wright remained targeted by the PIRA. In February 1996, after the breakdown of the PIRA ceasefire, the Security Service reported that six members of the PIRA had been instructed **'Approximately three months ago ...'** to target Billy Wright.

- 4.12 The next republican threat to Billy Wright appears to have been from the INLA, and in June 1996 SB became aware that Billy Wright had been informed that the INLA were targeting him. However, a Security Service document of 23 July 1996 described a **'power vacuum in the INLA leadership'**, a reference to the violent internal strife which was the dominant feature of the INLA during 1996. The same document referred to an assessment that the INLA would be unlikely to resume violence independently **'for fear of PIRA sanction'** but went on to point out that the INLA had declared its intention of retaliating against loyalist violence; the internal problems of the organisation made the actions of individuals unpredictable. This position was consistent with the INLA claim on 22 March 1996 that its units would **'operate from a position of defence and retaliation'**.
- 4.13 In October 1996 the Army reported a threat to the life of Billy Wright and also to that of the Rev William McCrea, a Democratic Unionist Party (DUP) MP. This threat is dealt with later in this Report in Chapter 15.
- 4.14 On 15 January 1997 Billy Wright went on trial charged with threatening a witness and was remanded in custody at HMP Maghaberry, on Rule 32 in the Punishment and Segregation Unit (PSU) for his own safety. He was under threat by this time from both sides; the Combined Loyalist Military Command (CLMC) threat is dealt with in detail in the next part of this chapter, but on 6 January 1997 the Security Service had issued a Source Report to the effect that Billy Wright had been advised by the RUC that he **'may be the subject of a close quarter assassination attempt by PIRA in the very near future'**.
- 4.15 On 7 March 1997 Billy Wright was sentenced to eight years' imprisonment and for the time being remained on Rule 32 in HMP Maghaberry. On 18 March he was visited by the DUP politician Peter Robinson. In his evidence to the Inquiry Mr Robinson said that Billy Wright had told him that he thought he was going to be killed by republicans and that the attempt to kill him was imminent. The question arose with some urgency as to where he would serve the sentence. As a paramilitary prisoner he would normally have been sent to HMP Maze, but because of his defection from the UVF and the bitter animosity which his actions had generated, it was not possible for him to be housed in a UVF or Ulster Defence Association (UDA) wing. There were several possibilities:

- (a) That he should remain in the PSU at HMP Maghaberry;

- (b) That he should serve his sentence on a normal wing in HMP Maghaberry;
- (c) That he should be allowed to form a new loyalist paramilitary faction at HMP Maze with those of his supporters at HMP Maghaberry who wished to identify themselves with his newly established Loyalist Volunteer Force (LVF).

- 4.16 Each of these courses of action raised serious problems. Incarceration for a period of years in the PSU was intolerable because of the restrictions on his movement and association which it would involve. Life on a normal wing at HMP Maghaberry would expose Billy Wright to severe danger because of the threats which had been made against him. To allow him to move to HMP Maze with a LVF contingent would have meant official acknowledgement of the existence of a new faction, which would create logistical problems at HMP Maze and would be greeted with hostility and resentment by the existing loyalist factions. These matters are dealt with fully in Chapter 9, where the process of decision making is examined in detail.
- 4.17 Debate continued for some time during late March and early April 1997 as to where he should serve his sentence, but it became widely known that the possibility existed of a move to HMP Maze and that if such a move took place it might well involve placing the LVF prisoners in the vacant wings of H Block 6 (H6), part of which was already occupied by the INLA. It was this possibility which triggered the most explicit death threat to Billy Wright from a republican source, which was reported on 21 April 1997 to the Security Service. This was to the effect that if Billy Wright and members of the LVF were transferred to H6 and co-located with INLA prisoners in that block, the INLA intended to kill Billy Wright at the first opportunity; a likely method of attack was the use of a hypodermic syringe filled with poison; INLA prisoners at the prison were in possession of such syringes and poison; the INLA leadership was aware of the threat to Billy Wright.
- 4.18 The Security Service Agent Handler's comment on this intelligence was that it did not seem likely that the prison authorities would in fact choose to mix the LVF and the INLA in the same block, but the information was passed to the RUC on 21 April 1997 (see paragraph 4.20).
- 4.19 The Irish Republican Socialist Party issued a statement on the same day, 21 April 1997, headed '**Confrontation Fears over Wright Move**' and including the words:

'To attempt to force extreme Loyalists onto a Republican Socialist block at any stage would be a recipe for confrontation. To do so on the run up to the marching season is an act of sheer madness. The INLA prisoners made it clear to us that they will resist any attempt to force

LVF prisoners onto a republican block. ... Should this issue be forced any resulting confrontation has every possibility of spreading beyond the prison gates.'

The death threat itself does not appear in the public statement, although it might be seen as an implication of the general sense of anger which was expressed in that statement.

- 4.20 The Inquiry spent a very great deal of time in examining the threat, which was received by the Security Service and passed to the RUC but which appears not to have been passed on to the Northern Ireland Prison Service (NIPS) or to Billy Wright himself. It found its way in due course into SB records in the form of an Intelligence Report, which was loaded onto the computer system on 28 May 1997, but we have concluded that no action was taken by any of the RUC recipients, most of whom, in giving evidence, denied having seen the information. This matter is dealt with further in Chapter 15 of this Report; however, it remains the case that the most specific republican threat to the life of Billy Wright was that which was issued in April 1997.

The Combined Loyalist Military Command Threat to Billy Wright

- 4.21 The split between Billy Wright and some of his colleagues from the main body of the UVF has been described in Chapter 3 of this Report, together with the mention of the threat to the life of Billy Wright if he failed to obey the CLMC order to leave Northern Ireland by 1 September 1996. Billy Wright was by this time, and in particular after his very prominent role in the Drumcree events of July 1996, a well-known public figure, and a great deal of interest surrounded the ultimatum issued by the CLMC. The Security Service were aware in July 1996 of an impending crisis in the ranks of the UVF, and foresaw three possible outcomes:
- (a) The leadership might decide to kill Billy Wright;
 - (b) There might still be mediation;
 - (c) Billy Wright would split from the UVF and form his own group.
- 4.22 In the event the CLMC issued their conditional death threat, which was due to expire at midnight on Saturday 31 August 1996. Members of the media were actively seeking Billy Wright on that day in order to discover where he was going to be at the time of the deadline. A Security Service document dated 3 September 1996 reported that there was a parade in Portadown on the Saturday afternoon at which every lodge and band participating stopped near to Billy Wright so that the members could shake his hand. Billy Wright made it clear that he was himself going to organise another parade on Wednesday 4 September to show that he had no intention of complying with the ultimatum and was instead determined to show how great a degree of public support he enjoyed. On the Saturday evening,

as the deadline approached, Billy Wright held a social function in the Portadown area attended by a Red Hand Commando (RHC) unit from Bangor, indicating wider support than merely from Mid-Ulster. He also told a reporter that units in East Belfast and in Ballymena had expressed their support for him.

- 4.23 The CLMC threat was perhaps the inevitable result of the complete unwillingness of Billy Wright and many who thought as he did, to accept the ceasefire to which the UVF and the UDA were committed. It seemed to Billy Wright to be a total betrayal of the unionist cause and to be likely to lead to unacceptable concessions being made to the nationalists. Billy Wright was tapping into the hard-line loyalist sentiment which continued to be a significant element throughout Northern Ireland and in particular in Mid-Ulster. Those who supported him did so partly on account of his intransigent political views but also in response to his charismatic personality. It soon became clear that the CLMC threat had been a risky and unwise move, with the CLMC uncertain as to how the threat to kill Billy Wright could be carried out.
- 4.24 The outcome was that the threat and the CLMC's failure to follow it through boosted Billy Wright's reputation and standing and raised his profile even more in loyalist circles. There was an inherent fallacy in the threat itself, since the execution of Billy Wright would by definition have breached the ceasefire and compromised the larger loyalist factions. In particular the role of the Ulster Democratic Party and the Progressive Unionist Party in the embryonic peace talks was threatened insofar as they represented the UDA and the UVF respectively.
- 4.25 The threat seems never actually to have been withdrawn. Intelligence about it continued to be received by SB and by the Security Service over the next 15 months, between September 1996 and December 1997. Many reports were received, sometimes contradictory, about whether the threat from the CLMC continued to be active or was being progressively abandoned. As early as 9 September 1996, the feeling of the Security Service was that it had become a dead letter, as the CLMC became aware of the extremely awkward situation which it had created. Shortly after this SB seemed to be in agreement with the Security Service judgement, as indicated in a document which records that the CLMC had decided to let the exclusion orders on Alex Kerr and Billy Wright 'die a death' and agreed that no action would be taken against either man unless he stepped out of line and interfered with the running of either the UVF or the Ulster Freedom Fighters. The Inquiry has seen a Security Service Northern Ireland Intelligence Report of late September 1996 which refers to the CLMC and which notes a surprising level of support for Billy Wright was noticed. The RHC had specifically asked for the threat to be lifted and there seemed to be signs of a desire on the part of Billy Wright and of the CLMC to find a way of resolving the dispute. It was believed to be unlikely that any violent action would be taken against Billy Wright.

- 4.26 A Security Service witness, DO1, who worked in the Assessments Group from August 1997 to August 1999 assessing the activities of loyalist paramilitary groups, gave evidence to the Inquiry confirming the Service's assessment that the CLMC threat did diminish in importance and appeared to be in abeyance from September 1996.
- 4.27 There was, however, contrary evidence from a Police Service of Northern Ireland (PSNI) witness, Witness DE, who was the Detective Chief Inspector in charge of the Loyalist Desk at E3B at RUC SB Headquarters (HQ) in 1997. He acknowledged the existence of the evidence used by the Security Service to play down the CLMC threat but spoke of more convincing and compelling information that the threat was real and continuing and questioned the reliability of the source behind the Security Service intelligence who, he claimed, might have been quite remote from the CLMC. He set out four reasons for his belief that the threat continued to be in force: from a thorough search of the PSNI intelligence system he had been convinced by the quality and quantity of the information supporting his view; intelligence of the same kind continued into 1997 and Billy Wright continued to believe himself to be under threat; the antipathy between Billy Wright and the UVF leadership was deep-seated and of long standing; and the UVF leadership saw Billy Wright as seriously undermining their authority and their strategy in relation to the Peace Process. The UVF also thought he was involved in drug dealing. Witness DE went on to acknowledge that there were many factors which made it difficult for the CLMC (or the UVF) to carry out the death threat, not least that the action would in itself constitute a breach of the ceasefire to which the UVF and the UDA were committed and also because the UVF leadership recognised the level of support which Billy Wright enjoyed and did not wish to risk dividing or weakening their own movement.
- 4.28 Witness DE referred to further documentation to support the view that the threat remained real through 1997 and up to the time of Billy Wright's murder. There were several attempts at achieving a reconciliation between the LVF and the UVF and evidence of numerous meetings, including visits to HMP Maze, involving Billy Wright's nominal successor as leader of the LVF. These appear to have been with a view to examining the possibility of some degree of progress, although Witness DE recognised that it was not clear whether the initiative came from the LVF or the UVF. It was evident from a report dated December 1997 that Billy Wright was still aware of a threat from the loyalist side and remained concerned about it.
- 4.29 This view, expressed on behalf of SB in evidence to the Inquiry, is entirely consistent with the written advice provided to the NIPS in the spring of 1997. On 10 March 1997, shortly after Billy Wright had been sentenced to eight years' imprisonment and while he was for the time being held in the PSU at HMP

Maghaberry, Seamus McNeill, then Assistant Director of Operational Management at the NIPS HQ, wrote to RUC HQ to ask whether the CLMC threat against Billy Wright was still considered to be ongoing or whether it had been lifted. On 4 April a reply came from SB HQ E3 saying that no information had been received which would indicate that the threat against Wright and Kerr had been removed.

- 4.30 In his evidence to the Inquiry Seamus McNeill mentioned earlier correspondence, late in 1996, between the NIPS and the RUC about threats to various prisoners but not specifically to Billy Wright. He did however say that he believed that there was a 'general acceptance' that Billy Wright was under threat and that this had been mentioned at Prison Liaison Group meetings attended by both the police and the Security Service. Questioned by Counsel as to his reliance on a verbal statement from the RUC he said:

'... because of the high profile nature of the threat, everybody knew the threat was there; the public knew it was there, we knew it was there, the police confirmed it was there. It may seem anomalous, but if Mr Wright had not been so high profile, I think before this stage in another case I would have got written confirmation from the police ... I cannot point to a document, but in all the discussions about Billy Wright, I would have been talking to the police on a regular basis and they would have been telling me "He is under a very severe threat".'

- 4.31 Then finally came the written confirmation of 4 April 1997, which reinforced the conviction that Billy Wright could not be housed with a UVF or UDA faction and informed the ongoing debate during April about where he should serve his sentence. It is not clear whether the NIPS believed, either in April 1997 or later in the year (for example when the UVF faction was returned to H6 in October), that a distinction could or might be made between the attitude of the UVF and the UDA towards Billy Wright. Nor did the NIPS ever question the exact nature of the threat which the RUC believed to exist against Billy Wright, and Alan Shannon, who was at the time of the murder of Billy Wright the Chief Executive of the NIPS, said that had he been aware of the Security Service judgement that the threat had effectively been lifted, he would have pursued the matter further with the RUC.
- 4.32 The SB opinion that the CLMC threat still existed was clearly important in the consideration of where Billy Wright was to serve his sentence and imposed severe limitations on the options which were available to the NIPS. If the threat still existed it would clearly be equally impossible to house Billy Wright on an ordinary wing at HMP Maghaberry, as he would be exposed to severe danger. Nor could he be housed in a UVF or UDA wing in HMP Maze, for the same reason.

- 4.33 The Inquiry has not been able to discover whether the CLMC threat was ever formally lifted, although the CLMC itself was disbanded in October 1997. The CLMC was never an executive body in its own right, but merely an umbrella organisation for the main loyalist paramilitary groups in Northern Ireland. There were occasions during its existence when the component groups within it did not necessarily agree with one another, and it is significant that the threat to Billy Wright continued to be real even after the formal disbandment of the CLMC. It was clearly the UVF which was mainly concerned about the splitting off of the LVF and which therefore sustained the threat, and it was between the LVF and the UVF that the sharpest hostility existed.
- 4.34 In conclusion the Panel are convinced that the threat to the life of Billy Wright from the loyalist side was real and did continue. Notwithstanding the confident expression of a contrary opinion by witnesses who spoke for the Security Service, it became clear that the evidence available to SB on this matter was more comprehensive and more convincing than that which lay behind the Security Service reports.

Further Alleged or Reported Threats to the Life of Billy Wright

Sir Ronnie Flanagan

- 4.35 Sir Ronnie Flanagan was Chief Constable of the RUC from November 1996 and then later of the PSNI until his retirement in April 2002. Therefore he was Chief Constable at the time Billy Wright was murdered.
- 4.36 One of the reasons why Sir Ronnie Flanagan was led as a witness was to put to him a remark attributed to him in Chris Anderson's book: *The Billy Boy: The Life and Death of LVF Leader Billy Wright*. It was reported in the book at pp. 54–55 that in the aftermath of Drumcree 1996 a senior Orangeman recalled how, in the course of a meeting with senior-ranking RUC officers, one of them remarked, **'Billy Wright was part of the Drumcree problem in 1995 and 1996. He won't be part of the problem in 1997.'** The senior Orangeman was Denis Watson, who gave evidence before the Inquiry, and the person whom he identified as allegedly having made the remark was Sir Ronnie Flanagan. Mr Watson however said in evidence that he did not trust his recollection of the matter. When it was put to Sir Ronnie Flanagan that he had said that, he had no recollection of the meeting nor had he any recollection of making the remark being ascribed to him. He also considered it **'absolutely outrageous for anyone to ascribe a sinister connotation to any comment supposedly attributed to me in the context of the murder of Billy Wright'**. If he made the remark about which, as he said, he had no recollection he could have made it relating to Billy Wright's imprisonment. If, however, Billy Wright had yet to be tried and was not in

custody he could not have made it. In fact, Billy Wright surrendered his bail when his trial opened and was in custody when he was convicted in March 1997 and sentenced to eight years' imprisonment which, subject to appeal, he was serving when he was murdered.

- 4.37 With Mr Watson not now trusting his recollection of events and Sir Ronnie Flanagan having no recollection of any particular meeting he had with senior Orangemen following Drumcree 1996 at which he was alleged to have made certain remarks, we do not find it established that he made these remarks. We accept without qualification Sir Ronnie's rejection of the suggestion that he would have wished Billy Wright permanently to be removed from the political scene.

The Rev William McCrea

- 4.38 Mr McCrea is a member of the DUP. He became a member of Magherafelt District Council in 1973. In 1983 he became a Member of Parliament (MP) for Mid-Ulster but lost his seat to Martin McGuinness at the General Election of May 1997. He was elected a MP for South Antrim at a by-election in 2000, lost the seat in 2001 but regained the seat at the General Election in 2005. Since 2007 he has also been a Member of the Legislative Assembly of Northern Ireland for South Antrim.
- 4.39 On 5 January 1998 he was a member of a DUP delegation that met with the Secretary of State for Northern Ireland, Dr Marjorie (Mo) Mowlam, and her two junior ministers, Paul Murphy and Adam Ingram. The central issue to be considered at the meeting was the murder of Billy Wright and whether there was collusion involved in the murder and a cover-up of that collusion. Mr McCrea was invited by the leader of the DUP, the Rev Dr Ian Paisley, to present the details of the investigation of the murder by the DUP to the ministers. Mr McCrea did this from notes and documents kept in a folder which he had taken to the meeting. The documents, he explained, had been sent to him in an envelope which had been delivered to him, either at his house or at his office; he could not remember which. From their terms it is obvious that these documents were either written or gathered together after the murder. So they were sent to the witness at least between, say, 28 December 1997 and 5 January 1998. The manuscript notes in his own handwriting were also in the folder which he rediscovered after a search within his house shortly before giving evidence to the Inquiry on 2 February 2009.
- 4.40 These notes were made by Mr McCrea during a telephone conversation which he had had with an unknown caller a number of weeks before the murder; he thought it would have been around the beginning of December. He found it hard to remember whether it was one conversation only. The caller was male, well informed, and spoke in a manner which indicated some level of education. Not everyone would have had the level of political knowledge which the caller

had. At the meeting and also to Brendan Anderson, a reporter for the *Irish News*, he said that he thought the call had come from HMP Maze. The content of the conversation, however, now led him to believe that the caller was someone with political rather than security or prison knowledge. The political content led him to believe that it **'certainly was a person inside authorities'** who was well disposed to him.

- 4.41 The part of the conversation reflected in the notes with which this part of the Report is concerned purports to deal with five points: the caller said that some weeks earlier a deal had been done; the referendum question had been settled; the Ulster Unionist leader, David Trimble, would be made a Privy Councillor; Billy Wright would be the victim of a spectacular (that is, he would be killed); and so would Mr McCrea who was to be **'removed'**. At the meeting on 5 January 1998 Mr McCrea reported that he had been advised of both threats in the course of the telephone call.
- 4.42 In his evidence before the Inquiry he explained why he failed to report either threat to the RUC before Billy Wright's murder. He also failed to warn Billy Wright about the threat. He accepted that he should have done so: his failure was an omission. He was, however, influenced by what Billy Wright had said to him in 1991 or 1992, namely that he did not want such threats reported to the police. As for the threat against himself, he said he did not report that to the police because he was of the view that the RUC thought he was paranoid about security. It was not the first time that he had received such a threat. Nevertheless, he said that he now regretted failing to report to the police the threats to Billy Wright and himself.
- 4.43 Mr McCrea admitted that shortly before going to the meeting on 5 January 1998 he added **'Mahood. Attempted murder. Page 33'** to the manuscript notes. From examination of these notes and after consideration of Mr McCrea's oral evidence, we are satisfied that the notes, with the exception of the reference to Mahood, were made at the time of the phone call. It follows that in early December 1997 there existed a threat to Billy Wright's life, one which unfortunately was not communicated to the authorities. What is interesting is the reference to his intended death as a **'spectacular'** in the notes made at the time. This is the same word that was used by the INLA in H6 of HMP Maze in September 1997 to describe what might be done, in place of burning the block, if the LVF were returned to wings C and D of H6.
- 4.44 We note that Mr McCrea did not report the threat to his own life despite the fact that he was in constant contact with the RUC. He did however give a reason why he did not report the threat and we see no basis for disbelieving that.

4.45 The identity of the person who spoke to him on the telephone remains a matter of speculation. The witness changed his mind about the source. At first he thought it was from within HMP Maze. The use of the word **'spectacular'** may lend support to that, especially if the source's political allegiance was republican. Could the person have been part of the political scene or even a member of the authorities? We consider that what was said could have been said by anyone with his ear reasonably close to the political ground. We are therefore unable to establish which interest the caller was actually representing.

Sir Hugh Annesley

4.46 Sir Hugh Annesley was Chief Constable of the RUC from June 1989 to November 1996. Toby Harnden, a journalist with *The Daily Telegraph*, was posted to Belfast some time in 1996. On 28 December 1997, the day after Billy Wright's murder, there appeared in that newspaper under Harnden's name an article about Billy Wright in which Sir Hugh, before his retirement, was reported as having said about Billy Wright: **'It's just a question of who gets to the bastard first, us, the IRA or the UVF. You can take your pick.'**

4.47 In his evidence, Sir Hugh said he had no recollection of having said this. If he had made the remark, it would have been made on an informal occasion and on a non-attributable basis, perhaps at a dinner with journalists. If he had made the remark, his reference to the RUC 'getting' Billy Wright would have been a reference to obtaining evidence against Billy Wright sufficient to take criminal proceedings against him and to obtain a conviction.

4.48 It cannot be concluded from this evidence that Sir Hugh as Chief Constable of the RUC expressed a wish on behalf of the force he led that Billy Wright should be killed.

5

Structure and Background of the Main Organisations

Introduction

- 5.1 This Chapter provides an overview of the structure and background of the main organisations with which this Inquiry has been concerned.

The Northern Ireland Prison Service

History From the Late 1960s

- 5.2 At the end of the 1960s there were two prisons in Northern Ireland. HMP Belfast, often referred to by its location in Crumlin Road, held male adult prisoners, both remand and sentenced, while HMP Armagh held female prisoners and had a closed Borstal Unit for young men. There was also an open Borstal institution in Millisle and a small unit near Armagh for short-term adult prisoners serving their first custodial sentence. Between them they held around 600 prisoners.
- 5.3 Following the onset of civil unrest in 1969 and the introduction of internment in 1971 there was a dramatic increase in the number of prisoners, to the extent that HMP Belfast held 1,000 in August 1971. Initially the internees were held in the Prison Ship Maidstone, which was anchored in Belfast Lough. In August 1971 a former wartime airfield at Long Kesh in County Antrim was converted into an internment centre, and accommodation was provided in Nissen huts located within a larger compound. In due course this establishment was renamed HMP Maze. Since it was not possible to recruit sufficient local staff, HMP Maze was initially staffed mainly by prison officers sent on detached duty from the prison services of England and Wales and of Scotland. Security was provided by the Army.
- 5.4 From the early 1970s the history of the Northern Ireland Prison Service (NIPS) was linked inextricably with the history of HMP Maze, which is considered in detail in Chapter 7.
- 5.5 Throughout the early and middle 1990s, there were disturbances in other prisons, notably HMP Belfast, where a bomb was detonated in a dining area in 1991, killing two loyalist prisoners and injuring a further seven. The subsequent report by Lord Colville endorsed the government's policy of resisting segregation in that prison. HMP Belfast was closed in 1996.

- 5.6 A further prison, HMP Magilligan, opened in 1972 on the site of a former military camp. Like the original buildings at Long Kesh, the prison was divided into compounds containing Nissen huts and initially the bulk of the staff came on detached duty from the prison services of England and Wales and of Scotland. In due course the original temporary accommodation was replaced by three H blocks similar to those at HMP Maze. A wall was built around the perimeter of the prison in 1976. At that point, in addition to those convicted of terrorist offences, the prison held prisoners who had been convicted of non-terrorist offences, as well as some young prisoners including those serving sentences of Borstal training. In 1977 the Borstal trainees were transferred to Millisle and those convicted of terrorist offences transferred to HMP Maze. The regime in HMP Magilligan was subsequently developed to reflect the fact that the prisoners there were generally convicted of non-terrorist related offences.
- 5.7 After the report of the Gardiner Committee in 1975, which is described more fully in Chapter 7, the Northern Ireland Office (NIO) purchased land near Lisburn, which once again had previously housed an air force base, and began to construct what was to become HMP Maghaberry. The first part of the prison, known as Mourne House, was opened in 1986 to hold female prisoners who were transferred there on the closure of HMP Armagh. The male part of the prison was constructed to the same design as HMP Frankland (a high security prison in the north of England). It was made up of four accommodation units each with 108 cells and became fully operational in November 1987. From the outset the NIPS wished to manage HMP Maghaberry in the same way as high security prisons were governed elsewhere in the UK. There was to be no segregation according to political factions and all prisoners were to be treated in accordance with prison rules and were expected to respond in like manner. Prisoners spent their days at activities including education, workshops and the gymnasium and their evenings in house blocks. In other words, the management of HMP Maghaberry was to be quite different from HMP Maze and prisoners who were held there had to accept that fact. If they did not, they were to be held in HMP Maze.
- 5.8 Several witnesses, including the former Minister Sir John Wheeler and former NIO Deputy Under Secretary Mr John Steele, emphasised the importance which was attached to retaining an integrated regime at HMP Maghaberry. When asked about this matter, former NIPS Chief Executive Alan Shannon replied:

‘I don’t think I can overstate the extent to which this issue was a very real concern to the Prison Service and to Ministers in this period. ... We saw Maghaberry as an opportunity to provide an alternative to the Maze regime. It was infinitely preferable from a prison management point of view, but we also felt it was preferable in terms of a

social point of view, in terms of persuading prisoners to serve their sentences in integrated accommodation working together. So we were extremely wary of the segregation issue spreading to any other prison, particularly Maghaberry.'

For its first nine years HMP Maghaberry held a relatively static population of long-term convicted prisoners, many of them serving life sentences. With the closure of HMP Belfast in March 1996 HMP Maghaberry also became the adult committal prison in Northern Ireland.

Organisational Structure

- 5.9 Until 1995 the NIPS was part of the NIO and the person in charge was known as the Controller of Prisons. Mr Steele held this post from 1987 until 1992, when he left to become Director of Security in the NIO. He was succeeded by Alan Shannon. In April 1995, when the NIPS became a 'Next Steps Agency' (see 5.11), Mr Shannon became its first Chief Executive, a post which he held until 1998.
- 5.10 In 1997 the Chief Executive of the NIPS was supported by four Directors who were responsible for Policy and Planning, Operational Management, Finance and Estates Management, and Finance and Personnel Services. All four were of equal rank, although the Inquiry was told that the posts of Director of Policy and Planning and Director of Operational Management were the most critical. The former had a key role in maintaining an overview of the political, policy and legal environments, and the Inquiry learned that the post holder in the mid-1990s was actively involved in the political negotiations which led to the Good Friday Agreement. The post of Director of Operational Management was traditionally held by an experienced former prison governor. He was effectively the professional head of the prison governors. An unusual feature of the NIPS was that the Governors of the three prisons were also members of the senior management team.

Next Steps Agency

- 5.11 Throughout the 1990s the UK Government created a number of 'Next Steps Agencies' across major departments in an attempt to separate operational management from strategic policy. Responsibility for the latter was to remain within the parent department, while the agency was to have responsibility for day-to-day operations. The relationship between the parent department and the relevant agency was set out in a Framework Agreement. HM Prison Service of England and Wales had become an agency in 1993 and the NIPS followed two years later.
- 5.12 In Northern Ireland the intention of the new agreement was that the Prisons and Security Minister would provide strategic direction, targets and resources on behalf

of the Secretary of State for Northern Ireland (SOSNI) and it would then become the responsibility of the NIPS to manage prisons within this framework. The Minister approved an annual business plan for the service and received quarterly performance reports. An annual report was submitted to Parliament.

- 5.13 Several witnesses to the Inquiry expressed the opinion that this concept of an operational agency at one step removed from the Minister was not appropriate for the NIPS at the time because it operated in such a highly political environment. In addition to having overall responsibility for his organisation, the Chief Executive retained his role as the Minister's senior policy adviser on prisons. In his witness statement Alan Shannon underlined how important it was that the policy and operational management of prisons should be consistent not only with Ministers' penal policies but also with their wider criminal justice, security and political objectives. In formal terms Mr Shannon's line manager was the Permanent Secretary (PS) of the NIO but he said that he would not have discussed operational matters with him. He also had quarterly performance meetings with the Deputy Under Secretary, Mr Steele. Alan Shannon and his senior colleagues in the NIPS were also part of the senior management team of the NIO. He was a member of the NIO Departmental Management Board and often attended NIO meetings, such as the PS's weekly stocktaking meeting. Major policy proposals on prisons were generally notified to senior NIO staff before being approved by Ministers and, while Ministers did not generally become involved in operational detail, they were kept fully informed through mechanisms such as monthly information bulletins, regular stocktaking meetings from each prison and a daily situation report (SITREP), a background note of anything that had happened in the previous 24 hours.
- 5.14 Mr Shannon reported regularly to the Minister. Ministers also knew about operational prison issues from the monthly intelligence assessment report (MIAR). Mr Shannon attended the Anglo-Irish Secretariat meetings once or twice a year to give briefings on prison issues.
- 5.15 Senior officials in the NIPS had regular contact with politicians. As the loyalist parties became more engaged in the political process, and more involved in prison issues, their politicians got to know the prison officials better and regularly called them. This was often a convenient way of defusing issues within the prisons as these external individuals could have a calming influence, particularly on some of the prisoners in HMP Maze. Alan Shannon told the Inquiry that a decision about whether to inform the NIO about such contacts would depend on its nature and whether it related solely to prison issues.

The Prison Information Unit

5.16 The Prison Information Unit (PIU) was set up within the NIPS Operational Management Directorate to develop a system for gathering intelligence information from prisons and to arrange for this information to be passed on to external agencies, in particular the Royal Ulster Constabulary (RUC), the Security Service and the Army. Each month a MIAR was prepared detailing all relevant incidents that had occurred in prisons in the previous month. The MIAR was further discussed at meetings of the Prison Liaison Group (PLG) which was attended by representatives from RUC Special Branch (SB), Army Intelligence and the Security Service (see 5.27). In addition to preparing the MIARs, the PIU was the fixed contact point for any information coming in or out of the NIPS and was either informed directly or copied into information about any relevant prison matters coming from other agencies.

Monthly Intelligence Assessment Reports

5.17 The PIU selected relevant items of the information which it gathered from prisons for inclusion in the MIAR. The purpose of this monthly report was to give an overview of the situation in the prisons. It was not an in-depth detailed security analysis. Although there might be comments on individual incidents, these were often simply by way of illustration or example. Potentially important pieces of information involving individuals, such as politicians visiting individual prisoners, would be specifically recorded and mentioned. The Inquiry was told that the PIU and its product, the MIAR, were concerned with background and strategic matters, rather than with day-to-day operational matters. It was explained that local information with immediate significance which might have operational consequences would normally have been passed immediately to the Security Governor in the prison and dealt with by him in consultation with the Governor I and NIPS Headquarters (HQ) as appropriate. Details of the arrangements for collecting and managing intelligence information in HMP Maze are examined in Chapter 7.

5.18 Information was gathered by PIU staff following visits to the prisons, weekly in the case of HMP Maze and HMP Maghaberry and fortnightly in the case of HMP Magilligan. The PIU member of staff would visit the prison Security Office and speak to the staff, in particular the collator if there was one, the Security Governor and thereafter either the Governor I or his deputy. Each prison collected its own intelligence information. This was done mainly by way of Security Information Reports (SIRs) and Incident Communication Reports (ICRs). An ICR recorded, as the name suggests, a specific incident such as a fight between prisoners or someone caught with contraband, whereas a SIR recorded pieces of information that did not arise out of incidents but which might be of interest. An example given was

that, if an officer saw three prisoners together in a cell deep in discussion and thought this looked suspicious, this information would be recorded in a SIR. Similarly, any piece of information passed on by a prisoner would be recorded in a SIR. Sometimes individual prison officers recorded the SIR under their own names. At other times, if the officers did not wish information to be attributed directly to them, they would pass the information orally to one of the Security Office staff who would record it. The veracity of the information in this system relied on individual prison officers bringing forward items of note and reporting them accurately.

- 5.19 All the SIRs and ICRs recorded since the previous visit would be printed off for the PIU each week. The PIU member of staff would then read each one of these, filtering out those not considered to be relevant or important. The remainder would then be taken back to the PIU and typed onto the computerised information system known as SASHA (Security and Sociometric Handling Analysis). PIU staff could also create their own SIRs or ICRs to meet their own requirements. The PIU produced a weekly internal report solely for its own information and benefit.
- 5.20 The PIU was provided with copies of any notifications of prisoner transfers and with minutes of the Allocation and Assessment Committee's meetings regarding prisoner transfers. The PIU was also given information about money transfers to prisoners which came from the prisoners' private cash office. This information was obtained at each prison. Whilst the PIU would always know to whom the money was ostensibly being delivered, it was not uncommon for the name of the person handing in the money to be completely fictitious. The RUC was also provided with this information.
- 5.21 During visits to prisons the PIU staff would also receive a note of any committals that had taken place that week. Each prisoner when committed to prison from court was allocated a trace and category. The trace related to any allegiance to a paramilitary faction, while category related to potential risk of escape or violence. This data was provided by the police and was retained for the understanding of senior prison colleagues. So far as HMP Maze was concerned, a list of the block transfers and visits was provided during the weekly visit. This would show who had visited whom and would sometimes help to identify who were the more important 'players' within the various organisations. The Inquiry was told that this information usually confirmed knowledge which the PIU already held.
- 5.22 The NIPS press office sent the PIU any relevant press cuttings so that it could report on any relevant media interest. In addition, each prison produced a daily SITREP sent to the operations room, but copied to the PIU.

- 5.23 The PIU was also given copies of minutes of the Internal Security Committee meetings and the Local Security meetings which were attended by the police and Army as well as prison staff.
- 5.24 The PIU did not receive information from informants directly. If a prisoner was passing information, it would have been through staff and on through the Security Department. The PIU did not receive information from the RUC which had been obtained from their informants, nor did it deal with any information from covert systems. So far as monitoring of prisoners' use of telephones within the prison was concerned, the PIU simply received the information obtained from this source and placed it on a SIR. It did not have any involvement in monitoring or in asking that the calls of individual prisoners should be monitored. This would be a matter for the prison's Security Department. Similarly with regard to the monitoring of prisoners' correspondence, the PIU would merely have access to what was recorded on the SIRs.
- 5.25 Each month the PIU staff would use the information that had been gathered from the prisons to draft the MIAR. The Inquiry was told that the PIU had total discretion as to what went into this assessment and that senior NIPS staff did not provide any guidance as to what should be included in a MIAR. Each report would end with a brief assessment. SIRs and ICRs would be cross-checked not only with each other, but also with previous reports and also reports from other prisons. The Inquiry was told that the role of the PIU was not so much to analyse the information as to monitor what was going on in the prison and try to provide an assurance that action had been taken. It was not the responsibility of the PIU to ensure that information in the Security Information Centre (SIC) was being analysed and acted upon. Although PIU staff made decisions as to what was relevant for inclusion in MIARs, they did not take part in any policy decisions. These were made by more senior staff in the NIPS.
- 5.26 The Inquiry was told that the MIARs were produced as a means of keeping senior staff up to date with what was happening in prisons. The reports were discussed at the PLG meetings. In addition they were often disseminated to persons who had not attended the PLG meetings. The function of the report was to inform all parties who had an interest, not only those who attended the PLG.

The Prison Liaison Group

- 5.27 The PLG meeting was originally held monthly but later became quarterly. Its purpose was purely as an information exchange between the various organisations. Policy was not discussed and no decisions were made at or following the meeting. The Chief Executive of the NIPS chaired the meeting.

External attendees included the RUC SB, the Security Service and the Army. The NIPS members were the Director and Deputy Director of Operational Management and two members of staff from the PIU. The Inquiry was told that whilst the RUC regularly attended PLG meetings, the Army and the Security Service were infrequent attendees. The majority of information flowed in one direction, from the prison to other agencies and hardly ever the other way around. It was assumed that if other agencies had relevant information they would have passed it on through other channels. It was put to the Inquiry that the Army and Security Services might have regarded the information in the MIARs, which could be at least days and sometimes weeks old, as being of limited interest.

- 5.28 Discussion at the PLG was restricted to the MIAR and the general situation in HMP Maze or HMP Maghaberry. There was no discussion about actionable intelligence and the meeting was not used as a normal conduit for information from the RUC or the Army. It was suggested to the Inquiry that the PLG meeting involved essentially a reading of the MIAR of events that had happened in HMP Maze in the previous month and that there was little or no comment or discussion following upon that meeting. Those attending the meeting had already received the assessment report, so if they had any particular questions they would have raised them. The minutes were prepared and cleared through the Chief Executive. The RUC did not generally provide any information but on occasions, for instance in the run-up to Drumcree, senior prison staff would have been interested to know whether the RUC anticipated wide-scale trouble and, if so, how that might impact on the prisons. It was suggested to the Inquiry that intelligence matters might have been discussed at these meetings and that there might have been occasions when things were not recorded in the minutes because the attendee who raised an issue had asked for it not to be included.
- 5.29 The PIU produced minutes of these meetings which would be circulated to the same people to whom the MIAR had been circulated, and also to the governors of the various prisons. The PIU would not allocate any action or task to be undertaken as a consequence of this meeting.

Exchange of Information with External Agencies

- 5.30 The Inquiry heard that there was bilateral contact with SB at NIPS HQ level through the PIU. There was also contact between regional SB and individual prisons through police liaison officers. This structure had been established to allow information to flow into and out of the prisons. In practice, more information flowed out of the prisons than into them. The main type of information prisons received from SB was in relation to threats to either staff or prisoners.

5.31 From time to time the Security Service would pass to the NIPS Northern Ireland Intelligence Reports (NIIRs). The PIU did not disseminate this information as it came on a 'read only' basis. It was delivered by the Service and, after the appropriate official had read it, it was collected by them. The Director of Operational Management received the information in written form as well as the PIU. The PIU did not action this information and it would not go into the monthly report. The PIU did not have any other links with the Security Service, other than during meetings and when they brought folders of reading material.

Threat Information

5.32 The PIU was usually staffed from approximately 9.00 am to 5.00 pm on weekdays. During these times the police were liable to pass any threat information to them. Such information would be received orally in the first instance and would be followed up in writing, often by fax. The PIU would then pass the information to the relevant prison by telephone and would follow this up with written confirmation. The PIU would keep a record of the written information received from the RUC. Outside these times information about the threat would be made direct to the prison concerned. This would be recorded in a SIR and the information transferred to SASHA. Staff from the PIU would then pick up the record at their weekly visit.

5.33 Witness D confirmed that he had contact with SB E3 in RUC HQ. He confirmed that he would have contacted them via the secure phone or secure fax, although this contact, in either direction, was not regular. He agreed that SB would contact the PIU by this means if they were passing on a threat.

Prison Staff Grades

5.34 Throughout the 1990s there were five grades of prison governor and three grades of prison officer. In descending order, the governor grades were Governor I (known as Governor 1), Governor II (known as Governor 2), Governor III (known as Governor 3), Governor IV (known as Governor 4) and Governor V (known as Governor 5). The roles carried out by the respective grades would vary according to the size and importance of the prison involved:

- Governor I would be in charge of a large or complex prison;
- Governor II could be in charge of a medium-sized prison or deputy in a large prison;
- Governor III could be in charge of a small prison, deputy in a medium-sized prison or in charge of a major department in a large prison;
- Governor IV could be deputy in a small or medium-sized prison or in charge of a department in a larger prison; and

- Governor V would be deputy in a large department or in charge of a unit in a prison.

Regardless of his grade, the person in overall charge of a prison was sometimes referred to as the Governing Governor, the Governor in charge, or (colloquially) the No 1 Governor.

- 5.35 In the NIPS in 1997 the Governors of HMP Maze and HMP Maghaberry were Governors grade I (one of the Assistant Directors of Operational Management was also a Governor grade I); the Deputy Governor of HMP Maze was a Governor grade II (this was the case with Ken Crompton, who came to HMP Maze in October 1997 from HM Young Offenders' Centre Hyde Bank Wood, where he had been in charge, in both cases as a Governor grade II). HMP Maze also had one Governor grade III and four or five Governors grade IV, including, for example, the Governor in charge of security. There were also several Governors grade V, who were in charge, for example, of two or more H blocks.
- 5.36 There were three grades of uniformed prison officer:
- Principal prison officer (PO), who would be in charge of a unit such as a block, the visits area or the SIC;
 - Senior prison officer, who would be in charge of a smaller unit, such as the dog section or the main gate, or would be deputy to a PO, for example, in a block; and
 - Prison officer, sometimes referred to as a Basic Grade Officer.

The Royal Ulster Constabulary

- 5.37 During the period with which the Inquiry has been concerned, the police force in Northern Ireland was known as the RUC. Following the Good Friday Agreement in 1998, a major review of policing was undertaken by the Independent Commission on Policing in Northern Ireland, chaired by Christopher Patten, which reported in 1999, and as a result of which the police force changed its name to the Police Service of Northern Ireland (PSNI) and the office of Police Ombudsman was established. This accounts for the references in this Report both to the RUC and to the PSNI.

The Role and Structure of Special Branch

- 5.38 The function of SB in Northern Ireland was to collect, process and assess information about subversive groups, organisations and individuals from all available sources, and to disseminate security intelligence to those who needed to know it and were authorised to receive it. In 1997 the SB led the counter-terrorist

effort in Northern Ireland, and most of the intelligence was either collected by or available to SB. Its relationship with other agencies is touched upon later, but the most important fact which differentiated the intelligence role of the SB in Northern Ireland from what happened in other parts of the UK was that SB had the lead role: elsewhere it was the Security Service which took on that responsibility, but in Northern Ireland the Security Service and the Ministry of Defence (MOD) were subordinate to the SB. The importance of SB in the sphere of intelligence cannot be overstated.

- 5.39 The second important principle which operated in Northern Ireland was that within SB there was an unusual degree of devolution from Headquarters (SB HQ) to the three Regions. Intelligence work went on at three levels: at RUC HQ, in the three Regions (Belfast, known as E5; North, known as E6; and South, known as E7/8), and in the 27 sub-divisions or local centres of SB operation. Each Regional Head of Special Branch (RHSB) exercised a remarkable degree of devolved authority, and not all intelligence gathered by and available to the Region was passed on to SB HQ. This arrangement, so unlike what was done in other parts of the UK, was said to be because the sheer volume of information during the Troubles could not have been handled by a single headquarters office.
- 5.40 The PSNI in their final submission pointed out that not all departments were intended to know what the other departments were doing. The PSNI assert that this was not an exceptional or unusual feature of an organisation dealing with intelligence where there was an ever present risk of infiltration or chance compromise. The officers in each department knew that if a function was required it could be actioned, but they did not necessarily know the manner in which it was going to be actioned by one of the related departments within SB. The PSNI emphasised that it was a system that operated on a strict 'need to know' principle, and it must be viewed in the particular context of an extremely difficult era.

Computerisation

- 5.41 The Inquiry has been considerably frustrated by the inability of the PSNI to produce comprehensive written documentation to cover the period with which we have been dealing, and this particular difficulty has been exacerbated by the fact that during the late 1990s a changeover was taking place from 'hard copy' records to computerised records.
- 5.42 No clearly reliable information has been found about precisely how and when decisions about computerisation were taken, nor about how the implementation was to take place. The Inquiry remains puzzled and frustrated that details of such an important move appear not to have been retained by the PSNI.

- 5.43 The computer systems in use by SB were relatively basic, and they were not the same at each level of operation. At the important Regional level, the computer system in use was called PRISM. At SB HQ, the system used to create and manage the RUC database was known as CAISTER, a name which was subsequently changed to MACER. The Inquiry has heard conflicting evidence about when the change of name took place, one witness believing that it happened in 1997, but acknowledging that it might not have changed until 1999. In any case, the two computer systems were not compatible, and PRISM was not networked to CAISTER/MACER. There was a PRISM computer terminal in SB HQ in 1997, and the SB HQ personnel made use of it from time to time.
- 5.44 The Inquiry has heard how information from sources was typed onto PRISM at Regional SB HQ. If it was felt that the information should be shared, it was transferred in handwriting to a document known as an SB50, or to a SIR at the Regional Source Unit (RSU). SB50s were gradually phased out during the late 1990s in favour of SIRs. Not all PRISM debriefs became SIRs, but those that did arrived at SB HQ desks on the MACER system and were stored in a stack on the MACER terminal.
- 5.45 There were cases where the intelligence needed to be more widely disseminated, but with more careful control over the content. This was particularly the case if it needed to be shared with the MOD, and in this case, a Secret Intelligence Dissemination Document was prepared, in which the intelligence had been further sanitised.
- 5.46 Former Assistant Chief Constable (ACC) Sam Kinkaid told the Inquiry that Regions retained control over the wording of Intelligence Reports (INTREPs) and their dissemination, primarily for reasons of source protection, and that not all information about serious crime that should have been disseminated was in fact shared with those who needed to know it. The ‘need to know’ criterion was used excessively, and with sometimes unhappy results in terms of the failure to share important information.
- 5.47 The nature of each computer system meant that there were serious shortcomings in terms of the use and analysis of intelligence. Witness ZCQ, who worked until June 1997 as Detective Chief Inspector on the Republican Desk at SB HQ (Desk E3A – see later in this Chapter for further details), said in evidence:

‘... the old paper system was much easier to deal with ... When computerisation came along, the way that the system was configured meant that different people could carry out searches in different ways, and at different times could actually produce different results.

So I think the computerisation, rather than bringing us the aid it was meant to, actually posed us a number of difficulties in terms of retrieving material in as simple a fashion as we used to be able to do with the paper system.'

That particular difficulty needs to be borne in mind when considering the way in which SB handled intelligence material, and the success (or otherwise) with which it was analysed and assessed.

The Warner Report

- 5.48 An important development which influenced the structure and working of RUC SB during the period covered by this Inquiry was *A Review of Special Branch* conducted by Sir Gerald Warner. This arose out of a perception by the UK government that there were shortcomings in the quality and strategic analysis of intelligence in Northern Ireland, and that a revised structure for SB, with a stronger emphasis on analysis, made possible by the introduction of trained analysts, would be highly beneficial. The breakdown of the Provisional Irish Republican Army (PIRA) ceasefire, with the planting of the Canary Wharf bomb in February 1996, had not been clearly foreseen by the intelligence agencies, despite the many indications of stresses in the ceasefire. There was a clear need to improve the processes by which political and strategic intelligence was collected and analysed. The Warner changes were introduced in the latter half of 1997, and resulted in the creation of a new Intelligence Management Group (IMG) to oversee and direct the work done by the existing departments known as E3 and E9.
- 5.49 The role of the IMG was fivefold: to act as the central collection point through which all operational, strategic and political intelligence arrived at RUC HQ from the SB regions and elsewhere; to act as the central point for decision making about the further dissemination of intelligence; to coordinate and guide the intelligence strategy of RUC SB; to conduct briefings and meetings with the Source Units in the regions (see paragraphs 5.70 and 5.71) in order to improve the flow of intelligence; and to provide the Head of Special Branch (HSB), as well as the various security and intelligence committees in Northern Ireland, with briefings and intelligence. In February 1998 the processes were further improved by the agreement of a Memorandum of Understanding between the IMG and the Assessments Group (AsGp) of the Security Service, setting out the respective roles of the two groups in the assessment and dissemination of intelligence.
- 5.50 Diagrammatic explanations of the structure of SB both pre-Warner and post-Warner are to be found at Appendix D to this Report. For the purposes of this Inquiry it is important to note that the crucial warnings regarding the Irish National Liberation Army (INLA) threat to the life of Billy Wright in April

1997, communicated by the Security Service to RUC SB, arrived before the Warner changes were implemented, and the lead addressees were the Chief Superintendent Intelligence, the Superintendent E3 and Deputy, E3 Republican Desk, Superintendent E9 for E9A and E9D, Desk Officers, DI E3E, RHSB(B) and Superintendents as appropriate.

The Departments of Special Branch

- 5.51 By the time of the murder of Billy Wright, the Warner Recommendations appear to have been implemented, so reference will be made here to the structure of SB as it was post-Warner. E1 was an administrative department; E2 dealt with training; E3, part of the new IMG, included the desks which handled intelligence about paramilitary activity. These were known as E3A in the case of the republican groups, and E3B in the case of loyalist groups. In addition to this there was Central Desk, formerly E9A, which concentrated on running 'lifestyle' operations, intended to build up an intelligence picture of different paramilitary groups and individual members of them. It also focused on high-level strategic targets, particularly within the PIRA. Its work was directed by the Intelligence Review Committee (IRC), a high-level body which was able to assess priorities for the work of Central Desk (see 5.90).
- 5.52 The regular morning meeting was a key feature of SB operation, both at HQ and at regional level. At HQ the morning meeting was attended by the head and deputy head of IMG and the heads of the Republican and Loyalist Desks and of E9A (later Central Desk). The main purpose of the meeting was to carry out a review of the intelligence which had been collated in the previous 24 hours, and to discuss what action, if any, was needed. Information was shared and briefings prepared for the HSB and his Deputy (DHSB), who would in turn brief the Chief Constable. Similar morning meetings took place in each Region, and briefings from the RHSB reached the HSB at HQ by mid-morning. No notes or minutes were taken at these morning meetings, but decisions were taken in the light of the current intelligence position, and whoever was nominated to take any specific action noted this down in his day book, which was a police-issued A4-size notebook. These books were not retained, which means that there is an absence of an audit trail of decisions taken at morning meetings. The Inquiry has heard conflicting evidence about the attendance at the daily morning meeting at HQ, but it seems more likely that the heads of desks met daily with the HSB and head of IMG, notwithstanding the claim by the latter that such meetings were only weekly. It was the role of SB HQ to be primarily concerned with strategic intelligence, and the head of the IMG had little knowledge of day-to-day tactical operations, organised by the Regional Tasking and Co-ordinating Groups (TCGs, described in more detail in 5.66 to 5.68).

- 5.53 E4 consisted of two departments, one of which ran surveillance operations (E4A). Some such operations were the responsibility of SB HQ although the majority of surveillance operations were run by the Regions (see below). The other department was known as the Headquarters Mobile Support Unit (HMSU), which provided teams of uniformed officers, including firearms teams, to carry out operations.
- 5.54 E5, E6, and E7/8 remained the same post-Warner as they had been previously, i.e. the regions of SB to which so much work was devolved.
- 5.55 The Head of the IMG met daily with the HSB, and (probably) with the heads of the desks, and less frequently with what was called the Senior Management Group. The daily morning meetings were about current events and problems, while the relatively infrequent Senior Management Group meetings were more to do with costs and policy, and involved RHSBs.

Contact between Special Branch HQ and Other Agencies

- 5.56 The E3A and E3B desks were the point of contact with other intelligence agencies, notably the Security Service and the MOD. They liaised with these agencies, and received intelligence from them. Security Service intelligence normally came to E3 by secure telex. It was then printed off in hard copy and circulated through the desks. SB received NIIRs in hard copy from the Security Service: these were a sanitised version of the raw intelligence. Copies were circulated to a defined readership for their information, but then returned to the Security Service with one copy retained in the registry. The information would then be entered onto the computer database as an INTREP, from which it could be retrieved by those qualified to have access to it. There might on occasion be disagreements between SB and the Security Service about intelligence, about its reliability or accuracy, and there were ways of flagging up such disagreements and seeking to resolve them. Witness FG, then an SB officer in E3A, claimed that the Security Service would not normally have intelligence of which SB were not already aware, since SB were the lead agency. He also made the point that there was a greater awareness within the Security Service of the political context of intelligence, and less concern with operational details. The Inquiry has, however, heard a good deal of evidence to indicate that the Security Service did in fact have access to much intelligence which was not known to SB and which they passed on to the RUC.
- 5.57 It was the responsibility of the desks to prepare assessments of intelligence for the benefit of senior management within the RUC. These took the form of Intelligence Management Group Intelligence Reports (IMGIRs), which were composite documents, drawing together a number of strands of reporting into a single document.

- 5.58 A further link between SB and the Security Service was provided by the Security Service officer who represented the Director and Co-ordinator of Intelligence (DCI) at RUC HQ Knock, known as DCI Rep Knock. He was mainly concerned with processing applications for warrants to install technical surveillance and eavesdropping equipment requested by SB, for which the permission of the SOSNI was required. DCI Rep Knock agreed that warrantry work **‘is the seeking of lawful authority for the undertaking ... of intelligence-gathering by means which would otherwise be unlawful’**. It was also the responsibility of this individual to distribute NIIRs to the RUC, after they had been produced by the ASGp of the Security Service.
- 5.59 Contact between SB and the Army normally took place primarily at regional level, so the Desk Officers at HQ had little contact with MOD personnel.
- 5.60 As far as the NIPS was concerned, contact between SB and the NIPS was at HQ level, between E3 and the PIU. There was also contact at regional level, and E3 sent a representative to the meetings of the PLG which discussed the MIARs which were prepared from prison intelligence.
- 5.61 A further link between SB and the NIPS was provided by the Prison Intelligence Liaison Officer (PILO), who was a Detective Constable attached initially to HMP Maze and then, when HMP Maze was closed in 2000, to HMP Maghaberry. He was known to the Inquiry as Witness FA. He had an office in the neighbouring Army compound outside HMP Maze, and his task was to obtain any intelligence which emanated from the prison, whether concerned with prisoners or visitors, which was likely to be of interest to SB. Non-urgent intelligence was written onto an SB50 and hand-delivered to the Divisional RUC office at Lisburn, where it would eventually be loaded onto the computer database. Urgent information was passed to Lisburn by telephone. Witness FA believed that he was always the conduit for intelligence coming in and out of HMP Maze, and it was very unlikely that any intelligence bypassed him. The fact of the PILO’s location in the Army compound was useful in that it allowed a ready interchange of intelligence between SB and the Army, in particular the Royal Military Police who manned the watchtower next to the visitors’ reception area.

Embedded Security Service Officers

- 5.62 Following the Warner Report a significant change took place which improved the ability of SB to analyse intelligence. Trained analysts were seconded from the Security Service to the desks at SB Headquarters, in particular to help with the preparation of IMGIRs. This meant that the strategic dimension of intelligence was more adequately treated than had been the case previously, when only fairly

rudimentary analysis had been carried out by SB's own personnel, none of whom had received specific training in the analysis of intelligence. The change also meant that the Security Service and the MOD received more of SB's tactical intelligence.

The Regions

- 5.63 The importance of the Regions has already been emphasised and this part of the Chapter explains the structure of each Region, under an RHSB, assisted by a Deputy (DRHSB). It is noteworthy that the RHSB in Belfast Region in 1997, Witness ZBQ, had transferred from RUC Uniform Branch in 1996, and had never served previously in SB.
- 5.64 Under the DRHSB came the two main component parts of the Region: the TCG and the Support Unit, which in turn consisted of the Source Unit and the Project Unit. Each of these will be briefly described. Under them came the Divisional structure of each region.
- 5.65 There was a daily morning meeting chaired either by the RHSB or by his deputy at which the intelligence for the previous 24 hours was discussed and agreement was reached on what action needed to be taken. This meeting was also attended by the Divisional Superintendents, a representative from the TCG and representatives from the Support Unit's Source Unit and Project Unit. This meeting was an opportunity for the sharing of information, and for decisions to be taken by the RHSB or his deputy in conjunction with the Head of the appropriate Division.

The Tasking and Co-ordinating Group

- 5.66 The main function of the TCG was to coordinate all security force operations within the Region, involving both long-term intelligence gathering operations (including pattern of life operations), and live action operations which might arise on a day-to-day basis. A live action operation would be mounted in response to specific intelligence which suggested, for example, that a particular act of terrorism was being planned. The decision to undertake an operation involved weighing up priorities and deciding how best to use the available resources. It might be necessary to postpone some of the long-term work if the need for live action operations necessitated using all available resources. Work on the long-term project might then be resumed later when the pressures were fewer.
- 5.67 Decisions about reactive operations would normally be taken at the regular daily morning meeting, but could be started at any time if the degree of urgency required an immediate response. Each operation would be in the hands of a case officer, with information shared with E4 and the HMSU. A suitable team for the operation would be selected, and approval sought from the Regional ACC and the HSB. The Regional ACC retained overall responsibility for the duration of the operation, and the HSB

would brief the Chief Constable as necessary. Once an operation was approved, it was left to the TCG to run it. If the Army was involved in a TCG operation, a military liaison officer would be part of the team in the operations room. The TCG used both surveillance teams supplied by E4, and uniform support from the HMSU.

- 5.68 A record of each operation was kept on a file, with the records generated by the TCG in running an operation known as logs. Details were also entered on the PRISM computer system, but until mid-1998 hard copy records were also kept. An instruction was issued in June 1998 that records should be kept by the TCG, either in written form or on computer, for one year, or longer if a court case was pending.

Dedicated Army Units

- 5.69 These teams were much smaller than police teams. The Army team leader would come into the TCG each morning for the morning briefing. The TCG would provide the team with a target, but it then became a matter for the Army unit as to how surveillance was carried out. Police teams worked separately from the Army units, although tasks could be handed from one to the other. The dedicated Army units were never privy to SB intelligence, and most of the information they gathered was of a routine nature.

The Support Unit

- 5.70 The Support Unit consisted of two departments: the Source Unit, which dealt with human intelligence; and the Project Unit, which dealt with intelligence obtained by technical means.
- 5.71 The work of the Source Unit involved mainly the debriefing of SB Agent Handlers. This led to the creation of a debrief document, probably several pages long, made up of a narrative of the facts reported by the agent, together with appropriate comments and explanations added by the handler. Source protection was of paramount importance, but it was also vital that the right customers received the intelligence. The debrief would then be typed onto the PRISM intelligence database. In 1997, the number of debriefs handled each day varied considerably: as few as half a dozen could be received but the number might be much higher. If the information contained a threat to life, an action sheet would be prepared by the Source Unit. The handwritten debriefs were retained for as long as the agent was active.
- 5.72 The dissemination of intelligence ensured that, in theory, everyone who needed to know the intelligence received it; this included the TCG, the Divisions, and the RHSB. If wider dissemination was deemed to be necessary, for example to another Region, an SB50 would be produced, which was a sanitised version of the original debrief, and would eventually find its way onto the MACER/CAISTER intelligence database.

- 5.73 The Project Unit processed information obtained by technical means. It also had the capacity to run sources, and at times Project Unit staff acted as the secretariat for the RHSB. Decisions as to who should be targeted for technical attack were made at Divisional level. An intelligence case would be put together, and would be submitted to E3 and to the Security Service DCI, who would be asked to provide the necessary warrant for the installation of the technical device.
- 5.74 The product of eavesdropping was fed to a listening post, and the product was transcribed in the Project Unit. It was then kept and disseminated in hard copy form.

The Divisions

- 5.75 Each SB Region was sub-divided into Divisions. In the case of Belfast Region there were four: A (central); B (west); D (north); E (east). Each Division had a modest management structure under a detective superintendent, reporting to the DRHSB. B Division included HMP Maze. The core task of the Division was the collection of information from human sources. The recruitment of the sources themselves was authorised by the RHSB and the Divisional Superintendents. Details of those recruited were sent to the HSB or DHSB, and lists of all sources operating within the Belfast Region were securely maintained under their authority.
- 5.76 In the period between 1996 and 1998 a distinction was made between sources who were formally registered or recruited, and those who were regarded as casual contacts. Registered sources were given a code name and reference number and received regular payment; this did not apply to casual contacts. As soon as the recruitment process began, the candidate would be allocated a reference number; if the recruitment was for any reason unsuccessful (and each candidate had to be interviewed at least three times before registration), the number would simply be cancelled. The only instance in which an individual might have had two reference numbers would have been if he had been recruited, then stood down, and then recruited once more. Such an interruption would have been recorded in the individual's personal file. There was an annual review of each source, conducted by the Source Unit, to which SB officers from the Division contributed. There was also an ongoing rolling assessment programme, and the services of an unproductive source could be terminated at any time.
- 5.77 The source handlers within the Division were normally detective constables or detective sergeants, and each source had a minimum of two handlers. The briefing of the sources was in accordance with the intelligence requirements which were fixed by the IRC, fed down to the Source Unit from the RHSB, and then passed on to the handlers in the Division. A record of the tasking of handlers was normally kept and the source product filed, and before a handler met a source, he would

check the files for the latest tasking requirement. From time to time the TCG could task handlers in relation to an ongoing operation, for example with the object of identifying a hitherto unidentified person. After a handler had met a source, the handler would be debriefed in the Division by the case officer unless the matter was entirely routine. In case of urgency, intelligence could be passed verbally to the TCG. It was the task of the Detective Inspector within the Division to look at the previous day's intelligence, ascertain the need for any re-tasking of sources, and brief the source handlers accordingly. The Inspector would then oversee whatever meetings were to be conducted on that day and review the product which came back from those meetings. If any action was required it would be decided at the morning meeting chaired by the RHSB.

Threats

5.78 Under RUC Force Order 60/91 a threat to life was to be communicated to the individual concerned. Former ACC Kinkaid's report of 9 October 2007 to the Inquiry points this out:

'There were so many threats to be processed in 1997 that the procedures used were well known to all officers. Threats existed against security force members from paramilitaries, against paramilitaries from other paramilitaries (usually of a sectarian nature) and even within paramilitaries when feuds developed. Police officers had to warn members of paramilitary organisations they were under threat, including members of organisations who were planning attacks against the very police force who was passing the message.'

5.79 The Force Order set out in great detail the procedure in relation to the intimation of threat information in the case of different potential victims, politicians, prison officers and other individuals. In the case of prisoners, the case with which this Inquiry is concerned, paragraph 2(7) of the Force Order applied. Witness FG told the Inquiry that paragraph 2(4) also applied. There would be notification to the NIPS HQ, but ultimately it was a matter for the Division, who would deal with the threat in terms of direct contact with the governor of the prison concerned. The information would probably have been passed also to the relevant RSU, where an action sheet would have been prepared. The information on the action sheet would have been delivered either by the PILO or by local uniform police from the sub-division concerned, which in the case of HMP Maze was Lisburn. It would have been unusual for the Desk Officer to have contacted the prison directly, although he might well have passed the information on to the PIU.

5.80 Witness FA, PILO at HMP Maze, stated that he had never personally delivered threats to prisoners. The threat would have been passed by him to Prison Security and they would have warned the individual. Superintendent Stanley Clements, the Sub-Divisional Commander for Lisburn, had no recollection of any threats being passed through his office to be delivered to any prisoner. Such threats if they existed would be channelled through the SB Liaison Officer directly to the governor or his deputy who would deal with the threat. To comply with the Force Order would necessitate the production of the prisoner to the police. In order for the police to speak to the prisoner the authority of the governor was required, and within HMP Maze authority from the block Officer Commanding (OC) was also required. It was still at the discretion of the prisoner whether he spoke to the police. Superintendent Clements had no recollection of any request to deliver information regarding a threat to Billy Wright while he was in either HMP Maghaberry or HMP Maze. Threats to prisoners received by SB should normally have gone through the relevant Regional SB and resulted in the generation of an action sheet from the Source Unit in the Region, following which the information would be relayed to the prison.

Action Sheet

5.81 In relation to any threat, an action sheet would be created, and this would be done regardless of the threat assessment. It was an absolute obligation on the RUC to inform threatened individuals, unless there had been a conscious decision that the threat should not be passed on. It was a requirement on the part of the Regions, or stations within the Region, to keep a threats book. In relation to HMP Maze, the threats book would have been kept at Lisburn sub-division.

Monitoring Threats Received by the Regions

5.82 If intelligence had gone to the Regions in the first instance, it was the responsibility of the Desks at HQ to ensure that appropriate action had been taken. If SB HQ received information from the Regions about a threat to prison officers, it would have been discussed at the morning meeting. If the threat was immediate, by the time of the morning meeting some action would already have been taken in respect of that intelligence. This would not have been recorded but the fact that action was taken would have been recorded on the intelligence document that contained the details of the threat.

Security Service

5.83 If a threat was received by the Security Service, as in the case of the 21 April 1997 threat to the life of Billy Wright, it would be communicated to SB HQ. The Desk concerned would receive the information verbally from the Service by a telephone call, and the originator of the message and the recipient would agree a form of words to be used. The information would be recorded on a message pad,

and a copy would be retained at the Desk. If the threat information was urgent, SB HQ would generate a debrief immediately and an action sheet. The action sheet would be passed to the appropriate sub-division, and the debrief would go onto the PRISM intelligence database and in due course onto the CAISTER/MACER intelligence database. If the threat was non-urgent, it would come from the Security Service in the form of a NIIR or a Source Report, and be processed thereafter. E3 prepared threat assessments, based on information such as how many previous similar threats had been received against a particular individual, and whether there was corroborative reporting.

5.84 A decision open to SB in response to a threat was the possibility of disruption, which could involve a number of possible actions, such as placing a uniform police patrol in the vicinity of the target; or moving a threatened individual or family (as sometimes happened overnight); or carrying out a search of a suspect property. The TCG controlled both the surveillance team (E4A) and the Specialist Firearms Team (part of the HMSU), either or both of which might have been involved in an operation to prevent a specific threat from being carried out.

5.85 Former ACC Kinkaid said,

‘Clearly in the case of Billy Wright the existence of a threat to him in the prison could have been dealt with by a combination of warning and disruptions, i.e. moving him.’

None of those who gave evidence to the Inquiry on behalf of the PSNI, including ACC Mr Alistair Finlay and former ACC Kinkaid, has been able to explain why the specific 21 April 1997 threat to the life of Billy Wright, received by SB from the Security Service on 24 April, was not passed to Billy Wright or to the NIPS. This is particularly surprising, since the Inquiry has heard evidence of at least eight occasions between 1991 and 1996 when the RUC did pass on threats to Billy Wright (see Chapter 4).

Submissions by the Police Service of Northern Ireland

5.86 In view of the sensitivity of the April threat, it was to be expected that Counsel for the PSNI would devote some time in his closing submissions to the matter of threats and how they were handled. He raised a number of questions about what properly constituted a threat, whether new information added to what was already known, whether any particular timeframe or location was included in the intelligence, what action could be taken in the light of that information, and the risks involved in taking action. He acknowledged the moral imperative to act on a threat, but emphasised the need to consider and assess the intelligence. The case made by Counsel for the PSNI in closing submissions is dealt with in greater detail in Chapter 15.

Special Branch Participation in High-level Meetings

5.87 Senior SB officers attended a number of coordinating meetings. Four of those are referred to below.

(a) The Security Policy Meeting (SPM)

5.88 This was the most important meeting, attended by the SOSNI, the Chief Constable, the General Officer Commanding, the DCI and the PS. A brief from this meeting was prepared for the Chief Constable by the Detective Chief Inspector in charge of E3A, the Head of the E3 Desks, and would have covered the work of all the Desks. This was the means by which SB had input at the highest possible level in terms of the governance of Northern Ireland.

(b) The Province Executive Committee (PEC)

5.89 The HSB, or in his absence the DHSB, would attend these meetings for which a synopsis of intelligence would have been prepared for the HSB/DHSB. The DCI presented the political perspective on behalf of his customers in Whitehall and in Stormont. This provided both the RUC Deputy Chief Constable (DCC) Operations and the Commander Land Forces with a better understanding of the political imperatives which were driving government policy at the time. The minutes of this meeting were classified 'secret' and were kept either in SB HQ or in the Chief Constable's Office.

(c) The Intelligence Review Committee

5.90 This meeting took place weekly, chaired by the DCI. It would be attended by the Head of the AsGp (HAG) and one or two of his subordinates, the Assistant Chief of Staff G2/G3 representing the Army, and the HSB or the Head of E3/IMG. This meeting dealt with strategic intelligence requirements and priorities, reviewing priorities on a monthly basis. The objective of the IRC was to ensure that middle-ranking officers in all three of the organisations concerned (the RUC, the Security Service and the Army) understood the impact of strategic intelligence requirements, and were working in a harmonious and coordinated way.

(d) Meetings with Chief Constable and Regional Assistant Chief Constables

5.91 The HSB had formal morning meetings with the Chief Constable, having spoken previously with his Deputy before the meeting. He also had morning meetings with the Regional Assistant Chief Constables, the Deputy Chief Constable (DCC), a representative from C Branch and Head of Operations Branch.

Special Branch and the Criminal Investigation Department

- 5.92 Mention has already been made of the mystery surrounding the failure of SB to take appropriate action in response to the threat to the life of Billy Wright which they received from the Security Service in April 1997. Since no explanation has been forthcoming for this failure, it can only be a matter of speculation. But it raises the question in principle of the willingness of SB to communicate adequately, a weakness which is also evident in the relationship between SB and the Criminal Investigation Department (CID). It would be natural to assume that these two arms of the RUC would have wished to work in the closest and most constructive partnership, but this appears not to have been the case in 1997.
- 5.93 This was made particularly clear to the Inquiry in the evidence which it heard about the investigation into the murder of Billy Wright, conducted by Detective Superintendent John Short of West Belfast CID and Detective Chief Inspector Noel Nicholl based at Lisburn CID. The matter of the investigation is dealt with more fully in Chapter 14 of this Report, but it is mentioned briefly here in view of its relevance to the structure and working of SB. In his evidence to the Inquiry Mr Short was asked whether he had approached SB to find out what relevant information they had which would be helpful in his investigation of the murder. His answers were not entirely clear; he did claim that a SB officer was attached to the murder inquiry team but he could remember nothing that SB had contributed. Mr Nicholl was more forthcoming and acknowledged to Counsel for the Wright family that if there was any intelligence about the murder before it took place, that intelligence would have been known to SB; that a SB officer sat in on the murder inquiry team, but that no intelligence was forthcoming. He expressed surprise that surveillance had taken place and intelligence been received, and yet nothing had been shared with the CID investigating officers. The Inquiry has seen clear evidence that relevant intelligence was available to SB.
- 5.94 It is important always to bear in mind the security constraints which attached to any sensitive intelligence in Northern Ireland in 1997, and the overwhelming predominance of the ‘need to know’ principle, often interpreted in its most restrictive form. But it remains the Panel’s impression that communication, even when highly desirable and even necessary for the carrying out of police work, was not always as effective as it should have been.

The Processing of Intelligence by Royal Ulster Constabulary Special Branch

- 5.95 Mr Chris Albiston, Head of the IMG in 1997, in his witness statement for the Inquiry, set out the Intelligence Cycle as it should in theory work.
- 5.96 First, the intelligence requirements needed to be established, and this was the task of the IRC (see 5.90).

- 5.97 Much intelligence also flowed naturally from very many sources and agents who were supplying it, and they did not by any means always work in accordance with a strategic plan. The flow of intelligence from a source was initially to the Agent Handler, who received the raw intelligence in debriefing the agent, discussed it with a case officer (or controller, the Agent Handler's superior) at divisional level, and determined whether it needed to be disseminated with any degree of urgency. The intelligence, having been collected, was then subject to evaluation of the reliability of the source, and the likely accuracy of the information as a result of which a grading was applied. So, for example, B2 meant that the intelligence was from a usually reliable source, and had a high degree of credibility, and this particular grading is commonly found on SB intelligence documents from known sources.
- 5.98 Following this evaluation, the intelligence debrief was handwritten by the Agent Handler and submitted to the Source Unit at SB Regional HQ. The Handling Team then created a manuscript form SB50 (subsequently a computerised SIR), and passed it to typists who loaded it onto the CAISTER/MACER database. The Handling Team then passed a local action sheet to the CID. Meanwhile, the Source Unit put the intelligence onto the PRISM system, with care being taken to ensure that the PRISM document corresponded accurately with a handwritten debrief. Intelligence was then discussed with the RHSB at the morning meeting, and shared, as appropriate, with other Regions.
- 5.99 If other agencies were to have access to the intelligence, it would be disseminated from SB HQ, from the CAISTER/MACER database, and sanitised to varying degrees according to the 'need to know' principle, and with particular concern for source protection. If an operation was ongoing, then often the intelligence would not be shared with SB HQ. If new intelligence required a response in terms of operational action, that would be undertaken by the TCG. The PSNI in their final submission pointed out that RSUs had the opportunity to share intelligence with E3 and other divisions within the SB HQ structure. The decision upon the materials selected for sharing and the destination of such information was made at regional level.
- 5.100 One aspect of the processing of intelligence which left much to be desired was analysis. It was a perception that there was inadequate analysis of intelligence which was one of the reasons for the establishment of the Warner Report of 1996. As Mr Albiston pointed out, assessment and analysis are not the same thing, although the terms were frequently used as synonyms. He described analysis as '**an independent art or science**', and it requires specific and specialised training. The Embedded Security Service Officers (ESSOs) at SB HQ (see 5.62) began to fill this gap in the capability of SB from 1997 onwards, but

until that time analysis of a kind was carried out in the Regions and within the sub-divisional offices. The detective sergeant or inspector would try to identify a trend in the intelligence coming in, and to see whether it needed to be shared with another Region, but there were no formalised procedures. The Source Unit provided a weekly summary of intelligence, and drew such conclusions from it as it could. The Warner Report envisaged the provision of ESSOs also at SB Regional level, but this recommendation was not implemented.

- 5.101 Witness ZBQ (who served as RHSB) acknowledged that the regular morning meeting provided an essential part of the processing of intelligence, and offered some opportunity for informal analysis. It was suggested to him that if some aspect of intelligence was not picked up, or its significance not recognised, at the morning meeting, it might have been lost from sight; but he believed that the divisional superintendents concerned with it would have retained an awareness of it. He agreed that the memories of individuals played a large part in the handling of intelligence, which was by current standards a potential source of weakness. He also recalled the Alpass Report of 2000, which contained recommendations for improving the process of handling intelligence (see 5.112). The burden on senior managers had become very heavy by 1997, with 30–40 debriefs in a day, and although efforts were made to identify trends and draw together different strands of intelligence, it was not a system without shortcomings. Witness ZBH also acknowledged the point made by Alpass that full value was not always extracted from intelligence by SB because it was insufficiently studied and analysed.
- 5.102 Witness FG told the Inquiry that he was the main analyst at SB HQ for the dissident republican groups. He made use of information from CAISTER/MACER, and from such PRISM intelligence as the regions had provided to HQ. He created target lists of key individuals in the dissident republican world, identified their particular role (e.g. quartermaster), and worked out who was likely to be involved in military action or who might be storing weapons. This information was for the benefit of SB's own operations and for its external customers, but most of it was tactical and the need was for more strategic intelligence, for which the politicians were crying out. They needed to know what the trends were, what was going on behind the scenes, from reliable sources rather than from paramilitary propaganda. After the ceasefires in 1994 and the renewed PIRA ceasefire in 1997, there was a strategic role for the IMG in monitoring the degree of compliance, and assessing the significance of the many breaches of the ceasefire which took place.
- 5.103 The reliability of sources varied greatly, and there were sometimes disagreements between the trust placed in an agent by the Agent Handler and the judgement of the SB Desk Officer. This was not unexpected, since Agent Handlers tended

to be protective of their sources, but Desk Officers had a broader view from a variety of sources. Much of the intelligence which came in was in fact spurious, and there were some sources who became known as 'intelligence nuisances'. Opinions about a particular source might well vary from one agency to another, and it was not unknown for a source to produce 99 per cent nonsense and one per cent good intelligence. Good Handlers and good Desk Officers needed to work together to recognise such sources and to decide whether to continue to pay them. The re-tasking of an agent was sometimes necessary, in which case a list of questions would be decided on, and put on the relevant source file for the handler to pick up before the next meeting with the source.

- 5.104 Some intelligence was so sensitive that the handler would immediately recognise that it required special treatment. The superintendent might decide that it should be the subject of a secret report, in which case the normal debrief process through the Source Unit would not be appropriate, and a secret report would be sent directly to the HSB with the RHSB informed. The Inquiry heard somewhat conflicting evidence about how frequently such extremely sensitive information would have to receive this special treatment, but it seems clear that there were very few such occasions. The PSNI in their final submission rejected the suggestion that handlers were in a position to sift and sort what they wanted to refer to the Source Unit, and that the way in which incoming information from sources was summarised had the potential to exclude data. This appeared to the Inquiry to be a particularly defensive statement, since the improper summarising of information from sources does not appear to have been suggested by those who gave evidence to the Inquiry.
- 5.105 The PSNI system did not provide to the Inquiry either documentary or electronic manuals about the regulation of the system. The PSNI defended this upon the grounds that it always had to be mindful of the great risk at which sources were operating, and it was necessary to protect them at all costs. The Home Office guidelines for dealing with ordinary crime sources were, it was said, not applicable to the particular circumstances in which SB and their agents were required to operate. PSNI drew attention to the reference made by Lord Stevens to their attempts to seek assistance from government with a view to obtaining further guidance and the establishment of guidelines which were appropriate to the special circumstances of Northern Ireland. The PSNI claimed that such further guidance was not forthcoming.

Group Numbers and Data Security Levels

- 5.106 Access to the PRISM database was restricted by reference to Data Security Levels (DSLs) and Group numbers in a wide range which related to the sensitivity of the information, and to the staff members who could have access to the intelligence.

The CAISTER/MACER system, which was the central SB database for intelligence which was to be shared with other agencies, including the Army, used a similar protection set of DSLs, but in a different numerical range.

Dissemination of Criminal Intelligence

- 5.107 In 1997 criminal intelligence was recorded on a database known as PACIFIC, which in 1998 became the Integrated Criminal Information System (ICIS). It was not clear to the Inquiry whether SB had direct access to PACIFIC in 1997, although subsequently they did have access to ICIS. Witness DB (who led the Support Unit in Belfast Region SB) explained that SB could obtain information stored on the CID database either by asking the CID intelligence officer for the relevant division, or by interrogating the CID intelligence cell. There were also SB officers attached to the CID, through whom an enquiry could be directed. It was sometimes necessary to conceal the identity of the individual about whom an enquiry was being made, and in this case the approach was through the SB officers, or the particular enquiry could be combined with a number of others in order not to draw attention to the specific individual. Witness DB agreed that there was sometimes a reluctance on the part of SB to search the CID database, because there was a risk that the identity of a source might be revealed, and for this reason some SB officers did not use the system.
- 5.108 The CID sometimes volunteered information to SB about people who had access to weapons, and this intelligence entered the PRISM system in the same way as any other, in relation to its reliability, sensitivity and possible dissemination. If the information was from a particular source known to SB, that information would go on the source file, and individual handlers would then know that it was on the system.
- 5.109 SB also received from the CID copy debriefs and other documentation which related to subversive paramilitary activity, as opposed to straightforward criminality. It was not always obvious that there were national security implications in such intelligence, but SB expected to receive any criminal intelligence relating to weapons. If such information was passed to one particular RSU, it was also shared with the other Regions.

Intelligence Records Made and Held by Special Branch in 1997

Special Branch Headquarters

- 5.110 In the period 1996–98 SB held a huge number of paper files. The Inquiry received information from the PSNI which confirmed that before the introduction of computerisation all RUC intelligence was held on paper files, and that these files were maintained until 1998. Thereafter they were phased out as SB intelligence records were computerised. The PRISM (later superseded by CHISM) and CAISTER

(later renamed MACER) databases contained data up to and including the government protection marking of 'Secret'. So long as paper records were still in use centrally in the registry, not all the information was entered onto the PRISM database. Witness FG told the Inquiry that material received in 1997 would have been registered and stored electronically, including the oral debrief of a source and the SIR that was subsequently produced. Historical data, however, was held in paper form. He confirmed that these paper files continued in use, and would still be used today, as some of the intelligence would still be relevant to ongoing inquiries and cases.

5.111 Witness DB recalled that the following files were held centrally:

- Agent Handler files;
- files on all terrorist organisations;
- correspondence with law enforcement agencies;
- subject index files which dealt with buildings and threats to premises;
- personal threat files which were paper files.

Witness FG confirmed that the desks at SB HQ received technical product from E9 in hard copy format, and regular hard copy summaries from all covert surveillance operations in Northern Ireland.

5.112 Important information regarding the number of hard copy records held is to be found in the Alpass Report (John Alpass was Coordinator for Security and Intelligence with the UK Government Joint Intelligence Committee from 1996 to 1998), commissioned by the Chief Constable, Sir Ronnie Flanagan, in October 1999, and published in April 2000. It was undertaken by Alpass under the title *The Royal Ulster Constabulary Special Branch Information Handling Procedures: An Independent Scrutiny*, and the Terms of Reference included the task of scrutinising arrangements, practices and policies within SB for the handling and storage of secret intelligence, and the retention and destruction of records. Although the Alpass Report post-dates the period with which the Inquiry is specifically concerned, it is a valuable record of what still existed in 2000 in terms of hard copy records. Such records fell into two broad categories:

- live files, in paper form, held in the KARDEX storage/retrieval system; and
- closed and dormant files, stored either in paper form or on microfilm or microfiche.

Alpass noted, with some concern, that documents marked 'Top Secret' were not stored in the central store, but were held by individual SB officers.

- 5.113 Alpass noted that by 1999 there were acute problems associated with storage, above all the lack of space. The KARDEX system was full, and the retrieval of archived files, which was a daily occurrence, was far from easy, with the staff working in extremely difficult conditions. He also noted that the microfilm records were in poor condition, as the work had not been carried out to the highest standards, and the process of conversion to microfilm or microfiche had ceased in 1992 because of the technical problems of the legibility and longevity of these records, which risked being irretrievably lost. When the decision was taken in 1992 to stop the microfilming programme, the recommendation was that the ‘paper mountain’ should be retained, but subject to a regular annual review. Alpass also raised the possibility of using a form of optical disk for document storage, but recognised that any computer system was vulnerable to the process of obsolescence.
- 5.114 There was discussion in the Alpass Report of how sensitive and historically important material could be handed over to the Public Records Office (Northern Ireland) (PRONI), with particular emphasis on the proper identification and preservation of material of historical importance. The Report recommended the appointment of a Records Preservation Manager, and suggested that immediate action should be taken to secure some additional storage space, and to explore suitable forms of computerisation for the long-term preservation of documents, while weeding out some clearly ephemeral material.
- 5.115 The evidence which the Inquiry has heard from several witnesses, and the clear indication in the Alpass Report of 2000 of the enormous number of hard copy files which were then in existence mean that it is very puzzling that the PSNI has been unable to produce any significant hard copy intelligence records from 1997. Where they are, or if and when they were destroyed, remains a mystery.

Special Branch Regions

- 5.116 Witness DB told the Inquiry that as far as day-to-day operations in the Regions were concerned, SB was using paper files in the period 1996–98. The forms of hard copy records maintained by the main departments at Regional level were as follows:

The Support Unit

- 5.117 *Personal or source files* A personal file was created for each human source, who was given a reference number and a code name. This file contained personal details of each source, including authority for payment, but no intelligence, and no record of individual payments.
- 5.118 *Product files* In 1997 SB kept hard copy handwritten debriefs for up to two years, kept in the intelligence product files in the Source Unit. Witness ZBQ, the RHSB in 1997, said that he saw both handwritten and computer debriefs in 1997, as the system began to change.

- 5.119 *Subject files* Subject files were kept on each paramilitary group.
- 5.120 *Miscellaneous books* The Source Unit kept the telephone message book, the threats book, the intelligence book and code name book and a list of the contact details for each handler.
- 5.121 *Day books and journals* Each officer kept a day book, but there was no procedure in place which stipulated what should happen to such books when they were full. Each officer usually kept his day books for a while and then destroyed them as there was no requirement for them to be handed back, and there was no system of accounting for them.
- 5.122 *Briefs and papers* These were concerned with threats to public order and with paramilitary trends, and included information which came to SB from uniform branch.
- 5.123 *Secret reports* If an Agent Handler believed that intelligence was of outstanding importance or sensitivity he would consult the case officer, and the Superintendent would decide whether it was to be committed to a secret report. If so, it would be taken by hand from the region to SB HQ.
- 5.124 *Intelligence requirements* A copy of the intelligence requirements worked out by the IRC was sent to the Regional Support Unit from RHSB, and an appropriate source had then to be identified who could be tasked to fulfil the intelligence requirement.
- 5.125 *Assessments* The Source Unit produced weekly and monthly intelligence assessments, circulated within the Region and to SB HQ. Witness DB confirmed that these were in hard copy format.

The Tasking and Co-ordinating Group

- 5.126 Witness ZCA (who was Detective Chief Inspector in Belfast Region TCG, and who had previously worked as an Agent Handler and controller) told the Inquiry about the procedures of the TCG. Following the Regional morning meeting there was a meeting of everyone on duty in the TCG, at which the officer who had attended the Regional meeting briefed the rest of the staff on what the RHSB wanted done that day or that week. In an ever changing situation, work was normally planned a day at a time, and the briefing was then entered onto PRISM. Witness ZCA was certain that these briefings should still be accessible on PRISM, and because everything was on the computer system, paper records were not retained. Witness ZCA could not recall the identity of the person who would have authorised the destruction of hard copy material, and he could not recall the Alpass Report.

- 5.127 Once a TCG operation had been agreed upon it was run by the Superintendent of the TCG. An operational order was produced for each target, including the identity of the target, a general assessment and the objectives of the operation, time limits and arrangements for reviewing the operation. These orders were put onto PRISM and the original hard copies were destroyed. A file was opened for each operation and the RHSB expected that the record of any discussion between himself and the Superintendent about the operation would be on that file.
- 5.128 Witness FG explained that every operation had a running log, which was a summary of the individual daily entries, and which enabled the reader to refer back to the detailed information in the daily log. Each surveillance team completed a handwritten log which was typed up and sent to the TCG and thence to E4 at SB HQ, where the logs from the previous 24 hours were collated and summarised for the IMG.
- 5.129 The failure of the PSNI to produce TCG logs has presented the Inquiry with a particular problem in relation to one specific operation known as Operation JAW. This was a surveillance exercise against the INLA, mounted by SB Belfast Region TCG, starting on 13 June 1996. It was a lifestyle operation, designed to build up a picture of an organisation and its members. From May 1997 there are numerous references to this directed surveillance on PRISM but no running log has been made available to the Inquiry. The PSNI's response to the Inquiry's Position Paper of January 2008 claims that there was no running log kept of this operation, but this claim is contrary to the evidence of serving officers at the time. Witness ZCA spoke of being able to access what he described as a 'progress log' in 1997. Witness ZBS, who was DHSB, could think of no reason why the Inquiry was not provided with a copy of the entire log for Operation JAW, and Witness FG, quoted previously, who was the Detective Inspector in E3A from 1995 until November 1997, was adamant that the TCG kept a 'running log' on Operation JAW. He recalled being aware of the Operation by virtue of the daily summaries which he saw.
- 5.130 Witness ZCH, who became the Detective Chief Inspector in the Belfast TCG in June 1998, told the Inquiry that the records that were available to be put onto PRISM from 1996 included E4 logs and military surveillance unit logs. The implication was that these logs would be maintained, at least as long as the Operation was in progress. Operation JAW was actively pursued at least until 1999, although it was finally wound up in 2003. The Inquiry also heard from Witness ZCH about directions which he issued to the TCG when he arrived in June 1998, to the effect that records must be kept, either in hard copy or on computer, relating to potential targets, current and past operations, recovery of munitions etc. in the TCG for one year, or longer if a court case was pending. This instruction appears not to relate to the running log of an operation such as JAW.

5.131 Operation JAW is dealt with fully in Chapter 6, in relation to document recovery, and in Chapter 15, but the matter is raised at this point because it relates specifically to the way in which the TCG operated, and maintained its records. The findings of the Inquiry are strikingly similar to those of the Police Ombudsman of Northern Ireland, and to the conclusions reached by Lord Stevens in the course of his lengthy enquiries. Both these matters are referred to later in this Chapter.

UNIPLEX

5.132 This was a personal folder within PRISM which enabled an individual officer to create his own Word documents and to share information. Anyone with permission to access the system could use it, although according to Witness DB it was not always known as UNIPLEX, but by some officers simply as the document store. This is referred to further in Chapter 6.

Review, Retention and Destruction of SB Records

5.133 Reference has already been made to the Alpass Report insofar as it sheds light on the existence of vast numbers of documents in the years 1999–2000. Alpass noted that the SB had no formal policy for the retention, review or destruction of its records. There had been fairly extensive destruction of records locally before 1970, but thereafter files were forwarded to the new Central Registry at SB HQ. The RUC Code laid down that all classified documentary material should be subject to regular review, and retained no longer than necessary, but that all official documents which needed to be preserved indefinitely should be transferred to PRONI after 20 years. Paragraph 128 of the Code provided advice on reviewing files and the periods for which they should be retained, and importantly it stated that **'No file will be destroyed until all possible judicial action relating to the subject matter has terminated'**. SB did not in fact pass any material to PRONI. Alpass examined the policies and practices of other organisations in the review, retention and destruction of documents, and advocated a new policy for SB, subject to the approval of the SOSNI. Older records should be regularly reviewed and destroyed if they did not come into any category which required their retention. Such categories were:

- materials still needed for business reasons, such as criminal investigation, or SB's own ongoing intelligence work;
- material which needed to be preserved in perpetuity because of its historical importance.

Subject to security considerations, some of this latter material should be releasable, perhaps in redacted form, into the public domain after a very long interval. A formal agreement should be sought with PRONI over what material fell into the second category, and over where and in what form it should be stored. Alpass's preference was for paper records to be preserved in their original form.

- 5.134 The Inquiry heard some unclear and uncertain evidence about SB practice in the years 1996–98. Witness DG, who was RHSB in Belfast Region, spoke of the pressure at Regional level on accommodation for records, and said that policy in that context was that documentation in relation to sources who were no longer being handled should be destroyed within three or five years; he could not remember which, but in response to questioning he made it clear that he was referring to three or five years after a source ceased to be active. He acknowledged that this was not departmental policy, but simply local practice. He recalled that during the latter part of his time, when he was HSB and before he retired in 2002, there was work on the policy for the retention and destruction of documents right across SB, but he could not be precise as to what point that process had reached when he retired.
- 5.135 Witness ZCH, who appears not to have been in post in 1997, but became Detective Chief Inspector in Belfast TCG in June 1998, was questioned closely on precisely what material was retained. He claimed that all **'intelligence material'** was retained indefinitely, and that the material which he ordered to be destroyed was not intelligence. He maintained that the intelligence material was contained in debriefs and surveillance logs which were (and by implication should still be) on the PRISM system, although he did not claim that the computer records held as much detailed information as would have been in the original paper documents. When challenged by Counsel for the Wright family with the suggestion that documents might have been destroyed in order to protect human sources, Witness ZCH denied that this was the case.
- 5.136 Similarly unclear evidence was offered by Witness ZBV, who was in charge of E9 at SB HQ in 1997, known post-Warner as Central Desk. He left in 2004, and thought that the paper files **'might all have been destroyed'** by that time. He did underline a problem to which other witnesses also referred, which was the enormous volume of paperwork generated by the system, with material being produced and printed every day. He described how in his time material was periodically incinerated: **'There were Home Office guidelines for the destruction of documents. I think there was a period of time after which documents had to be destroyed. I think the relevant period was one year.'** The uncertain tone of the statement does not inspire confidence that the policy and practice were clear and methodical. It was put to Witness ZBV that the Inquiry had not been provided with any authoritative destruction policy operated by SB, but that the draft policy which it had seen, setting out practice for the new, post-Patten PSNI in 2002 (and which appears to be derived from the Alpass recommendations), indicates that intelligence material was to be retained indefinitely. Witness ZBV told the Inquiry that he was not aware of such a policy.

- 5.137 Witness ZBV said that on one occasion he went to look for paper files, but when he got there, the cupboard was empty. He told the Inquiry that these were paper files relating to previous operations, and that they would have gone back as far as 1991 and possibly even before that. He told the Inquiry that he was not surprised to find that the documents had been destroyed. He was then asked why he went to look for the paper files, and told the Inquiry that he could not now recollect, but that he might simply have thought, **'I seem to remember something from 1997 on an operation. I'll just go and check.'** When he went to check, the documents were not there. He told the Inquiry that he would have expected them to have been kept. He was then asked whether he raised the question of their retention with anyone, and said that on that occasion he thought he had been told that in the case of operations which had been dead since 1991, and in regard to which the intelligence was no longer required, the documents would have been destroyed.
- 5.138 Witness DB, who became Detective Chief Inspector in charge of Belfast RSU in September 1997, repeatedly stressed the importance of context when looking at intelligence. In trying to analyse and assess intelligence and attribute significance to it, context was vital. He saw his role, and that of other SB witnesses, in appearing before the Inquiry as the provision of that contextual understanding of intelligence. He did acknowledge that the memory of witnesses 12 years after the event would be less than perfect, but did not agree that the absence of any written records made it difficult for the Inquiry to obtain a proper understanding of the true position in 1997, because there was no clear and unambiguous documentation against which to consider individual memory and interpretation.
- 5.139 During the course of the Inquiry, reference was made to the statement by the Police Ombudsman for Northern Ireland on her investigation into the circumstances surrounding the death of Raymond McCord Junior and related matters. This investigation has relevance to the Inquiry's work in relation to the record-keeping of SB, since the Ombudsman's experience reflects the same difficulties which the Inquiry experienced. Her report was published in January 2007, but it relates to a number of murders which took place between 1989 and 2000, and involved questioning SB officers, some of whom also gave evidence to the Billy Wright Inquiry. The Ombudsman had on many occasions to wait a long time for replies to her questions, and she noted the significant obstacle to her work caused by the

'... generally poor standard of record-keeping within Special Branch over many years, and the failure to document, or to document properly, matters including key pieces of intelligence in relation to murders. As a consequence, in part, of the lack of information storage facilities, information retrieval was on occasion very difficult.'

‘Material which was retained was on occasions recorded in a selective manner which did not reflect the information given to police. Important documentation which should have been retained, was unavailable to the Police Ombudsman’s investigators. The Tasking and Co-ordinating Groups (which were the most senior decision making groups responsible for Special Branch operations) routinely destroyed all material relating to their decision-making processes.’

5.140 Reference was also made in the course of oral hearings to the work of Lord Stevens (formerly Sir John Stevens) and his team in their protracted investigation into alleged irregularities on the part of the Army and the RUC from 1989 to 2003. The third Stevens Report, of April 2003, was quoted in the course of oral hearings by Counsel for the Wright family in terms remarkably similar to those used by the Ombudsman:

‘The failure to keep records or the existence of contradictory accounts can often be perceived as evidence of concealment or malpractice. It limits the opportunity to rebut serious allegations. The absence of accountability allows the acts or omissions of individuals to go undetected. Withholding of information impedes the prevention of crime and the arrest of suspects ... The co ordination, dissemination and sharing of intelligence were poor.’

The Stevens Report’s reference to the failure to keep records further substantiates the experience of the Billy Wright Inquiry in attempting to locate documentation which would have allowed a proper and thorough exploration of the issues which the Inquiry was set up to investigate.

5.141 Former ACC Sam Kinkaid, who was described by ACC Alistair Finlay as a **‘robust challenger to a culture which had existed previously’**, explained to the Inquiry what he meant by the use of the phrase **‘plausible deniability’**. It was, he said, a practice or culture that existed in an organisation where the members did not keep records, so there was no audit trail. Nothing could be traced back, so that if they were challenged they denied it, and that denial, being based on no documentation, would become **‘plausible deniability’**. The system in SB was such, he said, **‘that it didn’t give proper audit trails and proper dissemination, and at times it would appear that it allowed people at a later date to have amnesia, in the sense that they couldn’t remember because there was no data on the system’**. This admission, from a senior PSNI officer appointed by the Chief Constable to explore the apparent lack of documentation supplied to the Inquiry, is an eloquent indication of the shortcomings inherent in the system.

Conclusion

5.142 In summary, there appears to have been no clarity or consistency in the way in which intelligence documents were reviewed, with a view to retention or destruction, and no consistency in practice. The failure of the PSNI to produce hard copy intelligence documents, such as intelligence logs and surveillance registers, despite what Alpass found in 1999–2000, has meant that the Inquiry's work has been very considerably frustrated, and that the task of tracing a decision-making process, or assessing individual responsibility for action (or lack of it), has been made much more difficult, and sometimes impossible.

The Security Service

5.143 The Security Service's primary statutory function is to protect national security, and in particular to deal with threats from terrorism. This was the case in 1997 as it is today, but there was a fundamental difference between the manner in which the Service fulfilled this role in relation to terrorism in Northern Ireland in 1997 and the manner in which it operated in the rest of the UK. Outside Northern Ireland the Service had the lead responsibility for gathering intelligence about all threats to national security, including threats from republican and loyalist paramilitary groups, and for directing intelligence operations to counter those threats. Within Northern Ireland, on the other hand, this lead responsibility rested with the RUC, and in particular SB.

T2 and T5

5.144 The role and structure of the Security Service in Northern Ireland is discussed later in this section, but it is first necessary to summarise certain aspects of the wider structure and functioning of the Service and its relationship with the Security Service operations in Northern Ireland. The role of investigating and countering threats from Irish paramilitary groups, whether republican or loyalist, rested with T Branch based in London. Desk Officers of the section known as T2 dealt with Irish terrorist activity threatening Great Britain, and Desk Officers of section T5 handled threats with an overseas connection. None of these officers had any responsibility for investigating terrorist activity within Northern Ireland. The organisation was hierarchical, with teams, groups, sections and a directorate. Much routine work was carried out at team level, but sensitive or difficult decisions were referred upwards, in some cases to the Director General.

5.145 Intelligence was received from sources, both human and technical, from surveillance and from external partners such as SB in police forces in Great Britain and foreign security services. All available intelligence was drawn together and analysed as part of a continuous dynamic process, and, since the Service had no executive powers, the prevention or disruption of terrorist activity took place with

substantial operational support and assistance from external partners, in particular the law enforcement agencies. Desk Officers produced regular summaries of their investigations and conclusions, which were shared with partner organisations on a 'need to know' basis, with particular care taken to ensure source protection. T2 and T5 depended very considerably on intelligence from the RUC and from the Service AsGp in Northern Ireland. Desk Officers in London liaised regularly with RUC SB E3, but sometimes also with officers in the SB Regions in Northern Ireland. Records were kept primarily in hard copy filing systems, but there were also electronic databases.

T8

- 5.146 Sources or agents were recruited and run in order to meet the Service's intelligence requirements. As far as Northern Ireland was concerned, the Service's priorities and intelligence requirements were set out by T2 and T5 and by the AsGp in Northern Ireland, and the agent-running section was known as T8. This section recruited agents, handled them and provided ongoing support. The work was based in London, but there was also an agent-running outstation in Northern Ireland. The Service's agent-running operation was small compared with those of the SB and the Army, and was primarily concerned with strategic issues, such as the plans and intentions of the leadership of paramilitary organisations, whereas the RUC and the Army concentrated on tactical intelligence to protect the public and their own forces on the ground. T8 sought the authorisation of SB whenever it planned to recruit and run agents based in Northern Ireland, in recognition of the lead role of the RUC. On some occasions joint recruitment and source handling arrangements were put in place.
- 5.147 Specialist officers in T8 had the responsibility for identifying and assessing possible candidates for recruitment as agents. The case officer in a section made proposals to a senior manager, bearing in mind in particular the likely intelligence dividend, and measures that could be taken to mitigate risk to the potential agent. If recruitment took place, the reliability of the agent had to be established before he or she was allocated an identification symbol on the authority of a senior manager. The Security Service database of agents was restricted to a very small number of staff.
- 5.148 Agents were tasked and met as frequently as the case demanded, and a written account of all meetings and telephone conversations was made, using a pre-printed form known as a contact note. Intelligence obtained from an agent was then issued as a Source Report, which concealed the identity of the agent, and differentiated between factual information received from the agent and any comment which the Agent Handler added. Agent intelligence was distributed to

internal Security Service customers including AsGp in Northern Ireland, to RUC SB and to the Metropolitan Police SB as appropriate. Intelligence with major policy implications was issued to a wider readership in Whitehall and the NIO. There was a continuous process of reviewing the intelligence received from each agent, and assessing its usefulness and reliability. The risks and benefits of meeting an agent were evaluated, and the number of NIIRs issued as a result of the agent's reporting was recorded.

'A' Branch

5.149 The planning and mounting of covert technical intelligence-gathering operations was undertaken by the department known as 'A' Branch, based in London. This Branch dealt with such operations throughout the UK, and carried out a detailed analysis of all applications for such work, ensuring that resources were allocated to the highest priorities. 'A' Branch also operated in Northern Ireland on behalf of the RUC.

The Security Service in Northern Ireland

5.150 Because of the lead role in Northern Ireland of the RUC SB for gathering and exploiting intelligence on republican and loyalist terrorist activity, the role of the Security Service was predominantly to provide strategic advice to Ministers on threats from paramilitary organisations. This meant that the structure of the Security Service in Northern Ireland differed from that of the Security Service in the rest of the UK.

Director and Co-ordinator of Intelligence

5.151 The most senior Security Service officer in Northern Ireland was the DCI. He was responsible, under the PS of the NIO, for delivering high-level policy direction and advice relating to intelligence activity in Northern Ireland, and for providing support on intelligence matters to the SOSNI, and to his/her two other principal security advisers, the Chief Constable of the RUC and the General Officer Commanding (GOC) Northern Ireland. The DCI had no operational responsibilities, but was concerned with the provision of an intelligence-reporting service to Ministers and officials in the NIO and in Whitehall, principally through reports prepared by his staff in the AsGp. He also gave advice on the authorisation of warrants under the Interception of Communications Act 1985 and the Intelligence Services Act 1994. He was himself a member of the key committees responsible for security policy and intelligence matters: the SPM, the PEC and the IRC, of which he was Chairman (see 5.88 to 5.90).

Director and Co-ordinator of Intelligence's Representative at the Royal Ulster Constabulary

- 5.152 The DCI had a representative at RUC HQ (known to the Inquiry as DCI Rep Knock), whose primary responsibility was the processing of all applications for warrants for technical surveillance on behalf of the RUC. Most applications originated from the RUC, but there were some from other intelligence agencies, such as HM Customs & Excise. There were many kinds of intrusive surveillance, and the first question which DCI Rep Knock's office would ask in response to a request was about the feasibility of the proposal, then about the proportionality and necessity of carrying it out. If a request was granted, the responsibility for installing the device rested with 'A' Branch operations staff. Some requests were not granted, on grounds of operational justification or failure to reach an appropriate threshold of necessity, and even if a warrant was granted, in some cases the operation did not proceed.
- 5.153 DCI Rep Knock also acted as a liaison officer between the Security Service and the RUC. In Northern Ireland this involved the circulation to the RUC of NIIRs produced by AsGp. This function and the way in which it was carried out comes in for particular and detailed scrutiny in Chapter 15 in relation to the conflicting evidence heard by the Inquiry about the NIIR which incorporated a warning of the INLA death threat to Billy Wright if he were moved to HMP Maze H Block 6, and if he and his supporters were co-located with the INLA prisoners. DCI Rep Knock's liaison role between the Security Service and the RUC also worked in another, very different way: the Service Desk Officers in London were customers for RUC intelligence, looking for leads about terrorist activity in Great Britain. DCI Rep Knock facilitated exchanges between the Desk Officers of the Security Service and of the RUC, with contact made by secure telephone, telegram or face-to-face meetings.

Director and Co-ordinator of Intelligence's Representative with the Army

- 5.154 The DCI also had a representative attached to Military Headquarters (HQ NI), to ensure that the DCI's views were represented at HQ NI, and that he could be kept informed of developments in Army policy relating to intelligence gathering.

The Assessments Group

- 5.155 AsGp consisted of Desk Officers in the Security Service who worked for the DCI. It was headed by an officer of the rank of Assistant Director (known to the Inquiry as Witness HAG), and comprised a small team of intelligence analysts. They received information from a number of different intelligence and security agencies, including RUC SB, and including intelligence from human sources and eavesdropping operations. AsGp was organised in a series of sections, and focused on different threats within Northern Ireland. The Republican Desk Officers (represented at the Inquiry by Witness DO2) focused on organisations

such as the PIRA and the INLA, whereas the Loyalist Desk Officers (represented at the Inquiry by Witness DO1) focused on the various loyalist paramilitary groups. AsGp provided a wide range of strategic intelligence reports and assessments for government readership and policy-makers outside the intelligence community, including the SOSNI, Ministers and officials in the NIO, 10 Downing Street, the Cabinet Office, and recipients further afield, for example in the government's embassies in Dublin and Washington.

- 5.156 AsGp acted as a focus for strategic intelligence and sought to ensure that the Northern Ireland intelligence community as a whole produced shared and agreed assessments for government. Its primary output was in the form of NIIRs which were generally designed for a political and/or security readership.
- 5.157 In the period 1996–98 there were three kinds of NIIR: a single-subject report, an assessment NIIR, and a monthly intelligence report. The first would deal with one particular subject, with interpretation and comment from the Security Service, based on intelligence which came from one particular source, or in some cases on two or three reports from a range of sources. Assessment NIIRs provided an overall assessment of a paramilitary group, of a threat or of particular issues or events. These were usually based on a wider range of sources. Monthly NIIRs reviewed the events and intelligence over the preceding month, and included an intelligence assessment and outlook. The main focus of AsGp's concern was with strategic intelligence, for example in regard to ceasefires, breaches of ceasefires or involvement of different paramilitary groups in the political Peace Process. The Security Service was not involved in producing threat assessments, as this was the role of the RUC.

The Intelligence Management Group

- 5.158 The IMG was part of the structure of RUC SB, set up in response to the Warner Report, as has been set out in the section of this Chapter dealing with SB. Its relevance here is that it led to the establishment of ESSOs at RUC SB HQ, who helped with the analysis and distribution of RUC intelligence. It was originally intended that such embedded analysts should be appointed both to the SB HQ and to the Regions. In fact the Regional appointments did not take place. Witness HAG told the Inquiry that, following the secondment of Security Service staff to SB HQ, there was some increase in the flow of product, but more importantly an improvement in the quality of the reports that were issued and the nature of the assessment that the RUC was capable of achieving.

Agent Running

- 5.159 Agent running in Northern Ireland by the Security Service was conducted by an outstation of T8, working closely with RUC SB and with the Army. It reported directly to a senior manager at T8 in London. As in the case of T8's activities in

London, the outstation's purpose was to obtain information to meet intelligence requirements for which the Service had the main responsibility, that is to say strategic intelligence. It was not intended that the Service's intelligence gathering should be concerned with tactical matters, but if such tactical information was acquired as a by-product of the strategic operations, this was passed to the RUC for information or action.

The Security Service's Relationship with Other Organisations and Committees in Northern Ireland

The Northern Ireland Office

5.160 The Service's relationship with the NIO in Northern Ireland was principally as the supplier of assessed strategic intelligence, through the DCI, reporting directly to the SOSNI and the PS. Briefings were available for readers of NIIRs, to ensure that they understood the process of collection, investigation and assessment of intelligence which lay behind the reports. AsGp needed to understand the political context in Northern Ireland, and by 1997 liaison groups had been established to ensure that the intelligence relevant to the political and security situation was seen by key NIO officials, and that AsGp was aware of the thinking and requirements of the NIO.

The Northern Ireland Prison Service

5.161 The Security Service had very few dealings with the NIPS. Monthly and some other NIIRs produced by AsGp were delivered on a read-and-return basis to senior members of the NIPS. A member of AsGp sometimes represented the DCI at the PLG meetings.

The Security Policy Meeting

5.162 For details of the SPM see 5.88. The particular involvement of the Security Service in this meeting was that the DCI was invited to give his assessment of the security situation, having consulted previously with colleagues in the RUC and the Army.

Province Executive Committee

5.163 For details of the PEC see 5.89. The Security Service input at this meeting was that the DCI provided an update on political and security issues and there would be a briefing from the Army.

Intelligence Review Committee

5.164 For details of the IRC see 5.90. This was a meeting at which the lead role fell to the DCI. It set monthly Priority Intelligence Requirements (PIRs) and AsGp produced draft PIRs for consideration by the IRC, taking into account strategic requirements set by the Joint Intelligence Committee (JIC) (see 5.165) as well as the short- and medium-term requirements which were known to those operating in Northern Ireland.

Joint Intelligence Committee and Current Intelligence Groups

5.165 These were UK Government bodies. The JIC was based in the Cabinet Office, and was responsible for providing Ministers with regular intelligence assessments on a wide range of matters relating to security, defence and foreign affairs, including republican and loyalist paramilitary activity. The Current Intelligence Groups (CIG) was a preliminary meeting which helped set the agenda for the JIC. Both were attended by Security Service representatives. The Cabinet Office collated contributions from various sources, including the Service Desk Officers in London and AsGp in Northern Ireland. Following the CIG, the Service representative prepared a brief for the senior Service member who subsequently attended the JIC meeting, usually the Director General or his Deputy or the Director of T Branch. Irish-related JIC reports were then distributed to a restricted list of recipients, including Ministers.

The Army**The Structure and Role of Army Intelligence in Northern Ireland**

- 5.166 The head of Army Intelligence in Northern Ireland was known as Chief G2, based at HQ NI at Thiepval Barracks, Lisburn. He worked directly to the GOC, and had overall responsibility for all Army intelligence operations in Northern Ireland, for the collection, collation and assessment of intelligence, and for liaison with RUC SB and with the Security Service. All intelligence was studied on a day-to-day basis, with a view to assessing any threats to security forces, particularly from the PIRA, and to consider issues which might affect the political process. The Chief G2 had a direct link with the RHSBs, and with the HSB at RUC HQ at Knock.
- 5.167 The Army presence in Northern Ireland in the 1990s consisted of three Brigades, arranged on a geographical basis, with 39 Brigade responsible for the Belfast Region. Each Brigade had an intelligence officer, known as the Regional Military Intelligence Officer (RMIO, also known as SO2G2), who worked directly to the Brigade Commander. Below this level came the Battalion. The Battalion Intelligence Officer (IO) was normally a junior officer on a limited deployment of between six months and two years. This person was not an intelligence specialist. Junior staff who undertook day-to-day analysis and collation of intelligence were drawn almost exclusively from the Intelligence Corps.
- 5.168 The Joint Support Group (JSG) (joint in that it represented all three services), commanded by a Lieutenant Colonel from the Intelligence Corps and with a total membership of a few hundred including civilian personnel, was the Army Source Handling Unit with its HQ based at HQ NI. Its sole function was to run covert agents within terrorist organisations in Northern Ireland. JSG personnel did not undertake covert surveillance operations using technical means.

- 5.169 The JSG was itself sub-divided into five Detachments, or Dets, which corresponded to the RUC SB regions. One Det related to the RUC Belfast Region, and two to each of the RUC North and South Regions. The OC of each Det would normally have a daily meeting with his SB counterpart, and information flowed in both directions, to ensure in particular that intelligence supplied by Army sources was not out of kilter with that provided by SB sources. Information from Army sources was recorded in documents known as Military Intelligence Source Reports (MISRs), produced and graded by the Agent Handler under the direction and guidance of the JSG Det OC. The MISR was then disseminated electronically on the CAISTER/MACER system, with distribution according to the grading of the MISR to the RUC SB and the Army. The Security Service could also access MISRs on MACER. Hard copy MISRs were provided to authorised addressees in certain circumstances.
- 5.170 The Army intelligence operation was divided into five areas of work, both at HQ NI and at Brigade level: weapons intelligence; assessment staff; special projects; liaison with the RUC; and clerical administration. The key assessment team at HQ NI consisted of a Major and several Captains. There were no military personnel embedded in the RUC Source Units, but a small Army detachment, consisting of one officer and three or four other ranks, was embedded in E3 at RUC SB HQ. The Chief G2 spoke to this group once a week in order to keep abreast of the particular interests and concerns of the RUC.
- 5.171 For administrative purposes, management of personnel and the provision of equipment there was an Intelligence Corps unit known as the Force Intelligence Unit (Northern Ireland) (FIU). The FIU played no part in the day-to-day operational work at Brigade or Battalion level, but did, for example, manage the Prison Liaison Office (PLO) at HMP Maze. The PLO provided background information, for example about notable paramilitary visitors to HMP Maze and about vehicle movements; the latter could be logged onto a special computer database known as VENGEFUL.
- 5.172 A great deal of Army intelligence was low-level, gathered by local Army units, and related to such things as vehicle movements and sightings of individuals. The GOC was more concerned with strategic intelligence, but he would also at times receive tactical reporting, especially during the marching season, when tactical intelligence was especially needed to enable the best deployment of troops to be decided.
- 5.173 Witness AD, an RMIO, told the Inquiry that he received reports from the Battalion IOs, and on the basis of this information he and his staff produced daily and weekly summaries. These were known as Dailies and Intelligence Summaries (INTSUMs). It was the function of the RMIO at Brigade level to assess the importance of the large amount of information coming in from the IOs, given that the Battalion Intelligence Unit was primarily manned by infantry private

soldiers and junior NCOs, whereas the Brigade Intelligence Unit was manned by Intelligence Corps personnel with analytical skills. The Inquiry has seen a number of INTSUMs from the period immediately preceding the murder of Billy Wright, particularly relating to the movement of notable INLA members, contact between them and a PIRA member, and particular gatherings at addresses in Belfast. These INTSUMs may have related to the planning of the murder.

- 5.174 One of the functions of Army intelligence was to prepare 'pen pictures' of key paramilitary individuals who were of particular interest to the security forces in Northern Ireland, sometimes at the specific request of the RUC or the NIO. Witness EA (Principal British Army Intelligence Officer) acknowledged that these pen pictures would necessarily be out of date as soon as they were prepared, as new information was constantly coming in. The task of the collator was to keep all the intelligence in an ordered fashion, so that a pen picture which was as accurate and up to date as possible could be produced on demand.
- 5.175 The Chief G2 attended the weekly IRC meetings (for details see 5.90). Witness EA, who was appointed Chief G2 in 1998, spoke warmly in his evidence to the Inquiry of the good working relationships which existed between the Army, the RUC SB and the Security Service.
- 5.176 Despite the overall impression conveyed by Witness EA of good, harmonious working relationships between the three organisations, there were clearly some underlying tensions. The primacy role of SB in intelligence gathering could cause difficulties, especially if and when SB was critical of the intelligence gathered by Army sources. The RSU would normally have a fuller picture than the JSG handlers, but that would not always mean that the Army intelligence was less accurate or valuable. Witness EA observed that the Northern Ireland intelligence structure had never been consciously designed; it had evolved, from the 1970s through to the 1990s, and this evolutionary process had not taken full account of the increasingly political nature of the conflict, as paramilitary violence gradually gave way to more subtle and sophisticated political negotiations.

6

Document Recovery

Introduction

- 6.1 This Chapter deals with the recovery of documents from those key organisations which were likely to have large amounts of material relevant to the Inquiry's Terms of Reference and work. In particular, these were: the Security Service, the Ministry of Defence (MOD), the Cabinet Office, the Northern Ireland Office (NIO), the Police Service of Northern Ireland (PSNI) and the Northern Ireland Prison Service (NIPS).
- 6.2 As indicated in Chapter 2, at an early stage the Inquiry wrote to a number of organisations and bodies to recover all relevant papers that they might hold. This included all the organisations listed above and many others such as the Prime Minister's Office, the Home Office, the Director of Public Prosecutions for Northern Ireland, HM Coroner in Belfast and Her Majesty's Prisons Inspectorate. The Inquiry also received information from others such as British Irish Rights Watch and from the solicitors representing Mr David Wright and the family.
- 6.3 As previously stated, the Inquiry also recovered all papers that had been returned from Mr Justice Cory's Collusion Inquiry. As this was the first material recovered, it was this paperwork that formed the starting point for the Inquiry's investigation and which led to the many requests the Inquiry subsequently made.
- 6.4 A great many avenues of investigation to recover material were pursued, and senior members of the Inquiry team spoke to staff at the Stevens Enquiry team in London to obtain general information in relation to Northern Ireland and a certain amount of paperwork.
- 6.5 Not all the avenues of investigation pursued by the Inquiry are explained in detail in this Chapter, but the members of the Inquiry Panel wish to emphasise that they believe they have followed all necessary and appropriate lines of investigation, and that no relevant material that the Inquiry was aware of has been overlooked and not followed up.
- 6.6 Whenever investigations were set in motion, the Inquiry did everything within its powers to recover any material that might be relevant. In that respect the Inquiry Chairman's statutory powers under section 21 of the Inquiries Act 2005 (the 2005 Act) were used frequently, and with some organisations those powers were used on several occasions. The Panel were also aware of their powers under the Regulation of Investigatory Powers Act 2000.

- 6.7 The amount of material that the Inquiry has considered in the course of its investigation runs to hundreds of thousands of pages, though only that material which it was decided was relevant was eventually used. The investigative work was undertaken by a team of staff in Edinburgh from early in 2005 and some matters were still being pursued at the end of Inquiry hearings.
- 6.8 In making requests to and serving notices on different bodies and organisations, the Inquiry intentionally made the same or similar requests to more than one body. At the same time the Inquiry discouraged those bodies and organisations from discussing with each other the Inquiry's requests or notices. The reasoning behind this approach was that the Inquiry considered it important that there should be no suggestion that organisations had been discussing the Inquiry's requests amongst themselves before deciding what they should disclose.
- 6.9 The Inquiry's view was that each body receiving a request or notice from the Inquiry should interpret that request for itself and then disclose to the Inquiry all material in its possession, custody or control that it considered might be relevant, regardless of where it had originated from. If a body had questions regarding material it held, the Inquiry considered that those questions should be raised with the Inquiry and not other organisations or bodies. In that way, the Inquiry considered that once it had received all the information it would be in a position to track how information had moved through the system and to gain a full and independent view of the course of events.
- 6.10 There were occasions when the Inquiry became aware of discussions taking place between bodies and organisations receiving requests or notices, and when this occurred the Inquiry expressed very clearly its view that such discussions should not take place, particularly with regard to the content of particular documents or how to respond to requests or notices. The Inquiry Panel took the view that this was a matter at the heart of the Inquiry's investigation.
- 6.11 As stated in Chapter 2, once the Inquiry was converted to one under the 2005 Act, notices under section 21 of that Act were served on the principal agencies with which the Inquiry might be concerned. These included all the bodies or organisations referred to below. It should not be assumed by anyone that these notices were served because those bodies were not responding to the Inquiry. There was some concern over the speed of some responses but overall, by late 2005 when the notices were served, the Inquiry had not been hampered in its progress by a lack of paperwork to consider.
- 6.12 It has already been acknowledged that document recovery in an Inquiry such as this is a difficult and complicated matter. The main reason for serving notices under the 2005 Act was to treat all parties in the same way and to give clarity

and assistance to those who were searching for and locating material. The specifications attached to the notices served were lengthy and detailed as to the nature of the documents sought, but often the Inquiry was unable to be specific as it did not know exactly what material was held. The papers recovered from Justice Cory's Inquiry were helpful but they were small in volume when compared with the material this Inquiry eventually recovered.

- 6.13 Both before and after the notices were served, members of the Inquiry team always made themselves available to attend meetings and discuss the nature of requests and notices. This was to provide clarity as to exactly what the Inquiry was looking for.
- 6.14 Once material or documents were determined by the Inquiry team as potentially relevant, if the documents carried protective markings then special arrangements had to be made for the Inquiry to have sight of them in Edinburgh. Initially, in respect of highly sensitive material, this was at a separate site in Edinburgh, but by 30 March 2007 arrangements had been made for the material to be held at the Inquiry's own premises.
- 6.15 The Panel have considered all the responses provided by the various agencies resulting from the use of the Inquiry's powers. Comments on those responses are set out below and elsewhere in this Report.

The Security Service

- 6.16 The Inquiry made contact with the Security Service in early 2005 and there followed several meetings between senior members of the Inquiry's investigative team and Security Service advisers. In accordance with initial requests from the Inquiry, the Security Service searched for and located everything they considered as being potentially relevant to those requests. The material was then shown to the Inquiry team, either in London or in Edinburgh. Once the Inquiry team had examined the material and identified the documents of interest, arrangements were made for the papers to be delivered to Edinburgh for further examination and final determination of relevance.
- 6.17 In November 2005 a notice was served on the Security Service, though at that time the process of recovery of documents was well in hand and there was nothing to suggest that matters were not progressing in a satisfactory way. Further, the Security Service assisted the Inquiry with the identification of appropriate witnesses and by providing general information on the background to Northern Ireland and the operation of the security forces there.
- 6.18 With regard to the formal notice served at the end of November 2005, on 28 February 2006 the Security Service responded saying they considered they had

complied with the requirements of the notice and providing a detailed written response. The Inquiry acknowledged that the Security Service had complied with the notice served on them, though further questions arose as the overall documentation recovered by the Inquiry was considered, with the result that the Security Service continued to produce material to the Inquiry as the oral hearings proceeded. In addition, further material and information were provided as a result of questions that arose in the hearings themselves and as a result of questions arising from the solicitors acting for Mr David Wright and the family and other parties.

- 6.19 The Inquiry Panel are satisfied that the disclosure of material from the Security Service was thorough and complete. In their closing submissions to the Inquiry the family raised the question of whether the Security Service had withheld material from the Inquiry, maintaining that it had and that it **'beggars belief'** for the Security Service to say it no longer had Northern Ireland Intelligence Report (NIIR) logbooks because of storage problems. There is no evidence to support these suggestions.
- 6.20 In their closing submission the representatives for the family listed a number of documents they said were missing and therefore concluded that these had not been disclosed to the Inquiry. They went on to say that the Security Service had not cooperated fully with the Inquiry and should therefore be criticised for not having done so. The evidence they referred to in support of this is at times confusing but, having considered all the evidence, and considering all the material the Inquiry has seen from the Security Service, the Panel are satisfied that there is nothing to support a finding of non-disclosure or of criticism of the Security Service on this point.
- 6.21 Whilst the frustrations of the family with regard to their not being given full access to certain material are understood, it must be understood that there are very good reasons for their access to material being restricted and for the use of the evidence summaries (see 2.102). It must also be accepted, as stated in Chapter 2, that the Inquiry has seen all material in an unredacted state including the material upon which the evidence summaries are based, and is satisfied that there is nothing sinister or untoward in the fact that the material has not been disclosed publicly. Regrettably that is sometimes unavoidable in a Public Inquiry of this nature, but ultimately it is the Inquiry that must be satisfied.
- 6.22 With regard to the NIIR of 15 January 1998, this was not produced by the Security Service late in the day, as has been suggested. The Inquiry had a copy of that document from the Security Service along with the main disclosure of documents. It is simply that it was not used for the summary scanned at SS01-0358 because a source report containing the same information was used. Similarly, there is no evidence that the information summarised at SS01-0358 was known prior to January 1998 or before the murder.

The Ministry of Defence

- 6.23 The Inquiry first made contact with the MOD in April 2005, advising them that the Inquiry would need to be provided with any papers the MOD held that could relate to or have relevance to the Inquiry and its work. There was a meeting between members of the MOD Tribunals and Inquiries Unit and senior members of the Inquiry's investigative team in June 2005 when it was explained that, whilst the Inquiry had seen the papers that the MOD had provided to Mr Justice Cory, it would not be safe to assume that that was all the Inquiry would need. The examination carried out by Mr Justice Cory was to determine whether a full Public Inquiry was warranted or necessary, whereas this Inquiry was charged under its Terms of Reference to make a full and thorough investigation regarding the actions of state agencies in relation to the murder of Billy Wright.
- 6.24 The MOD acknowledged that further examination of their documents would be necessary and there followed a number of meetings in London when senior members of the Inquiry team attended to examine potentially relevant material the MOD had identified. As in the case of the Security Service and others, copies of material identified by the Inquiry as potentially relevant had then to be provided to the Inquiry in Edinburgh in order that the Inquiry team could conduct a further examination and make a final determination of relevance.
- 6.25 That process continued and the Inquiry was still making enquiries of the MOD in 2009. However, in November 2005 the Chairman of the Inquiry served a notice on the MOD under section 21 of the 2005 Act setting out in detail the documents and material that were required. Once again, by this time the process of recovery of documents was well in hand and the notice was served because a decision had been made to treat all principal bodies in the same way.
- 6.26 In February 2006 the MOD wrote to the Inquiry providing a full response to the notice that had been served, which the Inquiry accepted.
- 6.27 As with other parties, further questions continued to arise and the MOD in fact continued to provide information to the Inquiry until after the completion of the evidence hearings in May 2009. These further matters arose from a variety of sources, including queries from the Inquiry arising from examination of papers recovered from others; queries from the Inquiry arising from evidence heard from others; queries from the solicitors representing Mr David Wright and family; and queries from others generally.
- 6.28 The MOD also provided assistance to the Inquiry in terms of general information on the operations of the Army in Northern Ireland in the 1990s and with the identification of relevant and appropriate witnesses.

- 6.29 In their closing submissions to the Inquiry those representing Mr David Wright and family suggested that the MOD should be criticised for not disclosing to the Inquiry documents or information relating to the following:
- (a) Intelligence indicating that the MOD knew of a previous attempt by Christopher McWilliams and John Kenneway to kill Billy Wright in HMP Maghaberry in April 1997;
 - (b) An intelligence staff (G2) Incident Report relating to the murder of Billy Wright; and
 - (c) A copy of the NIIR of 15 January 1998.
- 6.30 With regard to (a), whilst the family representatives' argument is acknowledged, there is no clear or direct evidence to support the suggestion that material has been withheld from the Inquiry. The Report is dated January 1998, and if the MOD were genuinely withholding material it would have been strange for them to disclose this piece of information.
- 6.31 The MOD's position is set out in their letter of 7 September 2009. They say that despite repeated searches they have not found any intelligence on any previous attempt on Billy Wright's life or which supports the remark in item (a). They are not satisfied that any such intelligence ever existed and reject any suggestion that they have intentionally withheld material from the Inquiry. While the comment in the document appears unusual, there is no evidence to support the suggestion that material has been intentionally withheld. It is also important to remember that, on any basis, this information was wrong. There had never been a previous attempt on the life of Billy Wright in HMP Maghaberry in April 1997. By the time of the hostage incident, Billy Wright had already been moved to HMP Maze. The most that could have been said was that in April 1997 there was information that an attempt to kill Billy Wright was the original reason why the guns were smuggled into HMP Maghaberry (prior to the hostage incident), though there is no evidence that the MOD knew anything about that at the time.
- 6.32 The contentious information in item (a), which was a composite intelligence report detailing the main events concerning the Irish National Liberation Army (INLA), the Provisional Irish Republican Army (PIRA) and the Continuity IRA for the period 19 December 1997 to 6 January 1998, including the murder of Billy Wright, is the note which says:

'McWilliams and Kennaway had made a previous attempt on Wright's life in Apr 1997 in HMP Maghaberry.'

Witness AD, who was Regional Military Information Officer, confirmed that the Report was addressed to him, and that it had been prepared by a Lance Corporal, the most junior member of his staff. He told the Inquiry that he believed that the

author **'had the wrong end of the stick on this'**; in other words, the author had drawn a wrong conclusion from limited knowledge of the hostage incident at HMP Maghaberry, a conclusion for which no supporting intelligence could be found. Witness AD said that he believed that Billy Wright might have been moved before the incident but he was uncertain of the facts. Witness EA, Principal Army Intelligence Officer, said that he suspected that the author of the Report believed that it was an accurate record of the hostage incident, and that information about an important incident inside a prison would have been known in Army Intelligence circles, since there was a very close working relationship between the Army and the Royal Ulster Constabulary (RUC). Witness EA was told by Leading Counsel to the Inquiry that the Inquiry did not have anything which appeared within the intelligence systems as a source for this information, although there was plenty of evidence which would suggest that there was at least informal information to this effect circulating quite widely. Witness EA told the Inquiry that there might have been no intelligence activity surrounding it, and that such activity was unlikely, given that the incident happened in a prison.

- 6.33 In his final submission, Counsel for the Wright family pressed the point that the author of the Report appeared to be the Army's INLA collator, and that Witness AD had been unable to produce any document to back up his rejection of the collator's comment. Counsel claimed it was simply an expression of Witness AD's opinion and said he believed that evidence to support the claim in the report must exist, and must have been withheld from the Inquiry, although in turn the family were unable to put forward any supporting evidence for this view.
- 6.34 It is relevant that Mr Justice Cory concluded that Billy Wright was the initial target of the hostage incident at HMP Maghaberry in April 1997, though once again the basis of that conclusion is unclear, and the Inquiry has recovered all relevant papers considered by Mr Justice Cory. In the circumstances, the Inquiry Panel do not consider that there is any basis on which to criticise the MOD regarding this matter.
- 6.35 With regard to item (b), evidence given at the Rosemary Nelson Inquiry of an Army G2 Incident Report is not directly relevant to the evidence given at the Billy Wright Inquiry. The killing of Rosemary Nelson occurred in a public area where the Army were on patrol, and not within the confines of a prison where the military had no jurisdiction. As the family representatives comment, the MOD have been asked in detail about this Report and they have responded to all questions asked and provided a number of documents. What they have said is that it is unlikely that such a Report would have been produced for the murder of Billy Wright. The suggested explanations for this include the location of Billy Wright's murder, the timing of the murder in that it would correspond with senior staff being on leave, and the demand for briefing being reduced. The MOD have also suggested that

two documents which were supplied to the Inquiry at an early stage in relation to sectarian killings may have been the 39 Brigade equivalent of a G2 Incident Report, but that they could not formally be regarded as such Reports and were certainly not submitted on the form used for such Reports.

- 6.36 The matter of a possible G2 Incident Report was explored at length with MOD witnesses, and the evidence heard was to some extent contradictory. Witness AD said that he could not say for certain that no G2 Report was ever prepared in relation to the murder of Billy Wright, but that it was unlikely. After an incident such as the murder of Billy Wright an Incident Report, if it was produced, would have been the responsibility of the operations staff (G3) as opposed to the intelligence staff (G2). He confirmed that he was not involved in any way in writing or contributing to an Incident Report, either G2 or G3, in relation to the murder. Witness EA, on the other hand, maintained that a G2 Incident Report would be prepared by the Army and might include any related intelligence which was in existence before the murder, if it had been shared with the writer of the Report. The author of such a Report would have been quite junior, the rank of Lance Corporal, and he would not have had access to all available intelligence. The nature of a G2 Report, and the amount and sensitivity of the intelligence contained in it, depended on the context, and on the particular superior officer for whom it was prepared, whether a company commander in an isolated environment in Northern Ireland, or for senior officers at Northern Ireland Army Headquarters (HQ).
- 6.37 When asked specifically by Counsel for the Wright family whether a G2 Incident Report was prepared in the aftermath of the murder of Billy Wright, Witness EA responded that in the case of an incident of such importance, in which there was a lot of interest, it was likely that more than one Report was produced, although he could not recollect whether this was the case. He believed that he had been shown one such Report in preparation for his witness statements. When told, on further questioning, that the Regional Military Intelligence Officer had said that there was no G2 Incident Report for the Wright murder, Witness EA replied that Witness AD might have been referring to his own organisation, 39 Brigade.
- 6.38 The uncertainty surrounding this issue and the revelation at the Nelson Inquiry were dealt with at length in the final submission of Counsel for the Wright family, who had instigated further Inquiry correspondence with the MOD. He described the MOD responses as a series of threadbare, inconsistent and disingenuous answers. The correspondence concludes with the statement of Chief G2 that he did not **'personally'** prepare a G2 Incident Report; that the Nelson G2 Incident Report was the only one bearing that heading of which he was aware (despite the Nelson witness stating that this was something the Army did in response to every

serious incident); and that he was **'unable to comment on the whereabouts of any such report'**. The MOD letter of 12 May 2009 is in the family Counsel's opinion less than satisfactory, since it states that the G2 section prepared a number of reports but none is entitled 'G2 Incident Report'. Counsel for the Wright family submitted that the family relied on the evidence of Witness EA, which they found more persuasive than the official MOD line, and in particular on his evidence that there would have been much interest in the killing of Billy Wright. Counsel contended that such a Report was prepared but was withheld from the Inquiry, when one has regard to the evidence of Witness EA combined with the Army response to the Nelson murder. He submitted that the family believed it had been withheld as it contained the prior intelligence which led to the controversial comments made in item (a).

- 6.39 The Wright family, as is evident from this summary, attaches much importance to this matter, and the Inquiry has considered the evidence with great care. It is clearly the case that if a G2 Incident Report existed, and if it included intelligence which was available before the murder and an analysis of the whole sequence of events, it might throw significant light on the issues with which the Inquiry has been dealing. But on balance the Panel conclude that it is unlikely that a G2 Report was produced, and are inclined to accept the evidence of Witness AD, who was closer to the day-to-day events than Witness EA. The very uncertain answers given by Witness EA at the end of his evidence tended to undermine the more confident opinion he had expressed earlier. The Inquiry Panel take the view that there is no evidence to support the suggestion that material has been intentionally withheld.
- 6.40 Finally, in relation to item (c), the Security Service NIIR dated 15 January 1998 was not supplied to the Inquiry by the MOD, although the Inquiry did have a copy of this NIIR from the Security Service. Counsel for the Wright family in his submission claimed that the MOD had also failed to comply with a notice for the production of all relevant documents served on them in November 2005, in that they did not produce the NIIR of 15 January 1998, which reflected information contained in the summary document scanned at SS01 0358. Counsel submitted that the dissemination of this intelligence had been a matter of controversy, with the RUC saying that they never received it. By letter dated 7 April 2009 the Inquiry was asked to ascertain from the MOD if they had received this NIIR. The MOD replied on 12 May:

'the DIS [Defence Intelligence Staff] (shown as SO2 G2 DINI) has a record of the NIIR being received on 20 January 1998. ... We believe that the NIIR of 15 January 1998 was already being supplied by the Security Service direct as they were best placed to advise on the context and sensitivity.'

6.41 Counsel for the Wright family submitted that this was an acceptance by the MOD that they had withheld the NIIR in their possession from the Inquiry. He observed that the excuse that they expected it to be supplied by another agency found neither acceptance nor credence with the Wright family. The Inquiry imposed a prohibition on agencies contacting each other to decide who would send which documents to the Inquiry. According to Counsel, the MOD would appear to have broken that prohibition and reached an agreement with the Security Service about who would send the NIIR. Secondly, the notice imposed upon them was clear. They were to furnish all relevant material in their possession, and it is of no moment that another agency had the same material. The police had been the subject of justified criticism from the Inquiry for not disclosing the April threat intelligence in their possession, even though it had been supplied by the Security Service. Counsel submitted that the MOD should be treated no differently. Their telling admission on this issue cast doubt upon the integrity of the MOD's response to the Inquiry notice for all documents. The non-disclosure of the NIIR ensured that suspicion would persist that they had withheld the G2 Incident Report and the material underpinning the comments in item (a).

Conclusion

6.42 From the point of view of the Inquiry, the more important question in respect of this document was its transmission to the police, and while it must be said that it should have been provided to the Inquiry under the terms of the notice served upon the MOD, nothing of significance turns on this point. The MOD are correct in saying that the Security Service were in a better position to advise on context and sensitivity, and it would have been the Security Service who would have provided any redaction comments. However, it is not an appropriate response to a notice served under section 21 of the 2005 Act to rely on the fact that another person or body has supplied the document to the Inquiry. It is clear that the document was identified at an early stage as being relevant to the Inquiry's work, and no effort was made to prevent the Inquiry having access to the document. It appears that at that stage the document was misfiled and lost sight of until August 2009.

The Cabinet Office

6.43 The Inquiry's first contact with the Cabinet Office was in early 2005, after Inquiry offices in Edinburgh had been established. This was in relation to the recovery from the Cabinet Office Histories, Openness and Records Unit of all the papers they held that had been examined by Mr Justice Cory for the purposes of his Inquiry.

6.44 Following that, on 31 May 2005, the Inquiry wrote to the Cabinet Secretary advising him that the Inquiry would need to see all papers relevant to the Inquiry whether or not they were previously supplied to Mr Justice Cory including

Cabinet papers, intelligence assessments and all files relating to security issues at HMP Maze.

- 6.45 The Inquiry had also been in contact with the Prime Minister's Office regarding the recovery of papers and they had advised the Inquiry that the Cabinet Office would be responsible for providing any such papers.
- 6.46 Members of the Inquiry team met with officials at the Cabinet Office at the end of July 2005 and thereafter the Cabinet Office conducted searches for potentially relevant documents.
- 6.47 Once again, at the end of November 2005, a notice was served on the Cabinet Secretary to which was attached a detailed specification setting out exactly what it was the Inquiry wished to see.
- 6.48 Papers were provided to the Inquiry from early 2006, and by 4 April the Cabinet Office responded to the Inquiry saying that they considered the notice had been complied with. This was accepted by the Inquiry and there is nothing to suggest that the Cabinet Office response was anything other than full and complete. Once again, all papers provided by the Cabinet Office were considered by the Inquiry team for relevance. Although a large quantity of papers were supplied, only a few were required in evidence. In each instance the document had also been supplied by another department, with the result that they were scanned using that other department's code.

The Northern Ireland Office

- 6.49 The Inquiry first wrote to the NIO to recover relevant papers in February 2005. At that time the NIO were in the process of setting up a NIO Co-ordination Unit to deal with evidential requests from this and the other Northern Ireland Inquiries.
- 6.50 Once that Unit was in place the Inquiry made general and specific requests for information, and at the beginning of June 2005 the Co-ordination Unit provided the Inquiry with an initial list of papers/files they had coordinated in response to the Inquiry's requests. Further material was identified by the NIO Co-ordination Unit during 2005, and senior members of the Inquiry investigative team visited London to look at the various files to determine which of them were of potential relevance so that they could be copied and sent to the Inquiry offices in Edinburgh for further examination.
- 6.51 In November 2005, a notice under section 21 of the 2005 Act was served on the NIO. Once again, by this time the recovery of material was well in hand. This was another notice served following conversion of the Inquiry to one under the 2005 Act.

- 6.52 The NIO provided a number of written responses to the various matters required in the specification to the notice, and by mid-February 2006 the Inquiry acknowledged that the NIO had complied with the terms of the notice.
- 6.53 Further information was provided by the NIO at various stages through the Inquiry hearings as a result of various queries that arose, and the Inquiry Panel are satisfied that overall disclosure from the NIO was satisfactory and complete.

The Police Service of Northern Ireland

Requests for Documentation

- 6.54 The Inquiry Solicitor first wrote to the Chief Constable of the PSNI, Sir Hugh Orde, on 7 February 2005. This was before the Inquiry's office in Edinburgh had been established, but the PSNI were clearly going to be a major source of documentation for the Inquiry. That first communication provided a copy of the Inquiry's Terms of Reference and advised the Chief Constable that the Inquiry would need from the PSNI all papers held that could relate to or have relevance to the Inquiry. The response from the Chief Constable was to put the Inquiry Solicitor in contact with the then solicitor to the PSNI, who wrote to the Inquiry on 14 March 2005.
- 6.55 As with other agencies the Inquiry has had to deal with, the PSNI had certain concerns regarding the way in which the Inquiry would have access to and handle sensitive intelligence material, and it did take some time to put appropriate arrangements in place.
- 6.56 Overall, in the early part of 2005 progress was not speedy, and it was the end of May before the PSNI produced to the Inquiry a copy of the HOLMES account in relation to the murder investigation.
- 6.57 In mid-June 2005 the then solicitor for the PSNI wrote to the Inquiry querying why, under the List of Issues that had by then been prepared and supplied, the Inquiry were seeking access to a wider tranche of intelligence material than that examined by Mr Justice Cory. In the same letter the PSNI Solicitor suggested that this Inquiry should limit its research to a period of 12 months prior to Billy Wright's murder.
- 6.58 A reply from the Inquiry Solicitor dated 21 June 2005 made it clear to the solicitor to the PSNI that this Inquiry's investigation could not and would not be limited in the way he suggested and said that it was not for the PSNI to make such suggestions. The same letter went on to point out that by that time over four months had elapsed since the Inquiry Solicitor had first written to the Chief Constable and, other than the HOLMES account, nothing else of significance had been provided. The letter asked for arrangements to be made to fix an appointment for the Inquiry to view any Special Branch (SB) material which had by that time been identified and said this should be done as a matter of urgency.

- 6.59 At the same time as this, there was resistance from the PSNI to disclosing to the Inquiry the three Stevens Enquiry Reports and the PSNI raised questions with the Inquiry regarding their relevance to the Inquiry's work. Eventually, in September 2005, the first and second Stevens Reports were produced to the Inquiry but only after a notice had been served.
- 6.60 General material was provided by the PSNI from the summer of 2005 onwards in response to requests from the Inquiry but progress in regard to intelligence material and documents was much slower.
- 6.61 There was a meeting between the PSNI and members of the Inquiry Team in Belfast on 20 July 2005 when a number of matters were resolved in relation to the Inquiry's requests for information. Thereafter the flow of general material improved but it was not until after the summer of 2005, following correspondence and further meetings, that search criteria for the PSNI intelligence databases were identified by the Inquiry. After this, over an extended period of time, members of the Inquiry Team attended PSNI HQ to conduct a preliminary examination of the documents identified as a result of the search criteria being applied to the PSNI databases. The procedure was that any documents identified by the Inquiry team as having potential relevance were copied and arrangements were then made for them to be delivered to Edinburgh.
- 6.62 It must be said that in setting the search criteria the Inquiry was heavily dependent on the advice given by the PSNI as it was only the PSNI who knew what information they held and how it might have been stored within their systems. The selection of search terms also had to be very wide. For example searching for the word 'guns' would not identify references to 'weapons' or 'arms'. In the case of Billy Wright the search terms used had to include any description which might have been used or any name or nickname by which he was known.
- 6.63 The process of examining the results of the searches identified thousands of documents that were subsequently copied and provided to the Inquiry for further examination.
- 6.64 On 2 November 2005 the solicitor for the PSNI wrote to the Inquiry stating that the PSNI were agreeable to the Inquiry receiving copies of intelligence documents, but he said the PSNI needed to be satisfied that the Inquiry's premises were secure enough to hold this material. This was a legitimate requirement and one that had to be addressed. However, whilst that was being done, alternative arrangements were made for documents to be delivered to a different secure location in Edinburgh, so there was no good reason for any further delay on the part of the PSNI.

- 6.65 At the same time the PSNI said that copies of the intelligence documents would be supplied only after the Inquiry had signed a Memorandum of Understanding (MoU) that the PSNI had drafted.
- 6.66 This suggested MoU was not acceptable to the Inquiry Panel. It was considered that the conditions suggested by the PSNI could be seen as interfering with the independence of the Inquiry. Further, the Inquiry Solicitor had given an explanation to the PSNI in April 2005 regarding the handling of their material and it seemed rather late in the day for the matter to be raised again. This was conveyed to the PSNI by a letter dated 18 November 2005.

Formal Notice for the Production of Documents

- 6.67 Shortly after this, the conversion of the Inquiry to one under the 2005 Act was confirmed by the Secretary of State for Northern Ireland (SOSNI) and on 23 November 2005 the Inquiry served on the Chief Constable, Sir Hugh Orde, a notice for the production of documents under section 21 of the 2005 Act. The letter accompanying that notice made it clear that, whilst the specification attached to the notice was often general in the way it sought to identify documents, the reason for that was that the Inquiry could not know exactly what relevant documents might exist. That was something that could be known only by the PSNI itself. Accordingly, the Inquiry could identify documents only by reference to what they might relate, or refer, to.
- 6.68 It is also important to note that the specification attached to the notice served in November 2005 clearly said that where originals of any documents were no longer available, if electronic copies existed they should be provided. This is of particular significance in relation to the SB Liaison Minutes referred to at 6.89 below.
- 6.69 Following the serving of the notice, the identification of documents from the PSNI intelligence databases continued and substantial further material requested by the notice was supplied. There was some discussion and modification of call 7 of the notice but on 19 July 2006, the solicitor to the PSNI wrote to the Solicitor to the Inquiry advising that the PSNI considered the notice had been complied with.
- 6.70 Whilst by this time a great deal of material had been provided to the Inquiry by the PSNI, the method of response was at times somewhat disjointed in that the various requests in the specification to the notice were not dealt with in order. Responses were often piecemeal and not followed up, and on other occasions the responses were not well organised.
- 6.71 By this time matters had become more complicated because, as a result of the examination by the Inquiry of the material it had received from both the PSNI and others, further questions and requests for information had arisen. Examples

of this were requests for details regarding SB agents or informants; requests for pen pictures in respect of republican paramilitaries; and details of SB operations, including Operation JAW.

- 6.72 This process of recovery continued throughout 2006 and into 2007, and during this time there were several meetings between the PSNI and senior members of the Inquiry legal team to try to clarify with the PSNI exactly what it was the Inquiry was looking for. During this time, further notices were served under section 21 of the 2005 Act.
- 6.73 Setting out the detail of this process would demonstrate a number of difficulties that arose, but it has to be acknowledged that throughout this period the PSNI continued to supply the Inquiry with large volumes of material. In their response to the Inquiry's Position Paper (see 6.80), the PSNI said they had supplied the Inquiry with 100,000 pages of documents. This is correct, but not all of those documents were directly relevant and at times the Inquiry felt it was being bombarded with volume rather than with documents that were clearly relevant or a direct answer to requests made.
- 6.74 The eventual outcome was that on 18 May 2007 the legal adviser then acting for the PSNI wrote to the Inquiry Solicitor and said that the PSNI considered that they had done all reasonably within their powers to fulfil the requirements of the notices and therefore considered the matters closed. Even so, the PSNI continued to produce material to the Inquiry throughout Inquiry hearings. Some of this material was significant, and had it been produced in a more orderly and timely manner many of the problems encountered would not have arisen.
- 6.75 On 30 May 2007 the Inquiry commenced its main oral hearings, and in his opening the then Leading Counsel to the Inquiry said that because there were still outstanding questions between the Inquiry and the PSNI these would be addressed in oral evidence. The Inquiry's position at that time was that, as the PSNI had said they had fulfilled the requirements of the notices and considered the matters closed, the Inquiry did not consider it reasonable to re-open the question of recovery of documents and was of the view that the hearing of oral evidence was more appropriate.
- 6.76 Notwithstanding this, through their legal advisers, the PSNI did seek to re-open the question of document recovery but the Inquiry declined that request. The reasons for this were: the PSNI had known about the Inquiry since 1 April 2004 when it was announced by the SOSNI; the Inquiry had first written to the Chief Constable two and a half years earlier in February 2005; and the PSNI had themselves declared the question of discovery closed.

The Kinkaid Review

- 6.77 Whilst the Inquiry had made its position clear to the PSNI, during the summer of 2007 the Chief Constable instructed a former Assistant Chief Constable (ACC), Sam Kinkaid, to conduct a review to satisfy him (the Chief Constable) that the procedures that the PSNI had followed in producing the material for the Inquiry had been full, thorough and complete.
- 6.78 It is important to state that this review was not commissioned by the Inquiry. However, once the Chief Constable had commissioned this review, the Inquiry felt compelled to delay the oral hearings which had been scheduled to restart in September 2007 and the PSNI promised to deliver former ACC Kinkaid's report to the Inquiry by 15 October 2007.
- 6.79 The Kinkaid Review was provided to the Inquiry on 18 October 2007 and, whilst it was an extremely helpful piece of work explaining the background to the work the PSNI had done in terms of providing material to the Inquiry since 2005, it did not answer a number of the concerns the Inquiry had, and produced little by way of additional material which, by then, the PSNI legal advisers had indicated would be forthcoming.

The Position Paper in Respect of the Recovery of Documentation

- 6.80 As a consequence the Inquiry Panel decided to publish a Position Paper in respect of the recovery of documents and material from, and the Inquiry's dealings with, the PSNI, from the commencement of the Inquiry in early 2005. This Position Paper should have come as no surprise to the PSNI as on 17 September 2007 the Inquiry Chairman had made it clear to the PSNI and others that the Inquiry would consider such action if the awaited Kinkaid Review did not produce the answers that had been indicated to be forthcoming.
- 6.81 The Position Paper was simply that. It was not intended as a criticism of the PSNI but a document setting out the Inquiry's position regarding recovery of documents from the PSNI as at January 2008. This was clearly stated in the Position Paper, and it was said in the Paper and publicly that no written response was required and that the matters raised in the Position Paper should be dealt with in oral evidence. Notwithstanding this, the PSNI published a formal response to the Inquiry's Position Paper in May 2008, though in doing so it was unfortunate that they misinterpreted Chapter 6 of the Inquiry's Position Paper.
- 6.82 The PSNI also said that the Inquiry in some respects had not acted properly in publishing certain information in the Paper and pointed out certain areas where it considered the Inquiry was simply wrong. The Inquiry's response to this was to repeat that there was no criticism and to explain that the areas made public

by the Paper had all been agreed with the PSNI in advance. In fact, there had been a meeting with officials and lawyers from the PSNI and the Inquiry Team in Edinburgh in early January 2008, prior to the publication of the Position Paper, when the Inquiry Team clearly spelled out what the Position Paper was to say and obtained from the PSNI their agreement to the release of certain information including all of the material the PSNI criticised the Inquiry for releasing.

- 6.83 Notwithstanding these difficulties that the Inquiry experienced in its dealings with the PSNI the Panel do acknowledge the overall assistance given by the legal team that represented the PSNI throughout the main Inquiry hearings and the Panel are grateful to them for that assistance.

Documentation Produced After the Position Paper

- 6.84 Following the Kinkaid Review, the Inquiry's Position Paper and the PSNI response, in August 2008 it came to the Inquiry's attention that there was within the PSNI computers a system known as UNIPLEX. This was not formally notified to the Inquiry but came to the Inquiry's attention through a report commissioned by one of the other Northern Ireland Inquiries and prepared for the PSNI by their own information technology (IT) expert. The reference to UNIPLEX in this report was the first the Inquiry had heard of this system, even though it had been requesting all information relevant to the Billy Wright Inquiry from early 2005; it had served a notice on the PSNI specifically requesting electronic versions or copies of documents; and Mr Kinkaid in his Review in October 2007 had verified the PSNI actions as complete and satisfactory.
- 6.85 UNIPLEX was a personal folder within PRISM. It was a word processing e-mail facility that allowed officers to create their own Word documents and share information. Anyone with permission to access the system could create their own folder and keep Word documents in that folder. The Inquiry was not made aware of this repository of documents until August 2008, and was later told there were approximately 1500–2000 documents per month placed in that system.
- 6.86 Witness DB, who was a Detective Chief Inspector in SB in 1997, told the Inquiry that he did not know it as UNIPLEX but that he and other officers referred to it as the document store. He confirmed that he had a document store on PRISM and would have used it in 1997 as would other SB officers. He told the Inquiry that there would have been a lot of information on the system in the form of Word documents. He accepted that he would have expected the retired SB officers to have informed the PSNI Inquiry team of this facility on PRISM if they were asked if they kept electronic records. He also accepted that insofar as this Inquiry had sought to recover all documentation from the PSNI, whether in hard copy or electronic format, he would have expected those officers to have informed the

- PSNI Inquiry team that there was a repository of Word documents on PRISM and that when the enquiries were being made as to the nature of the systems operated by the Service it would have been mentioned.
- 6.87 Witness DB told the Inquiry that he would have created and stored a variety of documents on UNIPLEX including documents relating to staff administration matters, various business areas and summary reports of an amalgam of intelligence. In response to questions from Counsel for the Wright family, he told the Inquiry that the intelligence documents he created would have included assessments, compilations of intelligence and recommendations for different strategies – a whole variety of things. There would also have been minutes of the SB Liaison meetings. He told the Inquiry that as far as he was aware those documents still exist today.
- 6.88 The Inquiry also heard evidence from Witness ZBH, who was the Detective Chief Inspector in charge of E3A in the latter part of 1997. The only system ZBH had access to was 'Editor', which allowed ZBH to create Word documents. It also had an e-mail facility. ZBH was not sure if it was operational in 1997 and thought that it could possibly have been 1998. ZBH told the Inquiry that, prior to acquiring Editor, SB did not have the facility to create Word documents.
- 6.89 The UNIPLEX system was examined, and the material recovered from it, particularly the SB Liaison Minutes, was of great significance and assistance to the Inquiry and served to contextualise material that had already been provided and about which concerns had been raised.
- 6.90 Mr Kinkaid was asked in evidence if he could explain why this material had not been discovered during his review. He told the Inquiry that those assisting him knew that there was a word processing side to the system, but they thought it was just a standard word processing system on PRISM, and that any search would have produced such documents. He explained that it was not an ordinary word processing system but one created for SB because they were concerned about its security. Mr Kinkaid told the Inquiry he was unaware of this arrangement at the time he carried out his review. He was asked whether he appreciated that the discovery of these minutes, which contained references to all intelligence operations being run during the periods in question, including Operation JAW and its support operations, was regarded as significant by the Inquiry and that they would have been very helpful if they had been received at an earlier date. Mr Kinkaid told the Inquiry that the sort of things that he found and produced to the Inquiry in relation to Operation JAW would not have been on UNIPLEX. He accepted that the Inquiry had probably found a lot of people writing about JAW on the word processing system, and, clearly, that should have been given to the Inquiry in 2007.

- 6.91 In addition, other material provided to the Inquiry after the publication of the Position Paper assisted in answering many of the Inquiry's concerns. Indeed the PSNI response to the Position Paper itself referred, in support of its criticism of the Inquiry, to material that was provided after the publication of the Position Paper, though it is difficult to see how the Inquiry could have known about that at the time.
- 6.92 There can be no doubt that, had this information from UNIPLEX and the further material been provided to the Inquiry at the outset as it should have been, the whole process of recovery of information would have been smoother and more straightforward. As a consequence, the Inquiry might not have had all the concerns that were expressed in correspondence and at meetings with the PSNI, and which led to the publication of the Inquiry Position Paper in January 2008.
- 6.93 UNIPLEX was not the only revelation of new material in 2008. At around the time it learned of UNIPLEX, the Inquiry was provided, by the solicitor acting for the PSNI, with a copy of an internal e-mail which clearly indicated that there were over 4,000 intelligence documents that had not been disclosed to the Inquiry on the basis that they related to both the INLA and the PIRA. The e-mail explained that, as the Inquiry had asked for documents only in relation to Billy Wright and the INLA, there was no need for these documents to be disclosed. This demonstrated within the PSNI an approach that was unacceptable. From the outset the Inquiry had made it clear that it did not know what information the PSNI had or how that information was stored, and accordingly it had asked the PSNI to provide all relevant information. This point was made several times in correspondence between the Inquiry and the PSNI and, as stated above, was specifically made in the letter to the Chief Constable dated 25 November 2005, which accompanied the first notice served on the PSNI.
- 6.94 Mr Kinkaid was referred to this document in evidence. He was not able to put a date on the document, other than that he thought it was after 13 December 2006. The document revealed that:

'A "Free Text" search of Macer using the criteria of PIRA & INLA gives a result of over 4000 documents. The BWI have never requested such a search criteria but did use the criteria of INLA and across the 3 databases this gives the results of [X] documents. ... The BWI have never indicated to the staff at [X] that they were interested in any Document which contain both words PIRA and INLA.'

It was put to Mr Kinkaid that because the Inquiry team had never indicated to the PSNI that they were interested in any document containing both the words 'PIRA' and 'INLA', such documents were not produced to the Inquiry. Mr Kinkaid

disagreed. He told the Inquiry that it was **'not the world's greatest action reply'**. He referred to the letter sent by the Solicitor to the Inquiry, and, in particular, the Appendix to the letter where the Solicitor listed the 20 key areas of intelligence which the Inquiry were interested in. He explained that if there was a document on PRISM which was linked, which had the words they were looking for, he would have got it.

- 6.95 It was put to Mr Kinkaid that it was important to use all relevant search terms insofar as that was practicable and, clearly, PIRA and INLA was discovered by the PSNI to be a relevant combination of terms. He agreed and told the Inquiry that he was motivated by what the Inquiry legal team had told him were their 20 key areas. He pointed out that he had a different team who were not of national security level going through all the requests that had been received from the very start of the Inquiry and all correspondence. They double-checked to see that all those searches had been carried out properly. Mr Kinkaid told the Inquiry that the author of this document never talked to him in relation to this matter.
- 6.96 Mr Kinkaid was told that the intelligence databases were interrogated at the request of the Inquiry after this memo became available. More than 4,000 MACER documents were retrieved, and when they were sifted by the Inquiry, the Inquiry selected about 93 documents for further study as being relevant and so far unseen. Mr Kinkaid told the Inquiry that, if any of those 90 related to the 20 areas that he was required to investigate, he would be required to provide an explanation as to why they were missed.
- 6.97 It is also necessary to say that, notwithstanding what is said above regarding what appears to be a conscious decision not to disclose potentially relevant material to the Inquiry, in May 2008 Sir Hugh Orde, the Chief Constable of the PSNI, when addressing the Northern Ireland Affairs Committee in relation to the difficulty of providing material to the Public Inquiry, specifically said that if a request for all INLA intelligence were received then the process the PSNI had to go through would include looking at all intelligence. This of course was a correct statement of what should have happened, but was in fact the opposite of what occurred.
- 6.98 Mr Kinkaid was referred to the Chief Constable's comments to the Northern Ireland Affairs Committee. The Chief Constable and the other PSNI officers present were asked whether the Inquiries were having a serious impact on current operations. The Chief Constable replied as follows:

'No, it is consistently serious. There are people, particularly in Peter's department, who should be dealing with the top end of criminality and terrorism because those are the expertise and skills we need. When you are looking for old covert source material and intelligence material

these are the people who understand it, so when you get a request, I do not know, for all INLA intelligence you cannot just go and press a button, you have got to look at all PIRA intelligence and may have to look at lots of intelligence which may mention it in there. It is not easy. That is what we have been trying to articulate, maybe inadequately, to try and underline why the impact is substantial.'

Mr Kinkaid accepted that, of the three or four Inquiries running, the Billy Wright Inquiry had the greatest interest in the INLA, if not the only interest. It was put to Mr Kinkaid that, seen in their proper context, Sir Hugh Orde's words were really about the Billy Wright Inquiry. Sir Hugh seemed to be saying: **'If you want to know about INLA, you have got to look at PIRA.'** In the previous memo the PSNI had one of their personnel saying: **'Well, if you search under PIRA/INLA, you get lots of documents, but we are not telling the Billy Wright Inquiry about them.'** Mr Kinkaid was asked if that was being unfair. He replied that he could only comment on what he himself did. He told the Inquiry that he fully agreed with the Chief Constable in that the way his team approached the matter was that they were interested only in the content, not actually who said it.

- 6.99 The closing submissions by Counsel for the Wright family and by the PSNI focused on the question of whether there was any deliberate or sinister intent on the part of the PSNI to suppress evidence or withhold it from the Inquiry. Counsel for the Wright family said that both the failure to disclose the existence of UNIPLEX and the confusion over the PIRA/INLA references constituted serious faults on the part of the PSNI and reflected an approach which could be summed up as: They were not produced because they were not specifically asked for. Counsel claimed that this attitude flew in the face of the spirit of cooperation in which the PSNI claimed to be acting and which was outlined in their response to the Inquiry Position Paper.
- 6.100 Counsel for the PSNI denied that there was any concerted plan to suppress information, and claimed that the Inquiry was given freedom to search the PSNI systems.
- 6.101 The Inquiry specification had in fact been drafted in broad terms, and this was unavoidable since the Inquiry was starting from a blank canvas, but the PSNI in practice appear to have construed any questions from the Inquiry in the narrowest sense. The Inquiry finds that the reasons given by the PSNI for not disclosing information were unconvincing. They were also inconsistent with evidence given by some police officers, notably Witness DB, that the officers carrying out searches for the Inquiry would have known about the existence of UNIPLEX, either under that particular name or under the name by which it was known to some members

of the PSNI, namely the document store. Counsel for the PSNI did in his final submission offer an apology, and once again claimed that there was no deliberate base intent and that they should not be blamed for the belated discovery of UNIPLEX, which he described as a facility on an obsolete computer system. The Inquiry Panel, however, find that the response of the PSNI was unsatisfactory and their excuses inadequate, not least in the light of the words of the Chief Constable quoted in 6.98.

- 6.102 Another significant piece of paper that was produced late in the day was the republican threat to Billy Wright from June 1997. This was a list of names and addresses of prominent loyalist paramilitaries which had been lost by the Irish Garda Síochána in the course of a traffic check undertaken near Dundalk. The list included the name 'William Wright'. No satisfactory explanation as to why this was produced at such a late stage was ever given. The PSNI made reference to the fact that it was filed under 'William Wright' and not 'Billy Wright' or 'William Stephen Wright', but the paper should have been found earlier given the ambit of the notices served on the PSNI and the fact that the PSNI themselves listed 'William Wright' as a known alias to be searched against.
- 6.103 In his closing submission, Counsel for the PSNI explained that a document relating to the loss of the Garda list had been discovered in June 2008 during a search for other materials, and the newly found document was sent immediately to the Inquiry. The original Garda letter had in fact been supplied to the Inquiry in June 2007, but neither the PSNI nor the Inquiry had recognised its importance. The critical difference was made by the production of the new 2008 document, which was an action sheet confirming that SB regarded the loss of the Garda list and its possible acquisition by republican paramilitaries as threat information which required to be notified. The failure of the PSNI to produce all the relevant documents much earlier, and to recognise the name William Wright, caused the Inquiry considerable frustration.

The Position Paper Concerns

- 6.104 The Inquiry set out in the Position Paper a number of areas where it still had concerns. These were:
- (a) Questions in relation to hard copy records, their provision to the Inquiry and when the PSNI had ceased to maintain them;
 - (b) The absence of any records relating to Operation DESMAID;
 - (c) The absence of the policy file in relation to the murder of Billy Wright;
 - (d) Difficulties the Inquiry had experienced in obtaining the names of SB agents or informants who were central to the Inquiry's work;

- (e) Difficulties the Inquiry had experienced in recovering detailed pen pictures of republican paramilitaries and INLA activity generally; and
- (f) Difficulties in relation to the recovery of papers in respect of Operation JAW and the absence of an operational or running log for that operation.

The Absence of Hard Copy Records

- 6.105 The matter of SB record-keeping has been dealt with in the previous Chapter. Given that the evidence of Witness DB was that the intelligence product files were kept in the Source Unit and never destroyed, the fact that none has been produced to the Inquiry is deeply unsatisfactory, especially since the tasking and re-tasking of agents took the form of a handwritten note on the source file. In his closing submission, Counsel for the PSNI maintained that there was not an invariable and consistent system of operation in the Source Units, that the process of computerisation took some time, and not all those involved in it worked in the same way or at the same speed in transferring to the new IT system. He acknowledged that this lack of consistency was unsatisfactory, but was of the opinion that there should be no inference drawn which was adverse to SB, and that there was no evidence that the inconsistency implied any act, omission or negligence which was consistent with the facilitation or attempted facilitation of the death of Billy Wright. The Panel are frustrated and puzzled by the inability of the PSNI to produce the files, since the tasking and re-tasking of agents formed a vital part of the intelligence-gathering operation.
- 6.106 As a particular example of the difficulty caused by the absence of records, former ACC Kinkaid stated at paragraph 6.2.6 of his Review that it was reported in April 1997 that certain INLA figures had discussed Billy Wright. He noted that the debrief referred to attachments that were put on the system by the handler. He recorded that these attachments could not be recovered either electronically or manually. Witness DG gave evidence in closed session that if the debrief referred to 'attached reports' these reports would have been placed on the source product file along with the debrief. Two of the agent handlers (Witnesses ZCM and ZCU) who gave evidence to the Inquiry in closed session stated that these attachments did not contain information to the effect that the INLA proposed to kill Billy Wright. Counsel for the PSNI accepted that the impossibility of recovering the attachments was from the point of view of intelligence assessment unsatisfactory, but he emphasised the fact that the debrief was '**exceptionally full**'. This opinion is open to dispute, since the debrief covered a number of different events, and there is a lack of information about the April meeting which might well have been remedied if the attachments had been available. Former ACC Kinkaid observed that these were critical documents, and the agent handlers could not recollect much about this particular debrief.

- 6.107 In his closing submission Counsel for the Wright family pointed out that the absence of documentation meant that it was impossible to measure the oral evidence of witnesses in relation to records which had been produced at the time of the events which the Inquiry was examining. He referred to the evidence of police witnesses and the section of the Alpass Report on the destruction of documents, and he concluded that **‘the failure to maintain hard-copy records should be the subject of criticism from the Inquiry’**. He also drew attention to the failure of the RUC to pass on the threats to Billy Wright in October 1996 and in April and June 1997 (see Chapter 15).
- 6.108 Counsel for the PSNI responded with the claim that the PSNI had done its best to meet the Inquiry’s demands, and insofar as there had been tensions, difficulties or dissatisfaction on the part of the Inquiry, there were understandable reasons: notably the considerable volume of material involved, the genuine belief of the PSNI that nothing relevant had been withheld, the fact that not all former hard copy records had been retained, that the computer systems on which much relevant material was stored were obsolete, that only some of the surviving data was indexed in a manageable form, and that the process of trying to meet the Inquiry’s requests had involved a very substantial number of both serving and retired officers. He also alluded to the double complaint on the part of the Inquiry: that sometimes the PSNI had produced too little material, interpreting a request too narrowly, but sometimes too much, delivering very large volumes of material, much of which was not helpful to the Inquiry. He defended the periodic destruction of documents on practical and pragmatic grounds of the sheer volume of material produced by an organisation of 14,000 members (as it was in 1997), and he defended the decisions made by the Heads of Departments to undertake such destruction from time to time of documents which they considered no longer necessary for the operation of the business.

Conclusion

- 6.109 The Panel consider that, notwithstanding the explanations offered by Counsel for the PSNI, there are grounds for criticising the PSNI for the non-existence or non-production of hard copy records and for the lack of adequate and effective systems for information management, dissemination and retention. The Inquiry shares the suspicions expressed by Lord Stevens and by the Police Ombudsman that this could on occasion have amounted to deliberate malpractice, in that it involved the destruction of audit trails and the concealment of evidence which might have been damaging to the reputation of the RUC.

The Absence of any Records Relating to Operation DESMAID

6.110 On 8 July 1996, during the second episode of violent disturbances associated with Drumcree, and on the very same day on which the catholic Michael McGoldrick was murdered by the Ulster Volunteer Force, the Security Service issued a loose minute referring to what it described as an '**... RUC proposal to push ahead with DESMAID and use the product evidentially in proceedings against BILLY WRIGHT ...**'. The proposal appears to have been a surveillance operation directed against Billy Wright, possibly involving eavesdropping, and the Security Service minute expressed a desire for corroboration of the RUC assessment that the activities of Billy Wright were capable of inflicting significant damage on the Peace Process. It has proved impossible to recover any documentation from the PSNI which relates to this Operation, including any proposal by the RUC to initiate a surveillance operation or any assessment in writing of the threat that Billy Wright was believed to pose to the Peace Process. The PSNI claimed in their response to the Inquiry's Position Paper, in which the matter was raised at paragraph 2.37, that the minute was provided by the Security Service, not by the PSNI, and the latter were therefore unable to comment on its accuracy. Former ACC Kinkaid confirmed to the Inquiry in oral evidence that the Operation did not proceed, and that there was therefore no product from it, but the total absence of any RUC documentation, which to judge by the reference in the Security Service minute must have been considerable, is unsatisfactory.

The Absence of the Policy File in Relation to the Murder of Billy Wright

6.111 Oral evidence was heard about the policy file which was opened as part of the investigation into the murder of Billy Wright, and the matter of whether or not the policy file was handed over to Mr Justice Cory for his work on the case. The detail of this is dealt with in Chapter 14 at 14.137.

The Names of Special Branch Agents and Informants

- 6.112 The Inquiry made vigorous efforts to obtain the names of agents or informants reporting on the INLA between 1996 and 1998, as part of the search for intelligence about what was known, or could have been ascertained, by the various security agencies operating in Northern Ireland, and in view of the lead role of the RUC the Inquiry naturally looked at the PSNI records for the bulk of the intelligence information. There is a detailed account of this long drawn out and ultimately unsatisfactory process of investigation in Chapter 3 of the Inquiry's Position Paper of January 2008, and in Chapter 3 of the PSNI response of 16 May 2008.
- 6.113 At the time of the publication of the Position Paper, January 2008, the Inquiry said that it continued to have concerns as to whether it had obtained full and complete disclosure of the names of agents or informants. Those concerns are well founded.

In the course of the Inquiry's continued investigation of the intelligence that Billy Wright had been the subject of a death threat in October 1996, the PSNI advised the Inquiry that part of the non-threat information received had been investigated by SB and a number of SB handlers had been tasked with ascertaining from their sources the veracity of that part of the non-threat information. One of those sources had not previously been disclosed to the Inquiry. The PSNI were asked for an explanation and in response they said that the source had been retired as a covert human intelligence source (CHIS) before the period that the Inquiry was investigating but that contact was maintained for welfare purposes and that the source may have been spoken to in that context.

- 6.114 Paragraph 3.31 of the Inquiry's Position Paper explains that the Inquiry sought confirmation that the PSNI held a master list of agents. At one point that confirmation appeared to have been given but as is stated in paragraph 3.32 of the Position Paper the PSNI subsequently advised the Inquiry that a master list did not exist in any complete, identifiable form until after the coming into force of the Regulation of Investigatory Powers Act 2000. This is not supported by the oral evidence heard by the Inquiry.
- 6.115 Witness ZBS (Head of SB (HSB) in 1997) told the Inquiry that there was a list of all sources run in Northern Ireland. It was kept for the HSB by his staff officer or his deputy. He explained that the list should have contained all relevant details relating to agents. He thought that the list was in hard copy and that it would have been an ongoing file. These details were kept as a record. Witness ZBS told the Inquiry that further records existed in relation to other parts of SB. Witness ZBQ (who was Regional HSB in 1997) also said that records were held regarding agent details. Witness ZBQ was quite sure that this record was still there when he left.
- 6.116 Witness ZBQ also confirmed that human sources were recruited and paid through the Divisions, but no records of payment have survived. Counsel for the PSNI in his closing submission explained that all funding came from the Security Service and all payments were audited, but that the records of financial payment made to sources had long since been destroyed. The Inquiry was interested in obtaining details of payments, because these might have shed further light on which agents were active and at what particular time.
- 6.117 It is most unfortunate that the records of financial payments to agents have been destroyed. That information would have assisted the Inquiry if only to give an indication of the period and extent of an agent's activity which could then be compared with the intelligence recovered.

Pen Pictures

- 6.118 In the Position Paper, the Inquiry expressed concerns that there appeared not to exist a comprehensive intelligence record for a number of INLA and PIRA personalities including the three killers. The PSNI's explanation for the variations is that pen pictures were created when required for a particular purpose and that with the increased use of computer systems and consequent accessibility of intelligence, the need for summaries decreased. Further, pen pictures, once created, were not kept up to date beyond the date of interest. The Panel questioned this explanation for two reasons: first, that these personalities continued to be involved in terrorist activities beyond the date when their pen pictures ceased to be maintained; second, because of the comprehensive nature of the pen pictures provided for two senior INLA members, notwithstanding the increased use of computer systems.
- 6.119 In addition, following an examination of the PRISM intelligence database in 2009, the Inquiry's investigative team discovered a comprehensive pen picture for Billy Wright that had not previously been produced to the Inquiry. A comparison of this pen picture with those produced by the PSNI for the INLA and PIRA personalities identified as relevant by the Inquiry further confirmed the concerns expressed in the Position Paper.
- 6.120 However, since the explanation given by the PSNI is capable of explaining the state of development of each of the pen pictures, and in the absence of further or conclusive evidence that detailed pen pictures were kept on all the paramilitary figures listed above, on balance, the Panel accept the PSNI's explanation. In accordance with the Inquiry's approach, any relevant intelligence recorded in a pen picture has been produced for represented parties.
- 6.121 With regard to the non-production of the pen picture for Billy Wright, the PSNI was asked to provide an explanation. By a letter dated 1 December 2009, the PSNI stated that full access to the pen picture had been provided to the Inquiry. They contend that the PRISM intelligence database would have disclosed the existence of a pen picture when Inquiry staff viewed Billy Wright's records in 2005. In any event they argue that the pen picture does not contain intelligence. Further, they said call 7 of the notice served on the PSNI in November 2005 requiring all material on among others Billy Wright was rescinded by the Inquiry in February 2007, thereby obviating the need to produce this document.
- 6.122 For a number of reasons, the Panel take the view that this explanation does not bear scrutiny. First, the Inquiry staff did not interrogate the intelligence databases. They relied upon members of the PSNI team to bring to their attention all relevant intelligence material. Clearly, the Billy Wright pen picture was such a document. It is inconceivable that Inquiry staff, if alerted to the existence of such a document,

would not have requested sight of it and also its production. Secondly, on 27 January 2006 the PSNI confirmed to the Inquiry that they had produced all documentation in terms of call 7 which concerned Billy Wright among others. On that basis and in accordance with the terms of the section 21 notice which had been served on the Chief Constable, the pen picture should have been produced to the Inquiry by January 2006 at the latest. Thirdly, the Panel disagree that the pen picture does not contain intelligence relating to Billy Wright. On any view it contains a synopsis of the intelligence contained in other documents.

- 6.123 While the Panel acknowledge that the pen picture for Billy Wright did not contain significant new material to necessitate the hearing of further evidence, the Panel consider that this pen picture was highly relevant to the Inquiry's work and had it been produced earlier, as it should have been, it would have advanced and assisted the Inquiry's understanding at a much earlier stage.

Late Production of Operation JAW Documentation

- 6.124 By chance the Inquiry Team came upon Operation JAW documents that had been produced as part of a delivery of intelligence documentation. The Inquiry queried with the PSNI why documentation relating to this Operation had not been produced to the Inquiry. They were told that this was due to the fact that it was entered onto the system as a PIRA operation.
- 6.125 This issue was explored in evidence with former ACC Kinkaid. Mr Kinkaid told the Inquiry that the Operation had been wrongly entered in the computer database as an operation against the PIRA, so that a simple computer search for operations targeting the INLA would not have produced the Operation JAW documentation. He acknowledged, however, that there should have been enough understanding on the part of the PSNI personnel who were undertaking searches on behalf of the Inquiry for the existence of Operation JAW to have been identified, and information about it to be volunteered. There were enough other requests from the Inquiry, and enough knowledge in the PSNI corporate memory, for the existence and importance of Operation JAW to have been apparent, despite the mistaken computer entry. Mr Kinkaid explained, somewhat unconvincingly, that the error might have occurred because at the outset of an operation it was not always clear which organisation was involved. All the documents which the Inquiry has now seen make it clear that the operation was specifically against the INLA, and was a 'pattern of life' operation, designed to acquire knowledge of the paramilitary organisation and its members over a period of time. Counsel for the PSNI also made the point in his closing submission that the Inquiry was given freedom to search the PSNI computer systems, but this was disingenuous, since it was in fact the PSNI team who undertook the searches. Counsel apologised to the Inquiry for the failure and confusion on the part of the PSNI.

Non-production of a Running Log for Operation JAW

- 6.126 Witness FG, who was a Detective Inspector in the Belfast Regional Tasking and Co-ordinating Groups (TCG) in late 1997, confirmed that the TCG kept a running log for Operation JAW. This was also corroborated by Witness ZDP, the Superintendent in charge of the TCG, and by Witness ZCA, also a Detective Inspector in the TCG. A document was provided to the Inquiry as being the log for Operation JAW, but its start date was 22 May 1998, and it represented a new arrangement, a précis progress log, introduced by Witness ZCH when he took over as Director and Co-ordinator of Intelligence at Belfast TCG in 1998. Witness ZCA recognised this document but was unable to explain why the log for Operation JAW did not exist from its inception in 1996. He believed that it should exist and that if it had been entered onto the PRISM system there ought to be no reason why it could not be provided to the Inquiry. Witness ZCH disagreed with this opinion, and maintained that the surveillance logs which had been produced for the Inquiry contradicted Witness ZCA's evidence, since what the Inquiry had been given were documents which had been submitted to the TCG from E4A and from military teams and which had been entered onto PRISM.
- 6.127 Witness ZCH made a distinction between the notes taken by those engaged in Operation JAW, which were paper records and were not retained, and the record of surveillance deployments, which were maintained on the computer system. It was put to Witness ZCH that the computer record did not contain a summary of intelligence of the kind which Witness ZCA told the Inquiry would have been on the progress log, for example of any decisions taken in relation to a surveillance serial while it was ongoing, or the reason for calling it off or for re-tasking agents. Witness ZCH responded by claiming that all important information was contained in the surveillance log itself; he acknowledged that records did exist before the introduction of this new system in May 1998, but the recollections of different witnesses, the varying interpretations put on the word 'log', and the confusion and inconsistency caused by the gradual and piecemeal transition from paper records to a computerised system meant that it was extremely difficult for the Inquiry to come to a firm conclusion about the working of Operation JAW in 1997, or about precisely what records were made at the time.
- 6.128 Former ACC Kinkaid explained to the Inquiry that until 2003–04 surveillance operations by SB were not maintained to an evidential standard, and as he had studied the documents provided to the Inquiry in relation to Operation JAW he concluded that they were surveillance records, but he did not find (and would not have expected to find) a log of an evidential standard that had been prepared and kept in relation to these operations.

- 6.129 In his closing submission, Counsel for the Wright family drew attention to the fact that a comparable operation run by SB over the same period had a running log stored on PRISM at the very high Data Security Level of 250, which detailed every piece of relevant information from start to finish, whether the information was obtained by overt or covert observation, by technical means or by agents. This fact complemented the evidence of Witness ZBS (HSB in 1997), who told the Inquiry that **'These logs would have contained all the details of an operation'**, and that of Witness ZCA who believed that such a log existed in 1997.
- 6.130 Counsel for the PSNI, in responding, drew attention to the potentially misleading and confusing use of the words 'log' and 'progress log', words used by different witnesses to refer to differing types of record. He suggested that it was important to consider the purpose for which various records were created and whether there was a need for their retention after the completion of any of the substantial number of operations that were being carried out in the relevant period, and he drew attention to the need to focus on the 'customer' for whom intelligence was being obtained. Counsel submitted that the 98 documents relating to Operation JAW which the PSNI produced for the Inquiry are called a 'log' and they are the intelligence product.
- 6.131 The Panel reject this submission on the grounds that it is inconceivable that the only log for Operation JAW consisted of the surveillance information. Witnesses who worked in the TCG at the time accept that the case officer maintained a comprehensive log which would have included all the information pertaining to the Operation, not least the tasking and re-tasking of agents, the reasons for these decisions, and the information obtained by the agents. The absence of an operational log for Operation JAW is consistent with the critical findings of other inquiries, notably of the Police Ombudsman.

Inspection of the Police Service of Northern Ireland/Royal Ulster Constabulary PRISM Intelligence Database

- 6.132 There is one final matter in relation to the recovery of material from the PSNI that needs to be explained in this Report, and that relates to the Inquiry instructing its own IT expert to examine the PSNI computer systems. After the Inquiry received the PSNI IT report prepared for another Inquiry (see 6.84) it became clear that the PSNI computer systems allowed for the deletion of material from them.
- 6.133 The PSNI IT expert had not looked at this, so the Inquiry decided it should instruct its own IT expert to determine whether any relevant material might have been deleted from the PSNI systems. The PSNI agreed to the Inquiry conducting such an examination but this process proved to be far from straightforward.

- 6.134 The Inquiry approached the Digital and Electronics Forensic Service of the London Metropolitan Police Service and asked if they could assist. Their response was that they could, but they would be able to examine the systems for deletion only by taking a complete copy of the databases. In order to do this the PSNI first had to provide detailed information as to the hardware they were operating and the Inquiry's expert then had to secure certain further equipment in order to proceed.
- 6.135 A copy of the PRISM database was eventually made in April–May 2009 and this was then searched using identified terms for a period from before the murder of Billy Wright in December 1997 to the current date. The results of that search were then examined by a member of the Inquiry team in terms of the deletions from the system that had occurred in relation to material. This search identified tens of thousands of items and these were examined to ascertain whether there was any material the Inquiry had not in fact already been supplied with. This process did not identify any new material and therefore it was decided that it was not necessary to go on and conduct a similar examination of the other PSNI databases. The reason for that was that PRISM is the database that contains live intelligence, and an examination of the other databases would not have identified material that was not on PRISM.
- 6.136 The benefit of this independent examination was that it enabled the Inquiry Panel to be satisfied that relevant material had not been deleted from the PSNI systems and withheld from the Inquiry. Thereby this exercise assisted the Inquiry in its consideration of whether the recovery of material from the PSNI was in any way deficient. The results of this examination were scanned into the Inquiry's evidence database and distributed to all represented parties.

The Northern Ireland Prison Service

Background

- 6.137 The Inquiry first made contact with the NIPS in February 2005. At that time a retired civil servant was heading the team dealing with the provision of documents and information to the Inquiry. In addition, on 3 March 2005, a solicitor from the Crown Solicitor's Office wrote to the Inquiry Solicitor advising him that his office would be representing the NIPS.
- 6.138 In early April 2005 the NIPS provided the Inquiry with 42 lever arch files of NIPS documents. At this time the Inquiry had been advised by the Cabinet Office that the NIPS papers that Judge Cory had seen had been returned by them to the NIPS. Accordingly, the Inquiry asked the NIPS for confirmation that these files comprised the whole of the documentation it had received back from the Cabinet Office as Judge Cory papers. On 26 April 2005 the NIPS confirmed that the 42 lever arch

files comprised all the documentation provided to the Cory investigation team, together with a small amount of additional information in files 18, 40 and 42. At that time the NIPS expressed the view that to their knowledge, subject to some small exceptions, these were all the papers that were relevant to the Inquiry.

- 6.139 Once the Inquiry team had considered these files, perhaps inevitably further requests for information arose and this process continued through 2005. There were also meetings during 2005 between the Inquiry team and members of the team at the NIPS responsible for providing material to the Inquiry.
- 6.140 Substantial further documentation was provided during 2005, and in August that year a further 25 lever arch files were delivered to the Inquiry. As the examination of the documentation continued, further enquiries arose and, whilst a number of these questions were answered, by the end of October 2005 it was clear that there were a number of gaps in the information the Inquiry had received. Among these were the lack of: records from HMP Maze; minutes of regular meetings, for example of the Prison Liaison Group; details of organisational structure and staff deployment; agreements between the NIPS and the Prison Officers' Association (POA) regarding the manning of the H6 towers; and the destruction records in respect of papers that could not be produced.
- 6.141 Accordingly, once the Inquiry's conversion to one under the 2005 Act was confirmed, on 23 November 2005, a formal notice was served on Mr Robin Masefield, then Director General of the NIPS. Attached to this notice was a detailed specification setting out all the documents and material the Inquiry needed sight of (see Appendix B).
- 6.142 By this time the person heading the team had retired from the NIPS and on receipt of the notice a new team was established at the NIPS, headed by Mr Austin Treacy who was the Deputy Governor at HMP Maghaberry. From that time until 2009 this team was responsible for responding to the notice and the Inquiry's requests, though Mr Treacy left the team in February 2006 when the main parts of the notice served had been complied with.
- 6.143 The result was that during the remainder of 2005 and the first half of 2006 substantial further documentation was provided to the Inquiry. However, by the summer of 2006 the Inquiry considered that as there were a number of outstanding questions relating to the recovery of documents, particularly because certain material was clearly not available, it was necessary to hold oral hearings in relation to document recovery from the NIPS. These were held over five days in the week commencing 30 October 2006 and for a further day on 4 December 2006. In all, 18 witnesses were examined during this time and the evidence heard is set out below.

- 6.144 During these hearings the Inquiry also heard evidence in relation to prison intelligence structures and records in 1997. This was necessary in order to enable the Inquiry and others fully to understand the nature of record-keeping and the records the Inquiry was seeking to recover. That part of the oral evidence heard is dealt with in Chapter 7.
- 6.145 Another witness who gave evidence at the oral hearings was Mr Brendan Forde. His evidence essentially related to correspondence he had handled in relation to Billy Wright between July 2000 and March 2004, particularly from the solicitors acting for Mr David Wright and the family, and a request from the Northern Ireland Human Rights Commission. Mr Forde also gave evidence in relation to documentation that had been identified and provided to Judge Cory's Inquiry. This is not dealt with in further detail in this Report. His evidence was that the material provided to Mr Justice Cory was returned to the NIPS and, as indicated in Chapter 2, the Inquiry recovered all papers examined by Judge Cory with a few exceptions (see 2.3). In those circumstances the Inquiry Panel in this Report have confined themselves to what happened after Judge Cory's report.

Oral Hearings

- 6.146 The purpose of the evidential hearings was to look at a number of issues relating to the documentary evidence recovered from the NIPS and to the non-availability of potentially relevant documents. The focus was on security documents from HMP Maze and NIPS HQ. It was hoped that the hearings would enable the Panel to decide what intelligence information would have been available to the Security Information Centre (SIC) in HMP Maze and to NIPS HQ for the period of interest to the Inquiry, how that information would have been recorded, disseminated and stored, and whether the totality of such information and records was now available to the Inquiry. As is indicated above, some of this evidence is dealt with elsewhere in this Report.
- 6.147 The hearings were also intended to ascertain what relevant administrative and procedural documents had ceased to be available; to investigate whether any destruction of relevant records had been carried out in accordance with an appropriate destruction policy; and whether destruction had been properly recorded. Further evidence about this was heard during the substantive hearings, notably from the witnesses Markus Lewis (see 6.241 to 6.258) and Douglas Bain (see 6.259 to 6.285).

Northern Ireland Prison Service Document Retention and Disposal Policies

- 6.148 Witness N gave evidence about the terms of the NIPS policies for document retention and disposal from 1995 onwards. Mr Bain, who from March 2000 to May 2006 was the NIPS Director of Services, gave evidence about document

retention and disposal policies much later, on 12 May 2009. With the exception of Mr Bain none of the witnesses who gave evidence and had a role in the retention or destruction of records from 1997 to 2006 appeared to be aware of the terms of any policies prior to 2003. If these witnesses are to be believed, this would indicate a systemic failure of communication on the part of the NIPS, their employers.

Circular 26/95 of 3 November 1995

6.149 This Circular stated that with immediate effect **'... no file, document, or other written record relating to a prisoner, a prison establishment or Prison Service HQ, can be destroyed'**. It recorded that arrangements were in hand to agree with the Public Records Office (Northern Ireland) (PRONI) a destruction/retention schedule of all records which would meet the requirements of the Public Records Act (Northern Ireland) 1923 (the 1923 Act). The Circular was addressed to all Governing Governors, Heads of HQ Departments and others. Witness N agreed that this was a blanket prohibition on destruction.

Circular (Instructions to Governors) 7/97 of 19 May 1997

- 6.150 This Circular revised arrangements for the retention and disposal of **'prisoners records'** (explained as prisoner files, medical files, journals, etc. and apparently including any record relating to prisoner activity) and was in force at the date of Billy Wright's death.
- 6.151 The Circular dated 19 May 1997 advised that the PRONI took the view that prisoners' files were public records under the terms of the 1923 Act and should not be destroyed without reference to them. It explained NIPS Circular No 26/95 had been issued as a result of this legislation advising that no official documents should be destroyed until further consultations had been held with the PRONI.
- 6.152 Accordingly, Circular 7/97 said that it had been agreed that all papers relating to prisoners would be made available to the PRONI for appraisal when they had reached the end of their retention period and the PRONI would decide whether they wished to take possession of the papers or, alternatively, whether the papers could be destroyed.
- 6.153 As regards retention periods for the files and prison medical records of discharged prisoners, Circular IG 7/97 provided:
- Deaths in custody – indefinitely
 - Lifers and prisoners detained at the pleasure of the Secretary of State – until death
 - Prisoners serving determinate sentences – until the latest date of release is reached or six years after the actual date of release, whichever is the longer
 - Unsentenced prisoners and fine defaulters – six years after the date of release.

In terms of the Circular, the minimum period for retention by the NIPS was six years. Other records relating to prisoner activity (journals, ledgers, etc.) were to be retained by the NIPS for six years after the events to which they related before being referred to the PRONI for a decision on disposal. The Circular further stated that the retention and disposal of records in the prisons was the responsibility of Governing Governors.

- 6.154 On 12 September 2000 Douglas Bain sent a minute to the governors of each prison in the NIPS estate and the two leading members of the healthcare team. He reminded them that the current policy was contained in Circular IG 7/97 in terms of which all records had to be retained for the period set out in the notice and then passed to the PRONI. He stressed that under no circumstances were prisoners' records to be destroyed – a direction that was written in bold type.
- 6.155 In the course of investigating the imminent application of the Data Protection Act to hard copy prisoner files, Mr Bain realised that Circular IG 7/97 was not being complied with. In oral testimony, Mr Bain said that the body responsible for the implementation of the policy was the Operations Directorate. In his view, the records were being treated in an arbitrary and subjective fashion. In his signed witness statement he drew attention to the fact that there was no system, policy or practice for bringing prisoner files together centrally once prisoners had been discharged. For many years no significant number of files had been sent to the PRONI.
- 6.156 It was put to Mr Bain that Circular IG 7/97 went to every governor and must have been very widely distributed and fully understood. He could not explain why nobody in the Inquiry's document recovery hearings appeared to be aware of it, guided by it or constrained by it. That was why, once Mr Bain had dealt with the issue of subject access requests to prisoner files, he was keen to move forward and draw up a new policy on the whole of document retention and disposal, because the existing one was simply being ignored.
- 6.157 On 25 April 2002 the NIPS Management Board tasked Mr Bain with making proposals to the Board by 31 March 2003 on the NIPS policy on the retention of prisoner files. Mr Bain sent the Board copies of the draft Instruction to Governors and the draft MoU with the PRONI, which together set out the proposed new policy and practice. He pointed out that the new policy was not radically different from '**... the policy that is supposed to be in operation**'. The main change was that within a prescribed period after a prisoner was discharged all his papers would be brought together and held in his prisoner file or in his medical record. He wrote: '**At present we simply do not gather together many of the subsidiary records which makes it impossible for us effectively to deal with**

any subject access requests under the Data Protection Act’. The proposed new policy provided for the storage at HMP Maghaberry of all prisoner files and medical records of discharged prisoners over the age of 21 years. The MoU continued: **‘More importantly it provides for the disposal of the files once they are no longer required by us for Prison Service purposes.’** The proposal was considered by the NIPS Management Board at its meeting of 31 July 2003 and agreed, with amendments relating to different arrangements for clinical and forensic psychology records. Later in 2003, after there had been a leak of prison officer records, the NIPS decided that for security reasons they would retain those records which would have gone to the PRONI.

Circular (Instructions to Governors) 17/03 of 23 August 2003

6.158 This Circular superseded Circular IG 7/97 as regards the retention and destruction of prisoners’ files and medical records. Circular IG 7/97 remained in force for other documents (e.g. journals). Circular IG 17/03 applied initially to the prisoners’ files and medical records of all prisoners discharged on or after 1 November 2003 and to files and medical records of all other prisoners (including those who died in custody) from 1 November 2004. The circular laid down the retention period to be applied by the NIPS in respect of prisoner files. The period stipulated was **‘... in the case of a [sic] determinate sentence prisoners the period ending on the sixth anniversary of discharge and in all other cases the period ending on the prisoner’s notional 100th birthday ...’**. At the end of the retention period, prisoner files were to be dealt with in accordance with the MoU between the PRONI and the NIPS.

Preparation for the Freedom of Information Act 2000

- 6.159 In about November 2003 the NIPS Management Board resolved to set up a project to prepare for the incoming Freedom of Information (FOI) Act 2000. Mr Bain was the FOI Project Executive and appointed Witness N as Senior Manager responsible for overseeing the FOI Project. The Project became known as the ‘Access to Information’ Project and was designed to prepare the way for both Data Protection and FOI access requests.
- 6.160 Witness B was appointed by Witness N as Project Manager and took office in January 2004. Witness F led the team that reviewed files from HMP Maze and applied the disposal schedules developed in the course of the project to them.
- 6.161 Witness N told the Inquiry that prior to the Project there was no uniform system in the NIPS for retention and disposal of paperwork. There was a loose system with regard to HQ policy files and ‘main’ prisoner files, but the mentality in the NIPS generally was that files should be kept if there might be a future need for them,

and **'... not an awful lot was in fact destroyed'**. The system operated at NIPS HQ was that, if a file was destroyed, its destruction should be recorded on a card index system.

- 6.162 The 'main' prisoner file was retained in the prison; it had the prisoner's warrant for imprisonment and contained all the various sub-folders (education, healthcare etc.). Witness N's understanding was that the subsidiary files were part of the main prisoner file. There might be a general file for the prisoner at NIPS HQ which detailed the offence, the sentence, the release date, etc. On 1 April 2004 Witness B identified two essentials, namely an audit to establish what information was held within the NIPS and the formulation of disposal schedules for all types of documents in all business areas.

Disposal Schedules

- 6.163 A total of 17 schedules were developed for the retention and disposal of records for every area of business within the NIPS. They were approved by the Management Board on 25 November 2004. On 22 June 2004 a meeting had been held with the PRONI at which it was agreed that the PRONI would have sight of the NIPS disposal schedules with a view to the agreed versions becoming a formal document in the future. The PRONI was given the opportunity to comment on all schedules.
- 6.164 From around mid-2004, all business areas were required to catalogue and review the records in their possession. If the review concluded in relation to any particular record that there was no requirement for further retention, the record was marked for disposal. Disposal was required to be authorised or signed off against the relevant disposal schedule. Anything that might be of interest to the PRONI was kept aside. As double security all records marked for destruction were retained for review by the PRONI.

Retention Periods

- 6.165 To illustrate the process of review, retention and disposal, the example of a monthly intelligence assessment dating from 1998 was put to Witness N. He agreed that that the pre-existing circulars would have required the document to be retained. When the disposal schedule came into effect in the middle of 2004, destruction might have been permitted, but even then the PRONI would have had to have seen the document first. Destruction would have required to have been documented.
- 6.166 The Operational Management Files Disposal Schedule specified a retention period in relation to most types of record of **'Review 5 years after date of last issue or last action'**. In relation to 'Escapes' the instruction was: **'Retain indefinitely'**;

and in relation to 'Deaths in custody', it was **'Review five years after inquest'**. For 'Individual prisoner records' of various types the retention period was given as: **'See Prisoner Records Disposal Schedule'**.

- 6.167 The NIPS HQ Life Sentence Unit Prisoner Records Disposal Schedule referred to **'Core HQ Files'** and **'Subsidiary (Annex) files to Core HQ files for prisoners'**. That was the sort of relationship that Witness N had indicated at the outset of his evidence (in relation to prisoner files held at establishments). Circular IG 17/03 determined the minimum retention periods within the NIPS for all types of records listed except for subsidiary files for non-determinate sentence prisoners whose convictions had been quashed on appeal. The NIPS HQ Prisoner Records Schedule contained no reference to security files.
- 6.168 The general Prisoner Records Disposal Schedule referred to **'Inmate Core files Establishments'** and to **'Subsidiary files for prisoners discharged'** after and before 1 June 2004 respectively. In relation to the core file for **'A prisoner whose crime is well known or of particular notoriety ...'**, the retention instructions were: **'Retain for 6 years from latest date of release (LDR) or date of discharge if later date, thereafter to be reviewed by PRONI ...'**. The example of McWilliams was put to Witness N, where release on licence took place in October 2000. Witness N agreed that under either of the previous circulars or the disposal schedule, McWilliams' file should still be in existence. In relation to **'Deaths in Custody'** the instructions were: **'Retain until 10 years from conclusion of investigation where no coroner's inquest, otherwise 10 years from conclusion of coroner's inquest including appeals and/or any related legal proceedings'**. Witness N agreed that, whether this policy or previous ones applied, Billy Wright's inmate core file should still be in existence. For non-determinate sentence prisoners, lifers and those detained at the Secretary of State's pleasure the retention period within the NIPS was until the notional 100th birthday. Under the heading **'Subsidiary files'**, **'Security files'** were listed with the instruction, for prisoners discharged after 1 June 2004: **'On discharge or transfer, place on core file and retained/destroyed as per Core file instructions above.'** For prisoners discharged before 1 June 2004 the instruction was: **'Retain for six years from the date of last entry, then destroy subject to Note 2 below ...'** Note 2 stated: **'Subsidiary records – Governors must ensure that a representative sample of records of items of obvious historical interest, ... is retained for offer to PRONI.'** The general caveat at the foot of each sheet stated, in bold, **'N.B. In all cases, if records have potential historical significance the Prison Service Record Officer must be consulted before destruction.'** The witness agreed that if the schedule had been observed, McWilliams' file would still be in existence.

Transfer of Maze Prisoner Security Files to HMP Maghaberry 2000

6.169 Brian Barlow told the Inquiry that when he left HMP Maze in September 2000 the prison's SIC documents, generally, were left in locked cabinets. Shortly before HMP Maze closed, he had sent the hard copy Prisoner Security Files for all prisoners who had been discharged, both prior and subsequent to the Good Friday Agreement, to Governor Steve Davis at HMP Maghaberry in a locked filing cabinet. Mr Davis confirmed having received these files. He believed that he had received all the files though they were not indexed. According to him, the files arrived in a series of lockable filing cabinets that were kept in the Security Governor's office at HMP Maghaberry and to which access was restricted. When Mr Davis left HMP Maghaberry in May 2001 the cabinets were still in his office. He confirmed that he had had no discussions with Governor Mogg about the security files. The Minutes of the HMP Maze Refurbishment/Decommissioning Meeting dated 10 October 2000 recorded that all prisoners and the majority of staff left HMP Maze on 29 September 2000.

Closure of HMP Maze and 'Warm Storage'

6.170 Malcolm Edgar went to HMP Maze in August 2000 as *de facto* Deputy Governor. He was responsible for day-to-day management from October 2000 until January 2001. Until 24 October 2000 overall command remained with Ken Crompton. Thereafter Mr Edgar's line manager was Martin Mogg, at that time Governor of HMP Maghaberry.

6.171 Mr Edgar's brief was to prepare parts of the prison for 'warm storage', i.e. to make them capable of being brought into use in an emergency, to decommission the rest of the prison and to arrange for archiving and storage of the prison's records. Tom Woods, Deputy Director of Operational Management, offered advice to him from time to time. Mr Edgar devised his own system for noting the locations of documentation within HMP Maze. He concerned himself with the Governor's office and the SIC Governor's office, which was where the important documentation might have been expected to be located. A meeting about decommissioning was arranged for 10 October 2000, to be attended by among others Mr Edgar, Tom Woods, Michael Newman and Steve Davis. According to the minutes of the meeting, Mr Edgar was to speak to Mr Davis regarding 'sensitive information', meaning documentation discovered in the SIC, the Deputy Governor's office and the Governor's office. It was also recorded in the minutes that in a recent note Douglas Bain had stressed that no files should be destroyed. Further, Mr Edgar insisted that HMP Maze archiving had to be done properly and that all files were to be itemised and stored systematically. Mr Edgar stated that he set out to implement these principles to the best of his ability.

Cataloguing and Storage of Records at HMP Maze

- 6.172 On 28 December 2000 Malcolm Edgar reported to Tom Woods that after a slow start the task of archiving was beginning to show results: ground-floor offices in the main Administration Building had been designated as archive storage areas; files had been transferred there and arranged in a logical sequence; the next step in the process would be cataloguing. The witness had already catalogued the files and records in the first floor governors' offices and transferred the data to a computer database: a sample disk had already been sent to NIPS HQ. Mr Edgar reported that he was in the process of cataloguing the files and records in the SIC Governor's office.
- 6.173 Mr Edgar referred to a handwritten 43-page list of the files dated 7 and 8 December 2000 which he had found in HMP Maze SIC. It showed locations where records had been found and the place and repository to which they had been removed for storage. It also gave a description of the records and the dates they covered. They included documents relating to the Billy Wright murder for which there was a specific folder. In a minute sent to Mr Newman dated 6 December 2000 and headed '**HMP Maze – Archiving of Records – SIC**', Mr Edgar listed files with a secret classification, relating to 17 staff and two prisoners, then held in the safe in the SIC Governor's office, which he passed to the Prison Information Unit (PIU) on 3 January 2001.
- 6.174 Mr Newman was promoted to Governor IV and posted to NIPS HQ in September 2000. He was in charge of a small team in Security and Operational Support. His line manager was Mr Woods. One of Mr Newman's roles was to liaise with HMP Maze in relation to the security of the building and its contents during decommissioning. On a visit there he walked round the prison with a view to making an assessment of what remained there and of what was required to close it down in the future.
- 6.175 On 5 October 2000 Mr Newman met Mr Woods and Mr Edgar at HMP Maze and made a note for the record. On day 152 Mr Bain told the Inquiry that an issue about the misuse of security information at HMP Maze arose in late 2002. He referred to a minute from Mr Woods dated 25 November 2002 which reported among other things: '**One month ago [i.e. in 2002] I asked Governor Maureen Johnston, as head of Maghaberry security, to take responsibility for the removal of sensitive material from the Maze site.'**

Decommissioning of HMP Maze

- 6.176 Tom Woods served as Deputy Governor of HMP Maze from late 1994 to about April 1997 when he transferred to NIPS HQ as Deputy Director of Operational Management. In early 2002 he took up the post of Governing Governor at HMP

Magilligan. In September 2002 he was put in charge of decommissioning HMP Belfast and HMP Maze. HMP Belfast was decommissioned between September 2002 and June 2003. HMP Maze was decommissioned from June 2003. Decommissioning was completed by 31 March 2004 when the site was handed over to the Office of the First Minister and Deputy First Minister.

- 6.177 Mr Woods was shown Michael Newman's note for the record of the meeting of 5 October 2000 at HMP Maze attended by Malcolm Edgar, Mr Newman and himself. He could not recall the meeting but accepted that it could well have happened. He thought that, while archiving was one of the topics discussed, the meeting was really about how the prison was going to be staffed. Decommissioning by Mr Woods' definition meant removing all the NIPS assets from the site and preparing the complete site and buildings for handover. As far as he was concerned, he led the first team that was set up specifically to decommission HMP Belfast and HMP Maze and to transfer them to the Office of the First Minister and Deputy First Minister.
- 6.178 Mr Woods told the Inquiry that in June 2003 when he arrived on site intelligence information and security documents were being held in the SIC Governor's office under lock and key. The witness could not remember having been provided with a list of documents drawn up by Governor Edgar. He was aware of the FOI Project. He confirmed that Witness N led the Project team. Mr Woods was aware that the team under Witness N reviewed records from HMP Maze in 2004. From 2003 Mr Woods identified the extent of the documentation at HMP Maze as something that required a policy decision from NIPS HQ. Witness N then became involved from late 2003.

Transfer of HMP Maze Security Information Centre Records

- 6.179 In 2003 Tom Woods brought in a specialist team including the Security Governor of HMP Maghaberry with his Principal Officer (PO) Richard Malloy and others to look at the files and documents in the SIC. Mr Malloy thereafter came in with his staff and spent several days in the SIC. They removed all items from the SIC, including the SASHA computer. No record was kept of the documents removed. Once the specialist team had gone, Mr Woods went in and swept up what was left: old radios, batteries etc. No documents were left. The witness reiterated that he was not aware of the archive list that Governor Edgar had prepared.
- 6.180 A Senior Officer (SO) was tasked with bringing together records in HMP Maze and stored a lot of items in date order and in block order in the Administration Block there. Many Block Journals were stored in an open filing system on shelves. As part of the decommissioning process all the files and journals were transferred into the main store in one secure area. In late 2003 Witness N arranged for all the documents to be transferred to a secure unit at Crumlin Road adjacent to

HMP Belfast. Mr Woods thereafter had nothing more to do with them. Mr Woods stated that he did not have the time or resources to look for documents relating to Billy Wright but he pulled out anything ten days on either side of 27 December 1997 and put it to one side. The witness looked very briefly through the visiting passes for anything within the timeframe but could not see anything of relevance.

- 6.181 Mr Woods agreed that in June 2003 he went to decommission HMP Maze in the sense of disposing of or transferring assets or records; the records in the Administration Block were transferred to Witness N's Review Team at Crumlin Road, Belfast, with the exception of the visiting passes and staff attendance documents which were destroyed on site; all the material in the SIC was taken to HMP Maghaberry by the security team in late 2003 or early 2004. Mr Woods also said that he found no documents that actually said 'Billy Wright' on the front cover; and beyond that he did not search. The witness confirmed that he did not get a list or record of the security records taken away by Mr Malloy and his team. Mr Woods said that he had the authority to allow the files to be taken away and that the team taking the files away was acting with his authority and with the authority of the Governor of HMP Maghaberry because, while the witness had authority for decommissioning, the operational and legal responsibility for the HMP Maze site, including its security records, lay with the Governor of HMP Maghaberry. He confirmed that from the date when HMP Maze closed in 2000, operationally the establishment became a satellite of HMP Maghaberry. The rest of the files went to HMP Belfast because there was no room at HMP Maghaberry to store them.
- 6.182 Mr Woods agreed that in 1997 there was a PIU headed by a Governor IV who was answerable directly – not through the Deputy Director – to the Director of Operational Management. At some time after 1997 the name of the unit changed to the Security Intelligence Unit. The management accountability did not change.
- 6.183 Witness B said in her signed witness statement that she had taken part, with Witness N and Witness F, in a site visit to HMP Maze some time before February 2004. On that occasion she found the records stored in numerous filing cabinets in three or four rooms in the Administrative Stores area. She was told that all the records had to be recorded and that space had been found at Crumlin Road for the HMP Maze records. A member of Witness B's team travelled with the records from HMP Maze to Crumlin Road. It took more than a day to bring all the cabinets down to Crumlin Road. All the cabinets were numbered on Witness B's instructions. She also wrote an instruction manual as to how the files were to be recorded.

Destruction of HMP Maze Prisoner Security Files and Other Records at HMP Maghaberry

- 6.184 In 2001 Paul McNally was a Governor V at Hydebank Wood Young Offenders' Centre. On 6 June 2001 he transferred to HMP Maghaberry and succeeded Steve Davis as Director of Security and Operations, a post formerly known as Security Governor. He remained at HMP Maghaberry for one year, until June 2002. Martin Mogg continued as the Governing Governor during that time.
- 6.185 Mr McNally told the Inquiry that in his office in the Security Department there were cabinets from HMP Maze, to which he did not have access. He had no idea what was in the cabinets. Throughout his time at HMP Maghaberry the cabinets remained there. It was **'quite likely'** that whatever was in the cabinets in June 2001 was still there in June 2002. He was not given any responsibilities for anything pertaining to HMP Maze: there were after all no prisoners there. When he required files relating to HMP Maghaberry the staff brought the files from the main office. In his own room there were no other filing cabinets for his own use. It may reasonably be thought that he was decidedly incurious about HMP Maze filing cabinets which were located in his own office.
- 6.186 Maureen Johnston was a PO in HMP Maze SIC from June 1998 to July 2000 when she transferred to HMP Maghaberry Security Department as a Governor V. She agreed that a prisoner's security file was a **'fundamental file'** from a security point of view. There was also a general office file on the prisoner relating to a number of other matters. She stated that seven four-drawer metal filing cabinets had come from HMP Maze at some point between March and September 2000. The cabinets were put into Governor Davis's office.
- 6.187 Sometimes the lockable cabinets would have to be referred to for prisoners who were brought back in. Staff would also have looked at the SIC's computer system, known as SASHA. Mrs Johnston did not recollect whether the files contained additional information. She agreed that there would have been press cuttings and maybe transcripts of the prisoner's court case in his security file. If the prisoner was a senior member of a paramilitary organisation there might have been papers he had written or information about his position in the security file. The witness knew that the cabinets in Governor Davis's office contained Prisoner Security Files relating to every prisoner who had been in HMP Maze and had been discharged under the Good Friday Agreement, in all about 800 or more files. When Governor Davis left in July 2001 the files were still in the cabinets.
- 6.188 Mrs Johnston was referred to her statement at paragraph 21 where it was said that **'it was possibly late 2001'** when Governor I Mogg asked why the department still had the cabinets **'... as the Freedom of Information Act and**

the Data Protection Act had come in ...’. The statement continued to the effect that Mr Mogg gave the instruction for the contents of the cabinets to be destroyed **‘because the same information ... would be on the SASHA computer system.’** On reflection Mrs Johnston thought that it was actually 2002 when Mr Mogg gave the instruction. The files were in the office shared by her and the Security Governor, Mr McNally. The destruction was not recorded in any journal or file. The witness explained that she could not honestly answer whether it was standard practice to destroy files without keeping a record of destruction, for the reason, she said, that she was not involved in the destruction as such. Mr Mogg gave the instruction in the Security Governor’s office in the presence of PO Malloy. She accepted that it would not have been difficult to record the instruction but stated that there was no reason why the instruction was not recorded. At the time she did not think to record it.

- 6.189 In evidence Mrs Johnston said she had herself recorded in the Security Class Officers’ Daily Occurrence Journal that Billy Wright’s security file had been handed over to a SO who came from NIPS HQ, possibly after it had been removed from the cabinet kept in the governor’s office. Mrs Johnston was asked why she logged the transfer of one file but not the destruction of over 800 files. She answered that the Billy Wright file was logged because it was being taken from the establishment to another location: the files that were being destroyed were not leaving the establishment. It was suggested to the witness that, if she destroyed a file and did not record the destruction, no one would find out where it had gone. She accepted the foregoing as an assumption but stated that the assumption was not correct in this case. She was however unable to give an explanation as to why she did not note, in any form, the instruction given by Governor Mogg.
- 6.190 Mrs Johnston agreed that the files were kept because at that particular time they were still being used. Looking back to 1997, the hard copy files might well have been material and relevant to the issues that the Inquiry was charged with investigating. HMP Maghaberry SIC stopped using hard copy Prisoner Security Files in around 2004.
- 6.191 When Mrs Johnston was asked whether, before she ordered destruction of the HMP Maze Prisoner Security Files, she discussed the matter with her Security Governor, she said she was not 100 per cent sure but she did not think Mr McNally was there at the time. She agreed that the files were in the custody and control of the Security Governor but so far as she could recollect he was off sick, so that she and the PO were in charge. The final responsibility, however, would have been with the governor in charge of the prison. She accepted that if the Security Governor denied any knowledge of the file destruction, that was likely to be correct.

- 6.192 Mrs Johnston said she was not aware in 2002 of the NIPS destruction policy in respect of prisoner records. She was aware of the policy on 2 November 2006 when she gave evidence. She had not earlier been aware that a 1997 circular prohibited the destruction of the records. She vaguely remembered that Martin Mogg was the NIPS Director of Operational Management when the 1997 circular was issued. She agreed that it might be assumed that the Director of Operational Management would know of the existence of the circular. She agreed that it might be presumed that the governor of a major prison in 2002 would know that the circular was still extant. She gave no consideration to contacting the Director of Operational Management in 2002. She maintained that all that she did was to carry out an instruction given by Governor I. She agreed that he would not ordinarily have access to the files in question as they were the Security Department's responsibility, but she believed that he was well aware of the nature of the information in the files.
- 6.193 The other reason given in Mrs Johnston's witness statement for the destruction of the files was that the information within these files would be stored on the SASHA computer system. In evidence, Mrs Johnston agreed that SASHA did not contain all of the relevant information on a prisoner, although she did not know that at the time she received the instruction to destroy the files. She could not say how Governor Mogg would have known what was and was not on SASHA. He would not normally have had a password to enter the system. She accepted that after the Weston Park Agreement, the NIPS had destroyed all security intelligence files for every paramilitary prisoner who was incarcerated in HMP Maze during the entire period of the Troubles. This was contrary to the NIPS's own destruction policy and flew in the face of an agreement with the PRONI about preservation of these prison public records without any written authorisation and without any audit trail. Citing the FOI Act and Data Protection, were, at best, doubtful reasons for destroying such files. Mrs Johnston confirmed that on her evidence the responsibility for the above situation was to be placed at the door of Mr Mogg, since deceased. She agreed that the Panel were entitled to an explanation from the NIPS. Mrs Johnston went on to say that never before or since had she been given an oral instruction by a Governor I to destroy any files. After their contents were destroyed the filing cabinets were taken out of the office.
- 6.194 Mrs Johnston had started work in security in HMP Maze in 1998 after the Good Friday Agreement. She acknowledged that there were dead files for the prison population at HMP Maghaberry who had not been paramilitary prisoners in HMP Maze. These files were not destroyed because they were in another area, in a store. The HMP Maze files were 'singled out' because Governor I gave the order for their destruction. The Governor I was aware of what was in the filing cabinets.

She agreed that it was a fairly momentous decision, the sort of decision that the governor might have felt constrained to put in his own journal, but she could not answer for Mr Mogg, and did not think Mr Mogg kept a journal.

- 6.195 Richard Malloy was the PO in HMP Maghaberry Security Department from November 2000 until about March 2003. He recalled a meeting, he believed in late 2001 or early 2002, with Mr Mogg and Governor Maureen Johnston when the contents of a number of filing cabinets which were in HMP Maghaberry's Security Governor's Office were discussed and the instruction was given by Governor Mogg for the files to be destroyed. Paul McNally, the Director of Security Operations, was not part of the meeting.
- 6.196 Mr Malloy said Governor McNally and Governor Johnston normally occupied the office, which was relatively small, and each had a desk with a computer terminal though he did not believe they were SASHA terminals. The witness recalled the filing cabinets being there when he went to the Security Department, when the Security Governor was Steve Davis. Mr McNally took over from Mr Davis.
- 6.197 Mr Malloy could not recall what brought Governor Mogg to the SIC. When the subject of the filing cabinets was raised, he was asked to deal with the destruction of the files. To the best of his recollection Mr Mogg asked what was in the filing cabinets. When it was explained to him they were old files from HMP Maze, Mr Mogg commented that the files in that case were no longer required. Mr Malloy recalled being asked to arrange for the files to be destroyed. He could not say whether it was Maureen Johnston or Martin Mogg who gave him the instruction. Mrs Johnston was Mr Malloy's line manager, from whom it would have been normal for him to take instructions. He believed that it was Governor Mogg who said that the files were to be destroyed by incineration. Mr Malloy did not recall whether Governor I gave any reason for the destruction of the files. Mr Mogg did not make any reference to the Data Protection Act or the FOI Act.
- 6.198 Mr Malloy could not recollect a specific occasion when he had reason to go to the cabinets. The information from those files was transferred onto the SASHA system, so he would have been more likely to go to that should he have required information. As to the type of files in the cabinets, they were security files on prisoners who were held in HMP Maze. At that time high risk prisoners in HMP Maghaberry would have security files kept on them. If they were transferred the file would go with them, and if they were discharged the file would go to the dead file store. Mr Malloy did not think that when a prisoner came back into prison because of another offence, the file would be recalled from the dead file store and put back in the live filing cabinet, because SASHA would have superseded the old prisoner hard copy-type file. There might, however, be some

significant papers in the prisoner's hard copy security file. What was on SASHA could not be equated with what might have been on the files.

- 6.199 To the best of Mr Malloy's knowledge, between 1997 and 2003, the NIPS destruction policy in relation to prisoner files related to '**... the general office files and whatever files**' but not to Security Office files. He regarded the files as part of the official records of the NIPS. When it was put to him that he was participating in the destruction of the official records, he replied that he was given an official instruction by Governor Mogg and he carried that out.
- 6.200 Mr Malloy did not know that part of the disposal policy of the NIPS at the time was not to destroy any prisoner files until the PRONI had had an opportunity to inspect them. He did not recall a circular issued in 1997 when Martin Mogg was Director of Operational Management prohibiting the disposal or destruction of any prisoner file, which he accepted would include a Prisoner Security File. It was Mr Malloy who instructed Prison Hospital Officer Peter Dew to burn the files, and about four to six weeks after the conversation he was told, in February 2002, that the files had been destroyed. He did not recall seeing the files being physically removed from the Security Governor's Office and did not keep a record of what was being destroyed. He also did not ask Mr Dew to keep a record. Mr Malloy could not explain why the instruction related only to HMP Maze files and not to the HMP Maghaberry files. He could not say whether Mr McNally was on duty on the day that he (Mr Malloy) received the instruction from Governor Mogg. Mr McNally certainly did not attend the meeting. Governor Johnston and Governor McNally shared an office and Mr Malloy presumed that they would have conferred about the file destruction.
- 6.201 Mr Malloy was pressed on the question of whether he knew that there was a destruction policy that required a record to be made. He replied that he knew there was a policy but he could not recall exactly what it stated. He could not comment on why no record was apparently maintained because he did not know what record was kept. Mr Malloy had no explanation to offer as to why the matter was not discussed with Governor McNally. He accepted that he had never before or since ordered the destruction of any security file. He agreed that the destruction of a significant number of security files would have been worthy of recording in the SIC journal.
- 6.202 Mr Malloy believed that HMP Maghaberry had the HMP Maze SASHA system as a program on its own SASHA system. He trusted that the important information had been transferred across but he did not check it himself. He stated that he was not personally involved in the transfer of information but he could certainly confirm there was HMP Maze SASHA information on the computers in the

Security Department of HMP Maghaberry. Mr Malloy could not comment on why, when a request was made by the Inquiry for the records of prisoners who had been paramilitaries in HMP Maze and discharged on licence under the terms of the Good Friday Agreement, and had been recalled to HMP Maghaberry, all that the NIPS could produce was material from the SASHA system that started at the earliest in the middle of 1998. The witness conceded that if that was correct, his assumption that all information had been transferred to SASHA was wrong.

- 6.203 Ashley Hayes was a SO in HMP Maghaberry SIC from 2000 to 2005. On 28 November 2005 he was detached to join the NIPS Inquiry Liaison Unit headed by Austin Treacy who was at the time Deputy Governor of HMP Maghaberry. The team was enlarged after service of the Billy Wright Inquiry formal notice dated 23 November 2005 for production of documents. The team's first task was to index the documents that had been passed to the Cory Inquiry and to put the documents on a database.
- 6.204 Mr Hayes accepted that he had in his witness statement said that the HMP Maze Prisoner Security Files had been destroyed some time after the receipt by the NIPS of the Martindale Report in 2003. He told the Inquiry that he had now come to realise that this was wrong. He explained that he was persuaded it was wrong because of the evidence he had heard at the Inquiry on day 4 and because of confirmation he had received that morning (day 5) after discussion with a member of staff at HMP Maghaberry who was a Security PO there. He explained that he had ascertained that there were two separate instances: one being the destruction of the HMP Maze Prisoner Security Files and the other being the destruction of the HMP Maghaberry Prisoner Security Files.
- 6.205 By e-mail dated 2 May 2006 the Security PO at HMP Maghaberry advised that all hard copy files had been destroyed at HMP Maghaberry following the receipt of the Martindale recommendations in 2003 and after it had been ascertained that all relevant information was contained on SASHA. By letter dated 6 July 2006 the NIPS Inquiry Liaison Unit had informed the Deputy Solicitor to the Inquiry that:
- 'Maghaberry SIC held "dead" security files relating to the Maze Prison along with security files for Maghaberry Prison at the time the decision was taken to destroy hard copy files and go to the SASHA only system. This was a decision made by Maghaberry Prison, not NIPS as a whole, but resulted in security files for the major part of NIPS being destroyed – not to mention those required by the Inquiry.'**
- 6.206 Mr Hayes was referred to an Inquiry internal e-mail dated 10 July 2006 which recorded that he had told the Inquiry at a meeting that the HMP Maze Prisoner Security Files were destroyed at the same time as the HMP Maghaberry files

though no destruction record was kept. The information had come to the witness from the Security PO at HMP Maghaberry.

- 6.207 Mr Hayes confirmed that if the HMP Maze files were destroyed in the latter half of 2003 or in 2004, that would have been after Judge Cory had reported, and he agreed that any destruction of the files in 2003 or 2004 would have been contrary to the NIPS destruction policy. Most staff at establishment level would have had no knowledge of the policy although heads of department ought to have done. The PRONI might have had a deep interest in the files, but Mr Hayes was not aware that the PRONI got a chance to look at the files. He thought he would have been responsible for detailing the staff involved in file destruction.
- 6.208 Mr Hayes accepted that there had been a voluminous correspondence between the Inquiry and himself in relation to the HMP Maze security files. He was asked to explain how the picture had come to change. The witness replied that it had come about by further research. He told the Inquiry that his change of view was not the result of seeing a written instruction or a journal entry confirming the date when the files had been destroyed. He confirmed that the HMP Maze files were in the Security Governor's office and that he spoke to the governor on a few occasions during the period 2001–04. He had no specific recollection of the cabinets disappearing. It was not the sort of thing that would have been recorded in a journal. It would have taken ten days spread over a period of weeks to destroy the files.
- 6.209 Mr Hayes was asked about the whereabouts of the Prisoner Security Files for McWilliams, Kenneway and John Glennon. He had no knowledge other than to say that files for prisoners released from HMP Magilligan were routinely destroyed on release. He could not argue with the proposition that such destruction was against NIPS policy. As regards the intelligence material noted by Governor Edgar as having been in HMP Maze in 2000 and 2001 and which was apparently still there in 2004, Mr Hayes initially said that he had no idea what had happened to it. It was put to him that Tom Woods had given evidence that a team of four specialists came from Maghaberry SIC and removed all the files, and that Mr Malloy was involved. On that basis the witness thought that would probably be correct: he knew that some material from HMP Maze was bagged, put into the security cage at HMP Maghaberry and subsequently destroyed, although he did not know what the contents were. It sounded correct to say that the records from HMP Maze were destroyed some time in 2004, after Judge Cory had reported. It was put to the witness that if Governor Edgar's list was correct, the document destruction might have involved files such as the lever arch file containing paper Security Information Reports (SIRs) and the file dating back a number of years on control and security at HMP Maze containing correspondence between Security

Governors and the Governor I. In the circumstances, Mr Hayes agreed that it would be reasonable for the Inquiry to receive an explanation from the NIPS as to why intelligence files, if such they were, were destroyed in 2004 after Judge Cory had reported.

- 6.210 It was put to Mr Hayes that he had said in his witness statement that there was a team of people involved over a period of days. He confirmed that it was definitely a team that destroyed the HMP Maghaberry files and he had assumed that the HMP Maghaberry files and HMP Maze files were done at the same time. In relation to the file-destruction carried out by the team of people, Mr Hayes explained that the loose papers in the file were shredded and the heavy card file was burned. There were two processes involved, shredding and incineration. The witness was not sure if the shreds were incinerated as well.
- 6.211 Mr Hayes further stated that part of the explanation for the change in his evidence about when HMP Maze Prisoner Security Files were destroyed was that Mr Malloy in his evidence had referred to one person carrying out the exercise whereas the witness was responsible for ensuring that the team of individuals involved in destroying files was paid overtime. Also the evidence given by Maureen Johnston suggested that the destruction of the HMP Maze files was done in a manner different from the way the witness was aware the HMP Maghaberry files were destroyed. Notwithstanding the terms of his witness statement, Mr Hayes' ultimate position was that there were two separate events, one in which the security files from HMP Maze held at HMP Maghaberry were destroyed and the second when the security files for HMP Maghaberry held at HMP Maghaberry were destroyed. When he said that he detailed the staff who physically carried out the destruction of the files, he was referring to HMP Maghaberry files and not HMP Maze files.
- 6.212 We have considered the submissions made in respect of the evidence of Mr Hayes as to the change in his oral testimony from that set out in his written statement. We conclude that there was nothing sinister in this and that Mr Hayes was merely correcting, in oral testimony, what had been an error in his written statement. As he explained, he realised his mistake shortly before attending to give evidence and he corrected it as soon as he could.
- 6.213 Governor Ian Johnston did not give oral evidence to the Inquiry as he was not well enough. However, he did provide the Inquiry with a written statement. In 2003 Governor Johnston was the Security Governor at HMP Maghaberry and, in his statement, he confirmed that he was contacted at that time by Governor Tom Woods, who was responsible for decommissioning HMP Maze. As a result Governor Johnston went to HMP Maze with other staff to have a look at the

papers and files that were in the Security Department offices in order to see what should be done with them.

- 6.214 In his statement, Governor Johnston said that when they looked in the governor's office in the Security Department at HMP Maze there were a lot of papers and he was concerned that they should not be accessible to anyone outside the NIPS. As a result he instructed PO Richard Malloy to go to HMP Maze, bag up the papers and take them back to HMP Maghaberry. Governor Johnston said that, whilst all the HMP Maze papers from the Security Department were brought back to HMP Maghaberry, no record was made and the papers were not indexed or catalogued. Governor Johnston confirmed in his statement that there was no written instruction for this task to be carried out and no written report made. These papers remained in the cages at HMP Maghaberry for a time and then a decision was made to look at the papers with a view to getting rid of them.
- 6.215 Mr Johnston said he remembered being aware that the PRONI was interested in receiving any files of historical note or public interest and because of that he told his team, when looking at the papers, to put to the side any files that they thought were notable. He told them that if they were not sure they should put the papers to the side anyway and he would go down and look at them himself.
- 6.216 Mr Johnston did, at one point, go to the cages where the papers were stored to look at some files but there were no files about Billy Wright.
- 6.217 Governor Johnston said in his statement that it was his understanding that all the HMP Maze files apart from a few that were put to one side were burned in the HMP Maghaberry incinerator and that one of his security team was present during that incineration to ensure that everything was destroyed. Governor Johnston considered this as simply an administrative exercise and he did not consider that any of the papers needed to be kept.
- 6.218 Nigel Jopling was a SO in HMP Maghaberry SIC from 2000 to 2004. He was aware that the HMP Maze Prisoner Security Files were kept in filing cabinets in the Security Governor's office. His witness statement referred to the destruction of Prisoner Security Files from HMP Maghaberry. From about 1996 or 1997 to 2004 there was a mixture of hard copy and computerised records. At about the end of 2004 HMP Maghaberry SIC went over to completely computerised records for Prisoner Security Files. The HMP Maghaberry Prisoner Security Files were destroyed towards the end of 2004. There were several hundred files. It took several weeks to remove them and destroy them. It was not a continuous operation.

- 6.219 Mr Jopling referred to his e-mail dated 2 May 2006 to Ashley Hayes and others. The subject was **'Billy Wright Inquiry Questions'**. The e-mail stated that HMP Maghaberry SIC moved to a SASHA-only system following recommendations made by Martindale in 2003 and that all hard copy files were destroyed **'after ensuring that all relevant information was contained in the SASHA record'**.
- 6.220 Mr Jopling said that it had never been his own position that the HMP Maze files and the HMP Maghaberry files had been destroyed at the same time. He did not know for certain when the HMP Maze files were destroyed but it would have been some time before the end of 2004 when the HMP Maghaberry files were destroyed. The witness agreed that if the comment in his e-mail dated 2 May 2006 had been taken as meaning both HMP Maze and HMP Maghaberry files, it had been misconstrued. He remembered having a conversation with Ashley Hayes who asked him whether there were two events or one, and he confirmed to Mr Hayes that there were two events. That conversation was fairly recent and he told Mr Hayes that if Mr Hayes thought there was one event, he was wrong.
- 6.221 Mr Jopling's witness statement stated that he had been told by Maureen Johnston that the Governor I had said to get rid of the files. Mr Jopling could remember this. In his witness statement Mr Jopling also said:
- 'I was aware that HMP Maze Security Files were being stored in the filing cabinets in HMP Maghaberry Security Governor's Office. ... I remember asking a Security Governor, I cannot remember who, what was in these and being told that it was HMP Maze Security Files. I recall that there were a row of green, four-drawer filing cabinets.'**
- 6.222 Mr Jopling did not remember the files being destroyed but he could remember somebody being brought in to do the work. Maureen Johnston did not express surprise and it did not cause him concern or surprise that the HMP Maze files were to be destroyed. She did not indicate the reason why the files were being destroyed. The conversation with Mrs Johnston took place before the files were destroyed. Mr Jopling found nothing odd about the fact that the files were to be destroyed. HMP Maze was closed and all the prisoners had been released under the terms of the Good Friday Agreement. When asked what would happen regarding any security file if a prisoner were to be recalled following release, Mr Jopling replied: **'We would have started a new one, maybe.'** He was not aware of the prevailing policy on the destruction of historical records.
- 6.223 Mr Jopling was asked about the destruction of HMP Maghaberry files. When the files were to be destroyed, officers went through each individual file to make sure all relevant material was put on the SASHA system. The details on all HMP Maze files were lost if they were not already part of the HMP Maze SASHA system. The

files of the small number of HMP Maze prisoners who went to HMP Maghaberry would have become HMP Maghaberry files. The HMP Maze SASHA system and the HMP Maghaberry SASHA system would have been very similar.

- 6.224 Peter Dew served as a Prison Hospital Officer at HMP Maghaberry. He returned to work from a long period of illness in January 2002. Richard Malloy, a friend as well as a colleague, told Mr Dew that there was a job he could do in the SIC as part of his return-to-work programme. Mr Dew had never worked in the SIC before. At some point Mr Malloy explained to him that one of the tasks was to dispose of the Prisoner Security Files from HMP Maze. Mr Dew confirmed that he was found fit to work on 15 January 2002 and that he returned to work on 28 January 2002. The first thing he did when he returned to work was to deal with the files. That was in the first two weeks of February 2002.
- 6.225 The files were in an office at the back of the SIC, which Mr Dew thought later was the governor's office. Quite possibly there were over 800 files. He carried the files manually out of the SIC. He emptied the files into burn bags and left them and later carried them down to the incinerator. He took them in a van. Governor Maureen Johnston would have been in and around the area when he removed the files but Mr Dew did not remember seeing Mr McNally. Mr Malloy gave the instruction to dispose of the files by incineration. Mr Dew emptied each bag and threw the files into the incinerator. Mr Dew thought the reason why the files were destroyed was that they were just **'in the road'**. The office looked a bit like a storeroom.
- 6.226 Mr Dew was not fully aware of the contents of the files. He recognised some of the names and he extracted Billy Wright's file because he thought it might be required. He did not go looking for Billy Wright's file. He gave the file to Governor Maureen Johnston who thought it should be kept. Mr Dew knew that Billy Wright had been killed in custody and he thought the file might be required at some stage.
- 6.227 When Mr Dew destroyed the files he did not shred the files before he burned them. He thought that incineration was the quickest way of doing it. He did not make a record of the files that had been destroyed. The cabinets were left outside the SIC for a few days and then they disappeared. Mr Dew did not remember whether Mr McNally or Governor Maureen Johnston were in their office at the time. He said that he honestly could not remember how long the job took, **'a couple of days maybe'**. He recognised other names, but Billy Wright's was the only file he kept from incineration.

Access to Information: Destruction of Records

- 6.228 Witness F was employed by the NIPS as a Records Manager. She was recruited to the Access to Information Project Team from 15 March 2004. She reported to Witness B. She was located at Crumlin Road and supervised ten agency staff reviewing files brought from HMP Maze. The files were to be logged by noting the file number, the general contents, the title and the last date of entry in the file. Thereafter the files were to be reviewed in accordance with disposal schedules that were provided. The disposal schedules had pro forma columns headed 'Type of file', 'Legislative or regulatory requirement' and 'Retention period'. Under 'Retention period' there was an indication of the period beyond which the file could be destroyed. The files she saw were mostly medical records, X-rays and dental records, but there were also officer accident files, personnel files and journals. She did not see any files on prisoners. Nor did she see a security file such as an intelligence file. The exercise of logging the files was finished in the first week of May 2004 and the disposal schedules were finalised on 8 June 2004.
- 6.229 Witness F was then referred to her letter to the Inquiry dated 25 January 2006. The witness had been tasked with establishing the location of the files. She found that a number of files had been destroyed by January 2005, including the Board of Visitors (BoV) File, a file containing general correspondence with NIPS HQ 1997, Job Descriptions 1998, Management Organisation Structures 1997, Refurbishment of Blocks 1996 and Steele Report Implementation 1997. There was no trace of any file with the title 'Telephones (Maze System)' although it had been logged in the alphabetical list provided.
- 6.230 Witness F was asked to look out for files relating to Billy Wright, but she was not asked to keep an eye out for information relating to the prisoners who had killed him.

Provision of Material to the Billy Wright Inquiry

- 6.231 A retired civil servant took over leadership of the team in the NIPS Policy Branch responsible for the collection of documents for the Inquiry, and Witness M was the administrator for the team.
- 6.232 By letter dated 13 September 2005, the Inquiry had sought recovery of Prisoner Security Files including those relating to Billy Wright, McWilliams, Kenneway and Glennon. In reply the NIPS explained that the security files which were sought contained only photographs and enough details about the prisoner to make up an 'escape pack' for use by prison escorts outside the establishment. Once a prisoner was time-served the security file was destroyed. Witness M later accepted that this information, which was represented as accurate, was misleading. In the case

- of a prisoner convicted of a terrorist offence the security file should have been retained for six years from the latest date of release or date of discharge if it was a later date, and then reviewed by the PRONI. In addition, a security file for Glennon which the Inquiry had rediscovered contained far more than a mere 'escape pack'.
- 6.233 Witness M accepted that HMP Maze intelligence files were missing but he asked that the information in Glennon's file should be drawn to the attention of the Director of Operational Management.
- 6.234 Austin Treacy joined the Prison Service in 1977 and in March 2005 he was appointed Deputy Governor of HMP Maghaberry and as such Head of Custody. In November 2005 he was seconded to the Billy Wright Inquiry Liaison Team at NIPS HQ. He headed the team until February 2006.
- 6.235 Ashley Hayes was selected as a member of the team for his particular knowledge of security systems and the SASHA database. When he encountered problems, Mr Treacy asked for additional resources. Initially the problem was that because of inadequate indexing he was unable to determine the material that had already been sent to the Billy Wright Inquiry. The Director General of the NIPS had already circulated senior colleagues notifying them of the notice from the Inquiry and that Mr Treacy was leading a team that should have full and unfettered access to all areas of the Prison Service.
- 6.236 After a formal notice for the production of the security files was served on the NIPS and Mr Treacy had been put in charge, security files were produced to the Inquiry. There were none for McWilliams and Kenneway and it was said that all hard copy files at HMP Maghaberry were destroyed when the SIC moved to a SASHA-only system following the Martindale recommendations in 2003. This was a decision reached by HMP Maghaberry and not the NIPS. As a result, most security files had been destroyed, including those of interest to the Inquiry from HMP Maze. No destruction record was compiled, and Witness M accepted that until Mr Treacy was appointed no one in the NIPS document recovery team had experience of working in prisons or had knowledge of filing and information systems in prisons in Northern Ireland.
- 6.237 Witness H gave evidence that in November 2005 she listed all documents provided to the Billy Wright Inquiry before service of the formal notice dated 23 November 2005. She said that in the NIPS HQ she had discovered Prisoner Security Files for eight of the 26 persons listed in the Inquiry's notice. She looked in one or two of the files and found very little documentation in them.
- 6.238 Paragraph 18 (h) of the schedule attached to the notice called for the Diminishing Task Lines Agreement. Unfortunately this had not been located. Paragraph 19 (a) called for minutes of meetings held between January 1997 and April 1998 with

the BoV for HMP Maze. The minutes produced were incomplete whereas in the papers that were collated for Judge Cory there was a complete set, though Judge Cory's request may have been in relation to a different, shorter time period.

- 6.239 Call 21 of the schedule attached to the notice asked for documents relating to the decisions to transfer (a) Billy Wright and (b) McWilliams and Kenneway from HMP Maghaberry to HMP Maze in April 1997 and May 1997 respectively. Mr Treacy agreed that there was very little about the transfer of McWilliams and Kenneway but his team produced all they could find. That was a NIPS decision, whereas the decision to transfer Billy Wright was a Ministerial decision. So far as the decision to transfer Billy Wright was concerned there was a significant amount of documentation. The notice also asked for risk assessments carried out at HMP Maze between 1 January 1990 and April 1998. The only document in the nature of a risk assessment that had been located was an assessment relating to the locking of yard grilles in 1997. Files relating to the closure of HMP Maze were also requested, and Mr Treacy confirmed that there had been no recovery of these particular files.
- 6.240 Mr Treacy was referred to his witness statement at paragraphs 79 and 80. At the NIPS Inquiry Liaison Team's meeting with the Inquiry Team on 31 March 2006 Mr Hayes advised that handwritten SIRs disappeared in September 1997 and that only SASHA records were available for HMP Maze in 1997. That was the understanding of the NIPS Inquiry Liaison Team as at 31 March 2006. Mr Treacy totally relied on Mr Hayes in this connection because he was the team's expert. Mr Treacy agreed that if there had been no changeover in the middle of 1997 and a paper system continued to be used, then there would be no expectation of finding any documents about the changeover.

Allegations by Markus Lewis

- 6.241 Markus Lewis was a prison officer at HMP Maghaberry from 1990 until 2007. He agreed at the outset that the thrust of his evidence was that the NIPS had failed to make full disclosure of material relevant to the Inquiry. He gave evidence on days 99, 100 and 101, which was long after the hearings concerned with document recovery from the NIPS. This Chapter deals with Mr Lewis's evidence relating to the alleged failure to disclose a number of items to the Inquiry. Other aspects of Mr Lewis's evidence are dealt with in Chapter 10.
- 6.242 Mr Lewis confirmed that prison officer Peter Dew had been involved in file destruction. Mr Lewis stated that when the files were being destroyed he had received a phone call in his capacity as the POA Branch Chairman at HMP Maghaberry from a member of staff who reported to him that the Prisoner Security Files were being destroyed. In his second affidavit to the Inquiry Mr Lewis stated that on 6 February 2005, the weekend after the files had been destroyed,

an article appeared in the press under the name of Alan Murray, in which it was said that they were staff files. According to Mr Lewis, only some of the files were in that category. In oral evidence Mr Lewis clarified his position by stating that the file destruction carried out by Mr Dew and that referred to in the newspaper article were in fact quite separate episodes.

- 6.243 Mr Lewis told the Inquiry that in about May 2006 he saw an HMP Maze Prisoner Security File in the SIC at HMP Maghaberry. It was a Sunday. The next day he went into the prison and asked to see the file. It was a red, buff type A4 envelope bearing the words **'HMP Maze – Security Department'**. About the same time, he completed a Staff Communication Sheet (SCS) about an incident involving the smuggling of drugs into the prison at visits. Mr Lewis said he saw prison officer William McCrum in HMP Maghaberry SIC and had seen SO Jopling in the visits department earlier that same day. He was not prepared to reveal the identity of the person who showed him the file which, as he recalled, he saw on the following day. He described the filing cabinet from which the file was abstracted. He had also seen journals and other documents from HMP Maze in another location at HMP Maghaberry. A SCS dated 29 April 2006 was produced to the Inquiry by another witness. 29 April was a Saturday though the incident reported in the SCS occurred in the late afternoon and it was suggested by Mr Lewis that the SCS might not have been delivered to the SIC until the following day which, as the witness recalled, was a Sunday. Mr Lewis did not accept that the SCS was the one referred to by him in evidence but without his own records he was unable to produce any other such SCS.
- 6.244 Giving evidence on the next day Mr Lewis said that since he had last given evidence he had tried to recover documents from his locker in HMP Maghaberry. He had asked a colleague to retrieve them but his locker had disappeared.
- 6.245 Mr Lewis identified locations in HMP Maghaberry where HMP Maze files were stored. He mentioned seeing intelligence files in Mourne House. HMP Maze Cellular files were used right up to the mid-1990s. He had also seen HMP Maze hospital records. The information he had received was that these files still existed. There had, however, been large-scale destruction about one month after Mourne House closed in 2004–05. In a cage belonging to the Health and Safety Department which he entered in 2006 he discovered HMP Maze PO's journals. It was on a Monday and the palm-print reader had allowed him access. In his second affidavit Mr Lewis recounted meeting Governor Maureen Johnston in December 2006 in the car park at HMP Maghaberry. She told him that she had been instructed by Martin Mogg to burn the HMP Maze Prisoner Security Files. This conversation would have taken place after Governor Johnston gave evidence to the Inquiry regarding her involvement in the destruction of the HMP Maze Prisoner Security Files.

- 6.246 Mr Lewis also gave evidence that he had been shown a video recording of the HMP Maghaberry hostage incident in the SIC. This video was said to have been recorded by the security cameras in Foyle House where the hostage incident occurred in HMP Maghaberry. The witness then described the contents of the video. This recording was in the SIC until a few weeks before the date of his third affidavit (25 June 2007).
- 6.247 Ivan Craig told the Inquiry there would have been a video recording of the hostage incident within HMP Maghaberry in 1997 but Mr Craig had not seen it. It would have been stored in the SIC offices. He did not assist Markus Lewis's viewing of the tape in the SIC in 2002. Indeed, he did not know how Mr Lewis was able to view the tape. There was a specific system to be followed before an officer could see such a tape. Such a request was not often made. If Mr Lewis had viewed the tape, there would have been other officers around who would have seen that happening.
- 6.248 In his second affidavit, Mr Lewis suggested that the Inquiry should speak to William McCrum about the destruction at HMP Maghaberry of HMP Maze Prisoner Security Files. Mr McCrum, who is a Basic Grade Officer, was led in evidence. He said that he had absolutely no dealings with HMP Maze files or their destruction. He was aware of Peter Dew's actions but held no view whatsoever about them. He had not contacted Markus Lewis, so it was a mystery to him why Mr Lewis thought he had relevant information about the matter.
- 6.249 Mr McCrum produced records which indicated that he and Mr Lewis were on duty together at the prison on Sunday 30 April 2006 and that he had left through the main gate at 3.40 pm. Mr Lewis himself left at 4.34 pm on that day. He was not in the SIC at 4.15 pm, so Mr Lewis could not have seen him there at that time, as he claimed. As for the previous day, 29 April, when Mr Lewis recorded a drugs find, Mr McCrum confirmed that that was his (Mr Lewis's) rest day.
- 6.250 Mr McCrum had never seen an HMP Maze security file in HMP Maghaberry SIC. Mr Lewis claimed that about 3,000 HMP Maze files still existed and were stored in three separate locations at HMP Maghaberry. Two or three cages were used for the storage of files. Mr McCrum said that after November 2006 Markus Lewis would not have had access to that location as he was not on the database. There was a security cage, the key for which was kept in the Security Department. It could be used only by security staff, and Mr McCrum could not envisage circumstances in which Mr Lewis could obtain the key for that cage. So far as he was aware, there were no HMP Maze security files in that cage.
- 6.251 Nigel Jopling had played no part in the destruction of the prisoner files from HMP Maze. He was, however, aware that it was taking place. Contrary to what Markus Lewis had said, the destruction was not done surreptitiously. There was no **'sinister flavour'** to the exercise, as Mr Lewis claimed.

- 6.252 We have set out at some length Markus Lewis's evidence here and in Chapter 10 at 10.147 to 10.159 because potentially it was of considerable importance. The countervailing evidence from the other witnesses, however, does not give Mr Lewis any support.
- 6.253 Mr Lewis did however maintain that the NIPS retained some of his personal effects, including his diaries, after his employment with the Service was terminated. He identified the particular locker in which they were kept as number 365. He said that had he had possession of his diaries, he would have been better equipped to deal with the issues raised in questioning.
- 6.254 It was submitted on behalf of Mr Lewis that the failure of the NIPS to return his personal belongings demonstrated a failure on its part to cooperate with the Inquiry. This submission appears to ignore the correspondence which passed between the Inquiry and the Treasury Solicitors (TSol), who represented the NIPS, in October and December 2008, and also between the Inquiry and Mr Lewis's solicitors in December 2008.
- 6.255 The TSol reported that the locker numbered 365 had been located but that it had always been empty. Further, it had not been allocated to anyone. According to NIPS records, no locker had been assigned to Mr Lewis at any point. He may have had a locker in the POA office but the NIPS had no access to such a locker. In short, the NIPS did not have within its possession any of Mr Lewis's belongings, either in locker 365 or, indeed, in any other locker.
- 6.256 Ferguson & Co., the solicitors who represented Mr Lewis, by letter dated 17 December 2008 said that Mr Lewis accepted that his locker and its contents '**will not be located**'. Consequently, he had no further documentation to bring before the Inquiry with the possible exception of a letter he received from the Head of the NIPS in 2005. Nothing more was heard from Ferguson & Co. thereafter, though a document written by Mr Masefield which Mr Lewis referred to in his evidence was received by the Inquiry directly from Mr Lewis in January 2009. That document had no bearing on Mr Lewis's locker or possessions.
- 6.257 The Inquiry is, against that background, not prepared to accept the allegation that the NIPS failed to cooperate with it.
- 6.258 In summary therefore, Mr Lewis's evidence stands alone. Given the doubts cast on it, we are not prepared to accept it in its essentials, except where there is support from another acceptable source. There is simply no such supporting source of evidence.

Allegations against Douglas Bain

- 6.259 On 19 December 2001 Douglas Bain was copied into a minute which notified a number of people that arrangements were ongoing in relation to the setting-up of an independent investigation by ‘an international judge’ into the Billy Wright case and other cases. At that time Mr Bain was Director of Services at the NIPS. One of his duties was the formulation of policies relating to the management, retention and disposal of the records of the NIPS, and while in post Mr Bain understood that the NIPS documents relating to the subject matter of the Billy Wright Inquiry, including Prisoner Security Files from HMP Maze, were destroyed.
- 6.260 When he was giving evidence to the Inquiry it was put to Mr Bain that the Inquiry had received an anonymous allegation that he had ordered the destruction of files against advice he had received. It was further alleged that he had been rewarded with a CBE and appointed to a post without it being advertised. Mr Bain denied all aspects of the allegation.
- 6.261 It was put to the witness that on day 6 of the Inquiry Hearings on the recovery of documents, Counsel for the NIPS submitted that the destruction of HMP Maze Prisoner Security Files had taken place in January and February 2002. Mr Bain accepted that the NIPS was aware of the proposed Inquiry at that time. Mr Bain also accepted the suggestion that if destruction of HMP Maze records took place in 2002 and 2004, that destruction took place contrary to the then existing NIPS policy on document retention and disposal and without any record of destruction having been kept.
- 6.262 It was put to Mr Bain that the NIPS had apparently failed to disclose a file relevant to the question of document destruction, entitled ‘Services Directorate Working Party on Review of Policy and Practice on Retention of Prisoner Files’. The witness accepted that this could be described as one of his files. The Inquiry was informed that someone with access to the file had been copying and circulating its contents on a selective basis in recent weeks and months. The Inquiry had received anonymous information about the file and copies of some of its contents both directly, and indirectly via the Wright family solicitor. The Inquiry then took matters up with the TSol acting on behalf of the NIPS, as a result of which the file as a whole had been disclosed. There was a sticker on the front of the file which read: **‘Examined in connection with the BWI’**. Mr Bain said he knew nothing about that but agreed that the file seemed to have been examined by the NIPS in connection with the formal process of document recovery. He also accepted that the file should have been produced.

- 6.263 On 17 October 2005 Robin Masefield wrote to the Inquiry to say that Mr Bain, as Director of Services, would be **'taking a close interest'** in the document disclosure process. A formal notice dated 23 November 2005 was served on the NIPS but Mr Bain explained that he had had a serious riding accident at the end of October 2005 and during the most important phase of the document recovery process he was off work. He returned to work, part-time, on 19 December 2005. The NIPS records in fact show Mr Bain's absence from 21 November 2005, returning to work on Monday 19 December 2005. Mr Bain accepted this record was correct.
- 6.264 Mr Bain was asked why his minute of 7 September 2001 did not make reference to the then current NIPS policy as regards document retention and disposal. He said the existence of the policy was well known and that was not the issue: this was a very particular concern about inappropriate comments; and at that stage he believed that such comments would be on a large number of files. He confirmed that the then current policy was contained in Circular IG 7/97, that it clearly stated that prisoner files were **'public records'**, and that, as such, they were not to be destroyed unless and except following reference to and with the approval of the PRONI. Mr Bain explained that that was why he discussed the whole question of removing offensive comments with a senior official from the PRONI. There was no question of destroying files. The issue was removing extraneous comments.
- 6.265 Mr Bain's response to the legal advice received was by minute dated 19 September 2001 in which he said that he had no difficulty in accepting the need to preserve prison and prisoner records. He told the Inquiry that he was trying to convey that his concern was about removing comments which might arguably be described as gratuitous and nothing to do with the business of the NIPS. By minute dated 21 September 2001 Mr Bain received a reply with categorical advice on the law and on the public relations aspect. So far as the law was concerned Mr Bain was told that, at least until the PRONI took a different view, nothing from a prisoner file ought to be removed. As far as the public relations side was concerned, he was told that it would not assist the credibility of the NIPS in litigation were it known that the files had been weeded. Mr Bain told the Inquiry that he had no reason to differ.
- 6.266 Mr Bain was referred to his minute of 12 September 2000 headed 'Retention and Disposal of Prisoners Records' and addressed to Mr Mogg, Mr Crompton, Alan Craig and others. He confirmed that he had written in the last paragraph: **'I would be grateful if you could bring this to the attention of staff working in this area.'** He read out the first and second paragraphs and confirmed that the point **'Under no circumstances must prisoners records be destroyed'** was emphasised by being put in bold type. Circular IG 7/97 referred to in the minute stated that all records should be made available to the PRONI at the end of their retention period within the NIPS. This was subject to the discretion of the governor or healthcare staff to retain records for longer.

- 6.267 Mr Bain was asked whether, if it were the case that HMP Maze Prisoner Security Files were destroyed between 2000 and 2002, that had happened with his authority. He replied: **'Absolutely not.'** It had not happened with his knowledge either. Mr Bain confirmed that he had sent a circular to the Governor of HMP Maghaberry and others to the effect that no prisoner files should be destroyed. The addressees were asked to bring the circular to the attention of their staff.
- 6.268 As regards the allegation that the MoU with the PRONI was in effect deferred so that the files could be cleansed, Mr Bain stated that no MoU was agreed during the time that he was with the NIPS and all the files to which it would have applied, had it been signed on behalf of the NIPS, were kept and not cleansed.
- 6.269 Mr Bain stated his belief that the number allocated to the file referred to above at 6.262 signified that the file had been opened in 2002. He had not been shown the original file and could not confirm that the documents referred to in evidence came from the file. The direction for the file to be opened would have come from him or his personal assistant. The witness was **'very much hands-on'** with the file in question and most of the documents in it would be things that were plainly related to the subject matter or that he was dealing with himself.
- 6.270 With regard to the file, Mr Bain said that he had never seen stickers like the one at the bottom of the front cover, namely **'Examined in connection with the BWI'**. The witness said that in 2004 the file was either in his office or in his personal assistant's office. The file remained in his control between 2004 and 2006 when he left but he would not know who went in to look at it. Mr Bain was sure that if someone had looked through his filing cabinet to find files for the Billy Wright Inquiry he would have been told. He had no recollection of being told of files being taken away from his office by the Inquiry team within the NIPS.
- 6.271 Mr Bain was referred to his minute of 12 September 2000 about retention and disposal of prisoners' records. He confirmed that he sent the minute to the governors of the then four institutions and two leading members of the health care team. He had no recollection of what prompted the minute, but he must have heard that prisoners' records were being destroyed.
- 6.272 Mr Bain was referred to Brendan Forde's minute to the SOSNI dated 8 March 2001 which narrated that the SOSNI had agreed to meet David Wright on 13 March. Douglas Bain was listed first among the civil servants who were to accompany the SOSNI. Up to that point he had not been **'hands-on'** with the work. Paragraph 2 of the minute stated:

'David Wright, Billy Wright's father, is not happy that the truth has been established and has been campaigning for an independent inquiry into the death stating that his son's death was state-sponsored.'

Mr Bain agreed that at that stage the issue of an Inquiry was being raised. Mr Bain agreed that at paragraph 9 it was being said that any new information would be considered. The SOSNI was being advised that the issue was not going to go away. At paragraph 11 he noted that the Northern Ireland Human Rights Commission was reported to have written to the Director General of the NIPS '**... seeking the disclosure of documents pertinent to the Billy Wright case**'. Mr Bain agreed that at that stage he would have been aware that documents relating to Billy Wright would be important in terms of future enquiries.

- 6.273 Mr Bain was referred to a letter from the solicitor for David Wright to the NIPS dated 2 April 2001. He had no specific recollection of having seen the letter but would have been surprised if he had not done so. The letter asked for the retention of documentation relating to Billy Wright from his arrival at HMP Maghaberry through to his murder at HMP Maze in December of that year. Mr Bain understood that there was a '**secret file**' with sensitive information relating to Billy Wright held by the Director General. That type of file was not kept on all prisoners. The witness had not seen the file and knew nothing more about it.
- 6.274 Mr Bain was referred to a letter dated 20 March 2002 from the NIPS Policy Branch to the SO at HMP Maze who was working on bringing the records together there (see 6.180). The letter referred to the search for logs and journals '**which may be useful to the team involved in the forthcoming inquiry into Billy Wright's death**'. Mr Bain agreed that the letter confirmed that it was common currency that there would be a potential Inquiry into Billy Wright's death at some time.
- 6.275 Mr Bain noted the terms of the NIPS response to David Wright's solicitor dated 14 September 2002 which stated that it could now be confirmed that all documentation held in relation to Billy Wright's death had been located and would be preserved for any possible future investigation.
- 6.276 Mr Bain accepted that public departments had a duty to ensure integrity, transparency and honesty in the retention of records so that subsequent enquiries could be fully and properly informed. It was precisely for that reason that he took great care to tell people that no documents were to be destroyed and to consult fully with the PRONI at an early stage. Mr Bain could not point to a document showing that he had shared the strong legal advice he had received but he had not the slightest doubt that all members of the NIPS Management Board were aware of the situation, and the point was not that advice should be shared but that no documents must be destroyed.
- 6.277 Mr Bain was aware of at least part of the Inquiry's document recovery hearings. He was referred to the evidence of Governor Maureen Johnston and of Peter Dew about file destruction and that somewhere in the region of 50,000 to

60,000 files were destroyed. He was asked if he was saying that, as Director of Services at the beginning of 2002, he was unaware of such mass destruction of documents including security files of prisoners at HMP Maze. Mr Bain replied that he was **'most certainly'** saying that he was unaware of these matters in 2002. As Director of Services he had no responsibility for operating policies on the retention of documents other than within his own directorate. The policies were clear and he had reminded all staff of them. He stated that any destruction that took place would have been in direct contravention of the NIPS policy and his instruction to governors. Mr Bain believed that this destruction, if it did take place, was not connected to the issues he was concerned with about inappropriate comments being in files. He did not agree that he should have known about it, or that he would have expected to have been told about it, and he rejected the accusation that his correspondence over inappropriate comments was an attempt to legitimise the ongoing destruction of documents. If the destruction took place it had no connection whatever with the correspondence about the legal position and the document review referred to above. Mr Bain denied that he ought to have known about any destruction.

- 6.278 Mr Bain confirmed that he returned to work part-time on Monday 19 December 2005. Before he went off in November 2005, the Inquiry had been in touch with his office about various matters. As at 21 November 2005 the file relating to document destruction referred to above (see 6.262) was almost certainly in his secretary's office. He first saw the file again after the Solicitor to the Inquiry wrote to his solicitors. Mr Bain did not know where it had been found. He became aware of the notice for document production served by the Inquiry on the NIPS after he returned from sick leave on 19 December 2005. It would have been his responsibility to ensure it was complied with, had the Director General Robin Masefield not set up a team specifically instructed to find the documents requested.
- 6.279 Mr Bain was referred to the Inquiry's notice dated 23 November 2005 and Call 44 of the schedule, which was in the following terms:

'All Circulars, Notices, Policy documents, Orders, Instructions, Written Directions or Decisions or other similar documents for the period between 1st January 1996 and the present date and relating to the destruction, disposal or retention of documentation relating to the management and administration of HMP Maze and HMP Maghaberry, including documents relating to staff matters or to prisoners.'

- Mr Bain entirely agreed that the file would clearly fall within that call. He had no recollection of seeing the formal notice. If he did see it, he never read it. It was no longer his area of work. He was back at work part-time and catching up on other things.
- 6.280 Mr Bain agreed that somebody had put two stickers on the file with the initials BWI on them; and that one of those stickers expressly said **'Examined in connection with the BWI'**. He said that the stickers showed that he was right in assuming the team would find everything that was relevant, but maybe it would appear that the right thing was not done with it.
- 6.281 In relation to Mr Bain's awareness of two destruction events, namely the destruction of security files and the destruction of somewhere in the region of 50,000 to 60,000 files as referred to in his witness statement at paragraph 44 onwards, Mr Bain confirmed that his awareness of the destruction of 50,000 files was in connection with an exercise that took place from November 2004 onwards. Mr Bain said he had neither then, nor at any time since, any knowledge of the destruction of security files at HMP Maze or HMP Maghaberry.
- 6.282 It was put to Mr Bain that on day 4 of the document recovery hearings Richard Malloy gave evidence that on 6 May 2004 he and others knew that the security files had been destroyed. Mr Bain said he had no recollection of that and would have been very surprised if it was so. He was referred to a minute from the Project Manager NIPS HQ to Tom Woods, dated 26 April 2004 and copied to him as Director of Services, about the logging of all records from HMP Maze. The minute referred to the absence of top risk prisoner books, main prisoner files and security files. An e-mail of 6 May responded that the prisoner books were destroyed by Security when the prisoner was discharged time-served; that any main prisoner files sent from HMP Maze were in HMP Maghaberry dead file store; and that the Prisoner Security Files were destroyed by Security. An e-mail of 6 May 2004 forwarded the earlier e-mail of 6 May with comments to Mr Bain and others. Mr Bain accepted that plainly he would have been aware as at 6 May 2004 along with the other persons who were copied into that e mail that the security files had been destroyed, although that was not his recollection of events.
- 6.283 It was put to Mr Bain that in 2004 he did know about the destruction of the security files. He said that once the e-mail had been shown to him he remembered seeing it but that was in 2004 not 2002. The sentiment in the e-mail was absolutely correct, that no one should destroy information of the kind referred to, as Mr Bain thought he had made clear in a number of documents. Mr Bain further stated that he could think of no justifiable reason for the files being destroyed.

- 6.284 Mr Bain confirmed that with the exception of a handful of prisoners on housekeeping duties, all the prisoners in HMP Maze were there for terrorist-related activity and therefore their files would automatically fall to be retained. It was suggested to Mr Bain that if the HMP Maze security files were destroyed in HMP Maghaberry in 2000 or 2001, that might have been the reason why he issued his instruction of 12 September 2000 saying that under no circumstances must files be destroyed. Mr Bain replied that that would be a wrong connection to make. He certainly was not aware that the files were destroyed in that timeframe. The other reason he thought it was mistaken was that the instruction of 12 September 2000 went to the four Governing Governors and the two senior healthcare staff. He thought that suggested that whatever had triggered the minute was something to do with healthcare records. Mr Bain said that nothing would greatly surprise him in the prison service. Governors, from what he saw, regarded themselves as semi-autonomous. Asked why in that case he bothered to issue the instruction, Mr Bain replied that **'you have to try and do it'** and the instruction was also copied to the Director of Operational Management, who was responsible for seeing that governors did comply with instructions. When he first heard of the allegation in relation to Governor Martin Mogg, Mr Bain was surprised. He thought it was out of character. He would not have been surprised if a governor in general did it but he would be surprised to find out if Mr Mogg did it. Mr Mogg was one of the most experienced governors and had a fuller understanding than many of the implications of doing certain things. Had Mr Mogg issued such an instruction he would have been well aware of what he was doing.
- 6.285 Mr Bain was asked about the statement in his minute dated 7 September 2001 seeking legal advice regarding the fact that there did not appear in Northern Ireland to be any general duty to preserve significant records. He confirmed that he was not talking about the 1997 instruction but about a statutory obligation. Mr Bain could give no explanation as to why nobody at the Inquiry's document recovery hearings appeared to be aware of the Circular IG 7/97. If the Circular was obeyed, it was rarely obeyed. That was why, once the issue of subject access requests had been dealt with, Mr Bain had been keen to move forward and draw up a new policy on the whole of document retention and disposal. Mr Bain never discussed the policy issue with Martin Mogg. The draft MoU and the draft of the new Instruction to Governors was copied to all Governing Governors and they were given an opportunity to comment. As far as he recollected, none of them actually responded.

Submissions

- 6.286 Those representing the family, in their closing submissions, said that the following criticisms were appropriate:

- (a) The NIPS for failing to produce hard copy records and failing to comply generally with the notice served on them in November 2005.
- (b) Maureen Johnston for failing to follow the destruction policy when she arranged the destruction of the HMP Maze Prisoner Security Files. They say she should have known this policy and, if she did not, she should have checked it with someone else. At the very least they say she should have made a record of the destruction of the HMP Maze Prisoner Security Files.
- (c) Richard Malloy for the same failures as Maureen Johnston.
- (d) Ian Johnston for authorising or for allowing the destruction of further HMP Maze records or documents in 2005 with HMP Maghaberry files.
- (e) Douglas Bain for failing to ensure the earlier production of the NIPS policy on file retention and destruction, produced towards the end of Inquiry hearings in 2009. They also say he should be the subject of criticism because he had knowledge in relation to the destruction of the HMP Maze Prisoner Security Files.

- 6.287 In their submissions the family representatives also referred to the fact that the destruction of the Prisoner Security Files in 2002 and the subsequent destruction of records in 2005 both took place after the Weston Park Agreement and after Mr David Wright's solicitors had written to the NIPS and received an assurance that all documents in relation to Billy Wright had been located and would be preserved. By implication, the suggestion is that both Douglas Bain and Martin Mogg should be criticised because they received copies of the letter from Mr David Wright's solicitor.
- 6.288 The family's submissions also used two phrases in relation to the NIPS destruction of records. They referred to the action in relation to the 2005 destruction as being **'calculated purging'**. In relation to the destruction of the HMP Maze Prisoner Security Files, they referred to **'post-event collusive activity'**.
- 6.289 The family's submissions made the point that because there has not been complete disclosure by the NIPS, this has inevitably meant that the Inquiry's task has, at least, been made more difficult. The Inquiry has not seen a full copy of all records and therefore there will always remain an element of the unknown.
- 6.290 The NIPS, in their submissions, rejected the suggestions of **'calculated purging'** and **'post-event collusive activity'**, though they acknowledged that the HMP Maze Prisoner Security Files were destroyed contrary to policy and that the destruction was not properly recorded. The submissions pointed out that the NIPS have apologised for this failing. They also acknowledged that a further destruction of HMP Maze records most likely occurred at HMP Maghaberry in 2005, and this too was not properly recorded.

- 6.291 The NIPS submissions went on to make the point that, whilst some of the criticisms made by the family were valid in December 2006, they lacked validity today because many more documents were produced between December 2006 and the close of Inquiry evidence in July 2009. Whilst this is correct, the NIPS submissions, as stated above, acknowledged that there was more than likely a further destruction of HMP Maze papers in 2005 and therefore the Inquiry had not seen all the records it required.
- 6.292 The NIPS submissions also made the point that the NIPS should not be criticised for failing to produce something that did not exist, for example, because it had been destroyed, though the submissions accepted that the NIPS might be criticised for the destructions that were contrary to policy and/or not properly recorded.
- 6.293 It was also submitted on behalf of the NIPS that the only relevance of document destruction was that, if it could be shown that this might have been for a sinister motive, that might allow an inference to be drawn that would support the general conspiracy allegation. If the conspiracy allegation could not be established on the primary evidence, it followed that document destruction did not have any continuing relevance to the terms of reference.
- 6.294 The NIPS submitted that if Martin Mogg had had a sinister reason for wishing to destroy documents, it is likely that he would have done a better job.

‘... valuable though the security files may have been, the Inquiry is not short of documentation about the management of HMP Maze in 1997, and the full picture emerges from the documentation that is available.’

- 6.295 It was also submitted that, since the Inquiry had considered all the primary evidence and had heard from a huge number of witnesses, it was not necessary further to consider the disposal of documents unless the Inquiry wished to draw an inference that there was a sinister motive for their destruction. While the disposal of the HMP Maze records was quite obviously frustrating from the point of view of the Inquiry, there was, it was said, no negative impact on the operation of any prison establishment. The destruction of documents was potentially relevant only at the time of the document recovery hearings and not at any later stage of the Inquiry.

Conclusions

The Northern Ireland Prison Service

- 6.296 The destruction of the HMP Maze Prisoner Security Files in 2002 was quite clearly contrary to prison policy. One of the reasons for that policy was to preserve a historical record in relation to each paramilitary prisoner. Another reason was the need to have the prisoner record available in case any prisoner was to be returned

to prison. The further destruction of material in 2004–2005 was not recorded, so no one now knows exactly what was destroyed. In addition, after the Weston Park Agreement was reached in July 2001 it became obvious that the judicial investigation to be carried out under its terms would probably wish to see these records, just as the Billy Wright Inquiry did. It is also relevant that the solicitors representing Mr David Wright and the family had written to the NIPS on 2 April 2001, prior to the first destruction in 2002. On 14 September 2001 the solicitors received the following assurance: **‘all documentation held in relation to the circumstances of the death of your client’s son has been located. It will be preserved for any further investigation.’**

- 6.297 It is not simply a question of resultant additional expense, delay and frustration. To say that is to miss the point. What the Inquiry has been deprived of is the opportunity to examine the contents of the destroyed Prisoner Security Files, which it is accepted were the main repository of intelligence information in relation to each prisoner, and those other records, whatever they might have been, that were destroyed later in 2004–2005. That was a very severe loss suffered by the Inquiry and the Wright family. It is noted that the NIPS have unreservedly apologised for this, but it occurred on two separate occasions.
- 6.298 It is of no use for any organisation to have policies unless those policies are brought to the attention of the relevant people and there are in place practices and procedures that will ensure the policies are put into effect. The failures of the NIPS in this respect are clear and, for those failures, they must be criticised. On the basis of the evidence we heard we are unable to conclude that there was **‘calculated purging’** as suggested by the family in their submissions.

Governors Martin Mogg and Maureen Johnston

- 6.299 A question which must be determined is whether Martin Mogg gave an instruction in early 2002, when he was Governing Governor of HMP Maghaberry, to Governor V Maureen Johnston to have the HMP Maze Prisoner Security Files destroyed. Any decisions taken by Mr Mogg must be considered with care since his explanation for them is now not available. Both Maureen Johnston and PO Richard Malloy were present in the Security Governor’s office of HMP Maghaberry when they say Martin Mogg gave the instruction. Both spoke to that instruction. The instruction is all the more surprising given that Martin Mogg knew that the files were Prisoner Security Files and, from his long experience in the prison service, must have been well aware not only of the type of information they contained but also of their potential importance. Nonetheless, there is no evidence to contradict the accounts of Mrs Johnston and Mr Malloy.

- 6.300 Since Mr Mogg was the Director of Operational Management at NIPS HQ at the time when the policy set out in Circular IG 7/97 was agreed and published in 1997, he must have known that the destruction of such files was contrary to that policy. Further, he was a recipient of the minute which Douglas Bain sent as Director of Services dated 12 September 2000 reminding leading governors of the need to observe the 1997 policy. In those circumstances, we conclude that if Mr Mogg really did give that instruction he must be criticised for that as it resulted in the destruction of important material.
- 6.301 In any event, as Counsel for the Wright family pointed out, Martin Mogg gave the instruction to destroy the files after the Weston Park Agreement which led to this Inquiry being set up. The Agreement was published on 1 August 2001. There is no doubt that when he gave the instruction Martin Mogg must have known about the Agreement and that there was to be a forthcoming investigation by an international judge.
- 6.302 Maureen Johnston maintained in evidence that the reason Martin Mogg gave in justification for the destruction was that **'the Freedom of Information Act and the Data Protection Act had come in'** and **'because the same information ... would be on the SASHA computer system.'** PO Malloy did not directly support Maureen Johnston's evidence on this. He could not recall Martin Mogg giving a reason for the destruction of the files. In any event, Maureen Johnston accepted in her evidence that prisons are entitled to hold information on prisoners. It seems to the Panel that the Data Protection Act provisions are of little consequence. Besides, as Maureen Johnston also accepted, the NIPS did not start considering the FOI Act until November 2003.
- 6.303 As a former PO in HMP Maze SIC and as Governor IV in HMP Maghaberry's security department, Maureen Johnston was well aware of the importance of Prisoner Security Files, certainly at the time they were destroyed if not well before that time. It is, of course, true that Maureen Johnston received an instruction allegedly from the Governing Governor. It is also true that she was bound ultimately to carry out any such instruction. What we find surprising, however, is that she did not question that instruction either within herself, or with anyone else, including Martin Mogg. At the time, her line manager, Paul McNally, was probably off sick, so she could not consult him. That, however, did not prevent her from consulting someone else in his absence. Instead, without demur she carried out the instruction, which she said was entirely oral in nature and was never confirmed in writing.
- 6.304 While she says she logged a transfer of Billy Wright's file to the NIPS HQ, Mrs Johnston kept no record of the files which were destroyed. It is known that they amounted to over 800 files. Thus, over a period of a couple of days or so when

they were incinerated, the Prisoner Security Files for HMP Maze for the entire period of the Troubles were destroyed without any record being kept of the files destroyed or, indeed, the event itself; an event that can only be described as scandalous.

- 6.305 Maureen Johnston maintained in her evidence that she was not aware in 2002 of the NIPS destruction policy in respect of prisoner records. She became aware of that policy only in November 2006 when she gave evidence. That state of knowledge is surprising given the positions she occupied within the Security Departments of HMP Maze and HMP Maghaberry between June 1998 and October 2006. We found no evidence, however, to disbelieve her on this matter. Overall, we conclude that Mrs Johnston should be criticised for the way in which she arranged for the destruction of the HMP Maze Prisoner Security Files without question and without making any record of that destruction.

Richard Malloy

- 6.306 In their submissions, the family suggest that Mr Malloy, the PO, should face criticism for the same failures as Mrs Maureen Johnston. Whilst Mr Malloy said he was present when Mr Mogg gave the instruction that the HMP Maze Prisoner Security Files should be destroyed, he was there with his line manager, Mrs Johnston, and the instruction was coming from the Governing Governor. In the circumstances, we do not consider it appropriate that Mr Malloy should face any criticism. He was not in a position to question the instruction and he could reasonably rely on his line manager to deal with any issues arising.

Ian Johnston

- 6.307 It is clear from the evidence that HMP Maze records were not removed in one exercise. The HMP Maze Prisoner Security Files were transferred to HMP Maghaberry in 2000 by Brian Barlow. The receipt of these files at HMP Maghaberry was acknowledged by Governor Steve Davis. These security files were destroyed at HMP Maghaberry on the instruction of Governor Martin Mogg in early 2002 (see 6.299 – 6.303).
- 6.308 Further records from the Security Department at HMP Maze were removed to HMP Maghaberry in 2003, at the instigation of Governor Tom Woods. He contacted the Security Governor at HMP Maghaberry, Mr Ian Johnston. Other records went to Crumlin Road, and it would appear there was some destruction of papers at HMP Maze.
- 6.309 At the end of 2000 a long handwritten list of files in the governor's office at HMP Maze SIC was prepared, but when those records were moved to HMP Maghaberry in 2003 the people removing them were not aware of that list and made no list of their own. Accordingly, it will never be known exactly what was removed from HMP Maze to HMP Maghaberry at that time.

- 6.310 The Wright family say that Governor Ian Johnston should be criticised for his part in the destruction of records in 2004–05 at HMP Maghaberry which included HMP Maze documents but which was not recorded. The Inquiry did not have the opportunity to hear the oral evidence of Mr Johnston on this matter but it seems clear that the majority of the destruction that took place at HMP Maghaberry in 2004–05 related to HMP Maghaberry files. However, as in the case of the destruction of the HMP Maze Prisoner Security Files referred to above, this was a removal of records and subsequent destruction without any written record being made, either of what was being moved and destroyed or the fact that that was happening. Whilst the destruction of these records is not as significant as the earlier destruction of the HMP Maze Prisoner Security Files, it is nonetheless very surprising to say the least. Once again, here is an example of documents with a clear potential importance being moved and subsequently destroyed without any record being kept. Without a record of what was moved and destroyed it is impossible to say that this was definitely contrary to NIPS policies at the time, though that is very likely to be the case.
- 6.311 This is a highly unsatisfactory position, especially considering that this destruction took place after the Billy Wright Inquiry had been announced and after the Report of Judge Cory in relation to the murder of Billy Wright was published.
- 6.312 Governor Ian Johnston was involved in this process and he acknowledges in his written statement to the Inquiry that no records were kept. Whilst this may have been an administrative process, that would not excuse the requirement to comply with NIPS policies and, in any event, to make a record of what was being destroyed. We find this unacceptable. There must be criticism of the NIPS in this matter in relation to the systems they were permitting to operate which were contrary to their own policies.

Douglas Bain

- 6.313 Mr Bain gave evidence that the file which carried the title ‘Services Directorate Working Party on Review of Policy and Practice on Retention of Prisoner Files’, was a file within his office as Director of Services with which he was very much hands-on. For the vast majority of its life this file was under his control, whether it was in his physical possession or not. It bore a sticker on its outside cover with the words **‘Examined in connection with the BWI’**. The witness had never before seen a sticker like that. Mr Bain accepted that the file fell within the specification of documents served by the Inquiry. If, as the sticker indicates, it had been examined by the team tasked with producing documents in response to the specification, he had no explanation why it had not been produced, despite the file having been examined twice by the team. He accepted that the team had not exercised its judgement correctly. Instead, the existence of the file was very recently leaked anonymously to the Inquiry via the Wright family solicitor.

- 6.314 Director of Services at the material time, Mr Bain, knew that this file was regarded as important by the Inquiry. He was also well aware of its contents since it was his file. We are surprised that after his return to work in December 2005 he took no steps to ascertain that its contents had been produced to the Inquiry.
- 6.315 Mr Bain also said he had no knowledge that HMP Maze Prisoner Security Files had been destroyed. He may have reminded Senior Governors, such as Messrs Mogg, Crompton and Craig amongst others, to observe the policy statement in Circular IG 7/97, as he did by minute dated 12 September 2000, to the effect that under no circumstances should prisoners' records be destroyed. It was not, however, up to him to take steps to enforce or police his instructions. That, he said, was for the Director of Operational Management to do.
- 6.316 While all that might be accepted, the situation he found himself in was very different when he became aware that the HMP Maze Prisoner Security Files had been **'destroyed by Security'** on a substantial scale. That he knew this is established in documents examined by the Inquiry. Although at first Mr Bain said he did not know that HMP Maze Prisoner Security Files were destroyed, he accepted that in the light of these documents, he knew in May 2004 that they had been. As he expressed it: **'It wasn't my recollection of events, but plainly I was aware of it at the time.'**
- 6.317 In our opinion the fact that he did not take any steps in light of his awareness of the destruction of these files was very surprising. As the NIPS Director of Services from March 2000 to May 2006 he was well aware of the various policy circulars relating to the retention of records and, indeed, sent a minute in September 2000 reminding prison governors of the then current policy. We do not however agree with the view expressed on behalf of the Wright family that the circumstances set out above indicate that **'... post-event collusive activity by the NIPS was clearly in operation'**. Nothing in the evidence we heard or in the manner in which the evidence was given would lead us to conclude that there was any collusive activity on the part of Mr Bain.

7

Prison Background

High Security Prisons

- 7.1 In order to assist its consideration of the management of HMP Maze and the way that the Northern Ireland Prison Service (NIPS) dealt with high security prisoners, the Inquiry sought information about the management of high security prisoners elsewhere in the UK in the 1990s. Michael Newell, who worked in the Security Directorate of the Prison Service of England and Wales in the mid-1990s and was subsequently Governor of HMP Hull and HMP Durham, both high security prisons, gave evidence to the Inquiry on this matter.
- 7.2 The system for managing high security prisoners in England and Wales developed between 1966 and 1996 in response to a number of serious breaches of security and control. The Mountbatten Report into Prison Escapes and Security (1966) was published following a series of high-profile escapes, culminating in that of the spy George Blake from HMP Wormwood Scrubs. Following this report, a system of allocating each convicted prisoner to one of four security categories was introduced and a small number of prisons were identified to hold those prisoners in the highest security category in conditions which were to provide the necessary security and control. In 1987, following a helicopter-assisted escape by two high security prisoners from HMP Gartree, further sub-divisions of the highest security category were introduced and the small number of prisoners who were in the highest of these categories were held in special secure units. In 1990 there was a major riot in HMP Strangeways which led to rioting in a number of other prisons. The subsequent Woolf Report into Prison Disturbances April 1990 (1991) led to a general review of the management of prisoners. In 1994 six prisoners escaped from the Special Secure Unit within the high security HMP Whitemoor, which until then had been regarded as escape-proof. The subsequent Woodcock Report (1994) included 64 recommendations about the improvement of prison security, all of which were accepted by the Home Secretary. Four months after the Whitemoor escapes, in January 1995 three prisoners escaped from HMP Parkhurst High Security on the Isle of Wight. This led to the Learmont Report (1995), which commented on overall arrangements for prison security in England and Wales and included 127 recommendations. As a result of the changes introduced, especially by the two last-named reports, the record of the Prison Service of England and Wales for the management of high security prisoners was significantly improved.

- 7.3 One of the conclusions of the Woolf Report was that the prison system had to maintain a balance between its three main obligations:

'... there are three requirements which must be met if the prison system is to be stable: they are security, control and justice.

For present purposes, "security" refers to the obligation of the Prison Service to prevent prisoners escaping. "Control" deals with the obligation of the Prison Service to prevent prisoners being disruptive. "Justice" refers to the obligation of the Prison Service to treat prisoners with humanity and fairness and to prepare them for their return to the community in a way which makes it less likely that they will reoffend.'

(Woolf, 1991, paragraphs 9.19 and 9.20)

Woolf concluded that this balance had been lost at HMP Strangeways and other prisons in England in 1990. Woodcock and Learmont reached similar conclusions a few years later. Witnesses such as Michael Newell gave evidence to the Inquiry that the Prison Service of England and Wales had learned the hard lessons taught it by major incidents and by subsequent independent reports. The Inquiry did not hear evidence that there had been any consideration within the NIPS of lessons that might be learned from these reports about the management of prisoners in Northern Ireland.

General Management Issues

Security and Control

- 7.4 All prison systems have particular responsibilities in respect of security and control. As regards security, there have to be adequate arrangements to ensure that prisoners, especially those in a high security category, do not escape. As regards control, the authorities have to ensure that prisons are safe places, in which there is good order and the danger of violence and disorder is reduced to a minimum. In achieving these objectives the prison authorities also have to ensure that prisoners are treated decently and humanely.
- 7.5 The formula for ensuring a balance between security and control is a complex one. An excessive emphasis, for example, on physical security might result in insufficient attention being paid to matters of control and good order. This can become a vicious circle, with absence of proper control resulting in major security breaches. This was what happened in HMP Whitemoor in 1994 when staff working in a unit which had state of the art physical security omitted to exercise proper control and supervision of prisoners.

- 7.6 Safety is a vital component of control, and prisoners and staff must feel safe as they go about their daily life and duties. In general terms, safety means freedom from bullying, violence and intimidation and the provision of support to those who are vulnerable. Staff need to be given appropriate training in security and control issues and in how to respond to attempts by prisoners to condition staff behaviour.

Rules, Regulations and Instructions

- 7.7 One mechanism for ensuring that both staff and prisoners know what they may do and what they may not do, what discretions and freedoms exist, and what boundaries cannot be breached, is through a clear set of rules, instructions and orders. In the first place the general laws of the land apply inside a prison as they do elsewhere. This means that a criminal act in a prison is no less a crime because it is carried out behind prison walls. Similarly, Health and Safety (H&S) legislation has to be observed, unless there is a specific exemption for the prison setting.
- 7.8 The primary legislation in respect of prisons is the relevant Prison Act. This provides for the Prison Rules, which are approved by Parliament as a statutory instrument and give authority to prison staff to conduct their duties. In parts they can be highly prescriptive, such as the one which lays down in detail the offences a prisoner may be charged with under the prison disciplinary procedure. Others may simply provide direction, such as that which requires that all convicted prisoners must work but offers little guidance on how that is to be achieved and the conditions under which prisoners will work.
- 7.9 The legislation provides the broad framework within which prisons must operate. This is filled out by a series of national orders and instructions which provide the detail of how each aspect of the Rules must be implemented. Finally, at local level there is a series of Governor's Orders which interpret national orders and instructions to meet local circumstances.

Checking and Auditing

- 7.10 Management has a responsibility to ensure that its orders and instructions are being carried out and that there is a system of checking and auditing to ensure that this is happening. At wing or unit level in English prisons, staff have to record all activities and events in a wide variety of observation books and journals which are checked daily by the wing Principal Officer (PO) or governor. These checks do not of themselves guarantee that a particular duty has been performed but they allow middle management to monitor consistency. They also mean that individual members of staff have to accept the responsibility for performing designated tasks and will be held liable if it should later be discovered that the task has not in fact been performed.

- 7.11 In England and Wales, following the Woodcock Report, a system of internal and external audit of procedures was set up under the direction of a national Standards Audit Unit. This work focused initially upon security issues but then expanded to include other standards. By 1997 the audit arrangements were not fully refined but were beginning to produce clear improvements in security procedures. The Standards Audit Unit produced a comprehensive set of about a dozen security standards in addition to a further 60 dealing with other matters.
- 7.12 High security prisons in England and Wales are subject to a security audit every year and to an audit of all other standards in alternate years. The members of the Standards Audit Team are drawn from the Prison Service and will have wide operational experience. The audit process assists governors in ensuring that their own management checks and internal audit systems are robust. Michael Newell told the Inquiry that in 1997 when he was Governor of HMP Hull his POs had shared responsibility for auditing three or four areas for which they had no ongoing responsibility and that a member of the administrative staff collated all audit reports.

Concentration or Dispersal

- 7.13 The Mountbatten Report of 1966 was concerned only with matters of security, not with those of control, and it recommended that the small number of prisoners who were required to be held in high security conditions in England should be detained in one fortress-type prison. This recommendation was not accepted by the government of the day, because of the anticipated management problems which would be created by having such a concentration of high risk prisoners in one place and also by the potential problems of recruiting staff who would be prepared to work in such an environment. Instead it was decided that these prisoners should be dispersed around a small number of high security prisons, and five prisons were subsequently identified as ‘dispersal prisons’. This arrangement has lasted in broad terms until the present day, with the number of dispersal or high security prisons varying between five and eight.

Classification and Allocation of High Security Prisoners

- 7.14 The categorisation system in the Prison Service of England and Wales is based on the recommendation in the Mountbatten Report that all convicted prisoners should be allocated to one of four security categories, in descending order from A to D, a system which remains in use. Category A was to be reserved for those **‘whose escape would be highly dangerous to the public or the police or to the security of the state’**. In 1988 category A was further sub-divided into ‘standard risk’, ‘high risk’ and ‘exceptional risk’. Those designated in the first two of these sub-divisions were to be held together in the dispersal prisons. Additional

restrictions were placed on those in the high risk category and there were generally no more than 20 of them in each dispersal prison. The small number of prisoners who had been identified as exceptional risk category A were held in small units within the high security prisons, which were variously described as Special Secure Units or Close Supervision Units. In all there were about 30 places in these units. All the prisoners who escaped from HMP Whitemoor in 1994 were in the exceptional risk category.

- 7.15 The decision to place a prisoner in security category A is made in Prison Service Headquarters, while that for all other categories is made in the prison in which the prisoner is held. The initial decision is based on the offence of which the person has been convicted and takes account of all other available security information and intelligence. The need to keep a prisoner in category A is kept under regular review. Security categorisation relates primarily to the potential that a person might escape and the danger to the public if he were to do so; it does not relate to his behaviour in prison. Category A prisoners may behave well in custody and, on the other hand, some of the most dangerous and difficult prisoners in the system may be in security category B.
- 7.16 In 1997 there were approximately 750 category A prisoners in England and Wales out of a prison population of approximately 55,000. About 100 of these were classified as high risk category A and around a dozen were classified as exceptional risk.
- 7.17 In the 1990s a unit within the headquarters Directorate of Security was responsible for classifying all category A prisoners and for allocating each to one of the small number of high security prisons. The total number of category A prisoners in each of these prisons was restricted to about 20 per cent of the total population. In a very small number of cases the Prisons Minister would be informed of the allocation although he or she was not asked to approve it. From time to time staff from the headquarters unit might visit individual prisoners to discuss their management.

Physical Security

Walls and Fences

- 7.18 Each high security prison has an external wall with a minimum height of 5.2 metres topped with a semicircular coping which creates an internal overhang to prevent climbing. There is also an inner security fence of similar height made of double weldmesh. The fence is far enough away from the wall to prevent any possibility that the distance might be bridged. The area between the fence and the wall is known as the sterile area. There is no normal access to this area for staff or prisoners, although dog handlers check the fabric of this area daily and it

can be used for the rapid access of emergency vehicles during a major incident. The inner fence is alarmed and these alarms are connected to a camera system in such a way that, if the alarm is set off, the high mast cameras will automatically focus on the site of the alarm. Throughout the prison there is a series of weldmesh fences which effectively divide the prison into zones. The fences also enclose self-contained exercise yards. They will usually be topped with razor wire.

Cameras

- 7.19 External and yard cameras have long been a feature of prisons in England and Wales. Cameras inside wings were rare in 1997 and were almost exclusively in special high security units.
- 7.20 High mast cameras provide views of the perimeter and sterile area. These are of the 'pan, tilt and zoom' variety (PTZ) and are monitored from the prison's Emergency Control Room (ECR). High mast lighting, external to the prison wall and inside the sterile area, helps to illuminate the perimeter and assist camera penetration. External cameras cover the wall, car park and gate entrance. There will usually be cameras in the vehicle lock, in the pedestrian entrances for staff and visitors and in the sterile area on the internal side of the wall. Electronic gates have video cameras allowing staff in the ECR to identify individuals before the gates are opened.
- 7.21 Throughout the prison there are a large number of cameras to support supervision of movement and control. These will be a mixture of PTZ and fixed cameras and will be located to cover areas of external movement and yards, as well as inside wings, workshops and education blocks.
- 7.22 Most pictures go back to the ECR, where staff are responsible for the observation of the monitors. They also take responsibility for noting and reporting faults. The Security Governor and his team are told of any camera fault as it may affect routines until repaired. The only cameras which do not feed back to the ECR are those in visits and those inside high security units, which feed to local control rooms. The cameras controlling the entry and exit from these units transmit back to the ECR.

Roofs

- 7.23 The protection of roofs is an important element of security, as both pitched and flat roofs can facilitate demonstrations or escapes. The riot at HMP Strangeways in 1990 led to a re-examination of rooftop security. On the pitched roof of all cell blocks, slates and tiles were replaced by sheeted stainless steel. All ceilings were reinforced with rendering and mesh to prevent prisoner access to the roof space, and separate entrances were provided to allow staff access in the event of any emergency.

- 7.24 In 1997 there were no cell blocks with flat roofs in high security prisons. The considered view was that housing prisoners on multi-storey wings provided greater security as well as allowing economies of scale for staffing purposes.

Gates

- 7.25 The main gate area in a high security prison has separate pedestrian access for staff and for visitors and a vehicle entrance. Each entrance has interlocking electronic gates which prevent two gates being open at the same time. Gate staff work within a secure lodge. Windows of bullet-proof glass provide all-round vision and will be supported by cameras linked back to the ECR.
- 7.26 Access from the gate area into the prison grounds is via an electronic lock operated from the ECR. There are further electronic gates at strategic points controlling access to sensitive parts of the prison, such as the ECR. Additional security is provided by an audio link.

Construction of Cells

- 7.27 All cells holding category A prisoners are built to specific standards, which include steel mesh rendered on top of the brickwork. The window bars are of steel with an inner rotating core of manganese steel, which means that they cannot be cut. There have been no escapes from within a cell constructed to these standards.

Locks

- 7.28 In 1997 all locks were standard lever locks manufactured by Chubb. There were four categories of lock: class 1, class 2, class 3 and cell. All external entrances to cell blocks and prisoner areas would be class 1, capable of being double-locked at night to prevent access with a normal key. All gates within wings and other buildings would be class 2 locks and there would be a single cell-key for all wings. These keys were generic and all officers would be issued with a set of all three keys to carry out their daily duties. Class 3 locks were used for office accommodation and storerooms. Officers would be issued with the class 3 keys relevant to their duties. In addition all cell doors would be fitted with a bolt which was applied at night.

Dogs

- 7.29 Guard-dogs are also regarded as part of the physical security system. They patrol the grounds throughout the day and night, and the duties of the handler include daily fabric checks of all fences and recording and reporting any faults for repair. In addition, dog teams regularly patrol the outside of the prison and have access to an emergency response vehicle should the perimeter come under any threat.

Procedural Security

- 7.30 The physical security provided by features such as walls, buildings and locks has to be supplemented by a wide range of security procedures. In 1997 the following elements would have been normal in a high security prison in England.

Movement of Prisoners

Arrangements for Prisoner Exercise

- 7.31 In most high security prisons the exercise yards are attached to the accommodation wings. Such yards are usually a large tarmac area surrounded by a fence adjoining the wing. The fence is four metres high or more, topped with razor wire, and will have within it double access gates for emergency vehicles. The yard is invariably further protected by anti-helicopter wires.
- 7.32 The exercise yard is searched each morning before the first wing takes its exercise. It is searched again after the first wing leaves the yard before the second wing takes its exercise, and so on. It is not searched at the end of the day, but will be searched again the following morning. The yard fence will also be given a visual inspection by an officer in the yard.
- 7.33 In 1997 all prisoners were entitled to one hour of exercise per day, subject to the weather. If there was leeway to allow prisoners to stay in the yard for longer on a sunny day then this might be allowed, but it would depend on prisoner numbers and how many yards there were.
- 7.34 Exercise is organised in a rota so that each wing will have allocated to it a number of mornings and afternoons. Exercise is a planned group activity and during each one-hour period there might be as many as 120 prisoners in the yard at a time. Prisoners exercise only with other prisoners from their own wing. One yard may be shared by two wings, with each wing taking its exercise at different times.
- 7.35 Prisoners are counted as they leave the wing on their way to the exercise yard. They will enter the exercise yard through doors or gates at ground-floor level from the wing. As they leave to go on the yard they will be subjected to a pat-down search and possibly checked by a hand-held metal detector with a view to detecting weapons that may be used to assault another prisoner.
- 7.36 Whilst prisoners are on exercise at least two staff will be present in the yard, sited next to alarm bells. The yard is observed by a high mast camera which works on a fixed cycle, although the ECR staff can take control at any stage. Situated outside the fence will be a dog patrol, simply keeping a watching brief.
- 7.37 The ECR will give permission for exercise to commence and arranges for the dog patrol to be present; once the prisoners are in the yard the ECR is informed of the numbers. The staff in the yard have radio communication with the ECR. The ECR

is informed of the names of any high risk prisoners who are on exercise, and the officer in charge of exercise will have his/her identification books. At the end of exercise the prisoners return to the wing without being searched and return to their cells or work. They will be counted again as they leave the yard.

Movement to Work, the Gym and Education

- 7.38 These tend to be mass movement events and may involve prisoners moving substantial distances within the prison complex. These movements normally take place from Monday to Friday at approximately 9.00 am and 1.45 pm. The reverse process of moving prisoners back to wings takes place at approximately 11.45 am and 4.30 pm.
- 7.39 The ECR is responsible for organising these movements. This will involve ensuring that an officer is in place at each of the work areas ready to receive prisoners and that the route is lined by staff. Lining the route could involve as many as 20 officers, depending upon the complexity of the route. In practice, officers will be placed on the exits to wings and will be responsible for counting the prisoners out of those wings. Thereafter, depending upon how much open ground has to be covered, officers will be placed at strategic points along the way. The more modern the prison, the more likely that most of the movement will be through internal corridors and walkways and consequently fewer staff will be required. Throughout the movement process the ECR has the support of high mast PTZ cameras, and all staff involved in the route are in radio communication.
- 7.40 On the completion of the movement, the roll in each of the workshops will be communicated to the ECR, where staff will check that this corresponds to the number of prisoners who left the wing. The reverse process may take slightly longer, as all prisoners are rub-down searched on leaving the workshop. Following the introduction of Dedicated Search Teams (DSTs) in 1996, they would often be deployed to support this activity and encourage higher standards of searching.
- 7.41 Each high risk category A prisoner is moved individually by two officers, and normally a dog and handler will be in attendance.

Other Movements Outside the Wing

- 7.42 There will be a number of activities each day which require officers to escort individuals or small groups of prisoners to locations around the prison. In these cases the officer will collect the named prisoner from the wing. Before leaving the wing the prisoner will be given a rub-down search. He will then be taken, for example, to the visits unit or to the healthcare centre, where he will be handed over to another officer. In due course he will be escorted back to his wing by an officer. As with mass movements, throughout the movement process the ECR

has the support of high mast PTZ cameras, and all staff involved in the route are in radio communication. The wing roll will be adjusted to reflect the absence of prisoners on visits or at the healthcare centre and a note will be made in the occurrence book.

Movement Within the Wing

- 7.43 Movement within the wing is controlled by officers. All cells are fitted with a key-operated lock and a bolt. The wing is staffed at all times and no prisoners are unlocked until sufficient staff are in place. Generally, once prisoners are unlocked they are allowed to move freely around the wing. There is, despite the high security level, a fairly relaxed atmosphere within most wings. When prisoners are not in their cells, the cell doors are locked. Areas on the wing where prisoners are not allowed, such as offices, are locked at all times when not occupied.

Roll Checks and Headcounts

- 7.44 Headcounts are a fundamental element of security at all closed prisons in England and Wales. There will normally be a minimum of four headcounts per day. The first headcount will take place at unlock in the morning sometime between 7.00 and 8.00 am. This headcount is the handover between the night staff and the day staff and will involve officers looking through the spy-hole in each cell and satisfying themselves that it has the correct number of occupants. The figure for each landing needs to tally, as well as the total for the wing. When this has been verified the officer in charge of the wing reports the figures to the ECR. When all wings have reported and the total for all the wings matches the expected total for the prison, authority is given to unlock the prison and move into daytime routines.
- 7.45 The next headcount will take place at lunchtime and is similar in nature to that described above. Some prisoners, such as kitchen workers, remain out over lunch and the officer in charge of that party will account to the ECR for the prisoners under his/her control. When all prisoners have been accounted for, the prison will go into day patrol state while the majority of staff go for a lunch break. In prisons where prisoners dine in association at lunchtime this roll check is completed and the prisoners are unlocked again once the roll is correct.
- 7.46 There is a further headcount at teatime when prisoners have returned from afternoon activities; this follows the pattern described above. Depending upon evening routines, prisoners are usually unlocked after this roll check, obtain their tea meal and then remain unlocked until the final lock-up of the evening at around 9.00 pm.
- 7.47 The night-time roll check is the final one of the day, after which the prison moves into night state and the main staff go off duty. During night hours patrol staff are required to look into the cells of high risk prisoners on an hourly basis to satisfy themselves that the prisoner is there. This observation is recorded in writing.

- 7.48 In addition to the daily headcounts, there are regular ad hoc roll checks conducted as part of contingency procedures. These are organised by the Security Department every few weeks in order to test the ability of staff to account for all prisoners during the normal working day, when prisoners are likely to be out of their cells in various locations around the prison. During these checks all movement is frozen and the roll collated through the ECR. If the roll is not correct, all prisoners will be moved back to their cells for a traditional headcount. This procedure is an essential contingency and would also be initiated if a prisoner could not be accounted for or if there was some sign of attempted escape.

Searching Procedures

- 7.49 DSTs were introduced following the Whitemoor escape. Each team consists of a minimum of 12 officers with a Senior Officer (SO) in charge who reports directly to the Security Governor. They have their own flexible shift pattern which allows them to adjust the numbers on duty to match the searching requirement. They are able to attend at night and conduct thorough searches of areas which are difficult to search at other times, such as the kitchen. Members of the DST undergo specialist training on searching techniques and the use of support equipment. In addition to conducting searching they also observe routine searching by other staff and help maintain standards. One of the reasons for setting up DSTs was the need to avoid any conditioning or compromise of standards. For that reason members of the DST are not to be used on other duties.

Rub-Down Search

- 7.50 In the course of a day a high security prisoner can expect to be given a rub-down search on a number of occasions. This will happen whenever he moves from one area to another, on moving into or out of the accommodation wing, going onto exercise yards, leaving workshops or going to the visits area. Rub-down searching requires the removal of the shoes; the prisoner to run his fingers through his hair; and a visual inspection of the mouth and ears. Additionally the searcher physically runs his hands on the clothing of the prisoner covering the torso and legs. He will run his hands round the collar of the prisoner's shirt and behind his belt, if he is wearing one. Usually a hand-held metal detector is used or prisoners may be required to pass through a portal detector.
- 7.51 The local security instructions will lay down the percentage of prisoners on each activity to be searched in this manner; for example, ten per cent of prisoners leaving a workshop will be rub-down searched and all other prisoners leaving will be given a pat-down search which involves the officer passing his hands over the prisoner's clothed body.

Strip or Full Search

- 7.52 This is the most thorough form of personal search. The prisoner is required to remove all his clothing and to hand it to the officer to be searched. This is done in such a way that at no time is the prisoner completely naked and at no point does the searching officer lay hands on the prisoner. The prisoner will remove clothing from the top part of his body and will allow the officer to make a visual search of his upper body by raising his arms in the air and turning around. The officer will make a visual examination of the prisoner's mouth and ears. The prisoner will then replace the clothing on the upper part of his body and remove clothing from the lower part of his body, which is then subjected to a visual examination. A strip search is always carried out by two officers, who must be of the same sex as the prisoner, and it must be done out of the sight of other prisoners and staff.
- 7.53 All prisoners will be strip searched on first reception into the prison and when leaving for temporary release, as part of a cell search or when going into the segregation unit. A proportion of prisoners will be given a strip search returning from visits. Strip searches may be carried out at other times on the authority of a senior member of staff.

Fabric Checks

- 7.54 These checks, known colloquially as 'locks, bolts and bars' checks, are carried out on a set number of cells in each wing or unit on a random basis each day in order to confirm that no part of the fabric of the cell has been tampered with. Routinely this involves checking the integrity of the bars, examining all four walls, the floor, ceiling and door and the operation of the lock and the bolt on the door. This check is also used to record and report any damage. If any compromise is discovered, a full search will follow. The officer conducting the fabric check will sign the requisite record each day, confirming that the check has been carried out.
- 7.55 The external fabric of walls and fences is checked visually every day. In England this check is the responsibility of the dog handlers, who in the course of their daily duties check the perimeter wall and all internal security fences, reporting any defects. They also sign daily that this task has been completed. Internal exercise fences will be checked by the wing staff before each exercise period.

Cell Searching Procedures

- 7.56 The cells of category A prisoners are given a thorough search every month and those of other prisoners on a two-monthly cycle. The searches are carried out at irregular intervals so that they cannot be predicted by prisoners. Additional searches may be carried out, if there is reason to do so, on the authorisation of a senior member of staff. Category A cell searches are always carried out by

the Security Department, using members of the DST. Such searches have three elements: a strip search of the prisoner as described above; a check of all the fabric of the cell as described above; and a search of all the contents of the cell.

- 7.57 The contents search will include a thorough examination of everything in the cell, including clothing, toiletries, letters, books, papers, electrical equipment such as CD players and other audio equipment, bed linen and cell furniture. If the prisoner is suspected of activity such as bullying or drug dealing, there may be a check that the personal property in the cell matches that recorded on the prisoner's property card. Since the mid-1990s there has been a limit to the volume of personal possessions that prisoners may keep in their cells. In the course of the search, staff will also examine ventilation grilles, sockets and light covers, removing them if necessary.

Area Searches

- 7.58 All areas of the prison are searched at frequent and irregular intervals. High security prisons use DSTs who work their own duty roster to provide the opportunity to search at any time of the day or night. Areas where prisoners work will be searched much more frequently than, for example, the Administration Block. For such searches, usually for drugs and explosives, dogs are generally used to support the manual search.
- 7.59 Areas within the wing accommodation will be searched monthly. These include television rooms, showers, storerooms and offices. These searches will be conducted by the wing staff. The wing areas will also be included in the random cycle of the DST. The cycle is similar to that for cell searching, with every area being searched at least once every 12 weeks unless exceptions are agreed.
- 7.60 Workshop areas are assessed for risk on the basis of their physical security and the type of tool available. Generally restrictions are placed on where category A prisoners may work. All tools used anywhere in the prison are marked with a security code. Those used by prisoners in workshops are handed out at the start of a session and collected at the end. The tools are all accounted for before prisoners are allowed to leave the workshop.

Full Prison Searches

- 7.61 In high security prisons full or lock-down searches are carried out approximately once every three months on an irregular basis. These are organised by the Security Department, and the date of any search is not divulged to the main body of staff. The date is also kept secret from prisoners and will be changed if there is any hint of compromise. All activities in the prison cease and all prisoners are locked in their cells. All uniformed staff on duty will be involved in the search under the direction of the DST. Only essential services, such as kitchen duties and visits, will

continue and all prisoners involved in those activities will receive a full cell search before being allowed to go to work. Full searches will also take place in response to intelligence that, for example, a firearm is in the prison or if dangerous tools or implements, such as a kitchen knife, have gone missing. A full prison search will typically take about two days to complete.

Searching of Staff

7.62 In high security prisons all staff members are searched on entering the prison. They are required to put bags and coats through an X-ray machine and to pass through a metal-detector portal. All staff are given a pat-down search and ten per cent are given a rub-down search on a random basis. Anyone who sets off the portal alarm will also be given a rub-down search. A list of prohibited items is posted at the staff entrance and will include mobile phones, cameras and various electrical goods. The general principle is that staff should not take into work anything they do not require to do their job. It is common to include, as part of this entry procedure, an irregular check on ID cards, and to have the drug dogs present for all staff to file past. On leaving the prison it is usual that ten per cent of staff from each shift will be randomly searched.

Visiting Procedures

Entitlement

7.63 The minimum allowance for convicted prisoners in England is one visit per month of a minimum duration of 30 minutes. The normal allowance is two visits per month of duration of up to two hours. For prisoners on enhanced status the allowance is usually one visit per week of up to two hours.

Visiting Arrangements

7.64 In England and Wales, prisoners are required to send out a visiting order to the person from whom they wish to receive a visit. On receipt of the order the visitor will book a visit at the prison for a specific day, either in the morning or in the afternoon. The visiting order will include the names of all adult visitors.

7.65 Category A prisoners have to submit in advance a list of all persons from whom they wish to receive visits, providing the names and other personal details, including a photograph. The police will visit the person concerned and confirm in writing on the back of the photograph that it matches the identity of the person they have seen. They will undertake Criminal Records Bureau checks and will draw attention to any concerns they might have. When all of this information is returned to the prison, a decision is made as to whether the person can be added to the approved list. On arrival at the prison the visitor is checked against the approved list and photograph before being admitted.

Visit Lists

- 7.66 In general the visits staff send a list to each wing listing visits for the following day. It would appear that this procedure is not uniform, and with the advent of prisoner telephones and pre-booked visits arrangements, prisoners in England and Wales generally know when to expect a visit.

Searching Visitors

- 7.67 In a high security prison all visitors are subjected to rub-down search, conducted by an officer of the same sex, prior to a visit. All children under 16 are searched by a female officer. If initial searching identifies a problem the visitor is asked to undergo a more rigorous search. If they decline they are refused entry. Hand-held metal detectors are used to assist the search. If illegal substances are found, prison officers have the power to detain the visitor until the police arrive. By 1997 the use of passive drug detection dogs had started in high security prisons.

Searching Prisoners

- 7.68 On entry to the visits complex prisoners are given a rub-down search and required to leave anything in their pockets in small lockers available in the search area. They are allowed to take a comb and a handkerchief to the visit. If they wish to pass any item to their visitors they will seek prior permission. The item will be searched by staff and be taken by them to the visits area to be collected by the visitor after the visit. At the end of the visit the prisoner is liable to be given a strip search on a random basis.
- 7.69 High risk category A prisoners are required to change into a fresh set of clothing in the visits search area before each visit. At the end of the visit the prisoner is given a strip search and changes back into his original clothing.

Visits Room Supervision

- 7.70 In England and Wales, visits rooms are usually open-plan in design with as many as 50 tables arranged to accommodate one prisoner and up to three adult visitors each. In high security prisons the seating is fixed, usually with the prisoner sitting on one side of the table and his visitors on the other, in such a way that an officer can look down a line of prisoners all sitting on the same side of their tables. Visits rooms are fitted with domed PTZ cameras allowing operators to monitor all visits. Staff operating the cameras normally have radio communication with officers on patrol in the room, who can intervene as directed.
- 7.71 Visits for most prisoners are conducted in sight but out of hearing of staff. Visits for high risk category A prisoners usually take place in a separate visits area with officers sitting next to the visiting table, within sight and earshot. Visitors to these

prisoners are escorted if they wish to use the lavatory and will be searched on their return. There is no restriction on physical contact between high risk category A prisoners and their visitors because the prison officers are close enough to observe if anything suspicious takes place. Visits to exceptional risk category A prisoners always take place within the Special Secure Unit to which the visitors are taken. Otherwise their visits are supervised in the same manner as visits to high risk category A prisoners.

- 7.72 Visitors are not allowed to take any food or drink into the visits area. Facilities are usually available for the purchase of drinks and snacks within the visits area. If prisoners are suspected of receiving contraband at visits they can be placed on 'closed' visits, with a screen separating the prisoner from the visitors.

End of Visits

- 7.73 At the end of a visit the main priority is for staff to identify the prisoner to ensure that he returns to the main prison. Prisoners will stay at their places until the visitors have been checked out. High risk prisoners will be escorted by a specific member of staff, who will have an identity booklet with the prisoner's details and photograph.

Other Security Features for Category A Prisoners

- 7.74 All mail will be monitored by reading and checking for illicit enclosures. Mail from legal representatives will not be read but will be opened and checked in the presence of the prisoner for enclosures.
- 7.75 All telephone calls made by these prisoners will be recorded and listened to. The telephone conversations of high risk category A prisoners will be listened to as they are made. Telephone numbers to be dialled have to be approved in advance and today are controlled by sophisticated PIN technology. No incoming calls are allowed.

Dynamic Security and Conditioning of Staff

- 7.76 Physical and procedural security arrangements are essential features of a well-managed prison, but they are not in themselves sufficient. Security also depends on staff being alert in their interactions with prisoners and having an awareness of what is going on in the prison. This is often described as dynamic security. Where there is regular contact with prisoners, an alert member of staff is likely to be responsive to situations which are different from the norm and which may present a threat to security. The strength of dynamic security is that it is likely to be proactive in a manner which recognises a threat to security at a very early stage.

- 7.77 This form of security is dynamic in the sense that it evolves as the interaction between staff and prisoners develops. At its heart is the ability of staff to have a feel and understanding for what is going on in their area of responsibility. A knowledge of what is the normal atmosphere in a wing enables staff to register periods of increased tension and then to mix with prisoners in order to discover what is happening. This assumes that prison officers will have a continuous presence wherever there are prisoners, particularly in the wings or accommodation units. Staff in a high security prison will walk up and down the wings and enter communal areas. There will be no part of any prison in England and Wales where staff do not routinely go. The importance of this habit was reinforced after the escapes in 1994 and 1995.
- 7.78 An absence or diminution of dynamic security is likely to have a number of undesirable consequences. The flow of intelligence may dry up; staff will pay little more than lip service to their duties and may be influenced by prisoners to act in a manner which avoids confrontation whatever the cost; discipline within the prison will suffer; in extreme cases there will be areas where staff do not enter.

Conditioning

- 7.79 Given that staff work closely with prisoners on an ongoing basis, there is an ever present possibility that prisoners will attempt to influence the way that staff deal with them in a manner that flouts or ignores the rules or is otherwise inappropriate. In extreme cases this might place the security of the prison or of individuals at risk. This process is described generally as conditioning.
- 7.80 Conditioning can either be part of an organised process or involve a series of uncoordinated events which in time causes staff to change their behaviour. For example, there is considerable history in English prisons of prisoners attempting to create 'no-go' areas for staff. A typical example is the television rooms on wings where a large number of prisoners congregate to watch television. The room may have observation windows or have open-door access. The prisoners put curtains or other material over the windows and close the door. The stronger-willed members of staff might remove the material against a background of severe abuse. The weaker officer might tell the prisoners to remove them, but take no action if they do not do so. In a relatively short period of time the stronger-willed staff might give up because they feel they are not supported by their colleagues. The result is that the prisoners have created a 'no-go' area, which becomes somewhere that they can conduct their unofficial and sometimes illegal business without staff observation.
- 7.81 In the normal course of events prison staff will not wish to be in conflict with prisoners. This may mean that procedures which have the possibility of creating conflict, such as cell searching, will either be ignored or not be carried out

properly. In order to prevent this happening, management has to set and maintain boundaries about behaviour and relationships, and in response prisoners will often push at those boundaries which inhibit their freedom of activity. Management can develop a number of strategies to deal with this issue.

Training

- 7.82 All members of staff are given training on the dangers of conditioning. (Until recently a video from the NIPS was shown as a basis for discussion.) Additional training is given to the staff who are chosen to work in sensitive areas such as Close Supervision Units.

Staff Rotation

- 7.83 Conditioning is a gradual process, and it takes time for prisoners to influence a particular member of staff. Regular rotation of staff is one method of counteracting any danger of this happening. In intense areas such as Close Supervision Units a regular and systematic turnover of staff can minimise the danger that laxity might creep in.

Internal Control Procedures

- 7.84 Members of the Security Department will regularly visit accommodation wings, and other areas where prisoners frequently gather, to observe procedures and to provide additional advice for other staff. For example, if there is a concern that the searching of prisoners as they leave the workshop is being done to a lower than acceptable standard, members of the DST will observe the procedure and also conduct some rub-down searches themselves to show staff the standard which is required. The Standards and Audit procedures also assist in the prevention of conditioning since all procedures are regularly reviewed against standards by the local audit team.

Security Departments

Organisation and Responsibilities

- 7.85 Michael Newell explained the importance of the management of security in all prisons, and particularly high security prisons in England and Wales, and also described the division of responsibility between the Governor, the Deputy Governor (sometimes known in 1997 as the Head of Custody) and the Security Governor. He explained that the general structure would be the same in all prisons but that the grades and experience would vary according to the level of the prison. In a high security prison in 1997 the Governor would typically be a Grade I, the highest grade, the Deputy Governor a Grade III and the Security Governor a Grade IV.

- 7.86 While the governor of a prison may delegate day-to-day responsibility for various activities to other members of staff, he remains responsible in law for all that happens in his prison. In all prisons, but especially in high security ones, he has a particular responsibility for all matters relating to security.
- 7.87 The Deputy Governor has general responsibility for the development of security policy within the prison, for preparing for security audits and for setting up arrangements with other prisons for security sharing, and will approve security documents and procedures. He will be the normal reference point for intelligence which requires action, such as the need to conduct an emergency search or the need to move prisoners for security reasons. He will refer matters to the governor whenever he considers it appropriate. In short the Deputy Governor is a key person in the security chain, frequently acting as a conduit between the governor and the Security Governor.
- 7.88 The Security Governor has primary responsibility for the day-to-day delivery of the vast number of security procedures that should operate in any prison. He has direct oversight of the Security Department. By 1997, in the aftermath of the Woodcock and Learmont Reports, the Security Department in all prisons in England and Wales had taken on a much higher profile than previously and had introduced a wide range of management checks in order to ensure that standards were being met and instructions were being implemented. The Security Governor had direct charge of all of this work. His line manager was the Deputy Governor, to whom he would report directly. In the absence of the deputy he would report to the governor. He would always have direct access to the governor if required and would often see him on a daily basis.
- 7.89 The remit of the Security Department covers all security functions, the dog section, liaison with courts and very often the reception and visits areas. The Security Department will be responsible for the ongoing programme of searching but will have to obtain permission from the governor for a full search of the prison as described in 7.61 above. Permission for ad hoc searches based on specific intelligence will normally be approved by the Deputy Governor. The governor will receive a daily security briefing at a morning operations meeting. He is also likely to end the day with a similar briefing, which may be part of a wider meeting with the deputy to discuss wider issues.
- 7.90 The Inquiry was informed about more specific matters relating to the work of prison security departments and the gathering of intelligence in other UK prison services by Peter Withers, whose long career in the Scottish Prison Service (SPS) included periods as Governor of HMP Barlinnie and as SPS Board Director between 1995 and 2006 with responsibility, among other matters, for contingency

management and coordination with external emergency services. Mr Withers told the Inquiry that in the mid-1990s there were 18 or 19 prisons in Scotland of which four could be categorised as high security, and that there were about six or seven Intelligence Units within the Service. He said that there were broad similarities between the SPS and the Prison Service of England and Wales in the way that intelligence matters were dealt with. These included the need for trained staff in critical roles; the compulsory routing of assessed information to senior management; and, critically, the positive engagement of staff in the whole process. National standards provided the baselines from which local security departments could evolve and develop their processes for intelligence gathering and audit processes.

- 7.91 In the early 1990s there were no prescribed or standard selection processes for Security Department personnel within the SPS. It was a matter of selecting individuals whom governors considered likely to have an aptitude for this type of work. Often, the main skill required was an understanding of the prisoner population, combined with an ability to maintain information sources with limited incentives and not to be compromised by that potentially complex balance. Training for staff working on intelligence issues was sporadic and not entirely appropriate. After 1997 a more systematic approach was adopted to staff training in general and there was a training needs analysis of the knowledge, skills and attitudes required to undertake each of the roles within Security Departments. At the outset trained analysts were few in number and staff who worked in Security Departments were expected to carry out a range of duties. Initially all the posts were filled by uniformed prison officers but in 1998 the first civilian analysts were appointed. Security Departments usually operated from around 7.00 am until 10.00 pm on weekdays and during the hours when prisoners were in circulation at weekends.
- 7.92 Until the mid-1990s information was collated on card systems with some stand-alone computers. Security Departments used a computer database (ANACAPA) which was able to analyse trends and patterns, associations, criminal activity, times and events through the use of contact or grid charts which illustrated links between specific prisoners or prisoner groups. The SPS began to introduce the Scottish Prison Information Network around that time to provide a basic analysis of population trends. Intelligence data was also accommodated on a restricted-access basis. Although computerised records largely replaced paper records by the late 1990s, some paper records were retained.

Prison Intelligence

Definitions

- 7.93 Mr Withers told the Inquiry that it was important to distinguish between information and intelligence. Information is any piece of knowledge; it may be factual, may be capable of proof or may be hearsay. It can come from any source and can be collected at random or systematically over a long period by a number of people. If it is to be transformed into intelligence it must first be accurately, systematically and properly recorded. It then has to be analysed and evaluated. The output of that process is intelligence which can be used to inform decision making.
- 7.94 From the early 1990s the SPS recognised the need to create an efficient system for handling information. The Inquiry heard that much of the information produced in prisons is oral and that there is frequently a reluctance on the part of staff to commit this to paper. Part of the task of a Security Department is to create a written record of this information. To be effective an intelligence system also has to be proactive, not just waiting for the information to come in but going out to seek it.
- 7.95 The Inquiry was told of the need to distinguish between operational and strategic intelligence. Operational intelligence is concerned with information indicating a specific threat to security or control, such as a planned escape or disturbance. Strategic intelligence is likely to involve building up a picture over a longer term of the social structure within the prison, patterns of association, environmental influences, criminal and political alignments and other features. Sound strategic intelligence provides the foundation on which to assess operational intelligence and should ensure that there is not a knee-jerk response to operational intelligence. The better the strategic intelligence, the more confident prison security will be of its responses to operational intelligence. Staff reporting should be focused on the intelligence objectives set down by the Security Department and approved by the governor. Objectives need to be expressed in simple and clear language and will usually be intimated to staff in a written briefing. The general objectives of any high security prison in the mid-1990s would have included preservation of the lives of prisoners and staff, maintenance of security, control and good order.

Collection, Evaluation, Assessment and Dissemination of Prison Intelligence

- 7.96 Information can come from a wide variety of sources including prisoners, staff, police, relatives of prisoners, the public, military, media and telephone monitoring. Mr Withers confirmed that the volume of information would diminish if prisoners were not being directly observed continuously. He provided the Inquiry with an

example of an Information and Intelligence Report for HMP Aberdeen. These reports were in use in at least two prisons in 1997. The document contained details of the process involved in turning information into intelligence. The layout of the document was simple and straightforward. It contained all the key elements including the time and date that the information was received; details of the information received; confirmation of whether the report was passed to an analyst, the prison operations manager and/or Headquarters; evaluation scales for both the source and the information; confirmation of whether the information required to be further developed; confirmation of whether it was disseminated; details of the action taken and the outcome of that action. Importantly, the format of the report provided an audit trail of the intelligence cycle, showing details of how the information had been collected, evaluated, assessed and disseminated.

- 7.97 Individual Prisoner Security Files were maintained to a high standard. The files were retained after a prisoner was released in case s/he later returned to serve a further sentence. There was no formal system for the destruction of security files and if one were to be destroyed that fact together with the details of authorisation would have been recorded in an official document.
- 7.98 Overall responsibility for the assessment of intelligence lay with the Head of Operations, who was the equivalent of a Security Governor in the NIPS. Mr Withers said that during his time as Governor of HMP Barlinnie, the Head of Operations would on average bring to his attention at least twice weekly significant items of evaluated and analysed information concerning happenings within the establishment or the anticipated impact of relevant events outside the prison. He told the Inquiry that he would often receive thematic assessment on particular issues, such as the level of illegal drug abuse or staff compromises. These assessments would take the form of a written report which would have included options and a recommendation from the Head of Operations as to what action should be taken. As governor, he would respond either by annotating the report if the recommendation was approved or by providing a written response if he decided to proceed with another option. A copy of his decision would have been retained within the Security Department in hard copy on conventional files. He said that in certain circumstances he would discuss the issue with his line manager, the area director, and, on occasion, would submit a report to Headquarters, if need be seeking approval for actions which were beyond his executive power. These decisions would have been recorded and placed in the Operations File. He expressed the opinion that a cautious governor would always ensure that these documents, together with any responses, would be placed both in the Operations File and in the governor's personal files. Dissemination of intelligence matters would depend very much on individual situations.

- 7.99 Mr Withers confirmed that the final responsibility for action in relation to assessed intelligence rested with the Governing Governor. Details of any action would normally have been recorded in the Governor's Journal and in an Operations File. Ongoing monitoring of the impact of any action would have been the specific responsibility of the Intelligence Unit through the Head of Operations, with the governor being updated at regular intervals.

Relationships with Other Departments and Agencies

- 7.100 There was a constant two-way flow of information between prisons and SPS Headquarters. Around 1997 immediate material was sent by fax machine.
- 7.101 By 1997 there was an extensive network of contact points with the local police and also at a more senior level by representation on a joint working group with the Association of Chief Police Officers Scotland. Any such discussions with the police would have been recorded.
- 7.102 Any link with the Security Service would have been through the Police Headquarters nominee in the Force Intelligence Branch.

The History and Development of HMP Maze

From Internment to HMP Maze Cellular

- 7.103 As described in Chapter 5, what became HMP Maze was opened in 1971 as an internment centre in the former military airfield at Long Kesh in County Antrim, with accommodation in Nissen huts located within a compound area. From the outset there was a violent reaction to internment both inside and outside prisons, and in 1972 prisoners in the compounds who had been convicted of offences related to the civil disturbances were granted special category status. In practical terms this meant that they did not have to work, they did not have to wear prison clothing, they could receive more frequent visits, they were allowed food parcels and they could spend their own money in the prison canteen. Crucially, they were segregated according to the paramilitary faction to which they claimed allegiance. Despite these arrangements disturbances continued and in 1974 HMP Maze Compound Prison was extensively damaged by fire.
- 7.104 In 1974 the government set up a Committee under the chairmanship of Lord Gardiner:

'To consider what provisions and powers, consistent to the maximum extent practicable in the circumstances with the preservation of civil liberties and human rights, are required to deal with terrorism and subversion in Northern Ireland, including provisions for the administration of justice ...'.

The Committee reported in January 1975 and concluded, among other things, that the introduction of special category status for convicted prisoners had been a serious mistake and that this should be brought to an end at the earliest practicable opportunity. It went on to recommend that detainees should be kept in a completely separate prison and that a temporary cellular prison for 700 persons should be constructed for this purpose by the quickest possible means. In addition a permanent prison with 400–500 places should be constructed.

- 7.105 The government accepted the Gardiner Report's main recommendations on the removal of special category status and decided that no prisoner convicted from 1 March 1976 would be given special category status, regardless of the nature of his offence or claimed political motivation. From that date these prisoners were to be accommodated in individual cells in one of the eight new cell blocks in HMP Maze, known because of their design as H blocks. Existing prisoners remained in separate compounds and retained their special category status. The last of this group of prisoners was released in 1986.
- 7.106 The first prisoners to be denied special category status arrived in HMP Maze in September 1976. They refused to wear prison clothing and instead covered themselves with bed covers, thus embarking on what became known as the 'blanket protest'. They were joined by other new republican prisoners and a small number of loyalists, and their numbers gradually increased to over 300. In March 1978 the protest escalated as the republican prisoners smashed their cell furniture and began to smear the walls of their cells with their own excreta. This was the beginning of what became known as the 'dirty protest'. This period was also marked by increasing violence against staff, many of them while off-duty. In the years between 1976 and 1979 some 13 prison staff were murdered.
- 7.107 The protests were taken to an even higher level in October 1980 when a number of republican prisoners began a coordinated hunger strike. This hunger strike ended in December 1980 but was followed by a second one in March 1981. While the hunger strike was underway the government was adamant that it would not concede the demands of the prisoners, and by the time it ended in October 1981 ten prisoners had died. Following the end of the hunger strike the government agreed that all prisoners could wear their own clothes at all times; that limited movement between wings, short of free association, would be allowed; and that half of the remission which an individual had lost as a result of the protest would be restored if he conformed with the Prison Rules for three months.
- 7.108 The Hennessy Report (see 7.111 below) noted that many staff regarded the government's actions as **'a surrender to prisoners' demands'**. It commented that **'the effect on staff morale was considerable'**. It went on, **'Many members of staff spoke to us of this period with great bitterness,**

suggesting that thereafter there was no point in attempting to resist the prisoners' demands; the best policy was to appease them.' These remarks have a resonance for the period with which we are concerned in this current Inquiry.

- 7.109 In 1982 some loyalist prisoners embarked on a dirty protest in support of their demand that they should be segregated from republican prisoners. The authorities reacted by removing them from their wings and placing them in separate accommodation under punishment conditions. This resulted in *de facto* segregation, with important consequences for the future management of the prison. The prisoner factions were no longer in direct conflict with each other and built up a degree of internal discipline which allowed them to challenge the authority of staff.
- 7.110 The adverse consequences of these challenges soon became clear. An internal Northern Ireland Office (NIO) memo of the mid-1980s noted:
- 'the Governor believes that many prison staff disobey the rules and allow the prisoners too much freedom of movement within their wings; 19 staff are currently on charges for this offence. This slackness results from intimidation and/or a wish to avoid direct conflict with prisoners.'**
- 7.111 On 25 September 1983, 38 republican prisoners escaped from HMP Maze. An inquiry into the escape was carried out by the Chief Inspector of Prisons for England and Wales, Sir James Hennessy. A number of the points about which he expressed concern resonate with matters which have been raised in evidence to this Inquiry. They include:
- Conditioning of staff by such stratagems as lowering the level of tension in an H block, resulting in an increase in abuse of normal security procedures;
 - Weaknesses in collating and analysing information;
 - The ability to smuggle in guns undetected;
 - Inadequate searching of visitors before contact with prisoners;
 - Inadequate training of staff in searching procedures;
 - Inadequate supervision of visits;
 - Inadequate searching of visitors; and
 - Significant weaknesses in the Security Department.
- 7.112 Two years before the incidents with which this Inquiry is concerned, serious rioting by loyalist prisoners in HMP Maze caused approximately 200 prison officers to suffer smoke inhalation or other serious injury, resulting in lengthy periods of sick absence.

Allocation and Classification of Prisoners

Allocation

- 7.113 Under the Prison Rules (Northern Ireland) 1953, the allocation of prisoners to a particular prison was a matter for the Secretary of State for Northern Ireland (SOSNI). In the mid-1990s this function was carried out on the SOSNI's behalf by staff in the Directorate of Operational Management. Arrangements in the NIPS for the classification of prisoners were considerably different from those which existed in other UK jurisdictions as described earlier in this Chapter.
- 7.114 After the closure of HMP Belfast in 1996, HMP Maghaberry became the committal prison for Northern Ireland. In principle this meant that every prisoner committed into custody by a court to await trial should have been held in HMP Maghaberry. After conviction and sentence every prisoner should have been interviewed by a senior member of staff at the prison, usually a member of the governor grade, as soon as was reasonably practicable and a report submitted to the Assessment and Allocation Committee, which during the period with which this Inquiry is concerned was chaired by Seamus McNeill, an Assistant Director in the Operational Management Directorate. This committee usually met weekly at HMP Maghaberry to allocate sentenced prisoners. 'Ordinary' prisoners, that is those who were not identified as belonging to a paramilitary faction, were allocated to HMP Maghaberry or HMP Magilligan, depending on their security classification. Prisoners who belonged to a paramilitary faction were to be allocated to HMP Maze. These arrangements were laid out in 'Guidance Notes for the Allocation of Sentenced and Remand Prisoners to Northern Ireland Establishments', which were issued in 1996.
- 7.115 The underlying reality, which was recognised explicitly or implicitly by everyone involved, was that allocation to HMP Maze was dictated by the prisoners who were the 'officers commanding' (OCs) each of the factions in that prison. This was acknowledged in the Guidance Notes, which included the rubric **'HMP Maze will continue to accept all those prisoners, remand and sentenced, who claim paramilitary allegiance, and who are acceptable at that location.'** (emphasis added). The Guidance Notes went on to state that this arrangement was to be without prejudice to the exercise by Operational Management of its 'general function' to direct the allocation and transfer of prisoners, although it is by no means clear what this statement meant in practice. The fact was that paramilitary prisoners who were not acceptable to the OCs at HMP Maze served their sentences at HMP Maghaberry or HMP Magilligan, and the Allocation and Assessment Committee thus had limited scope in applying the criteria set down by regulation.

- 7.116 The Inquiry heard that the NIPS in effect had no control over the allocation process for paramilitary prisoners. Seamus McNeill had expressed his concern to the then Deputy Director of Operational Management, Duncan McLaughlan, and stated that the allocation criteria were not being observed in relation to HMP Maze because of threats and intimidation from paramilitaries. This created obvious difficulties for the distribution of prisoners, as it meant that those serving short sentences, who would normally have been allocated to HMP Magilligan, would be sent to HMP Maze instead. In his minute, Mr McNeill explained that **'Paramilitary prisoners go to Maze because that is where paramilitary prisoners go and the harsh reality is that those who go elsewhere generally do so only because they are unacceptable to the O/C's'**.
- 7.117 A prisoner could apply for a transfer to another prison by submitting a petition to the SOSNI. The petition, a pro forma document completed by both the prisoner and the prison authorities, would be sent to NIPS Headquarters (HQ) for consideration. Within the Operational Management Directorate was a section with Desk Officers, one of whom dealt with HMP Maze and HMP Magilligan, and another with HMP Maghaberry, Hydebank Wood Young Offenders' Centre and, historically, HMP Belfast. Witness N, who worked on the HMP Maze Desk, explained to the Inquiry that he had acted as a conduit for information passing between HMP Maze and NIPS HQ, including petitions. The transfer petition would be processed by the desk responsible for the prison in which the prisoner was currently held and a decision on the transfer would be made by the Operational Management Directorate.
- 7.118 These established procedures often could not be or were not followed in the case of paramilitary prisoners. If an OC asked for a prisoner to be transferred to HMP Maze, the PO in charge of the block in question would advise the prison Security Department, which would then approach the Assistant Director. In reality this was a formality, as the transfer would happen notwithstanding any views which the NIPS might have. In this case also, such transfers were essentially controlled by the OCs. Seamus McNeill told the Inquiry that he would be telephoned by the prison or even by outside representatives of paramilitary prisoners and told that an OC wanted a particular prisoner to be transferred to HMP Maze. Alternatively, the prisoner himself might initiate the transfer request, in which case the prison would check with the OC to determine whether he was acceptable. Mr McNeill accepted that his approval of the transfer was a formality, and that **'... the majority of people who went to the Maze went to the Maze simply because of the nature of their offence and their sentence life'**. A similar point was made by Sir David Ramsbotham following his inspection in 1998 who said allocation was either by a formal application being approved by the paramilitary OC or by direct request from an OC at HMP Maze.

- 7.119 It was sometimes the case, particularly with loyalists, that the prisoner's link to the paramilitary faction might be tenuous. He might, for example, have been 'acceptable' because his brother happened to be a member. Having been convicted of a scheduled offence was not a precondition of transfer to HMP Maze.
- 7.120 The allocation of prisoners to a particular block or wing within a prison was in principle a matter to be determined by the prison governor. The practice at HMP Maze was, as noted in the Steele Report in 1997, that allocation of prisoners within the prison was also effectively determined by the paramilitary organisations. The report recommended that the prison authorities should take greater control of the allocation process with a view to achieving a greater dispersal of prisoners around the blocks and wings.

Classification and Security Categorisation

- 7.121 The Prison and Young Offender Centres Rules (Northern Ireland) 1995 provided as follows:

'9. (1) Prisoners shall be classified in accordance with any directions made by the Secretary of State, having regard to their age, offence, length of sentence, previous record, conduct in prison or while on temporary release under rule 27 and the requirements of security, good order and discipline at the prison in which they are confined.'

- 7.122 The NIPS operated a four-level system of security categorisation for individual prisoners, described as top risk, high risk, medium risk and low risk. These categories corresponded broadly to the categories A, B, C and D used in the Prison Service of England and Wales, as described earlier in this Chapter. As in England and Wales these categories related to the risk a prisoner was likely to present were he to escape. NIPS Operations Circular 26/93 instructed that the management of top risk prisoners in HMP Belfast was to involve close personal supervision by staff within the prison. This was not the case in either HMP Maghaberry or HMP Maze, where top risk prisoners were to be treated the same as other prisoners, with some exceptions which were to do with any movement outside the prison. The Inquiry heard from William Kirk of the Operational Management Directorate that continuous individual supervision of top risk prisoners ended in the 1980s and that he could not recollect there being any top risk prisoners in any of the prisons.
- 7.123 A committee met from time to time to consider the security category of those prisoners who were in the high risk group. The Inquiry was provided with no evidence that the security categories of Christopher McWilliams, who was high risk, and of John Kenneway, who was medium risk, were reviewed after their

involvement in the hostage incident at HMP Maghaberry on 28 April 1997. It appears that both of them and John Glennon were re-classified to top risk category after the murder of Billy Wright.

- 7.124 The overall position as regards security categorisation was summed up in a minute written by William Kirk in October 1996 in which he noted: **'... the conditions of imprisonment in Northern Ireland are not generally different for prisoners with different security classifications.'**

Physical Security

- 7.125 The Gardiner Report in January 1975 had recommended that construction should begin on a temporary cellular prison for 700 persons and a permanent prison for 400–500 persons. In February 1975 the Home Secretary advised the House of Commons that a cellular prison would be built on the HMP Maze site as an interim measure and that a new prison would be built at HMP Maghaberry.

Construction

- 7.126 Details of how the 'interim' prison on the HMP Maze site was constructed were given to the Inquiry by William James Bailie, a chartered building surveyor who worked from 1965 to 2003 in the Department of Finance and Personnel in the NIO. During most of that time he worked on prison architecture. In his written statement he told the Inquiry that in **'... either late 1974 or early 1975, [he] was handed a piece of paper with an outline of an H Block and asked to work on a new design'**. He was given the urgent task of designing **'... short-term emergency accommodation which was more secure than the Nissan [sic] Huts at Long Kesh (compounds)'**. Mr Bailie stated, **'... we did not have time to fully develop the design details of the H Blocks.'** He stressed that **'... the remit for the H Blocks remained that they were to be used as temporary high-security prisoner accommodation'**.
- 7.127 In the course of his evidence Mr Bailie explained how the preferred design for the temporary prison had been of a radial nature, but that H design allowed a quicker response to the 'huge' pressure to get the blocks built quickly. There was no debate at the time about whether the H block was the best design; it was a question of speed of construction. Owing to the time pressure, **'there was no time to sit and plan a new prison from scratch'**.
- 7.128 Mr Bailie maintained that although the H blocks were meant to be a temporary solution from an operational perspective, they had a high standard of workmanship and that security measures were also of a high standard. He surmised that the H blocks ceased to be a temporary solution as the number of prisoners 'rocketed'. Furthermore, there was an additional need for cellular accommodation when HMP Belfast closed.

7.129 Alan Longwell (see 7.221) gave evidence to the Inquiry about the history of HMP Maze and the reasons for the gradual erosion of control. In his view the design of HMP Maze played a part in this erosion. The division of the prison into eight small units meant that in effect there were eight individual prisons to control. Although physical security was good, the H blocks were not suitable for the confinement of paramilitary prisoners, for a number of reasons. The wings could not be seen from the circle, with the result that the prisoners were largely unsupervised and staff felt increasingly isolated. As the years passed, so staff gradually retreated to the circle. Mr Longwell contrasted this with HMP Maghaberry where the blocks were built to a linear design, providing excellent visibility.

Single-Storey Blocks, Flat Roofs and Fences

7.130 The Inquiry paid particular attention to the fact that the H blocks were of a single-storey construction with asphalt roofs. William Bailie told the Inquiry that the foundations at HMP Maze would not have supported a second storey. Consideration had been given to pitched roofs, which would not have been difficult to erect, but this proposal was not taken forward. In his statement he remarked that the flat roof was the quicker option and might afford better observation across the prison. In his statement he described how the plans had envisaged prison officers continually patrolling the wings, with all gates and grilles being operated manually. There was therefore no requirement at the design stage for cameras in the wings or for banks of camera monitors in the Block Control Rooms (BCRs).

7.131 Several members of staff who gave evidence referred to problems with the single-storey design and general concern about the relative ease with which prisoners could access roofs. In the words of Witness Y, **'I think everyone accepted that with a single storey building there was little that could be done to protect the rooftops, especially with the equipment the prisoners had access to in the blocks.'**

7.132 An independent and expert perspective was provided by Sir Richard Tilt, a former Director General of HM Prison Service in England and Wales, who said, **'... it would have been obvious that there was potentially a serious security problem in a design that housed prisoners in single storey accommodation with flat roofs.'** Sir Richard went on to acknowledge that once the H blocks had been constructed **'... the design of HMP Maze did not lend itself to quick and easy solutions to the problem of roof security ...'**

7.133 A single-skinned weldmesh fence, 17 feet high and topped with razor wire, ran the length of each wing, separating it from the exercise yard. A sterile area known as the catwalk ran between the fence and the wall of the building. In some blocks

there were also wire cages covering the area of the turnstile from the wing to the yard and also at the end of the wing. There was no razor wire on the roofs of the blocks themselves. One reason for this was that staff required access to the roof to carry out maintenance. Sheets of corrugated iron were fixed along the base of the fence enclosing the yard, with the exception of the section along the catwalk fence which ran parallel to the wing. One reason for this was that the iron sheeting would have blocked out the light to cells that looked onto the forecourt. Another was that it had been intended that staff would patrol the catwalk area to observe prisoners in the exercise yard.

- 7.134 There was no barrier to prevent prisoners gaining access to the roof from the forecourt side, or to prevent prisoners who had got onto the roof from jumping down into the forecourt. Alan Craig, former Security Governor in HMP Maze, expressed the opinion that the roofs were most vulnerable from the forecourt. A recommendation was made in 1995 to erect, in the forecourt, fences similar to those in the exercise yards, but this was not implemented.
- 7.135 A sterile passage ran at right angles to each ablution area between wings to separate wing exercise yards. The catwalk fence did not extend to protect the ablutions roof since originally there were locked gates preventing prisoners from entering the area between the adjoining yards and thence the neighbouring yard, thus providing security for the ablutions roof. However, by July 1994 the gates separating the two yards were locked open, effectively amalgamating them into one. This left the ablutions roof exposed apart from some coils of razor wire. It was later recommended that new fences be erected to protect the roof area above the ablutions. This work was included in the refurbishment programme for the blocks. Photographs of H6 taken shortly after 27 December 1997 show a fence at the ablutions area on the C/D side (Loyalist Volunteer Force (LVF)) of H6 but not the A/B side (Irish National Liberation Army (INLA)), where the sterile area gate is open. It is not known when the fence on the C/D side was erected, but a schedule from May 1997 shows it was in place by that date. None of the Inquiry witnesses could explain why there was not a corresponding fence on the A/B side. There are at Appendix E: a photograph of HMP Maze, a plan of H Block 6 and a selection of photographs of H Block 6. These may assist the reader of this Report, particularly in relation to Chapter 14, which deals with the day of the murder.
- 7.136 Prisoners gained access to the roofs on a number of occasions. On 15 December 1994 Ulster Volunteer Force (UVF) prisoners climbed onto the roof of H3 at the ablutions and from there onto the roofs of the wings and circle area, with two prisoners being able to climb down into the forecourt. On 14 March 1995 UVF prisoners took to the roofs of H1 and H3, dropping burning material through the skylight into the circle area. Officers were assaulted with missiles thrown from

the roof as they tried to evacuate the block via the forecourt. Several witnesses described how officers were fearful that they would again be trapped if prisoners gained access to the roof in future. A Staff Communication Sheet (SCS) from September 1997 observed that staff on night duty were locked into the block and would thus be completely at the mercy of prisoners on the roof. Security Governor Steve Davis vividly described the impact that such incidents had on staff:

‘It should be borne in mind that the UVF riot in H1 and H3 in March 1995 had almost wiped out the IRF [Immediate Reaction Force]. The rioting prisoners had managed to get onto the roof and attack staff in the Circle, setting fires at the skylight and outside the Hennessy grille. There was a massive staff confidence issue to address before we went in to search.’

- 7.137 Two further incidents are known to have occurred in 1997. On 29 April, Ulster Defence Association (UDA) prisoners gained access to the roofs of H1 and H2 in an incident which continued for several days. PO Brian Barlow thought that the UDA had not climbed the fence but had smashed through it with heavy implements such as dumbbells. There does not appear to have been an inquiry into this incident and no report on it was provided to the Inquiry.
- 7.138 During another riot, on 13 August 1997, a number of LVF prisoners were able to get onto the roof of H6 by breaking through the catwalk fence. This is dealt with in detail in Chapter 12 of this Report. An officer on duty in the watchtower at the time recalled that, once through the fence, the LVF prisoners had taken only seconds to get onto the roof. The killers of Billy Wright would later cut a hole in their own catwalk fence to enable them to get into the catwalk and climb onto the roof of H6.
- 7.139 Aside from the steps taken to protect the ablutions roofs as part of the refurbishment programme, it appears that no further modifications were made to protect the roofs. Several options were, however, considered. Following the LVF riot in August 1997 Steve Davis advised, **‘As part of the follow-up to this incident it is vital that we address the issue of protecting the roof areas of an H block.’** Attached to his report into the riot were drawings for two variants of an angled fence, topped with razor wire, to be constructed between the catwalk and the block roof. These designs were a specific response to the manner in which the LVF prisoners had attacked the fence during the riot. These designs were put to the prison’s Internal Security Committee and a decision was taken to contact Research and Development in NIPS HQ to find out how long it would take to break through weldmesh sheets.

- 7.140 Trials were carried out, and subsequently on 6 November 1997 Governor Davis sent a report to the Operational Management Directorate at NIPS HQ. A single sheet of weldmesh could be breached in less than one and a half minutes. In contrast, it had taken a team of paratroopers 28 minutes to break through a double-skinned fence. Governor Davis pointed out that this would provide ample time for prison staff either to gain access to the roof or to evacuate the block. His conclusion was that **'... it is essential that provision is made during the current Block refurbishment to provide for double-skinned weldmesh fences on the Block sides of each exercise yard'**.
- 7.141 For some reason this recommendation was quickly rejected by Martin Mogg, who was at that time both Director of Operational Management and Governor of HMP Maze. He is reported to have told the Prison Officers' Association (POA) that, following further tests and discussions, he was satisfied that to double skin the sterile area fence would not produce significant reduction in the threat to roofs. He further explained that the finance which was available for double skinning would instead be used to provide an occupational health suite for staff, some landscaping and the refurbishment of the search team's base. Ken Crompton, who at the time was Deputy Governor, told the Inquiry:

'It is difficult to explain Martin Mogg's statement to the POA on 18th November that he was satisfied that to double skin the fences would not produce significant reduction in the threat to roofs, when on 12th November he had told the Board of Visitors that *Yard fences are also to be reinforced to prevent access to the roofs (Minutes of the Board of Visitors meeting of 12th November 1997, page 2)*. I was not aware of anything changing between 12th and 18th November 1997. I had discussed the proposal to double-skin fences with him, and initially he seemed supportive. I discussed the attack trials with him and he was aware that a submission had been sent to NIPS HQ. It appears from the Minutes of 12th November that he seemed to have accepted the proposal.'

Steve Davis stated that he was not aware that any further tests had been carried out, nor was he aware that Martin Mogg had discussed the proposal with anyone else.

- 7.142 Had the proposal to construct an additional angled fence between the catwalk and the block or the alternative of double skinning the fence been accepted, it is likely that the work would have been added to the refurbishment programme, which for H6 would have been some time after 27 December 1997. The fact is that the danger of prisoners gaining access to the roof of H6 does not appear to

have been viewed with any special concern. Robin Masefield, then Director of Finance and Estate Management, was unable to recall whether he had been asked to approve any request for funds to carry out works to protect the roofs in 1997. He did say that had such a request been made it is highly likely that he would have approved it.

- 7.143 Sir Richard Tilt was of the view that the NIPS would undoubtedly have been aware of the work being done to strengthen the roofs of all high security prisons in England and Wales throughout the 1990s. He would have expected a major review of roof access following the UVF riot in March 1995. Although issues of cost and effectiveness would have had to be considered, he was of the view that there was ample evidence that the risk was such that action was required. In his opinion, no reasonable prison manager, on receipt of Governor Davis's report, would have failed to put measures in hand to reinforce the catwalk fences. It was clear that the risks were greater in H6 and work should have begun there. Sir Richard acknowledged that, while double skinning and fence checks were necessary precautions, he did not think that they would in themselves have totally prevented access to the roof. In the course of questioning by Counsel for the NIPS, he also agreed that rooftop security would not have resolved the particular risks that arose when prisoners had access to firearms. He did not agree with the proposition that the lack of evidence for rooftop incidents prior to 1994 meant that there must have been an appropriate preventive system in place. He suggested that this merely indicated that prisoners were not previously motivated to get onto them. Anyone familiar with prisons would immediately have identified the single-storey flat roofs as a very high risk area.

Access to Exercise Yards

- 7.144 Each of the wings had its own exercise yard, with the yards for adjoining wings separated by weldmesh fencing. However, by 1994 it had become common practice to lock open the gates in these fences, in effect creating a single yard for the two adjoining wings. Prisoners had unrestricted access to the yards during the day. The relevant Governor's Order provided that prisoners would have access to the yards from 8.00 am after a headcount had been carried out, the yards had been checked and the yard watchtowers had been manned. Prisoners were to come in from the yards at 8.00 pm, at which time the yards were to be checked and locked, and the yard watchtowers were to remain manned until this had been done.
- 7.145 In earlier years supervision of prisoners in the yard had been carried out by an officer from the wing patrolling the catwalk which ran between the block and the yard fence. However, this officer was regularly intimidated by prisoners and

this post had been withdrawn, with supervision of the yard being exercised by an officer in the watchtower overlooking the yard. The BCR and ECR could both see the yards on camera, but there were concerns about the poor quality of images produced by these cameras. A minute from the acting Governor IV in early 1996 concerning a review of the security of H block yards confirmed, **'Because of the poor lighting in the yards the CCTV cover is very poor.'**

- 7.146 The original design of the H blocks gave prisoners access to their yard via a grille gate at the end of the wing. By 1990 a new means of access had been devised using a turnstile situated near the ablutions area. The turnstile was locked and unlocked electronically from the BCR. In addition a grille gate on the yard side of the turnstile was to be locked during night hours, as was an internal steel door blocking access to the turnstile from the wing. The external grille was to be locked manually from the exercise yard by the officer whose task it was to check the yard fences.
- 7.147 The reality was quite different from the regulations and there was a long-standing problem with getting prisoners to come in from the yards at night. The issue was considered in a series of meetings between Alan Shannon (the Chief Executive of the NIPS), Martin Mogg and HMP Maze management in 1995–96, and is succinctly summed up in the minutes of the meeting on 31 August 1995. It was agreed at the meeting that the governor would tell the prisoner factions that they had to come in at 8.00 pm, failing which a range of sanctions would be applied. Management would also ensure that the existing arrangements for securing the yards were fully used. However, by June 1996 Martin Mogg reported that he had yet to find a way of securing the yards that was 'prisoner-proof'. During the summer of 1996 loyalist prisoners continued to have access to the yards throughout the night. Writing in February 1997, Alan Craig warned:

'For some time the Loyalist Blocks have refused to lock at 2200 hours and have retained access to the yards. This calls into question the perimeter security of the Blocks given that yard towers are not manned during the Night Guard period. We have had reports (around November 1995) that prisoners had access to the phases at night although there has been no evidence to substantiate these reports.'

- 7.148 The problem continued in 1997. A Security Information Report (SIR) in mid-February recorded that **'Loyalist Prisoners in H Blocks 1, 2 and 3 had access to the Ex yards during the night'**. A monthly intelligence assessment report (MIAR) from the same month detailed how **'Loyalist prisoners continued to have access to the exercise yards throughout the night'**. In May, Seamus McNeill wrote to Martin Mogg that the UVF had said they would stay in the yards

all night. In the MIAR for July 1997 it was reported that: **'All Loyalist prisoners remained in their exercise yards during the night of 11 July. They made bonfires from cell furniture ... UVF prisoners in H1 also had access to the exercise yard on evening of 12 July.'**

7.149 Prisoners could disable the turnstiles from the wing to enable them to access the yards and there were several recorded instances of broken turnstiles on both the INLA and the LVF sides of H6 in 1997. An incident report in July noted that Billy Wright had been sighted in the yard after the turnstile had been locked and that it was subsequently confirmed that prisoners had damaged the turnstile hydraulics. Only days later another incident report form reported, **'All yards secured except H6 C & D wings. Turnstile hydraulics inoperative. Damaged by prisoners in order that they have access to yards when they wish. Trades awaiting parts before a repair can be effected.'** A further incident report from the prison in August reported that bolts on H6 A wing turnstile were not working.

7.150 In the face of this reality, management continued to issue rules forbidding night access to the yards. A Governor's Notice to prisoners in late April 1997 included new rules to deal with the problem:

'Access to exercise yards will commence at 0900 or after the morning headcount is completed. Yards will be vacated and secured in advance of the final headcount of the day at 1945 hours. The extent of daily access will depend upon co-operation with headcounts ... Any block or wing refusing to comply will have visits suspended for the next visiting period and telephones will be cut off.'

7.151 As with so many instructions, the prisoners seem to have taken little notice and in May Seamus McNeill wrote to Martin Mogg advising him that the UVF had decided to stay in the yards all night, regardless of the threat to their visits. Access to the yards appears to have been a particular issue for the loyalist prisoners, and their political representatives raised the issue with Alan Shannon. The Provisional Irish Republican Army (PIRA) had also let it be known that they wanted access to the yards until 10.00 pm.

7.152 The evening duty staff finished work at 8.30 pm, leaving only a skeleton night staff in place, including a small number of patrol staff who were locked into the blocks overnight and who would thus have been unable to respond to any incident in the yards. The IRF were off-duty and the yard watchtowers were not manned. Alan Craig noted: **'The perverse situation remains that the staff in blocks are largely confined to a supposedly secure fortified area and inmates have free run within the leg of the H and both Yards'**. In addition, lighting in the yards was known to be poor, as was the quality of images produced by the yard cameras at night.

7.153 The reality in the prison does not appear to have been conveyed to the incoming Prisons Minister, Adam Ingram. On 3 June Alan Shannon wrote to him in connection with the implementation of the Steele Report and reported that:

'Prisoners have been coming in from the exercise yards to facilitate a headcount around 7.45 pm each evening, following which the exit doors to the exercise yards are locked and secured until the following morning. This is a grievance with prisoners who resent being confined at this time, particularly on long and hot summer evenings. However prisoners in all our other establishments are secured by this time, the evening association staff go off duty at 8.30 pm and our judgement is that free access to the yards after that time poses an unacceptable security risk. ... I see no alternative therefore but to continue to hold the line on this, and seek to apply sanctions if prisoners cease to comply.'

7.154 Martin Mogg, Director of Operational Management, had a meeting in June with the UVF OC prisoner, who **'pursued at some length the question of access to the yards, giving assurances that all prisoners would come in at 10.00 pm and that staff would be safe to go to the outer grille to lock from the yard side'**. Mr Mogg subsequently informed Alan Shannon that he was exploring the possibility of a modification to the turnstiles which would allow outer grilles to be locked remotely, although he questioned **'the assertion by everyone that the currently fitted turnstile lock is easily overcome'**. Martin Mogg also saw no need to install **'more expensive infra-red cameras'** to oversee the yards.

7.155 However, when Mr Mogg visited HMP Maze on 12 June he was told by the Governor that the proposed arrangements were not acceptable to the POA on H&S grounds. Mr Mogg took the unusual step of drafting a risk assessment which Governor Johnston Baxter was to give to the POA H&S representative in order to meet the need of the H&S legislation. He said he had instructed Governor Baxter to issue the note to the POA representatives and to instruct staff to carry out the revised procedures from Monday 16 June 1997, from which date prisoners would be allowed to stay on the exercise yards until 10.00 pm. Governor Baxter duly issued the instruction, which laid down that prisoners would be allowed access to the yards until 10.00 pm. Between 10.00 pm and 11.00 pm an officer would ascend the yard tower to confirm that the yard was clear. A dog handler would release his dog into the yard to confirm that there were no prisoners there. Three other staff would then lock the yard grilles and secure the bolt in the wing turnstile. The document concludes: **'I am satisfied that the above procedures minimises [sic] the risk to staff safety, and has been subject to a risk assessment under the Health & Safety at Work legislation.'**

- 7.156 The POA responded to this notice by issuing the Governor with a 'Failure to Agree' notice which objected to the proposed procedure on the grounds of a lack of a proper risk assessment and because the procedure failed to deal with a number of issues, notably the known weakness of the turnstiles and the lack of staff to assist if things went wrong. The POA also issued a notice to their members instructing that '**... on the grounds of health and safety NO member of staff will enter exercise yards at 2200 hours and lock grilles**'. James Duffy, the POA Branch Secretary, explained to the Inquiry that the POA were concerned about staff safety on the grounds that by 10.00 pm only the Night Guard would be on duty, that the area would be pitch dark and could not be seen from the tower, and that there were known weaknesses in the turnstiles. Mr Duffy told the Inquiry that for the rest of 1997 the yard grilles were not locked, the yards and fences were not checked and the wing inner steel doors were not locked. Although individual officers have claimed that they personally did lock the yards, the Deputy Governor and witnesses from the Security Department confirmed that Mr Duffy's account was accurate. The Phase Night Guard journal contains repeated references to the yards being checked and locked, but according to one former SO the Phase Night Guard were unable to enter the yards as they did not have the keys, which meant that they would have been unable either to lock the yard grilles or to check the fences.
- 7.157 The Inquiry heard conflicting evidence about whether the yard grilles and steel doors were being locked prior to June 1997. It is reasonable to conclude that on the occasions when prisoners were reported to be out in the yards at night, neither the inner door nor the outer grille had been secured. The weight of evidence indicated that for much of the summer of 1997 prisoners did in fact come in from the yards at 10.00 pm. However, at least from the time of the POA dispute the fences which were in place to prevent access to the roofs were not being checked.
- 7.158 A 'Failure to Agree' notice was part of a formal industrial relations process which allowed staff to challenge a decision by management to which it objected. This process allowed a 21 day period for local management and the POA branch committee to resolve their differences. During that period the proposed changes were to be put on hold and the existing arrangements were to remain in place. If the dispute remained unresolved after 21 days, it should have been referred to the next level: that is, by management to NIPS HQ and by the POA local branch to its area office. There would then have been a further 21 days for these parties to reach a resolution, and if that did not prove possible, management had the right to implement its proposed changes. In the event, the dispute was allowed to remain unresolved until March 1998, when it would appear that management accepted the demands of the POA. Part of the problem in this case was that there

was no clear agreement as to what had been the existing arrangements; this was what had led the Governor to issue his new instructions. The POA maintained that the instruction to members not to implement the new proposed arrangements did not imply that the yards were never to be locked nor the fences checked. The POA Branch Secretary said in his witness statement that he clearly believed that the status quo meant that the yards would still be locked, and the fences checked, earlier in the evening. The NIPS conceded that it was **'very unsatisfactory'** that the Failure to Agree matter had not been resolved until 1998.

- 7.159 To overcome the problems with the turnstiles the NIPS was in the process of installing a new means of yard access via the doors at the end of each wing. This new wing-end mechanism (also known as a 'bacon slicer') involved an officer stationed in a pod outside the end of the wing pulling back the first of two sliding grilles to let prisoners out of the wing into an airlock. He would then close the first grille and pull back the second grille to let prisoners into the yard. Once prisoners had come in from the yard the grilles could be locked, and could not then be forced open by prisoners. The device was of no assistance if prisoners refused to come in from the yard. There was also evidence that once it had been opened the mechanism was unmanned and was left open all day. These devices were being installed, a block at a time, as part of the ongoing refurbishment programme in 1997. It does not appear that this work proceeded with any sense of urgency or that H6 was considered a priority. By December 1997 a wing-end mechanism had been installed on the LVF side but not in the INLA wing, which still used a turnstile.
- 7.160 In his evidence Sir Richard Tilt expressed the view that physical arrangements for prisoners' movement between the wings and the exercise yards, namely, an inner steel door on the wing side, a lockable turnstile and a grille gate on the yard side, were appropriate for a high security prison, provided they were used as intended and regularly checked. The relevant Governor's Order provided that exercise yards were to be checked and observation towers manned before the yards were unlocked in the morning and that yards were to be checked again in the evening. Sir Richard confirmed that the checking of fences for unauthorised objects, such as chairs against the fence, prior to unlocking would have constituted standard practice in a high security prison elsewhere in the UK.
- 7.161 Sir Richard concluded that management both in HMP Maze and in the NIPS had been aware of the problems with the exercise yards. Having identified the risk, management should have generated solutions which could then have been evaluated in the context of cost, risk and the situation in Northern Ireland. The yards should have been secured before the evening staff went off-duty, or alternatively the IRF should have been retained until 10.00 pm and the yards thereafter secured. There would have been nothing impracticable in devising

such a solution for H6 alone, although there would have been a cost in paying additional time. Given that, by 1997, many elements of procedural and dynamic security were not functioning, Sir Richard would have expected additional resources to be released to ensure that the physical defences were of a sufficient standard, and for any doubts about their effectiveness to have been investigated immediately with a view to rectification.

Watchtowers

- 7.162 Around the external perimeter of the prison there was a series of watchtowers which were staffed by the Army's Prison Guard Force, who observed activities outside the prison walls. A series of observation towers inside the prison were staffed by prison officers whose main task was to observe movements of prisoners. Six towers were located in the three prison Phases, and 16 towers (two per block) overlooked the eight H blocks. The officers in these towers had the task of observing prisoners in the exercise yards and any movement towards or on the roof of the H block itself. The observation post was equipped with an alarm which, when triggered, would automatically alert both the BCR and the central ECR. The glass observation panels in the towers were covered with dark mirror film to protect the officers from being identified and to prevent prisoners from knowing when and where officers were looking at any one time. An unwelcome side effect of the mirror film was that visibility during hours of darkness was very restricted.
- 7.163 One witness suggested that the towers were provided to replace the officers who had previously observed prisoners in the yards from the catwalk area. He added, **'The catwalk post had not been an all-day post. ... When the yards became available to the prisoners morning to night the towers were preferable to having officers in the catwalks all day in all weathers.'** Several witnesses spoke about the value of observation from the towers. An example given was that in March 1996 an officer was able to see a UDA inmate using a mobile phone. One officer said that the towers **'gave good vision over the exercise yards. The view from them was quite good apart from a few fences.'** Brian Barlow acknowledged the existence of some blind spots, saying, **'They covered perhaps ninety seven or ninety eight per cent of the total area. However, when you are looking through two or three binge fences the fences can cause blind spots depending on your position in the tower.'**
- 7.164 In the course of 1997 it would appear that consideration was being given to replacing the observation towers with CCTV cameras. Ken Crompton confirmed that Martin Mogg had told the Board of Visitors in mid-November 1997 that yard towers were no longer necessary because high mast cameras were in place. Counsel for the POA submitted that the towers were regarded by staff as an

essential means of ensuring the safety of block staff and the security and control of prisoners. Counsel for the NIPS did not make any submissions on the utility of the towers other than suggesting that the only issue was as to their manning. The Inquiry deals with this topic as it affects the murder of Billy Wright in Chapter 14.

Procedural Security

7.165 In all prisons, in addition to physical security requirements, there has to be a wide range of procedural security arrangements. These are particularly important in high security prisons. These procedures have two main objectives: to ensure the safety of staff and prisoners and to reduce the risk that prisoners might escape. The Inquiry heard a significant amount of evidence about operational security in HMP Maze.

Freedom of Association and 24 Hour Unlock

7.166 In high security prisons there are set periods throughout each day when prisoners are locked in their cells. This is done for a variety of reasons, primarily connected with security. This arrangement, for example, allows staff to conduct regular headcounts of all prisoners. Prisoners are also locked in their cells throughout the night period since there is a significantly reduced level of staffing, sufficient only to allow regular patrolling of communal areas.

7.167 The Inquiry heard that in June 1993 in HMP Maze there were two lock-up periods during each day, from 12.30 to 2.00 pm and from 4.30 to 5.30 pm, although in a number of instances prisoners were locked in a wing common room rather than in their individual cells. Following an inspection of the prison, HM Chief Inspector of Prisons Judge Tumim recommended the abolition of the daytime lock-up periods as they caused resentment among the prisoners and achieved little, their effect having been **'... diluted by the fact men could be locked in the large cell containing the TV set, or the canteen, and since physical security was block and phase rather than cell based ...'**. Not surprisingly, the prisoners also sought the end of daytime lock-up periods.

7.168 By March 1994 the Minister was said to be 'concerned' to learn from media reports that the daytime lock-ups were no longer taking place. According to the MIAR for that month this was due to the redeployment of block staff to the visits area, where staff shortages were a perennial problem. The Minister requested a report on how this 'Compound' situation had occurred and what steps were being taken to prevent a re-occurrence. He was advised that the suspension of daytime lock-ups was required to allow the release of staff on meal breaks. The Governor was said to be 'content' that security was being maintained and that roll checks were being carried out. It was also noted that in recent years the daytime lock-ups

had been successfully imposed only 50 per cent of the time. The Minister agreed that it would be difficult to return to the former position and accepted that control had not been lost.

7.169 Until 1994 prisoners were locked in their cells overnight. During the summer of that year the football World Cup was held in the USA and the time difference meant that some matches were televised during the night. When prisoners indicated that they were not willing to be locked up at all during the tournament they were permitted to remain unlocked for its duration so that they could watch televised matches in the communal dining rooms. All factions subsequently made clear that they regarded 24 hour unlock as a permanent arrangement. The Inquiry heard no evidence to suggest that there was any review of staffing levels at night to take account of the fact that the prisoners were no longer locked in their cells.

7.170 Alan Shannon's assessment at the time was stark:

'The reality is that this is another move towards the restoration of a form of special category status ... They have arrived at this point through a series of demands orchestrated by the factional leaders, backed up by actual or threatened physical violence against staff inside and outside prisons and in the knowledge that management at all levels in the Service has been reluctant to allow prison matters to become political issues.'

7.171 He went on to describe the implications of this change. The duty of care to prisoners was affected in that, if a prisoner fell ill during the night, he would not be given attention until the morning. The consequences for the duty of custody were even more drastic: **'With the 24 hour unlock we have lost the first line of night time defence – the cell door.'** To counter this, Mr Shannon pointed to the phased introduction of electronic locks on grilles to protect access to the circle area of the block. The threat of escape, he said, had therefore not significantly increased. He did however concede: **'There is an obvious diminution in control during the night with prisoners having free access to the wings at a time when they were previously locked in their cells.'** He continued:

'Control is also about safety of staff, the protection of weak and vulnerable prisoners and the protection of property. To discharge his duty of care to staff, the Governor has reduced officer contact with prisoners and introduced new arrangements for medical services at night. ... Paradoxically the cohesive nature and paramilitary selection of prisoners at Maze reduces the number of prisoner on prisoner assaults.'

- 7.172 He then listed various possible courses of action, including enforced lock-up, withdrawal of privileges and even the transfer of selected prisoners to Great Britain. Without directly expressing an opinion he seemed to favour doing nothing. It was considered that forcibly locking up the prisoners would require assistance from the police or the Army and would lead to accommodation being wrecked.
- 7.173 The Inquiry has also heard that a further factor was the need to give prisoners access to night-time sanitation. The aforementioned Tumim Report in 1993 had recommended installing in-cell sanitation by converting every third cell into lavatory and washing facilities for the cells on either side of it, but this had not been adopted at that time. The only sanitary facilities were the ablutions at the end of each wing. Finlay Spratt, Area Chairman of the POA, told the Inquiry that he had been led to believe that the sanitation issue was the reason for the granting of 24 hour unlock. However, Alan Shannon was in no doubt that sanitation was not the main reason behind the decision. Rather, it was an issue that happened to be dealt with in the process, in a cheap and efficient way.
- 7.174 The decision to allow 24 hour unlock to continue was taken at Ministerial level. On 6 July 1994 the Minister met with Alan Shannon, Martin Mogg and HMP Maze Deputy Governor Tom Woods. They evidently saw 24 hour unlock as a *fait accompli*, and their concern was to make the best of the situation in which the prison authorities had found themselves. It would appear that the prison authorities, and certainly the Minister, did not want to be seen to concede the issue simply as a response to pressure from prisoners. However, the official response was in effect one of retrospective legitimisation of a situation forced upon them by prisoners. Martin Mogg expressed the opinion that 24 hour unlock **'... might be accepted as legitimate in order to enable prisoners to have access to night-time sanitation'**. There was discussion of possible conditions that might be attached to any 'legitimisation' of 24 hour unlock, a matter which Martin Mogg had been discussing with prisoners and staff. The Minister is recorded as being **'impressed'** by the work that had been carried out in attempting to address this **'extremely difficult situation'** with what he described as **'a very imaginative approach'**.
- 7.175 Notices were then issued by Mr Mogg to all staff and prisoners announcing that following the **'success'** of 24 hour unlock during the World Cup and to facilitate access to night-time sanitation, 24 hour unlock would be **'introduced'** from 1 August 1994. Appended was a series of **'wing rules'** which were to apply to all prisoners upon the introduction of 24 hour unlock. These included cooperation with four daily roll checks, cooperation with searches every 14 days and access to the exercise yards until 8.00 pm. In essence what was proposed was a contract between the prisoners and the NIPS covering standards of behaviour required in

return for 24 hour unlock. Judge Tumim was also advised of the changes to the regime in a letter dated 11 July. There is evidence that loyalist prisoners wasted little time in breaching the new rules, for example, by failing to come in from the exercise yards at the agreed time. There is no evidence that any sanctions were applied in response to such breaches. By March 1997 all the rules had fallen by the wayside, yet 24 hour unlock was allowed to continue regardless.

- 7.176 Alan Shannon described 24 hour unlock as an example of the relationship between prison policy and wider political policy. There had been some debate around 1994 about abolishing daytime lock-ups in all NIPS prisons as part of a general desire to improve prison conditions. Even when daytime lock-ups had been enforced, prisoners had been locked in the dining rooms rather than their cells: **‘This was a classic Maze scenario, possibly even a classic prison scenario, where the spirit of the regulations is honoured but not the letter.’** There had been a general need to use staffing resources more effectively and Mr Shannon had been content that what was developing was not a significant reduction in control.
- 7.177 It had been anticipated that prisoners would demand to watch World Cup matches, but before a plan could be devised to deal with this the PIRA had announced that they would not lock up at all during the tournament. To lock up so many prisoners by force would have meant calling in the police or the Army. The NIPS had therefore decided it would have to live with the prisoners being unlocked, recognising that at the end of the tournament there might be problems in restoring the previous arrangements. This indeed proved to be the case. The Security Department had advised that the security risks of 24 hour unlock were not unacceptable:
- ‘One reason for night-time lock-up is the need to protect prisoners at a time when staffing levels are low. There was not the same imperative to do this in the segregated conditions at HMP Maze.’**
- 7.178 In his evidence Mr Shannon accepted that 24 hour unlock would not be found in a conventional high security prison, but the NIPS had tried to mitigate the risks by entering into a contract with prisoners. In his words, **‘So as long as each of the perimeters (i.e. the wing, block, Phase, and prison perimeters) were secure we felt that the price we were paying was not unacceptable.’** Furthermore, he pointed out that there was camera coverage of the wings and that the perimeters were controlled. Having made the concession, he said, the NIPS would have been unable to reverse it only following a ‘major breakdown’ in prisoners’ compliance with the rules, but that had never transpired.

7.179 Other witnesses to the Inquiry were critical of the decision to allow 24 hour unlock. Finlay Spratt described it as **'a bridge too far'**.

'... in our opinion, that again gave up certain control of the prison. Not only were we losing control of the prison during the day; we were actually now handing over control of it at the night-time, and we had no way of keeping control of prisoners at night who had free access, as far as I was informed, to the exercise yards. They had free exercise up and down their wings all night. There was no way we would get a count or any control of it.'

7.180 Mr Spratt considered that withdrawal from wings, and inter-wing and inter-block association, had led to a lessening of control, and that 24 hour unlock had made the situation worse. He believed that the decision to allow 24 hour unlock was linked to the paramilitary ceasefires.

'It is my opinion that the relaxation of the regime at HMP Maze may have been due to the appeasement of paramilitary prisoners to encourage people onto the ceasefire. I have been asked why I think that. You must look at the political climate, specifically the ceasefire in 1994. In my opinion, control at HMP Maze had not been great even before the ceasefire, but after it, control started to deteriorate as twenty-four hour unlock was brought in, prisoners started receiving as many visits as they liked, and officials from the NIO came to HMP Maze to talk to the leaders of paramilitary factions. The regime became more relaxed after the ceasefire started.'

7.181 In fact, 24 hour unlock was introduced shortly before the ceasefires. The PIRA declared its first ceasefire in August 1994, with the UDA and UVF ceasefires in October of that year. Significantly, Alan Shannon linked the ceasefires with the decision to allow 24 hour unlock. He stated that there was a need not to destabilise the developing political situation.

'In judging whether the decision was right, the overriding issue is the PIRA ceasefire on 31 August 1994. Had twenty four hour unlock been contested by force, there would not have been a ceasefire at that time. I am certain that the paramilitaries would not have called off their campaigns had we been fighting a battle behind the prison walls; at the very least it would have put the date of the ceasefire back, perhaps for some time, and more people would have died in the interim. Twenty-four hour unlock was an unwelcome diminution in control but that had to be balanced against the wider scene.'

7.182 Mr Shannon also made reference to this factor in his evidence to the Northern Ireland Affairs Committee in 1998 and suggested that the 1994 ceasefire might have been jeopardised had concessions not been made at this time. However, he rejected the allegation that 24 hour unlock amounted to appeasement:

'I would have viewed the changing HMP Maze regime as evolutionary. I think there is some validity in Finlay Spratt's point about loss of control, which is one of the reasons why NIPS went down that road with great reluctance. However, if the choice were between some loss of control at HMP Maze and no ceasefire, who would not choose the former? I do not agree that twenty-four hour unlock amounted to appeasement to encourage paramilitaries to go on ceasefire. We thought it was better to be in a constant process of dialogue, which had built into it the necessity of taking delivery of and responding to prisoners' agendas. Each time NIPS considered what its response should be, we considered very carefully the security or control implications and tried to make progress with those issues that were less risky for NIPS. Finlay Spratt tended to describe each of these concessions as appeasement, which probably dated back to some staff unease at the changes post-Hunger Strike. What he described as appeasement, I would have described as a reasonable response. It was not in my mind that we were trying to buy a ceasefire with twenty-four hour unlock; but we knew we were operating in a climate which was more conducive than previously to developments of this kind, and Ministers were clearly sensitive to the wider agenda.'

7.183 The decision to allow 24 hour unlock had far-reaching consequences. Former Governor Desmond McMullan left the Inquiry in no doubt as to the importance of periods of lock-ups. They enabled headcounts to be done properly. Without lock-ups, he said, **'The Governor had no control.'** He went on to say **'they** [the prisoners] **could virtually do anything with any block ...'**

7.184 Tom Woods, the Deputy Governor of the prison at the time, pinpointed 1994 as the time when HMP Maze became **'almost unmanageable'**. Of 24 hour unlock and withdrawal from the wing he said:

'It really gave control of the wings over to prisoners in terms of what they wanted to do. If they worked to the compact [the wing rules], that was okay. We still controlled the circle area and controlled the movement in and out of the blocks, but the accommodation wings, the units on either side, really the prisoners had the run of those.'

Asked how the prison ran once prisoners were left to their own devices, Mr Woods continued:

'I do remember some Loyalist prisoners being forced out of the wings and a couple of them being severely beaten up. In the Republican wings that tended not to happen. In the Loyalist wings there were problems of refusing to lock up at night, especially at weekends, and being in the yards up to maybe 1 or 2 o'clock in the morning.'

- 7.185 Pat Maguire, a Governor III, expressed similar views about how on transferring to HMP Maze in 1996 he found control had deteriorated since he had last worked there in 1988. He said:

'There were some significant changes insofar as, in 1994, 24-hour unlock had been given to the prisoners, which was a significant development, and generally the issues of control were not as stringent, in my opinion, from when I had left in 1988.'

- 7.186 Ken Crompton also accepted that after 1994 it was the prisoners who had control of the wings. Alan Craig and Steve Davis also accepted this. Brian Barlow described 24 hour unlock as an 'operational nightmare' about which he had grave concerns.

'... prior to that, we were going down the wings at night and we were locking the prisoners behind the door ... Perimeter A was when the prisoner was locked in his cell. Perimeter B was when he was let out of his cell on to the wing. Perimeter C was when he was in the exercise yard and perimeter D was when he was out of the block. We went from perimeter A to perimeter B and perimeter C sometimes, because they didn't come in from the yards. So it wasn't satisfactory.'

- 7.187 Alan Craig, a former Security Governor IV, described how **'... the situation in HMP Maze was more akin to that in the Compound Maze ... a perverse situation existed whereby Block staff were confined in a high security area, the Circle, yet the prisoners had total freedom of movement from the grille throughout the wing and in the yards.'** He described the introduction of 24 hour unlock as **'a seminal moment'** that had given prisoners a greater degree of control over their environment. In a report sent to NIPS HQ in February 1997, Mr Craig observed,

'In July 1992 [Governing Governor] Des McMullan wrote "for some time now staff have not had complete control of the wings because of an intense campaign." This situation could now be said to apply to the Blocks. ... We have nurtured a monster which is now beyond

our control in any meaningful sense. We have moved from a position where the boundaries that were in contention were drawn at the cell door to a situation where we cannot control what wing or block or phase a prisoner is in with any degree of certainty. We have moved from lockups, factions located opposite each other in wings to 24 hour unlock, segregated blocks and phases (2&3).'

In oral evidence Governor Craig referred to a general perception in HMP Maze that there was insufficient support from NIPS HQ, and a NIPS HQ perception that there was in HMP Maze a lack of resolve to address the issues.

7.188 In its closing submissions to this Inquiry the NIPS acknowledged that 24 hour unlock was:

'... one of the major factors which made it impossible for staff to run HMP Maze as a "normal" high security prison. It must have facilitated all kinds of subterfuge by prisoners, an obvious example being the digging of the tunnel in 1997. It gave them time and space in which to discuss and plan their activities unobserved by staff.'

The NIPS also agreed with the assessment of Sir Richard Tilt that the 1994 decisions **'left NIPS unable to properly exercise its duty of care to its prisoners'**, and that a high security prison cannot operate without, amongst other things, the ability to lock up prisoners. However, the NIPS submission went on to suggest that Sir Richard's evidence failed to take into account the Northern Ireland context and observed that, when this was put to him, Sir Richard conceded that there might have been no alternative.

Staff Withdrawal from the Wings

7.189 An important feature of any prison is the degree of face-to-face contact between staff and prisoners. Staff should be able at all times to visit and inspect all parts of a prison, especially those parts where prisoners are accommodated. This is a crucial element of staff supervision and control of prisoners' activities. In high security prisons there may be regular attempts by prisoners to restrict staff freedom of movement, particularly within the areas where prisoners live. This is something which staff have to be aware of and respond to. These matters are dealt with elsewhere in this Chapter.

7.190 From the time that HMP Maze opened, those who were detained there made it one of their aims to limit severely the extent to which they were supervised by prison officers. In the original compound prison they were almost totally successful in dictating the extent to which this supervision could take place. Their efforts continued when the cellular prison was opened.

7.191 In December 1989 Deputy Governor Max Murray laid out his views in a minute to the incoming Governor:

'Since my arrival in Maze Prison in October 1987 there has [*sic*] been many occasions when the subject of staff withdrawal from the wings has been discussed. Initially any such suggestion was alien to my own thinking and training. However with the experience I have now gained in Maze I am convinced that staff withdrawal from wings is the only viable option. ...

My own personal experience and that of others who carry out rounds of blocks is that there is clearly no control within the wings. Staff remain in the area of the razor box [see 7.203] and do not carry out the duties normally associated with wing Officers ie, controlled movement, cell searches, securing cell doors, dining room grilles, hobbies room grille or even the inner wing grille or yard access grille. ...

The reason is that prisoners will not permit staff to carry out their duties. ...

I have no hesitation in recommending staff withdrawal from wings.'

7.192 William O'Loughlin, who was the incoming Governor, wrote a minute to Desmond McMullan, Director of Prisons Operations, in January 1990 laying out his extensive concerns about lack of control in the prison. He did not mince his words, stating: **'... we exercise no control in the wing environment ...'** and proposed **'... the withdrawal of staff from the wing environment as they serve no useful purpose'**.

7.193 In February Mr McMullan, himself a former Governor of HMP Maze, wrote to John Steele, the Controller of the NIPS, to express his strong disagreement with the new Governor on this matter. He pointed out that the prisoners were locked in their cells for two periods each day and during the night hours, that there were systematic and thorough searches and that prisoners were **'subjected to levels of control by the physical presence of staff in the wings'**. He suggested that Governor's Wing Orders should be revised **'to reflect the reality of situations rather than an idealistic approach'**, that the number of prisoners in each wing should be reduced, that there should be a special payment to staff who worked in the wings and that there should be a **'frequent supportive presence of Governor grades in the segregated wings'**.

7.194 Exchanges such as these continued until 1994 with, in the main, the protagonists in the prison recommending that there should be a recognition of the reality that staff had little or no control in the wings, while those in the NIPS argued that to

withdraw the staff formally would be a concession too far. Even within the prison, opinion was not always unanimous. A subsequent Governing Governor, Duncan McLaughlan, was opposed to withdrawal although he observed that staff who had direct contact with the prisoners would continue to bend to their will, and thus represented a serious threat to security. Arguments advanced in favour of withdrawal included the fact that wing staff were intimidated by prisoners; that they were conditioned to remain at the top of the wing instead of patrolling down it; that they were not able to undertake cell searches or wing patrols or to lock cell doors and had no useful function on the wings; that they were a source of contraband for prisoners; that in practice they would not be able to prevent prisoners from assaulting one another; and that they did not glean useful intelligence from their interaction with prisoners. Those opposed to withdrawal argued that it would amount to the *de facto* restoration of special category status, which had been described as a serious mistake by the Gardiner Report of 1975, and thereafter abolished; that it would create 'no-go' areas for staff; that the public perception of the prison service would be damaged; that it would be contrary to the NIPS's expressed aim to treat prisoners as individuals rather than as members of cohesive factions; that prisoners would be free to tamper with the fabric of the blocks; that it would be in breach of the NIPS duty of care towards its prisoners; and that other measures such as greater staff rotation and the involvement of psychologists could be used to counter attempts by prisoners to condition staff.

- 7.195 In November 1993 a meeting of 21 governors of HMP Maze demanded the immediate withdrawal of staff from the wings.
- 7.196 Relevant to all of this discussion was the increasing freedom of association that prisoners were being allowed. In 1992 a decision was taken at a meeting between the Governor (Duncan McLaughlan), the Director of Operational Management (Desmond McMullan) and the Controller of the NIPS (Alan Shannon) to allow association between prisoners in adjacent wings during the day. This privilege had been previously allowed but was suspended in 1982 as prisoners were using the facility to 'self-segregate' and because incendiary devices had been placed in the cells of prisoners from opposing factions. *De facto* inter-wing association had been allowed during the evening association period since 1990 and it was suspected that, in the face of pressure from prisoners, staff had been failing to prevent prisoners crossing between wings during the day. Consequently the grilles separating adjacent wings were locked back, in effect turning four wings of up to 25 prisoners into two legs of as many as 50 prisoners.
- 7.197 In blocks where all prisoners belonged to the same faction, prisoners would also pressurise staff to allow them to associate with prisoners in the opposite leg, which meant crossing the circle. That prisoners were being permitted to cross the

circle was known to senior management. At a meeting in July 1994 between the Minister, the NIPS Controller Alan Shannon, Director of Operational Management Martin Mogg and Deputy Governor Tom Woods this was discussed and formal recognition was given to the practice in an attempt to limit the number of prisoners crossing the circle.

- 7.198 In March 1994 Martin Mogg wrote to the SOSNI recommending that staff be withdrawn from the wings. He pointed out that having staff deployed permanently on the wings had become a security risk and that they were subject to daily intimidation and conditioning by prisoners. He explained that in reality staff were already confined to the top of the wing and went further only at prisoners' invitation or to perform specific tasks. Their presence was therefore ineffective. Indeed, the PIRA welcomed the presence of staff on the wings as it could deploy its members to condition and manipulate them, relieving the boredom of imprisonment and assisting in the planning of escapes. Loyalist prisoners used staff as a source of communication and contraband, with the abuse of staff serving to reinforce their internal command structure. Mr Mogg acknowledged that a knock-on effect of withdrawing staff could be that prisoners might refuse to lock up at night. The decision to withdraw staff from the wings was taken shortly thereafter.
- 7.199 Alan Shannon explained in evidence that while, both in control terms and for symbolic reasons, he instinctively disliked the idea of having no staff presence on the wings, the effectiveness of the staff presence had been questionable. They stood at the very top of the wing, feeling inhibited from proceeding any further, and were unable to resist prisoner pressure to open the grilles separating adjoining wings. While in a normal prison one of the key tasks for staff is protecting the prisoners from each other, HMP Maze was different because the prisoners were organised into disciplined factions. The issue was, therefore, whether there would be any greater risk if staff were not present. The NIPS had come to the conclusion that the duty of care towards prisoners could be met without staff being on the wings:
- 'We thought that given the discipline exercised by the paramilitary factions, the risk was probably not that much greater if staff were not there. It would in any event have been unlikely that one or two members of staff would have been able to protect a prisoner from other prisoners, in the event of an organised assault.'**
- 7.200 Mr Shannon dated the decision to withdraw staff to autumn 1994, that is, after the decision to allow 24 hour unlock, which he said was the major factor in overcoming his opposition to withdrawal from the wings. He also said that the

decision was dictated by the need to deploy diminishing staff resources to best effect and, though it was taken in the political context, the Peace Process had not been a factor. However, in other parts of his evidence Mr Shannon acknowledged that the Peace Process was a significant consideration.

- 7.201 While some members of staff were against the decision, others were clearly in favour. The NIPS chief psychologist Dr Jacqueline Bates-Gaston had advocated withdrawal and the introduction of alternative control measures, such as limiting the number of prisoners allowed in the circle area at any one time, introducing greater staff rotation between duties and the use of CCTV cameras. Several witnesses to the Inquiry advanced reasons in support of withdrawal from the wings. These included the suggestion that information had been flowing the wrong way, that is, from staff to prisoners; that staff had felt unsafe and had only gone down the wing at the behest of, and accompanied by, prisoners; and that they had been unable to do their job properly and thus resources were being wasted. Arguments against withdrawal included the fear that staff had lost their ‘eyes and ears’ on the wing and that ‘no-go’ areas had been created.
- 7.202 The POA was in favour of withdrawal from the wings. Area Chairman Finlay Spratt said in evidence:

‘The reality is we had three to four staff on the landings. Even when they were there, we had no control on the landings. They spent their day at the end of a wing. They weren’t allowed to move anywhere. So, therefore, they were a total waste of resources.’

- 7.203 It was clear that even before staff were formally withdrawn from the wings they had ceased to patrol down them. In a thesis completed in December 1997 for his Master’s degree (see 7.221), Alan Longwell explained:

‘When the H-blocks first opened there was a “class office” located on the wing and this was the base from which the staff supervised the inmates. Over time, as control began to slip away, the staff began to retreat to an area known as the “razor box” which was just inside the wing and their office was eventually given over to the prisoners, who used it for extra recreational space. It was the norm to enter the wing and find the staff huddled around the razor box, frequently with a prisoner in close attention. It was unusual to see an officer down the wing, as he would be expected in a “normal prison”.’

- 7.204 Brian Barlow, who was acting Governor V in the Security Department in 1997, stated that withdrawal from the wings did not present problems for the Security Department because in any event the flow of information had been from staff to

prisoners and because staff had been standing at the top of the wings rather than patrolling down them. Steve Davis, Security Governor IV in late 1997, said that the factions had had their own intelligence-gathering and security systems designed to stop prisoners from talking to staff. He did, however, note that much more information had been received from prisoner sources at HMP Maghaberry, where staff did work on the wings. Pat Maguire, Governor III in 1997, also commented on the effect on dynamic security:

'... because the prison staff did not directly interact with the prisoners, they were observing the prisoners at a distance and, therefore, because of that lack of interaction, dynamic security is severely compromised.'

Observation of Prisoners

- 7.205 A small staff presence was retained in the access corridors leading to the wings from the circle, but apart from locking and unlocking the grilles in these corridors they had a limited role. They would only see prisoners who happened to walk past the association grille, the last grille in the corridor leading from the circle to the wings, which they would have to do if they were crossing into the adjacent wing to associate with prisoners there. These officers were also apparently responsible for the rub-down search of prisoners leaving the block, for headcounts and for taking prisoners' requests. Further officers continued to be detailed each day to 'wing patrol' but in reality they did not patrol the wings and again their function is unclear. The alarms at the end of each wing were tested only if prisoners 'allowed' staff down the wings. The Inquiry was told that the reality was that staff very rarely went down the wings.
- 7.206 Entries in the class officers' journals seen by the Inquiry are generally perfunctory, relating to such matters as the arrival of meals and the departure of prisoners to visits. Other officers operated the grilles in the circle and the hall guard. The layout of the blocks was such that it was not possible for these officers to see into the wings. Grilles had manual as well as electronic locks, meaning that at all times an officer had to remain between the grilles, where they were vulnerable to pressure from prisoners. The working day for many staff in the accommodation blocks appears to have been unstructured and unfocused, with much time spent chatting to colleagues. If prisoners needed anything they would demand to speak directly to the block governor, thus eroding the authority of the officers in the block.

Headcounts

- 7.207 A further consequence of 24 hour unlock and of withdrawal of staff from the wings was the difficulty of carrying out a verified 'headcount'. This was the process whereby a member of staff would physically observe each individual

prisoner. This verification would then be reported to the officer in charge of the block, who would record all the verifications and then report the total number of prisoners, the roll, to a central location. In most prisons headcounts will be taken at least four times a day: in the morning before prisoners are unlocked, when staff go round looking through the observation window in each cell door to confirm that each prisoner is there; at the end of each morning; sometime each afternoon; and finally after each prisoner is locked in his cell at night.

- 7.208 The regulations applying in HMP Maze required headcounts to be taken and recorded as in any other prison. Given that prisoners were never locked in their cells and that staff did not go into the wings on a regular basis, it was not practicable for staff to take headcounts in the normal way. The Inquiry heard that, as with so many other elements of life in HMP Maze, staff found a way to deal with this matter which allowed management to give the impression that the regulations were being complied with. This was by means of what were known informally as ‘assumed headcounts’. It would appear that whenever, in the course of a day, staff identified a prisoner, they would report that fact to the block or wing office and the prisoner’s name would be ticked off. If the prisoner was not observed and in the absence of any evidence to the contrary, staff would assume that he was present. Witness Raymond Hill, who was an officer in H Block 6, told the Inquiry:

‘In respect of headcounts, all headcounts and numbers were assumed because we did not have a proper headcount. Prisoner numbers were just assumed.’

- 7.209 A prisoner’s perception was provided by witness Ralph Phillips:

‘In effect the prison officers were just going through the motions of performing a headcount, it was the OC who would return the numbers.’

- 7.210 Witness Kenneth McCamley worked in every H block as a PO between 1993 and 2000. In his statement he said he assumed headcounts only took place for a time. However, in his oral evidence he said,

‘The bottom line is, if I knew my block roll was 90, for me to lift the telephone and return 89, I can’t see any logic in that. It was an assumed roll. Everyone was aware it was an assumed roll. I don’t remember any occasion when an assumed roll was returned incorrectly.’

- 7.211 The Inquiry was not given a precise date when assumed headcounts were introduced. This is not surprising, given that their existence was never formally acknowledged. It is clear that they were commonplace by 1997. Security Governor

Alan Craig told the Inquiry that staff were unable to carry out proper headcounts, which he described as a **'basic minimum standard'**. He noted that **'An assumed roll was returned in the majority of cases.'** Officer John Blundell, a local official of the POA, described it as unbelievable that there were assumed roll counts.

- 7.212 The Inquiry agrees with the evidence of Sir Richard Tilt and others that headcounts are a basic requirement in any prison, particularly in a high security prison, such as HMP Maze. It is clear from the evidence presented to the Inquiry that proper headcounts did not take place in HMP Maze during the period with which the Inquiry is concerned.

Block and Cell Checks and Searches

- 7.213 A further feature of procedural security was the requirement to undertake regular checks and searches of areas occupied or used by prisoners. In terms of HMP Maze this meant primarily the wing areas of each block.

- 7.214 One element of these procedures was a check of the physical fabric of cells as described in 7.54. Witness ZAM described this type of search as conducted in HMP Maze in the following terms:

'You would have physically checked the bars. You would have checked the alarm within the cell. You would have had a look under the beds etc. That would have been a fabric check.'

- 7.215 Normal prison procedure was that a number of cells in each wing would be selected daily at random for these checks. In late 1997 in HMP Maze the class officer's journal would routinely indicate that five cells were the subject of fabric checks. On 18 December 1997 the Minister was informed that:

'The Prison Security Department at HMP Maze designates, on a daily basis, those cells in which the fabric check is to be carried out; and staff in the Blocks respond accordingly. To standardise the procedure, Operational Orders specifying the nature and extent of the fabric-check are being revised.'

- 7.216 However, as with headcounts, there was great difficulty in enforcing this essential security requirement. Practice appears to have varied from block to block, depending on the particular faction's interpretation of the rule. In late May 1997 a paper was submitted to the Steele implementation team detailing current practice across the blocks. Only in H Blocks 4 and 8 were all cells subject to fabric checks. Difficulties caused by the lack of a uniform approach across the blocks are further

demonstrated in the MIAR for June 1997. UVF prisoners were said to have refused to cooperate with fabric checks and subsequently issued threats against staff. A further section of the MIAR described how, initially, prisoners were cooperative, to the extent that **'they encouraged them [staff] to check all the cells'**. When staff attempted to carry out random cell checks the following day they were told that sufficient cell checks had taken place for the week. As punishment for this breach of the rules, UVF visits were cancelled for the rest of the day. As a result the homes of two officers were petrol-bombed that evening and a senior governor received a death threat. Visits were reinstated several days later following negotiation between prisoners and HMP Maze management. Prisoners initially agreed to three cell checks per day – said to be a reduction from the six previously agreed – but this was increased to five 'areas' within each wing. This unfortunate episode, significant enough to merit detailed consideration in the diary of Duncan McLaughlan, serves as another example of the daily struggle for control between prisoners and management: prisoners disobeyed a rule; they were punished; the dispute was taken beyond the prison walls with attacks on prison officers; compromise was reached leaving the prisoners in a slightly better position than before. Staff had warned that fabric checks, and headcounts, could be achieved only as long as management did not change the system because of political pressure. Management should not **'cave in, in order to keep the peace'**.

7.217 Several witnesses who were prison officers confirmed that fabric checks did not generally take place and, when they did, they were perfunctory. Alan Craig said in oral evidence that he had concerns about fabric checks during his time as Security Governor.

7.218 Kenneth McCamley, a PO in H6, confirmed the position:

'As the staff would have been doing their headcounts, that would have been the extent of it, as they pulled back the curtain, if there was a pile of rubble sitting there, well, it had to come from somewhere, but, as there were no piles of rubble, well, that would have been the extent of the fabric check.'

Dynamic Security and Conditioning of Staff

7.219 As described in 7.76 to 7.78, the third element of security in a prison is what is often termed 'dynamic security', which depends on the knowledge and experience of prison staff and the manner in which they interact with prisoners. A generally good relationship between staff and prisoners can help to create a positive atmosphere in a prison and reduce the likelihood of internal friction. It can also be an important informal channel of information and intelligence gathering. In terms of this description, the benefits of dynamic security in HMP Maze were very

limited. The Inquiry heard a considerable amount of evidence to the effect that the predominantly negative relationships between staff and prisoners had a result which was the very opposite of dynamic security and resulted in many staff being conditioned in the way they carried out their duties. The Inquiry has, therefore, considered the extent to which the low morale and conditioning of staff affected the management of HMP Maze and the manner in which staff dealt with prisoners.

- 7.220 Conditioning has been defined as a process by which **'a response comes to be elicited by a stimulus, object or situation other than that to which it is the natural or normal response'**. The conditioning of staff at HMP Maze has been well documented. In 1983 Sir James Hennessy found that this was a contributing factor to the escape of IRA prisoners earlier that year. In 1989 a junior governor at HMP Maze informed the Governor that there had been no training for staff in the five years following the report.
- 7.221 The Inquiry heard of many examples of different types of pressure on staff which resulted in their being conditioned. On the occasions that staff went onto the wings they were often seen surrounded by prisoners. In such circumstances prisoners might make oblique or even direct references to an officer's family or domestic situation. Alan Longwell, who was at the time a junior governor in HMP Maze, provided the Inquiry with powerful evidence about the state of morale in the prison over the years. His account of life at HMP Maze was the subject of the postgraduate thesis he submitted to Queen's University in 1997. This was a contemporaneous account and, therefore, of particular interest to the Inquiry. He described how HMP Maze prisoners were unique in terms of their internal organisation; the nature of their threats, intimidation and violence towards staff; and their sense of segregated community. He reminded the Inquiry that 29 prison officers had been murdered and many others had been assaulted. Staff tried their best to develop coping strategies, including sick absence. The cameras which were introduced in the mid-1990s were of no use in the battle against conditioning. He described how prisoners grew in confidence along with the Peace Process. James Duffy, then Branch Secretary of the POA, provided similar evidence.
- 7.222 The lengthy debate within the NIPS about whether the only way of dealing with these problems was to remove staff from the wings, and the consequences of such a decision, have been dealt with earlier in this chapter. The NIPS chief psychologist Dr Bates-Gaston reminded management that she had offered to assist with counter-conditioning training, but that this had **'never been progressed, nor commitment given'**. She went on to explain how too much was expected from staff and that officers felt powerless and were subjected daily to intimidation. More significantly, she identified a new difficulty: the boundaries were being pushed back **'time and time again – reinforcing the powerlessness of staff'**

and jeopardising security of the block and the safety of staff’. She described how an officer had asked, **‘Why should I say no when a governor will say yes, we give them what they want to keep them quiet.’**

7.223 In his reply, Mr Mogg conceded:

‘... most of the difficulty lies with management ... Staff working on the wings do not have any real idea why they are there or what they should be doing. ... Officer training which might apply elsewhere, does not apply at the Maze ...’

However, he went on to suggest that staff support systems and training against conditioning might:

‘... encourage further game-playing which may take an eye off the main issue of what the Maze is really about. ... We need to decide what we are about, make it clear to our staff, and then equip them to do the work required to deliver.’

7.224 There is nothing to suggest that staff were engaged in such a process. On the contrary, within a year of these exchanges they had been withdrawn from the wings. Governor Alan Craig referred to this as a **‘perverse situation’** in which staff were effectively the prisoners. In her statement to the Inquiry, Dr Bates-Gaston provided further evidence of prison officers feeling undermined by management decisions. It was **‘impossible for officers to hold the line if they were going to be regularly undermined’**. And even when they attempted to do so they felt they were often undermined at a later stage by management.

7.225 Similar opinions were brought to the attention of the NIPS management by Finlay Spratt, Area Chairman of the POA. In a letter to the NIPS in September 1995 he expressed his opinion in a typically forthright manner:

‘It is quite obvious that the management of the Northern Ireland Prison Service are not in control of the Maze Prison and allow convicted terrorists to dictate how the Prison is run, to the detriment of staff employed there. Officers working at HMP Maze are totally demoralised when they see management making agreements with prisoners which erode their working conditions and places them in the position of being downgraded to the role of message boys to convicted terrorists.’

7.226 One complaint repeated during the course of the Inquiry was that senior management would go down the wings to talk to prisoners without conversing with staff. This would appear to have happened, for example, on 18 December 1997, on which date Deputy Governor Ken Crompton concedes that he may have

gone, along with Governor Mogg, to speak to INLA prisoners in H6 but apparently ignored those staff who were present. Insofar as this happened, it contributed to a perception among staff that they were not being properly supported by senior management.

- 7.227 A specific feature of the direct line which management had to prisoners was the practice of meeting with OCs. Security Governor Steve Davis said that, while he did not have regular meetings with OCs, he would meet them if something had gone wrong, such as a difficulty in obtaining a headcount. The Inquiry heard that once he became Governing Governor it was Martin Mogg's practice to meet regularly with each of the OCs for the various factions. Ken Crompton also participated in these meetings, which he said took place in the prison chapel and were known as 'chapel meetings'. He explained that there would usually be two or three prisoners in attendance, including the OC and the 'second in command'. The meetings were attended by him and Martin Mogg, and usually by the Head of Residence David Eagleson. Pat Maguire and Steve Davis also attended some of the meetings. Information about what was said at these meetings appears not to have been passed to the Security Department as a matter of routine.
- 7.228 Witness Finlay Spratt's perception was that in general staff morale was not good. When asked whether anything could have been done to address the problem he said that **'... it was the appeasement of paramilitary prisoners that had demoralised staff.'**
- 7.229 There can be little doubt that NIPS management was walking a delicate tightrope in the mid-1990s. Seamus McNeill set out the position in his statement:

'There evolved a situation where the security needs were met but not so that there would be trouble which would set Northern Ireland back twenty years. ... In addition, one thing that affected staff at HMP Maze was that they knew that if there was a settlement, these prisoners would be released.'

This was confirmed by Alan Shannon in his evidence to the Inquiry and to the House of Commons Northern Ireland Affairs Committee.

Security Department

- 7.230 In a high security prison the Security Department is in many respects the nerve centre of the prison. All security operations relating to the prison in general and to individual prisoners are managed from this department. It should also control the flow of all security information and intelligence both inside the prison and in respect of external contacts.

- 7.231 The Security Department in HMP Maze was headed by a Governor IV, known as the Security Governor. His line manager was the Deputy Governor, who in a traditional context would have had overall responsibility for all matters relating to security in the prison. Given the importance of security issues, the Security Governor also had a direct line to the Governor of the prison. The Security Governor was assisted by a Governor V, with whom he shared an office.
- 7.232 The core unit of the Security Department in HMP Maze was the Security Information Centre (SIC), whose main task was intelligence gathering. The Department also included the Reception Unit, the Locations Desk, the ECR, the IRF, two posts at the Administration Gate which was just outside Reception, the Key Room and the Armoury.

Objectives of the Security Department

- 7.233 The Inquiry heard that there was no written statement of security objectives or priorities for HMP Maze. The pragmatic focus was on **'... keeping people in safe and secure custody, gathering what information was [sic] could and passing that information on'**. Witness CA, who became intelligence collator in 1998, said that the priorities in 1997 were roof protection, visits, headcounts and searching, with his own 'number one' priority being to ensure that there were enough staff to carry out searching. Other priorities were to ensure that existing orders and procedures were being adhered to and to liaise with staff in the various areas of the prison. He agreed with the proposition that the work of the Security Department was reactive rather than proactive.
- 7.234 Steve Davis told the Inquiry that the primary issues when he took up post as Security Governor were the prevention of escapes and the maintenance of security and good order. He said that these were standard security objectives, despite the fact that HMP Maze was a completely abnormal prison. He was asked how the SIC's efforts were targeted. He indicated that he tried to cover 'everything' and react to the information he had. Deputy Governor Ken Crompton stated that the intelligence objectives of the SIC were to receive any information available, analyse it and ideally inform management of what was happening. He did not think there had been a formal process of specifying or breaking down objectives. He said there was no one person who would decide what to concentrate on: everything that came in would be analysed appropriately.
- 7.235 The NIPS had produced a Security Manual in the late 1980s following the escape from HMP Maze in 1983. Governor Alan Craig said in evidence that it was generally recognised that this manual was unrealistic and unachievable and that although it was supposed to apply to all prisons in Northern Ireland it was

not being and could not be applied in HMP Maze. In March 1997 Mr Craig was seconded to NIPS HQ and given the task of re-writing the Manual. The revised Manual did not come into force until after 1997.

Staffing in the Security Information Centre

- 7.236 Because of the high-profile nature of the work done there, the Security Governor and his Governor V took a direct interest in the running of the SIC. Its day-to-day management was in the hands of a PO, who oversaw the work of the other staff, consisting of two SOs, an officer who worked on contractor and staff passes, a collator, two desk officers and two field officers. The PO was based in the main office along with the other staff. The Inquiry was told that he oversaw everything in the office and was the person to whom staff turned if they needed advice or any support. He would have been kept up to date with all information coming into the SIC. The PO had a personnel management function for staff as well as a security management role and would have spent part of his time in the office and part in visiting the staff for whom he was responsible.
- 7.237 One of the two SOs headed the field team whilst the other attended to office administration and was based in the SIC. Among other duties, the office-based SO maintained the Security Group staff files in relation to attendance, duty, leave and transfer. He had access to a computer that was linked to the main gate area.
- 7.238 A number of Basic Grade Officers (BGOs) performed the duties of field officers and desk officers. There were three desk officer posts. One was responsible for processing the permanent external and internal moves of prisoners. Another was responsible for compiling prisoners' files and keeping them up to date. The third officer recorded information on contractors and dealt with passes and security clearance matters. The two field officers would visit all parts of the prison with the field SO, with the objective of collecting information, which they would duly record on the clipboards that hung on the wall of the main SIC office. The Inquiry heard that the desk officers and field officers were interchangeable and were best thought of as a group of staff who covered the whole range of duties.
- 7.239 The Inquiry heard evidence that staff were selected to work in the SIC on the basis that they had shown aptitude for the type of work that was carried out there, for example, by regularly passing information or otherwise showing an interest in security work. Appointment was based purely on perceived aptitude. There was a Security Manager's training course, which was available for SOs and above, but there was no training for BGOs, other than in-house training in the operation of the SIC computer system, SASHA.

- 7.240 The SIC was not staffed on a continuous basis. The main shift was between 8.00 am and 5.00 pm. These were the hours worked by the governors and the collator and by some other staff. There was also a late shift between 5.00 pm and 9.30 pm, which was covered by a PO or SO and two other staff.
- 7.241 All SIC staff on the main shift would **'try to get together'** every morning. The Inquiry heard that these were not official meetings but would be an opportunity to discuss block reports or anything that had happened the night before. Information was sometimes kept on a 'need to know' basis. When asked about the mechanisms for bringing SIC staff up to date with anything that had happened in their absence, Brian Barlow stated that the first thing he did on returning from leave was to read the boards on the office wall. He would also scroll down through the daily log on SASHA. Steve Davis stated that the minutes of Internal Security Committee meetings were circulated, as was any report that he had written.

SASHA and the Collator

- 7.242 The computer system in the SIC was known as SASHA, which was an acronym for 'Security and Sociometric Handling Analysis', and was introduced in the early 1990s. There were three networked SASHA terminals in the SIC. The computers were password-protected and each member of staff had his or her own individual password. The Inquiry was told that SASHA was simply a database for storing information with a search facility which enabled SIC staff to bring together all information about a particular prisoner or incident. Steve Davis described it as a glorified filing system.
- 7.243 The Inquiry heard that the role of collator was introduced at the time SASHA was brought into use. The collator operated the base terminal. Initially the member of staff who performed this job was the officer with the best typing skills, because the majority of staff at that time had little or no typing skills or computer knowledge. The collator was responsible for collecting information and logging it onto the computer system. He also oversaw the system which monitored calls made by prisoners from pay telephones. Before the appointment of a collator, information was logged onto SASHA by the person who received it in the SIC.
- 7.244 The task of the collator included, among other things, recording all information coming into the SIC on SIRs, checking any search returns from the previous 24 hours as well as telephone numbers obtained from the telephone monitoring system, and inputting all of this information onto the SASHA computer. The collator would also ensure that prisoners' security files were updated. Witness CA, who had worked as a collator, told the Inquiry that he decided what he would

do and had very little direction from management. He confirmed that he was not involved in the assessment or analysis of the information. The collator could receive and disseminate information throughout the NIPS but had no authority to disseminate information to outside agencies. Any information coming into the prison system from the police and/or the Army would have gone through the Security Governor first.

- 7.245 SASHA contained the personal details of all prisoners, their physical description and details of next of kin. It also held security information about each prisoner, such as whether he had been a paramilitary leader outside the prison; whether he was a leader within the prison; whether he had attempted to subvert staff and, if so, details of those staff; whether he had been involved in violence against another prisoner or a member of staff; or whether he had been involved in any hostage taking incidents.
- 7.246 Witness CA told the Inquiry that when he was collator he prepared charts with up to date command structures for the various paramilitary factions in HMP Maze. He said that charts were handwritten by him and would not be put onto SASHA but any information in relation to paramilitary command structures would be put onto SASHA. He explained that the handwritten charts would have been destroyed once the information had been put onto the computer but that computer records ought to have been available. He was unable to offer any reason why they were not.
- 7.247 Witness CA was unable to give any explanation for the category 'Informer' which formed part of the prisoner's security information. He confirmed that he had never used this field when inputting information onto the database. He also confirmed that the system allowed the user to input information about whom a particular prisoner was associating with in the prison. Witness CA confirmed that he was not aware of anything having been removed from the SASHA database during the time that he was collator.
- 7.248 The daily log was the main daily entry on the database and was used by the majority of SASHA users in the SIC. It was a record of all the reports which had been put into the system for any given day. It would be used to record incidents such as a prisoner going absent without leave, block moves, reports on searches and drug finds. The daily log report could be downloaded and could be printed off by area so that a user could ascertain what incidents and/or reports the SIC had put onto the database with regard to a particular H block. Witness CA accepted that it was possible for an entry to be amended to include additional information or to correct mistakes in the original entry. He told the Inquiry that if action was taken in relation to a particular incident, details of that action would be put onto

the database. Witness CA said that he would decide what action should be taken in relation to routine matters but that more serious incidents would be referred to an SO. He was unable to offer any explanation as to why such information was not available to the Inquiry.

- 7.249 Witness CA told the Inquiry that each week the information stored on SASHA was backed up onto tapes and a similar exercise was carried out once a month with regard to all the programmes and systems. The tapes were retained in the Security Governor's office. He said that on the closure of HMP Maze the information from the SASHA database would have been backed up onto tapes and that these tapes should have been retained.

The Security Information Centre records

- 7.250 The SIC documents were kept within the main security office. Prisoners' security files were kept in four or five locked filing cabinets and were not allowed to leave the SIC under any circumstances. Live files were still kept for the prisoners who had escaped in 1983.
- 7.251 In the corridor off the main office there were at least seven filing cabinets which stored the 'dead' files of prisoners who had been released. The dead files contained the prisoner's 'T' card (which contained basic information about him and was usually displayed on a board in the SIC), an escape pack and anything else relevant to the prisoner. The Inquiry heard that nothing was removed from the dead security files. The dead file room also held some old index cards from the Compound Maze and quite a substantial number of cassette tapes from the old telephone monitoring system. The tapes were maintained for a year after the system changed over and were then destroyed. Should a prisoner re-enter the prison system, the dead file for that prisoner would be brought back into the live system again.
- 7.252 There were also cabinets in the main office which held index cards for each member of staff. These cards held information such as name, photograph, true address, pass number, date of joining HMP Maze and a contact telephone number.
- 7.253 In the Security Governor's office there were two large cabinets, four or five four-drawer filing cabinets and a safe. The Inquiry was told that the documentation kept in the cabinets included minutes of meetings; Governor's Orders; files detailing threats made against staff; monthly reports; a variety of contingency plans, such as instructions for hostage situations; reports on security concerns; briefing papers; and MIARs prepared by the Prison Information Unit (PIU). All the cabinets had combination locks, the four-drawer cabinets had drop-down bars and the keys to the cabinets were secured in the wall safe. This was opened by a combination lock and everyone who worked there had access to these keys.

Prisoners' Security Files

- 7.254 The SIC maintained a security file for each prisoner which contained all relevant intelligence-type information relating to the prisoner. Some of this material, but not all of it, would be copied from the security file onto the SASHA computer. Some of the material in the file, such as papers, newspaper clippings and reports from other bodies, was not capable of being entered onto the SASHA system. The Inquiry was told that the main repository of intelligence information in 1997 was the prisoner's security file.
- 7.255 Once a prisoner was committed for trial a security file was opened in his name; this would either be through re-opening his 'dead file' if he had been in prison previously or by creating a new file. There were four levels of file, according to the prisoner's level of security. The file for a low risk prisoner had a blue cover. There was a photograph on the file cover, together with the prisoner's details and a copy of his main index card, the original of which was held in the General Office. The contents of the file were in three parts. The first contained details such as daily occurrences and movements in the blocks; movements in cells and wings, court visits, home leave or other external movements. Part 2 contained the Bill of Indictment showing the charges and sentences relating to that prisoner. Part 3 contained newspaper cuttings and other general information. Files for medium risk prisoners contained the same details but were within a green cover. Those for high risk prisoners also had the same details but in a pink cover. Files for top risk prisoners were in a red cover. They contained the same three parts as the other categories, together with a fourth containing information on approved visitors.
- 7.256 There was no regular system for reviewing the files of low or medium risk prisoners and they were updated only as something was added to the file. Every three months the system required that top risk files were reviewed by a team which included the Director of Operational Management from NIPS HQ, the Governing Governor, the Security Governor, the PO from the Security Department and a Special Branch (SB) Inspector. Minutes of these meetings were taken. If there was any doubt at the end of the meeting the category was not changed. HMP Maze held no top risk prisoners in 1997. High risk prisoner reviews were carried out twice a year by the Governing Governor or Deputy Governor, the Security Governor and the PO. There were no police officers at this meeting.
- 7.257 Witness Brian Barlow could not remember files of a general nature relating to paramilitary organisations. He said that everything to do with a prisoner would be in his individual file. He said the SIC did not deal with paramilitary groups. Both Steve Davis and Brian Barlow stated that there were general files for discrete locations within the prison. According to Steve Davis there was a 'location file' for

each H block, as well as files for other areas such as visits and the IRF. Each location file contained copies of SCSs, SIRs and Incident Reports relating to that location. Where a faction occupied more than one H block there would have been a number of location files containing information about that faction: so, for example, there would have been documentation relating to UVF prisoners on the location files for H Block 1 and H Block 3, but no master file dealing solely with the UVF. The location file for H Block 6 would have contained documentation relating to the LVF and INLA. Steve Davis thought the location files had been kept in a filing cabinet in his office. He said they were folders of varying sizes and were never full.

- 7.258 If information was received about a threat against an individual prisoner, details would have been placed on a SIR, filed on the prisoner's file and sent to the PIU.
- 7.259 The details of notable visitors would be entered onto a SIR. The PO or another member of staff from visits would decide which visitors should be monitored. Witness CA could not remember the SB Prison Intelligence Liaison Officer (PILO) or the PIU having requested the SIC to monitor certain visitors. Certain visitors were also given a reference number on SASHA which was provided by the PIU at NIPS HQ.

Mechanisms for Collecting and Recording Intelligence Information

- 7.260 On the wall of the main SIC office there was a T card system for each block which showed where each prisoner was located. Any recorded movements between cells were transferred to SASHA daily.
- 7.261 On the same wall there was an information board for each of the eight H blocks. Information reported from the blocks by field officers or by telephone was noted on the information boards and was recorded each day. If there was information on the board, the board was left turned out so that the collator, or in his absence another member of staff, knew there was information to be input onto SASHA.
- 7.262 There was also a search board which recorded details of all searches carried out in the prison over a set period of between two and four months. Anything of interest that was discovered in the course of a search was logged onto SASHA and entered in the security file of the prisoner involved.
- 7.263 The SCS was the basic mechanism by which a written record of any information was passed by a member of staff to the SIC. An SCS would be logged and would then go to the PO in the SIC who would decide whether it needed to be drawn to the attention of a more senior member of staff or whether any action should be taken before it was indexed and filed. Security Governor Steve Davis told the Inquiry that he frequently used SCSs to record his personal assessment of security information, largely because the SIR forms could not accommodate relatively lengthy inputs. This information was then put onto SASHA and the original was filed.

- 7.264 SCSs would not have gone to the Governing Governor in the normal course of events but any analysis of what they contained might have gone to him in the form of a minute. Copies of written submissions from the Security Department to the Governing Governor in relation to security and control were placed on a file in the SIC entitled 'Control in Maze'. The Inquiry was told that this was a file which was stored in the safe in the Security Governor's office.
- 7.265 If the information in the SCS was of an intelligence nature the content was transcribed in the SIC onto a SIR. The Inquiry heard that frequently staff were unwilling for a variety of reasons to submit intelligence information in written form and in that case a verbal report from a staff member would be transferred onto a SIR by a member of the SIC. The information was then posted on SASHA and the original SCSs were put in the SIR lever arch file.
- 7.266 After the introduction of SASHA in the early 1990s the intention was that the information contained in SIRs should have been put onto SASHA. However, the SASHA template could not accommodate all the varied information that might be included on a SIR. Several witnesses confirmed that throughout the whole of the 1990s the system for recording intelligence information was 'paper driven' and that the computer system was used as a back-up to this.
- 7.267 The Inquiry heard conflicting evidence about whether and how information contained in a SIR about an individual prisoner might be subsequently placed on his personal security folder. It was suggested that this was done either by placing a paper copy or a summary of the SIR in the file or by making a printed copy of the SASHA record. In any event, it was agreed that the original paper SIR was kept in a file in the safe in the Security Governor's office and was also recorded on a master index.
- 7.268 Incident Reports were compiled in respect of, among other things, prisoner deaths, escapes, concerted indiscipline, prisoners on the roof, assaults on prison officers, significant finds or the loss of implements, tools or equipment. An index of incidents was maintained by the SIC and copies of the reports were filed in a cabinet in the SIC. Information about incidents was passed to NIPS HQ as part of the daily Situation Report (SITREP).
- 7.269 Daily logs and journals were maintained in the SIC, the ECR and the accommodation blocks. Each of the relevant POs was required to provide a report to the SIC for each 24 hour period. The information from all these logs and journals was transferred to SASHA and important events were included in the daily SITREPs.

- 7.270 The Inquiry heard that the only form of technical surveillance used in HMP Maze was CCTV coverage and that no form of covert surveillance was used. It was said that at one point the Royal Ulster Constabulary (RUC) had requested permission to place a device in a prisoner's cell but that this had been refused.
- 7.271 A system known as Data Pulse was used to monitor telephone calls made by prisoners from prison pay telephones. According to Witness CA all calls were recorded but only some were monitored. The decision as to what calls were to be monitored was made by the collator unless specific instructions were received from senior staff. Telephone calls made by leaders of the paramilitary factions and their 'intelligence officers' were always monitored. Any information obtained from this monitoring was included in a SIR and entered on SASHA. Witness CA considered telephone monitoring to be the best source of information. It was known that there were a number of illicit mobile phones in use by prisoners. The Inquiry was told that there was a blocking machine in the SIC but heard no evidence that it was ever used in an effective manner.
- 7.272 If a prisoner was visited by 'someone of note', that fact would be recorded on the daily log and the information disseminated to departments, agencies and others who might be interested in the fact. Some such visitors were given a reference number on SASHA which was provided by the PIU.

Evaluation, Analysis and Dissemination of Information

- 7.273 The Inquiry heard that in evaluating the worth of intelligence information the SIC used a system which cross-referenced the quality of information with the credibility of its source. Witnesses said that staff in the SIC had not received any training in how to operate this system. Deputy Governor Ken Crompton said that the evaluation of information would have been done by the Security Governor or his Deputy but that he himself did not know what processes they used, nor indeed whether they used any formal process.
- 7.274 Staff depended on personal knowledge and experience in making use of information, a lot of which would be common knowledge and would not be recorded on SASHA or any of the other documents described above. Staff depended on their own knowledge and intuition to be aware of and to interpret any patterns and trends which might be developing in the behaviour of prisoners.
- 7.275 The Inquiry was told that there was no established process for analysing intelligence information. Instead it was done in an ad hoc manner. In the SIC, for example, '**... whoever happened to be in the office at the time would have been involved.**' None of the Security staff were trained analysts. Steve Davis said that he would often begin the process by writing down his own thoughts and then sharing them with his staff. Sometimes the result of this analysis would be

recorded on SASHA, although witnesses accepted that there was no section on SASHA to record such analysis. Some pieces of information would not be analysed because they were stand alone. There was no recollection of any comments or decisions by the Governor or Deputy Governor about intelligence information being recorded on SASHA. Ken Crompton said that he had not been involved in any analysis of information.

- 7.276 There was no formal process for disseminating intelligence information. It was often done simply by word of mouth. Decisions by the Governor were not formally recorded. Steve Davis told the Inquiry that if he asked the Governor for a decision about something **'then the resulting action is the decision'**. Ken Crompton could not remember how decisions about intelligence were taken after analysis had been completed but he presumed that they would have been noted in the relevant SIR.
- 7.277 In response to a notice from the Inquiry the NIPS produced a short narrative in relation to the dissemination of intelligence. This advised that the decision as to what action was taken in response to any intelligence, and the persons to whom that intelligence was disseminated, was at the discretion of the Security Manager or his superiors depending on the type of information or its urgency. If the nature of the information was such that it required urgent action it would have been passed either face to face, by telephone or by secure fax to the Governor, NIPS HQ, RUC or Army liaison as appropriate. Witness CA accepted that the SASHA SIR did not provide details of the persons to whom the information was disseminated.

Security Meetings

- 7.278 The Internal Security Committee met monthly and was chaired by the Deputy Governor. It was attended by the Security Governor, a representative from the Dog Section, a PO from the Standby Search Teams and, latterly, the SO from the ECR. Minutes were taken.
- 7.279 The Local Security Committee met quarterly. Its meetings were chaired by the Governing Governor, and those attending included the Deputy Governor, the Security Governor IV and other personnel from the SIC, a representative of Operational Management Division of NIPS HQ, Army personnel including the Prison Liaison Officer (see 7.284) and the police (primarily RUC Lisburn). According to Steve Davis, the purpose of these meetings was to look at issues arising around the prison, primarily concerning perimeter security, and how to improve joint working. Mr Davis expressed the view that the meetings were useful, since the Army guarded HMP Maze's external perimeter and provided a vehicle search facility at the Extern Gate, so they needed to know what was happening. He could not say whether any intelligence information had ever been passed on at these meetings. Minutes were taken.

7.280 Combined Security Meetings were chaired by the Governor or the Deputy Governor and were attended by representatives from the RUC, the Army and NIPS HQ. These were higher level meetings, taking place once a quarter. Minutes were also taken of these meetings.

Relationships with the Prison Information Unit at the Headquarters of the Northern Ireland Prison Service

7.281 The operation of the PIU and its links with HMP Maze prison are described in detail in Chapter 5 of this Report. Witness Brian Barlow confirmed to the Inquiry that the PIU obtained information from the prison by means of a weekly visit to enable the MIAR to be prepared. Mr Barlow explained to the Inquiry that the sort of information that the PIU staff were given or would have access to would have included SCSs submitted by staff, a copy of the daily log which detailed what had happened throughout the prison and any intelligence information which had been gathered that previous week. The PIU representative also had access to a SASHA terminal in the SIC. According to Brian Barlow, the PIU representative would on occasion visit the Army Security Department. Deputy Governor Ken Crompton could not recall meeting with the PIU representative when he visited, and was not briefed on his visits. So far as he was aware the PIU merely compiled the MIAR. He did not recall getting information from them in any other format.

7.282 Steve Davis stated that information usually flowed from the prison to the PIU. However, it was possible to ask questions of the PIU representative who, for example, might provide background information on threats to staff or prisoners. Alan Craig suspected that information was also received from the PIU but he could not remember any specific instances when this occurred. He accepted that, if it did, it would normally be in the form of hard copy documents which were filed in the SIC.

7.283 Brian Barlow told the Inquiry that a daily SITREP would be prepared by the SIC and faxed to NIPS HQ detailing incidents of note that had occurred in the prison within the previous 24 hours. In addition, if there had been an incident in the prison a report would have gone to the Director of Operational Management at NIPS HQ.

Relationships with the Army

7.284 An Army liaison officer was based at the Army camp alongside HMP Maze and was known as a Prison Liaison Officer. Brian Barlow explained that the Prison Liaison Officer would have provided the SIC with information about activity around the prison perimeter, such as suspicious vehicles. The SIC would then pass this information on to other staff. He said that the Army presence in HMP Maze was to **'look out, not to look in'**. He accepted that the Prison Liaison Officer would

have had an interest in certain vehicles arriving at the prison and the occupants of those vehicles. He also accepted that this officer would occasionally have received information from the SIC as to the identity of the occupants of vehicles visiting HMP Maze. This was confirmed by Steve Davis, who said that such information would probably have been given orally and the fact that this information had been given to the Prison Liaison Officer would not have been recorded in writing. Witness CA also confirmed that the Army would, if requested, provide information as to the identity of persons visiting a particular prisoner and that this information would have been provided orally. He confirmed that Army personnel would visit the SIC from time to time to speak with the Security Governors. Deputy Governor Ken Crompton stated that he had not been aware of the Prison Liaison Officer's existence.

- 7.285 The intelligence work gathering information on visitors and on prisoners in which military liaison was involved largely mirrored what the RUC were doing. They had similar access to the SIC. Army personnel also carried out surveillance from the tower at the visitors' car park and they would have noted the registration numbers of vehicles arriving.

Relationships with the Royal Ulster Constabulary Special Branch

- 7.286 The direct link between the prison and RUC SB was via the PILO, who was formally based at RUC Lisburn and also had a desk in the Army liaison office in Long Kesh Camp. The Inquiry heard that there was regular contact, usually two or three times a week, between the PILO and the SIC. Steve Davis said that all information was made available to the PILO. He could not personally access SASHA but the SIC staff would print out material for him to see, and SIRs, SCSs and other documents were made available to him. If the SIC had information for the PILO he would be invited over to the SIC offices. Likewise if he had something for the SIC the PILO would have made a phone call and arranged to come to the SIC. Information received from the PILO would have gone on a SIR depending on its nature, on the threats file if it had been a threat against an officer and on the prisoner's security file if the information related to a particular prisoner.
- 7.287 Deputy Governor Ken Crompton understood that the PILO with whom the SIC had contact was based in Belfast and he was not aware that this officer made regular visits to HMP Maze. He himself had never to his knowledge met the PILO and he was not aware of a police officer with an office in the Army base. Neither was he aware of any regular meetings which Steve Davis had with the police. He said he would not have expected to have been made aware of the fact that a SB officer had visited the prison.

- 7.288 Witness FA, who was the PILO for several years including 1997, told the Inquiry that he visited the SIC every two or three days. He explained that there was no one person in particular that he dealt with. Throughout the period of his time in this role he built up a good relationship with the SIC, and over time would have dealt with all SIC staff. He agreed that as far as he was concerned the SIC operated an open system as in, if we had it, he could see it. He was allowed to consult all the information in the SIC and to make notes. He said that a great deal of the information was important as far as the RUC were concerned. If the information on any monitored telephone call was of interest to him, SIC staff would make a copy of the tape to take away. He told the Inquiry that all the information which he received from the prison was processed through the Source Unit. If the information dealt with a matter that concerned the divisional commander, it would go through Lisburn SB. If it was an intelligence matter for the SB Region or Desks, it would be passed to Belfast. He told the Inquiry that he kept no record of the information that he collected daily from the prisons and that if he needed to refer to previous information he would either contact the Source Unit or consult the MACER intelligence database. He confirmed that hard copy debriefs were maintained at the Source Unit in product files; that each file, as far as he was aware, had an individual number and code word and that there would have been one product file for the prisons. He explained that when he left the job in 2007 the information he had collected from the prisons would have been on the computer, and he did not know where the product files would have gone.
- 7.289 Witness FA told the Inquiry that there was virtually a one-way flow of information, with intelligence going back into the prisons from outside very rarely. He accepted that SB had intelligence in 1997 that would have been relevant to the prison Security Department. He explained that the decision as to what information was passed on to the prisons would have been made either at RUC Headquarters or in one of the Regions. He assumed that the officers making these decisions would be at least of the rank of detective inspector. He told the Inquiry that he was in effect a post-box for Headquarters or Regions, in that they told him what information could be passed on to the prison service. He said that if the information was of a sensitive nature it would be passed on orally to the Security Governor or the Governing Governor. He would then have called the Source Unit to tell them that the information had been passed on and both he and the Source Unit would record the telephone conversation.

Relationships with the Royal Ulster Constabulary, Lisburn

- 7.290 A local uniformed Police Liaison Officer from RUC Lisburn was also based at the Army office beside the prison. His role related to such matters as the service of warrants, arranging police escorts and investigation of crime in the prison.

Security Audits

7.291 Alan Shannon told the Inquiry that until 1993 there had been a complete audit inspection of one prison each year; this included an audit of security procedures. However, Martin Mogg, who at that time was Director of Operational Management, felt that these audits were too detailed and that the NIPS was possibly **'not seeing the wood for the trees'**, so he abolished them in favour of an Establishment Contract process which he felt was more meaningful. Following the Steele Report, an implementation team was set up around May 1997 which was tasked with implementing the recommendations of the Steele Report; these included security procedures.

Conclusions

7.292 The Inquiry was given a very clear description of the standards to be expected in high security prisons in other jurisdictions in the UK in 1997. It also heard extensive evidence that several of the most important of these standards did not apply in HMP Maze at that time. In all its deliberations the Inquiry Panel have borne in mind that the Inquiry's Terms of Reference do not require it, or indeed allow it, to inquire in general terms into the management of prisons in Northern Ireland in the years up to 1997. Its Terms of Reference require the Inquiry in considering these matters first to consider whether or not there has been a wrongful act or omission in relation to the death of Billy Wright. Where they determine that there has been such an act or omission they should go on to consider whether that act or omission facilitated the death of Billy Wright and/or whether that act or omission was intentional or negligent. The following conclusions have been reached on that basis.

7.293 The consideration which has overshadowed all others in relation to the matters in this Chapter is whether HMP Maze in 1997 was to be regarded as a high security prison in the normal sense of that term, holding 600 or more persons convicted of violent criminal offences, or whether it was in reality a holding centre for paramilitary prisoners who had strong political affiliations, what some have described as a 'prisoner of war camp'. Indecision about this had hung over HMP Maze since it opened. For many of those held there and their supporters the ethos of Long Kesh internment camp remained alive. The official position of government and, therefore, of the NIPS was that HMP Maze was to be considered a high security prison. However, this was tempered by the wider political environment and the extent to which this was affected by what happened in HMP Maze. This latter consideration became even more significant as the 1990s unfolded and it became increasingly likely that any political settlement would have far-reaching effects on prisoners.

7.294 In relative terms the NIPS was a small prison service, even during the period when it held its largest number of prisoners. It was unusual in that a high proportion of its prisoners had affiliation to one of several paramilitary factions, many of which were violently opposed to each other. When HMP Belfast closed in 1996 the system had only three prisons for adult males. Given the fact that HMP Magilligan was not a high security prison, coupled with the understandable determination of the NIPS to manage HMP Maghaberry in a manner as close as possible to that of other high security prisons in the UK, the only prison which could hold prisoners who remained actively affiliated to any paramilitary group was HMP Maze. The problems of managing such a demanding and potentially dangerous group of high security prisoners were compounded by the decision to hold all of them in a single prison. The Inquiry did not hear any evidence that the NIPS considered at any point the advantages or otherwise of building other, smaller prisons which might have provided relief for HMP Maze. Indeed, once the NIPS decided to close HMP Belfast the situation was exacerbated, since thereafter remanded paramilitary prisoners also went to HMP Maze. By holding anything between 500 and 1,000 of these volatile prisoners in one prison, the NIPS created a monster which became iconic in political terms and well nigh ungovernable in operational terms.

Assessment

7.295 The NIPS Assessment and Allocation Committee met regularly, but its function with regard to allocation of prisoners to and from HMP Maze was a reactive one. With the exception of a small group of prisoners who performed domestic duties, all prisoners in HMP Maze belonged to paramilitary factions. The decision as to whether an individual prisoner fell into this category was not in the gift of the Committee. Instead it lay in the hands of the prisoner known as the faction's OC (see 7.115). The Inquiry heard that, as well as deciding whether an individual should be housed with his faction, on occasion the OC was also able to instigate the transfer of a prisoner to or from HMP Maze. According to regulations, a serving prisoner had to submit a form known as a petition to the prison authorities to request permission to transfer from one prison to another. In practice this procedure was often a retrospective formality. The decision of the OC applied not only to allocation to HMP Maze but also to the precise wing in which a prisoner was to be held. A further complication arose when there was a dispute within a paramilitary faction, particularly if it led to the emergence of a new faction. This was the situation with Billy Wright and his group in 1997. The resulting allocation problems for them are dealt with in Chapter 9 of this Report. Given that HMP Maze had been allowed to develop as it did, the Inquiry does not criticise those involved in the allocation process in 1997.

7.296 The system in England and Wales for placing individual prisoners in a security category is described earlier in this Chapter. An individual's category has direct repercussions on the way that he is managed on a daily basis. In high security prisons all prisoners are likely to be in category A or B. The need to pay special attention to the management of those in category A is reflected in the fact that they are further sub-divided into exceptional, high or standard risk, with significant differences in the daily treatment of each sub-group. The Inquiry heard that in Northern Ireland the broad equivalent of categories A and B was top risk and high risk, and one would have expected all prisoners in HMP Maze to be classified as members of one or other of these two groups, with the likelihood that many would be in the top risk group. The Inquiry heard evidence that none of the prisoners in HMP Maze were in the top risk category before 27 December 1997 and that, in any event, the conditions of imprisonment for prisoners in different categories were **'not generally different'**. The Inquiry Panel are of the opinion that the failure to operate a proper system of prisoner classification in HMP Maze made it very difficult to exercise appropriate supervision of those prisoners who required the highest level of staff supervision. The most glaring example of this is that even after they had held a prison officer hostage with a loaded gun in April 1997, McWilliams and Kenneway were not classified as top risk; this happened only after they had murdered Billy Wright. The Inquiry notes that even if these two prisoners had been re-classified to top risk after the Maghaberry hostage incident, this would not have resulted in closer supervision since NIPS Operations Circular 26/93 instructed that top risk prisoners in HMP Maze and HMP Maghaberry were to be **'treated the same as other prisoners ...'**. The Panel conclude that the failure to classify McWilliams and Kenneway as top risk prisoners after the Maghaberry hostage incident and to give them the close supervision to which top risk prisoners should have been subjected constitutes a wrongful omission on the part of the NIPS which facilitated the death of Billy Wright; such omission was negligent rather than intentional.

H Blocks

7.297 The eight H blocks which made up HMP Maze were the government's response to the recommendation in the 1975 Gardiner Report that **'a temporary cellular prison for 700 persons'** should be **'... constructed by the quickest possible means'**. This was confirmed by the Home Secretary when he advised Parliament in February 1975 that a cellular prison would be built on the HMP Maze site as an interim measure. As previously described at 7.126 Witness William Bailie told the Inquiry how he had been asked to produce urgently a design for **'short-term emergency accommodation which was more secure than the Nissan Huts at Long Kesh (compounds)'**. In other words, there was little doubt from the

outset that HMP Maze was never intended to be a permanent prison. Despite that fact, it remained for almost a quarter of a century as the main prison in Northern Ireland for the large number of prisoners who required to be held in conditions of the highest security. The temporary nature of its construction was another instance of the uniqueness of HMP Maze.

Single-Storey Flat Roofs

- 7.298 In the course of its lifetime additional security features were added to HMP Maze. It had, for example, strong external perimeter security which was enhanced by the army watchtowers and a sophisticated entry and exit procedure. However, the weakness which remained at its heart was the construction of the H blocks themselves. Single-storey flat-roof buildings are what one expects to find in a low security prison; certainly not in a high security prison. The Inquiry considered a great deal of evidence about whether and how access to the roof of H Block 6 by prisoners might have been made more difficult. Before going on to comment specifically about these matters, it is important to place them within the more general context that the H blocks themselves were not appropriate long-term accommodation for high security prisoners. Counsel for the NIO and the NIPS was at pains to point out that there was no evidence of any rooftop incidents at HMP Maze prior to 1994. The Inquiry notes that fact but does not regard this as evidence that the roofs were secure before that juncture. The statistic merely points to the fact that prisoners chose not to access the roofs, either as a form of demonstration or in order to attack an opposing faction. When they chose to do so, in December 1994, in March 1995, in April 1997, in August 1997 and crucially on 27 December 1997, they had little difficulty in doing so. Counsel for the NIPS submitted that roofs such as those on the H blocks could never have been made impregnable. Logically, that should carry with it a further acknowledgement, namely, that these roofs were not suitable for a high security prison.
- 7.299 Given that the roofs were as they were, the Inquiry then had to consider whether anything more could or should have been done to make access to the roof of H Block 6 more difficult in 1997 when the LVF were co-located there with the INLA. After each of the roof incursions some improvements were made to barriers to roof access: additional fences were installed at the ablutions area, Perspex was fitted in some areas. In some cases this work was done as part of the rolling programme of refurbishment and it is not clear, for example, whether there was additional roof security at the ablutions on the A and B side of H6 in December 1997. In autumn 1997 Security Governor Steve Davis made several suggestions to improve security to the roof. Tests were carried out in November 1997 on a proposal to add additional weldmesh fencing at H6. For reasons that were never

made clear to the Inquiry, Martin Mogg rejected this proposal. The Inquiry notes that had Mr Mogg accepted this proposal in November 1997 the work would probably have been carried out as part of the expected refurbishment of the block and in any event it would not have been done before 27 December 1997.

- 7.300 Since the time HMP Maze cellular prison opened, the authorities had been aware that the single-storey flat roofs were a security weakness and potentially open to assault by prisoners. The authorities were prepared to live with that major weakness, even in what they considered to be a high security prison. The Inquiry Panel do not comment on that decision in general terms. However, in terms of H Block 6, the only block in the prison that held two factions which were sworn enemies and which were not at that time on ceasefire, there were clear and specific dangers. The Inquiry heard no evidence that any steps were taken to strengthen the roof defences in April 1997 before the LVF was transferred to H6, nor that there were any improvements after the August riot and before the return of the LVF to the block. The Panel conclude that the failure to take any action to strengthen the roof defences in H Block 6 between April and December 1997 constitutes a wrongful omission on the part of the NIPS which facilitated the death of Billy Wright; such omission was negligent rather than intentional.

Exercise Yards

- 7.301 The Inquiry heard detailed evidence about arrangements elsewhere in the UK to monitor the movements of high security prisoners within prisons, specifically when going to and from and during daily exercise periods, and also for staff to search exercise yards on a regular basis. The situation in HMP Maze in 1997 could not have been more different. For at least some of the time prisoners had virtually unrestricted access to the exercise yards and some of them, including Billy Wright, were known to take advantage of this during night hours. Yards were rarely if ever checked manually by staff. The details of these matters are covered earlier in this Chapter and do not have to be rehearsed here. This is a clear instance where regulations and reality were far apart. The Governor continued to issue instructions about supervision and control of access which were not implemented. The POA entered into a formal industrial relations disagreement about supervision of yards in June 1997 and this dispute was not resolved until early 1998, in clear breach of the procedure for resolving industrial disputes of this nature. Both management and the trade union were remiss in allowing this dispute, along with many others, to fester in this way to the detriment of the security of the prison. A number of witnesses assured the Inquiry that they personally had locked the exercise yards when they were on duty at night, but the overwhelming weight of evidence contradicted these assertions. The Inquiry also heard that Alan Shannon wrote to

the incoming Prisons Minister on 3 June 1997 to inform him that prisoners came into the wings for a headcount at 7.45 each evening, after which the yards were secured until the following morning. He wrote that the prisoners resented this and he saw no alternative but **‘to continue to hold the line on this’**. The reality was that the line was not being held.

- 7.302 The ultimate responsibility for matters of security lay with the NIPS and the Governor. Once again, the Inquiry makes no comment on the fact that the prison authorities allowed this breach of security to happen throughout the blocks. However, we do comment on the consequences of this breach as it affected events in H6 on the morning of 27 December 1997. The failure to secure the yards of H6 A and B wings each night and to check them regularly gave an unidentified INLA prisoner or prisoners the opportunity to cut a hole in the yard fence sometime prior to 27 December 1997. This was the means by which the prisoners were able to access the roof of H6 on that date. For that reason, the Panel conclude that the failure of the NIPS and the Governor to ensure that this exercise yard was secured and checked each night constitutes a wrongful omission on their part which facilitated the death of Billy Wright; such omission was negligent rather than intentional.

Staff Supervision and 24 Hour Unlock

- 7.303 The Inquiry heard a considerable amount of evidence about the fact that from 1994 prisoners in HMP Maze were never locked in their cells and had the free run of their wing or wings. The evidence is detailed earlier in this Chapter. We do not consider that this aspect of prison management directly facilitated the murder of Billy Wright and, therefore, we make no comment on it. The one exception to this is that, had the INLA prisoners been locked in their cells at night, it might not have been so easy to find an opportunity to cut the yard fence in advance. However, that matter is covered by our conclusion in the preceding paragraph. We take the same view about the decision to withdraw staff from the wings and to abandon the rigorous functions, such as regular headcounts, cell checks and fabric checks, which are an important feature of high security prisons.
- 7.304 We agree with Sir Richard Tilt, who described these procedures as the **‘... control and security levers a governor would expect to have in place in a high security prison’**. We also note a lack of resolve at HMP Maze to enforce such procedures. These operational failings were major symptoms of the unwillingness, for whatever reason, of the NIO and NIPS to manage HMP Maze in a proper manner.

A Unique Prison

- 7.305 Evidence to the Inquiry from the NIPS, the NIO and former Ministers continually emphasised that HMP Maze was unique. This was generally a reference to the complicated mix of prisoners which it held. However, the term can also be applied to the way in which HMP Maze was managed. Prisons are regulated by primary legislation, usually a Prisons Act, by secondary legislation such as a set of Prison Rules and by administrative regulations which include instructions issued by national headquarters and local instructions issued by the prison governor. It is the duty of staff to implement all of these. It is the responsibility of local and national management to ensure that this happens. The evidence laid out in this Chapter leads ineluctably to the conclusion that there was a gulf between the daily reality of activities in HMP Maze and the regulations which were intended to govern those activities.
- 7.306 In all prisons, particularly those which house prisoners serving long sentences, there is a continuous tension between prisoners, who will always seek to extend their privileges in a way which bends the rules almost, but not quite, to breaking point, and the prison staff, who will seek to impose the letter of the regulations. In high security prisons this is likely to involve a daily battle of wits which will be immediately understood by anyone who has worked in such an environment. HMP Maze was no different in this respect and, even allowing for the complex political environment within which the prison had to operate and the central role which some of the prisoner factions came to have in the wider Peace Process, the Panel are of the view that management did not engage in this challenge as vigorously as it should have done. A good example of this is the way in which the prisoners manipulated the opportunity to remain unlocked so that they could watch the 1994 football World Cup finals on television and then converted this into permanent unlock. The note of the Ministerial meeting on 6 July 1994 demonstrates graphically how the authorities sought to put the best gloss on the situation so as not to be seen to be making a concession to the prisoners. The subsequent notice to prisoners announced that, following the 'success' of the World Cup experiment, 24 hour unlock would be made permanent to facilitate access to night-time sanitation. It was small wonder that the Minister was impressed by this 'imaginative approach'.
- 7.307 There was a lack of transparency in explaining the process behind such developments to first line staff. Several prison officer witnesses told the Inquiry that they felt increasingly marginalised as concessions were made 'over their heads'. The Inquiry can understand the reluctance of the government to amend the Prisons Act or the Prison Rules, but it was important that Headquarters Instructions and local Governor's Orders should have taken account of the daily

reality within HMP Maze, a reality which was acknowledged and indeed accepted by the prison authorities up to the highest level. It is clear that the regulations under which HMP Maze was officially managed were largely incapable of being applied. This situation, described by some witnesses as two regimes, one on paper and one in practice, contributed to the disillusionment and frustration felt by prison officers. The Inquiry Panel are of the view that the NIPS was remiss in not providing staff at HMP Maze with clear operational instructions which took account of what they were able to do, and not to do, in daily practice. We conclude that this constituted a wrongful omission on the part of the NIPS which facilitated the death of Billy Wright.

8

The Northern Ireland Prison Service and HMP Maze in 1997

Management of the Northern Ireland Prison Service and HMP Maze

Management Board of the Northern Ireland Prison Service

- 8.1 As described in Chapter 5, the Northern Ireland Prison Service (NIPS) became a Next Steps Agency in April 1995 and Alan Shannon, who had been Controller of Prisons since 1992, became its Chief Executive. He was supported by four Directors. In 1997 these were Brian White as Director of Policy and Planning, Martin Mogg as Director of Operational Management, Robin Masefield as Director of Finance and Estates Management and Advisory Group Member 1 as Director of Personnel and Services. The management board of the NIPS (known as the Senior Policy Group (SPG)) was made up of the Chief Executive, the four Directors and the Governors of all the prisons.
- 8.2 Mr Shannon described his role as Chief Executive as having two parts, one of which was **'operational chief of the organisation'** and the other was senior policy adviser to the Minister. In respect of the first part, he said that he spent more time on personnel matters than he did on prisoner matters. He emphasised that he had no operational experience; he was **'not the expert'** but had **'lots of other experts in the organisation'** and he took great care to listen to what they had to say. He laid importance on the fact that the Governors were members of the senior management board and had full input into every policy decision that was recommended to Ministers. This allowed them to explain to staff in their prisons how decisions had been made and how their views had been taken into account.

Directorate of Operational Management

- 8.3 The Inquiry took a special interest in the Director of Operational Management and his staff. Martin Mogg had been recruited in early 1993 as Director from the Prison Service of England and Wales where he had latterly been Governor of HMP Durham. Referring to his appointment, Alan Shannon explained in evidence that he had appointed Martin Mogg **'because he brought a wider perspective to our local circumstances than someone else internally would have done'**.

8.4 The Governor of HMP Maze, Mr Johnston Baxter, formally retired on 30 September 1997 and the following day Martin Mogg replaced him as Governor, at the same time retaining his role as Director of Operational Management. The reasoning behind this dual appointment is described in 8.16 below. The new appointment was approved by the Permanent Secretary on the understanding that Mr Mogg would **‘continue with his Director of Operations function, though on something like a one day a week basis’**. These changes were announced to prison staff in the following terms:

‘This will be a temporary arrangement and is intended to assist the prison in implementing the recommendations of the Steele Inquiry Report and other aspects of the current reform agenda. Mr Mogg will retain his position as Director of Operational Management, but [to] enable him to fully discharge his function as Governor of Maze, most of his current responsibilities will be shared between the Chief Executive, the other Directors and Branch Heads in Operational Management Division.’

8.5 This dual appointment had a number of consequences. The first was in relation to capacity. For about 12 months Mr Mogg had two full-time jobs and he divided his time between them as best he could. Mr Shannon told the Inquiry that Mr Mogg **‘tended to come into Headquarters certainly on a Friday and sometimes on a Monday’**. It would appear that Mr Mogg spent the majority of his time at HMP Maze, attending NIPS Headquarters (HQ) for weekly meetings with the other Directors or when there was a particular reason for him to visit. Robin Masefield told the Inquiry that he did not recall any major difficulties or significant tensions as a result of Martin Mogg fulfilling both roles. Mr Masefield thought that he himself had gone to HMP Maze more often to discuss matters with Martin Mogg. He recalled that Mr Mogg would also drop in to NIPS HQ on his way home. Barry Wallace, an Assistant Director of Operational Management in 1997, recollected that Martin Mogg was always available to speak to by telephone or could be visited at HMP Maze. When asked, as a former Governing Governor, whether it was possible for one person to fill both roles, he said that it would have been **‘very difficult, perhaps unwise’**.

8.6 There is a further consideration related to the responsibility of the Director of Operational Management for line-managing the Governors of all the prisons in Northern Ireland. It was not clear how or whether Mr Mogg exercised this role after 1 October 1997 and, if he did not, who did. The Director also had a role as arbiter in any dispute or difference of opinion between Governors, and it was not explained how Mr Mogg would have exercised this in the case, say, of a difference between the Governors of HMP Maghaberry and HMP Maze.

- 8.7 The Director of Operational Management had a key role in supervising and supporting Governors in their work. He was the main point of reference if a Governor needed advice about an operational matter. Given that HMP Maze was the most complex prison in the NIPS, the relationship between the Director of Operational Management and the Governor was a particularly crucial one. The Inquiry heard several examples of how this worked while Mr Baxter was Governor. By definition, after 1 October 1997 the Governor of HMP Maze did not have this supervision and support since the same person was carrying out the two operational roles. Mr Shannon was the line manager of the Director of Operational Management and he told the Inquiry that after 1 October he took on some of Mr Mogg's duties in that role but he acknowledged that he had no operational experience and would not, therefore, have been in a position to provide operational support to the Governor of HMP Maze.
- 8.8 The Inquiry heard differing evidence about the structure of the directorate in 1997 and also about which individuals held which posts. The management structure in the directorate was changed following an internal review. Until February 1997 Martin Mogg had one Deputy Director and two Assistant Directors. Historically the post of deputy had been filled by an experienced senior prison governor. Duncan McLaughlan, who had been Governor of HMP Maghaberry between 1987 and 1991 and of HMP Maze between 1991 and 1993, was Deputy Director of Operational Management from 1993 until January 1997, when he returned to HMP Maghaberry as Governor. Barry Wallace, who had been Governor of HMP Maghaberry, then came to the Directorate of Operational Management as a third Assistant Director. It would appear that Mr Wallace took over many of the operational duties previously carried out by Mr McLaughlan. However, the new title implied that there was no longer an identified deputy to the Director and that in the Director's absence the three Assistant Directors shared responsibility among them. This arrangement took on added significance after 1 October 1997 when Martin Mogg also became Governor of HMP Maze. The Inquiry heard that by 2002 the post of Deputy Director had been reinstated.
- 8.9 The two other Assistant Director posts were filled by Grade 7 administrative civil servants. One of them was Seamus McNeill, who had been in post since 1994. He was responsible for a number of operational areas including prisoner assessment and allocation, as described in Chapter 7, as well as contingency planning for incidents such as hostage taking. He also had line management responsibility for the Prisoner Information Unit (PIU). Mr McNeill went on sick leave in June 1997 and did not return to work. It was suggested that the civil servant beneath him 'held the fort' in his absence. Mr McNeill told the Inquiry that he had expected to be replaced by Brian McCready, also a Grade 7 civil servant, who worked in the

Directorate of Personnel and Services. Mr McCready gave evidence that he was asked by the Director of Personnel to keep a 'watching brief' in the Operational Management Directorate in addition to his own duties in the Personnel and Services Division, although he was uncertain when this happened. When it was put to him that he had not taken up his watching brief until 1998, Mr McCready agreed that his own recollection could be incorrect. His evidence was that his 'watching brief' covered the desk duties of staff who liaised with the prisons but he thought that someone else, presumably Barry Wallace, had come from a prison to take over the bulk of Mr McNeill's work. Mr McCready said that he had a limited role in making himself available for staff in Mr McNeill's branch when they needed to talk to him. He recalled that, as time went on, his role became more detailed as he began to pick up more on what the work involved.

- 8.10 Barry Wallace took on some of the duties of Seamus McNeill when the latter went on sick leave. This included responsibility for the PIU. He told the Inquiry that he was also responsible for Research and Development and the Operations Room, which was the communications centre for the NIPS. The PIU was headed by Witness ZD, who told the Inquiry that his direct line manager in early 1997 was Seamus McNeill, who was briefly replaced by Brian McCready. Witness ZD said that he believed Mr Wallace had also held the post around that time. Between May and the end of June 1997 Witness ZD was posted to HMP Maze on a temporary basis (see 8.20).
- 8.11 The third Assistant Director, NIPS Operational Member 2, was responsible for a raft of administrative matters relating to prisoners, including oversight of compassionate home leave, medical paroles, prisoner home release schemes and assisted visits schemes. The fact that he had no input to general operational matters is confirmed by the fact that Brian McCready from the Directorate of Personnel and Services was given the 'watching brief' of assisting staff in the Operational Management Directorate who liaised with prisons in addition to carrying out his own duties in Personnel.
- 8.12 In summary, this meant that from October 1997 the Directorate of Operational Management was staffed at a senior level by a Director who was also holding down a second demanding job, one Assistant Director with significant operational experience and another who had responsibility for a relatively narrow portfolio of administrative matters.

Management of HMP Maze

The Governor

- 8.13 Johnston Baxter replaced Duncan McLaughlan as Governor of HMP Maze in July 1993, and retained this post until he retired at the end of September 1997. Owing to ill health he was unable to provide the Inquiry with a witness statement or to

give evidence. On Mr Baxter's retirement Martin Mogg, while remaining Director of Operational Management, became Governor of HMP Maze on 1 October 1997. He held both posts until mid-1998, when Ken Crompton became the last Governor of HMP Maze.

- 8.14 The Inquiry heard a great deal about the challenges of managing HMP Maze. Given that the person with immediate operational responsibility for the prison was the Governor, this meant that much was expected of the man who filled this post and that the pressure on him was considerable. In the course of his evidence, the Chief Executive of the NIPS gave some indications of how this pressure manifested itself on different individuals. Duncan McLaughlan was Governor of HMP Maze between 1991 and 1993. In 1992 he was severely assaulted by a number of loyalist prisoners on one of the wings. Alan Shannon explained that subsequently Mr McLaughlan was moved from his post **'because the Minister of the day had lost confidence in him'**. Mr Shannon confirmed that he also had lost confidence in Mr McLaughlan as Governor of HMP Maze:

'So we felt that certainly after the time he was attacked, that perhaps he wasn't as effective as he had been and it would be best to make a change.'

- 8.15 Alan Shannon told the Inquiry that by 1995 he had serious doubts about Mr Baxter's performance and that he **'was not satisfied with the way in which the prison was being managed'**. By 1996 or 1997 Mr Shannon had lost confidence in Mr Baxter. In mid-1996 Mr Baxter agreed to retire but subsequently changed his mind. Mr Shannon told the Inquiry that he **'didn't judge the situation was significantly serious for me to force the issue'**. During Mr Baxter's period of summer leave Patrick Maguire, a Governor III, was acting Governor of HMP Maze. Mr Baxter returned to duty on 26 August and formally retired on 30 September 1997.
- 8.16 Mr Baxter's retirement had been anticipated for some time. Alan Shannon explained to the Inquiry that no other available prison governor in the NIPS was **'quite mature enough or experienced enough to make the leap up to Governor I at that point'** and that anyone coming from outside the NIPS would have taken **'a couple of years to really get to grips with it'**. Despite this latter consideration the NIPS had explored the possibility of recruiting a replacement from another UK prison service but without success. As described in 8.4 above, it was then decided that Martin Mogg would take on the task of governing HMP Maze in addition to his role as Director of Operational Management. He took on this dual role on 1 October 1997, the day after Mr Baxter's formal retirement. Alan Shannon told the Inquiry that the idea for this arrangement came initially from Mr Mogg himself:

‘Both of us were concerned about the state the Maze had got into. I mean, we had our suspicions, but the Steele Inquiry had exposed it for us. We thought we needed somebody to go in there to hit the ground running. ... Martin said, “I will go in and sort it out for six months and then come back to Headquarters”, and, you know, that seemed entirely the right thing to do at that time.’

- 8.17 Mr Shannon told the Inquiry that Mr Mogg was in NIPS HQ one and sometimes two days a week. That indicated that he was in HMP Maze, at best, on a less than full-time basis, although witnesses said that he spent the bulk of his time in the prison. In the words of Mr Crompton, **‘Martin Mogg was not often absent from HMP Maze: he seemed to make his “Maze” role his permanent role. He was at HMP Maze most days. Occasionally he would disappear to do something else but I have no recollection of long periods of absence.’**

The Deputy Governor

- 8.18 The Deputy Governor of a prison is, by definition, deputy to the Governor. He is second in charge of the prison and takes over the duties of the Governor when the latter is not in the prison. The normal arrangement is that at all times either the Governor or the deputy will be in charge of the prison. Given absences on rest days and annual leave and the fact that the prison needs to be governed for every day in the year, this means in practice that each will be absent from the prison for one third of the days in each year. The Deputy Governor will, therefore, be in charge of the prison for one third of the year. This means that he needs to be aware of everything that is happening in the prison so that he can govern the prison competently in the Governor’s absence. It is essential for the smooth running of any prison that there should be a sound working relationship between these two senior persons and that the Governor should have full confidence in his deputy’s ability to manage the prison in his absence.
- 8.19 Tom Woods was appointed Deputy Governor of HMP Maze in 1994. Around May 1997 he was seconded to work on the NIPS HQ team which was charged with implementing the recommendations of the Steele Report, which is described in detail later in this Chapter. Mr Shannon explained that Mr Woods **‘had been doing a very solid job as the Deputy, but, frankly, he got to a point when he wanted out. He had had enough. It was difficult to not sympathise with him in that situation. So when we set up the Steele implementation team, it was an opportunity to both use his knowledge and experience, to ease him out gradually ...’**. Mr Woods’ official date of transfer from HMP Maze was 23 June 1997.

- 8.20 In May 1997 Pat Maguire was Director of Inmate Services and Activities and the third most senior governor in HMP Maze. When Mr Woods moved to NIPS HQ Mr Maguire acted as Deputy Governor of the prison. Between May and the end of June 1997 Witness ZD, the head of the PIU, was posted to HMP Maze as an acting Governor III, carrying out Mr Maguire's substantive duties in Inmate Services and Activities. Mr Maguire continued to act as Deputy Governor until 13 October 1997. He told the Inquiry that he had not expected to be acting Deputy Governor for such an extended period. He said that he had received no training or induction for the role, although the Inquiry noted that he had previous experience as Deputy Governor of HMP Belfast. As acting deputy he also had overall charge of the prison in the Governor's absence. This included, for example, a period of around three weeks in July and August 1997 when Governor Baxter was on annual leave. This meant that he was acting up two grades to Governor and effectively there was no Deputy Governor in the prison. Irenë Orr, the Governor IV in Inmate Services, acted up to Deputy Governor for a brief period when Pat Maguire was away.
- 8.21 The operational confusion which resulted was confirmed by Steve Davis, who arrived at HMP Maze as Security Governor in August 1997. The direct line manager of the Security Governor should have been the Deputy Governor. Steve Davis gave evidence to the Inquiry that there was no designated Deputy Governor when he arrived at HMP Maze. He said that Pat Maguire might have been acting up to the post, but if so he would have been doing his own job as Head of Inmate Services and Activities at the same time.
- 8.22 In addition to deputising for the Governor in his absence, the Deputy Governor will usually assist the Governor by taking on direct responsibility for many of the day-to-day activities in a prison. In his evidence, Ken Crompton indicated that this was indeed his responsibility in HMP Maze. This is confirmed by the chart of the organisational structure for HMP Maze in October 1997 at Appendix F. This shows Mr Crompton as line manager for the Head of Residence (who had overall responsibility for management of the H blocks), the Head of Security and the Head of Personnel Services. All these individuals reported to the Governor via the deputy, although all of them would have direct access to the Governor when necessary. The Inquiry heard how this was particularly the case in respect of security matters.
- 8.23 Chapter 7 describes the key role which a Deputy Governor will normally fulfil in a high security prison in respect of oversight of security issues. Mr Crompton appears to have taken the view that his task in respect of prison security was quite limited. While acknowledging that he was responsible for monitoring the work of the Security Department and was the line manager of the Security Governor, he said that the Security Governor would usually deal directly with the Governor

himself. Mr Crompton said that he **'probably dropped in once or twice a week'** to the Security Department, although sometimes the gaps between his visits could be longer. He said that the Security Governor would come to see him only occasionally and that he had no formal meetings with the Security Governor or his staff. Security Governor Steve Davis explained that there were no protocols as to when a security issue had to be referred to the Governor as opposed to the Deputy Governor. He said that anything that was **'destined for the outside world'** would go to the Governor first and that anything he wrote in terms of analysis, any concerns and any plans would go direct to the Governor. Witness Brian Barlow, Security Principal Officer (PO), understood that the Security Department worked directly to the Deputy Governor and that he was their **'immediate boss'**. He said that he and Mr Davis would not have bypassed the Deputy Governor to go straight to the Governor.

The Security Department

- 8.24 The constantly changing face of management in HMP Maze in 1997 was exemplified in the Security Department, where it was of particular interest to this Inquiry. Alan Craig, having been appointed Security Governor at HMP Maze only eight months previously, was transferred to NIPS HQ in March 1997. No successor was available immediately and so the Governor had to reorganise his senior security staff on a temporary basis. As an interim measure the Governor V who had been Mr Craig's deputy was appointed to replace him (Security Governor Maze (Deceased)) and the experienced Security PO, Brian Barlow, was appointed as temporary Governor V.
- 8.25 On 13 August 1997 Steve Davis was transferred from HMP Maghaberry to HMP Maze as the new Security Governor. Mr Davis described to the Inquiry his first day on duty:

'It was actually quite a strange, almost bizarre introduction. I had gone down the day before. I had done a handover with the previous Security Governor, which basically amounted to who everybody was, where everything was in relation to the office and so on, and that morning had agreed with Brian [Barlow] that we would meet at the extern gate and actually walk the jail post to post. We didn't get further than the Maze court whenever [sic] both pagers went off and we were asked to come to the Command Suite. That would have been around about 8.30 in the morning.'

The riot by the Loyalist Volunteer Force (LVF) was underway. The description 'hitting the ground running' hardly does justice to Mr Davis's introduction to his new responsibilities.

- 8.26 Mr Barlow's temporary promotion in March created a vacancy at PO level, which resulted in a number of individuals filling this post throughout the remainder of 1997. The Security Information Centre journal for the period between 29 September 1997 and 1 January 1998 records the names of a number of individuals who performed the duties of Security PO from time to time. The Inquiry heard that from October or November 1997 the post was filled by a Senior Officer (SO). This meant that at the time of Billy Wright's murder the posts of Governor V and PO in the Security Department were both held by persons on temporary promotion.

The Collator

- 8.27 The importance of the collator in the Security Department was explained in Chapter 7. There was clear evidence that this post was not filled on a regular basis in 1997 and that a full-time collator was not appointed until 1998. The appointment of a full-time collator coincided with a marked increase in the number of Security Information Reports (SIRs) entered on the SASHA computer system. In the first three months of 1998, 169 SIRs were entered, compared to 139 SIRs for the whole of the period February to December 1997. Witness CA, who had been collator at the time, told the Inquiry that the increase in the number of SIRs at the beginning of 1998 could probably be explained by the fact he knew the job and also because he was put on a regular weekly shift. Witness CA said that until his full-time appointment the collator's role was **'not rated at all and had little credibility'**. Brian Barlow stated that the escape of Provisional Irish Republican Army (PIRA) member Liam Averill and the murder of Billy Wright had led the Governor to the realisation that a full-time collator was needed.

Other Senior Management Posts

- 8.28 Evidence was given to the Inquiry that in some instances other individuals were appointed to senior posts in HMP Maze for which they appeared not to have the requisite skills or experience. Irenë Orr, a Governor IV, was appointed as Head of Maintenance and Estate Services in September or October 1997. She had no background in prison maintenance or estates work and told the Inquiry that she had been appointed for her administrative experience as the department was being considered for privatisation. From 1994 to 1997 William Gribben had oversight of Health and Safety (H&S) matters in HMP Maze, despite, according to himself, having neither training nor qualifications. In April 1997 he was replaced by another administrative civil servant, Valerie Sherman, who had no experience in H&S either and who appears to have received only rudimentary training after her appointment. Ms Sherman would have been in post in June 1997 when the Prison Officers' Association (POA) registered a Failure to Agree notice with the Governor concerning H&S aspects of his new instructions about securing exercise yards in the evening. This matter is described in Chapter 7.

Management of H Block 6

- 8.29 There was also a lack of continuity in management within H6 itself in 1997. David Smith became Block Governor V at the end of April 1997: his recollection was that the post had previously been filled on an ad hoc basis. Mr Smith carried out the disciplinary adjudications of LVF prisoners following their riot on 13 August 1997, and the resulting animosity meant he worked in H6 only occasionally thereafter. It was not unusual for staff to become *persona non grata* in this way. Mr Smith was replaced on 22 September by John Ramsden, a PO who was acting Governor V: he was also Block Governor for H7, an Ulster Defence Association (UDA) block, which he said was his **'primary'** block as it held many more prisoners than H6. He said that he was given this dual role because of a shortage of Governors V at that time. Mr Ramsden gave evidence that on 1 October he was **'excluded'** from H6 by the Irish National Liberation Army (INLA) following a dispute over their right of access to the adjacent B wing. He explained that for an officer to return to the block after being **'excluded'** was to risk being severely assaulted or killed by prisoners, who could also retaliate by assaulting an **'innocent'** member of staff. There is evidence that he was involved in dealing with H6 prisoner requests from 24 November, but he denied being the block Governor at that time and said he thought the role had again been filled on an ad hoc basis by a number of Governors.
- 8.30 The regular block PO David Loyal also had to leave H6 following the same dispute with the INLA as a result of which his **'safety was no longer guaranteed'**. He was replaced by Kenneth McCamley, formerly a relief PO, who gave evidence that he was not appointed on a regular basis until January 1998.

Finance

- 8.31 The total planned budget for the NIPS for financial year 1997/98 was about £142 million, of which around 75 per cent was for staff costs. (Alan Shannon said in evidence that the proportion for staff costs was in the region of 90 per cent.) The cost per prisoner place (CPPP) was calculated in broad terms by dividing the budget by the average number of prisoners held during the year. On that basis, the CPPP for 1997/98 was £75,297, against a target of £76,252. The cost of running HMP Maze in 1997/98 was £50.89 million, the capital expenditure on the prison was almost £1.3 million and the CPPP was £80,934.
- 8.32 At a meeting of the NIPS SPG in January 1997 Martin Mogg warned that, although the financial provision for 1997/98 was not too badly affected by cutbacks, the NIPS was likely to face considerable shortfalls in the succeeding two years. It was noted that one consequence of this would be a need to shed 90 staff in 1997/98, of which HMP Maze's proportion was likely to be about 40. These reductions were an outcome of the Framework Agreement, which is described in

greater detail below. In order to ensure that the NIPS lived within its budget, an enhanced pay settlement for staff had to be funded by staffing reductions. After the general election in May 1997 the new government introduced plans for a Comprehensive Spending Review. In June 1997 the NIPS SPG noted that owing to **'the extreme unlikelihood of additional funding, Governors and Directors were asked to make every effort to reduce costs'**. In the annual exercise to prepare future budgets, prisons were asked to identify options for cuts.

- 8.33 Alan Shannon explained that his impression throughout this period, which was shared by Martin Mogg and others, was that the problem was not one of shortage of resources but rather the way that resources were used, namely **'the inflexibilities, the shift patterns, the absenteeism and the leave periods and all of those things, and that the solution to our problems was better management of the resources we had'**.

Staffing in HMP Maze

- 8.34 In all prisons there will be a fixed number of staff posts. Some of these, for example, in the Emergency Control Room (ECR), need to be filled on a continuous basis, 24 hours a day, seven days a week. Others, such as some in administrative areas, only need to be filled on a daytime basis for five days a week. Others need to be filled when there is related activity; these will include staffing in workshops and in visits areas. In 1997 the working week for staff in prisons in Northern Ireland would have been in the region of 39 hours. The normal arrangement was that staff would work five days a week on a staggered basis, including every second weekend. On this basis, the prison management would calculate how many prison officers would need to be employed to ensure that the fixed posts were filled as required. The calculations would include provision for annual leave and a limited amount of absence for other reasons such as sickness and training. The final total would be the number of staff, broken down by grade, to be employed to allow the prison to operate. The total figure would be approved by the NIPS, having previously been subject to negotiation between the Governor and the POA. This was known as the Target Staffing Level (TSL). Any subsequent variations, as a result, for example, of additional work that had to be done on a short-term basis or sick absences above the calculated figure, would be covered by staff working overtime with payment at enhanced rates. In the early 1990s 21 per cent of staff hours were made up of overtime working.
- 8.35 In April 1995 the NIPS and the POA entered into a Framework Agreement to regulate the terms and conditions of employment for prison officers. Among other matters, it was intended to ensure that staff only had to work 39 hours each week, other than in exceptional circumstances; to reduce and eventually eliminate

the amount of overtime which staff had to work; and to consolidate an element of previous overtime payments into basic pay. Since the operational requirements of prisons can never be entirely predictable, any essential additional work was to be covered by Additional Emergency Hours (AEH) payments. These could only be paid if the Chief Executive, the Director of Operational Management or the Director of Finance gave prior approval to the Governor. As an example, the staffing for the additional visits area for LVF prisoners when they came to HMP Maze in 1997 was covered by AEH payments to the staff involved.

- 8.36 General staff shortages on any day, for example, when the number of staff available was less than the TSL or because sick absence was in excess of the calculated figure, could not be covered by AEH. Instead, the POs who were responsible for staffing each group would seek volunteers to work additional shifts to cover the gaps. Staff who volunteered were credited with the hours that they worked, which they could later have as time off from scheduled shifts; this was known as 'time off in lieu' (TOIL). This arrangement was described as Additional Voluntary Hours (AVH), in contrast to AEH. The reality in 1997 was that many staff had accumulated significant levels of TOIL but continuing shortages meant that they could not take the time off. This had an adverse impact on the willingness of staff to work AVH.
- 8.37 One practical way of meeting any shortfall between the TSLs and the number of staff actually on duty on any one day was to resort to what was known as the Diminishing Task List (DTL). This list was drawn up in joint agreement between the Governor and the local branch of the POA. Every staff post in the prison was listed and any which could be left unfilled in the event of staff shortage on a particular day were identified. Staff who had originally been detailed to the post which was to be dropped would then be re-directed to wherever the shortage was. The posts at the bottom of the DTL would include those which could be left unfilled for a shift without having any effect on the running of the prison; these might include posts which were mainly administrative in nature. Further up the list would be those which could be stood down or dropped with some effect on the running of the prison. In a prison such as HMP Maghaberry these might include supervision of classrooms, workshops or exercise yards; if these posts were stood down, then the activity concerned would not take place that day. The remainder of posts were those which were not to be left unfilled under any circumstances. (The DTL in HMP Maze assumed significance on 27 December 1997, as described in Chapter 14.)
- 8.38 For a number of years prior to 1997, HMP Maze had regularly experienced difficulty in filling posts due to a shortage of staff attending for duty on any particular day. It would appear that, for whatever reason, shortages were more common in posts which were unpopular. Shortages were often particularly acute

in the visits group, especially on Saturdays, when many prisoners received visits. Given the acknowledged importance of prisoners' visits to the smooth running of the prison, it was not unusual for posts in other groups to be dropped to provide sufficient staff for the visits area.

- 8.39 In the brief for the Ministerial visit to HMP Maze on 9 September 1997 Alan Shannon provided data about prisoners, location, staff and budget.
- There were 572 prisoners, of whom 88 were on remand, 111 were serving indeterminate sentences and 29 were short-term prisoners forming a workforce. This last group of prisoners was not housed in the H blocks. This meant that there were 543 prisoners held in the H blocks, which had a nominal overall capacity of 768.
 - The prisoners were allocated to different blocks according to paramilitary affiliation. There were three PIRA blocks holding 261 prisoners, one and a half Ulster Volunteer Force (UVF) blocks with 107 prisoners and one and a half UDA/ Ulster Freedom Fighters blocks with 113 prisoners; the INLA had half a block with 19 prisoners; the LVF had half a block with 28 prisoners.
 - There were 1,262 staff in post, of whom 19 were governor grades and 1,170 were prison officers of various grades.
 - The cost of running HMP Maze in 1996/97 was £51.2 million, which was approximately 35 per cent of the overall NIPS budget. This represented a CPPP per annum of £78,462.
- 8.40 In order to fund the increased salary payments incurred as part of the Framework Agreement, HMP Maze, in common with the other prisons, was expected to reduce its staffing levels year on year. This should have been achieved by a reduction in the TSL but the Inquiry heard no evidence that this had been reduced and Alan Craig gave evidence that in 1997 the number of staff actually in post at HMP Maze had been 48 below the TSL.
- 8.41 Ken Crompton, who was Governor of Her Majesty's Young Offenders Centre (HMYOC) Hydebank Wood before he moved to HMP Maze, contrasted the approach taken at HMP Maze with that in his previous establishment. He explained that at HMYOC Hydebank Wood, economies were made by finding more efficient ways of working, as a result of which it was possible to provide the same regime with fewer staff. He went on, **'By contrast, what appears to have happened at HMP Maze is that they just made savings by closing a block.'**
- 8.42 The Inquiry was told that a group of about 80 staff was needed as the full complement for one H block. This provided for 24 hour cover and allowed for leave, rest days and other anticipated absences. Normal staffing for a block during

day hours was a PO, an SO and 14 officers. It would appear that these had been the staffing figures from the time the H blocks first opened. They were based on a full block with 96 prisoners, with staff carrying out the normal duties that would be expected in a high security prison. The Inquiry did not hear evidence of any alteration to the staff complement when the routine within the block changed. For example, there was no reduction when staff ceased to go down the wings regularly and there was no increase in the number of night shift staff when 24 hour unlock was introduced. Nor was there any change when the number of prisoners in a block fell significantly below the full complement of 96.

8.43 Gerald Thompson was a ‘general duties’ officer in H Block 6 in 1997 and he explained what his duties involved. The main staff came on duty in the block at 8.15 am. At 8.30 am Mr Thompson began to relieve staff in rotation to allow each officer to have a tea break which **‘would last for maybe half an hour’**. As relief officer, Mr Thompson said that he would take his own tea break from 9.30 am to 10.00 am. He told the Inquiry that the same arrangement would operate during the night shift, with some staff who had come on duty at 9.15 pm going for a break at 9.30 pm. Some staff went off for an early lunch at 10.00 am, with others going at 12.00 noon. The lunch break was **‘supposed to be an hour, but we got a wee bit longer’**.

8.44 It was put to Deputy Governor Crompton that while the Inquiry had been told that there was a shortage of staff in HMP Maze, a number of witnesses had said that staff spent a lot of time in the staff mess, known as the ‘Tea-boat’. He replied:

‘Tea breaks were never part of the posts, but obviously, if staff could maintain a higher staffing level because of no agreement to reduce the staffing levels, it gave them greater freedom, but we could not negotiate the reduction of staffing numbers with the POA except as part of an agreement where their pay would be affected upwards.’

8.45 It would appear that management were either unwilling or unable to reduce the overall number of staff posts in HMP Maze. An alternative method of attempting to reduce staff as required by the Framework Agreement was by closing one of the eight H blocks on a rolling basis, which should in principle have reduced the required staff complement by about 80. This presumably was what Mr Crompton meant when he told the Inquiry that in 1997 HMP Maze was not staffed to run all eight blocks. An additional justification for this arrangement was the plan to upgrade the physical conditions in each of the blocks on a rolling basis. This issue is dealt with in greater detail later in this Chapter.

8.46 In the continuing absence of any possibility of reducing the number of staff in the various groups, one way of achieving the reduction would have been by further block closures. The NIPS considered the possibility of reducing the number of blocks in use in 1997 from seven to five. One variation on this plan would have involved the closure of Phase 1, which consisted of H Blocks 1 and 2. This was predicated on a reduction in the number of prisoners and on an ability to persuade some of the paramilitary groupings to share blocks.

8.47 Alan Shannon summarised all of this as follows:

'There were several factors involved in that. One of them, from a management point of view, was to try to get a grip on our budget and get a much more acceptable cost regime in place, but we were also anxious to improve morale amongst staff, and part of the arrangement was that staff ... moved away from a situation where, to get a reasonable standard of living, they had to work very large amounts of overtime, to a situation where we did away with overtime completely and staff had reasonably generous, basic pensionable pay, which was actually higher than anywhere else in the UK. Now, to pay for that, we were in the middle of a period when we had to drop [staff] numbers, and on top of that, we had a Treasury pay policy, which had frozen all our administration costs. So, to pay for pay increases and to pay for the new package, we were committed to dropping our numbers.'

8.48 It was clear that in 1997 there was considerable concern in the NIPS that HMP Maze was not delivering its share of the required reductions. On the contrary, there was an increasing use of AEH payments. In May 1997 Mr Shannon wrote to Mr Baxter, drawing his attention to the fact that in that current financial year HMP Maze had already incurred greater AEH payments **'than the total expenditure on AEH in the whole of the last financial year across the Service'**. He told the Governor that this could not go on and that he was looking to HMP Maze to find ways of recouping the outlay. The situation did not improve and in late September 1997 the NIPS Senior Policy Group was informed that already in 1997/98 more than £1 million had been paid to staff for AEH, more than twice the total sum paid in 1996/97. Alan Shannon raised the matter in October with Martin Mogg, who was by then Governor of HMP Maze, noting that **'around £50,000 is continuing to leach out of the system on AEH every week. ... we cannot afford this.'**

Refurbishment of the Blocks

8.49 Given that the H blocks had been built in the mid-1970s as 'short-term emergency accommodation' and the rough treatment to which they had been subjected from the outset, there had been various refurbishment and renovation programmes

stretching over many years. Witness Francis Lyons, who had worked in the Trades Department, remembered one such programme which was ongoing when he joined HMP Maze in 1991. Thomas McIlwaine, who worked in the NIPS Prison Estate Management (PEM), told the Inquiry, **'HMP Maze was like the Forth Bridge. ... The type of person using the buildings would not necessarily keep them in pristine condition, so there was always a need for refurbishment.'**

- 8.50 The NIPS was not able to produce full documentation for the Inquiry about the programme which was underway in 1997. In evidence Ray Connery, who was a member of PEM in 1997, thought that particular programme of work began in 1996. He said that the programme included **'the refurbishment and refitting of lights, redecoration of cells, replacement of floors ... retiling of the ablution blocks. In-cell power was also part of the programme.'** The programme also included **'the installation of electronic locks on the H Block grilles'**. Deputy Governor Tom Woods stated, **'It took three or four months to refurbish a Block, and therefore two years to refurbish the whole prison.'** He went on,

'As fewer people were sentenced and prisoner numbers went down we needed to use only seven of the eight Blocks. This was a more efficient use of resources than having fewer prisoners spread over eight Blocks. It meant we always had a Block free for refurbishment. This also suited the prisoners, who preferred to be housed in refurbished Blocks.'

- 8.51 Several witnesses emphasised that it was not possible to undertake refurbishment while prisoners still occupied a block. This meant that the schedule of work had to take account of the complexity of moving different factions at different times. Groups which were moved out of a block so that it could be refurbished expected to be moved back to it once it had been completed. They would be particularly opposed to a suggestion that an opposing faction might be moved into a refurbished block out of turn.
- 8.52 It would appear that the schedule envisaged work proceeding on blocks in the order: H7, H2, H3, H8, H5, H4, H6, H1. By August 1997 refurbishment had been carried out in H Blocks 7 and 2. UVF prisoners moved out of H3 in mid-October and work started there late in that month. Subsequently the programme and timetable were reviewed. It seems that refurbishment was at first undertaken by prison works staff but later it was decided that it would be handed over to external contractors. A departmental minute recorded that it was **'not possible to endorse the time frames set out nor the completion dates for the refurbishment of H3 and the starting date for the next Block'**. The

anticipated completion date for the whole programme had been March 1998 and this was rescheduled for August 1998. The new schedule made no reference to planned movement of prisoner factions between blocks.

- 8.53 Following the Steele Report, which is described in detail below, additional security work was put in train separate from but carried out in conjunction with the refurbishment programme.
- 8.54 In the course of his evidence Alan Shannon confirmed the importance which the NIPS attached to completing the refurbishment programme, particularly in respect of new security measures. These included fences for protection of the roofs and cameras for better surveillance down the wings. He explained that there had been slippage in the timetable because of the PIRA tunnel in H Block 7 which was discovered in March 1997 and subsequent incidents, including the LVF riot in August 1997. There were also delays caused by alterations to the scope of the refurbishment.
- 8.55 By 27 December 1997 the situation was that H Blocks 2 and 7 had been refurbished and work was underway on H3. This latter work must have been well advanced since the INLA prisoners were moved there from H6 after Billy Wright's murder.

Occupation of the Blocks

- 8.56 On 28 April 1997, days after the transfer of Billy Wright to HMP Maze, loyalist prisoners occupied three H blocks, with the UDA in all of H2 and the UVF in all of H3. The two groups were co-located in H1: UDA in A and B wings; UVF in C and D wings. At that time there were 120 UDA prisoners and 88 UVF prisoners. Had all the UVF prisoners been located in the 96 cells in H3, this would have left H Block 1 C and D wings vacant.
- 8.57 The PIRA prisoners were held in three blocks, with 95 in H4, 91 in H5 and 96 in H8. (Prisoners had been transferred from H7 to H8 after discovery of the tunnel in March: see 8.60 below.) H Block 6 held 15 INLA prisoners in C and D wings.
- 8.58 The various factions were jealous of their territory and resisted proposals that they might reduce their accommodation to fit the number of cells required for the prisoners in their respective groups. This was particularly the case if they thought that any such movement would be to the advantage of a group to which they were opposed. So, for example, PIRA prisoners would never have agreed to rationalising the use of their accommodation if they thought this would be to the benefit of loyalist prisoners. In any event, their numbers justified the use of three H blocks. The same principle applied within the loyalist factions. The UVF prisoners might have resisted any suggestion that all of their grouping should be in one block, if they thought that the LVF might be allocated the vacated accommodation.

- 8.59 The decisions to allocate Billy Wright and the LVF faction to H6 in April 1997 and to return them there after the August riot are considered in detail in Chapters 9 and 12 respectively.

The Tunnel from H7, the Steele Report and its Follow-up

- 8.60 On the night of 23 March 1997 a dog handler on patrol discovered a hole in the ground in a sterile area outside H Block 7, which was occupied by PIRA prisoners. The hole had been caused by the collapse of a tunnel which had been dug from a cell in that block. It appears that the collapse was due to recent heavy rainfall which caused the ground above the tunnel to subside. It soon became clear that the prisoners in H7 had seen no need to hide the spoil from the tunnel as two cells in H7 were found to be filled to head height with soil and rubble. In addition, a substantial quantity of cell furniture had been dismantled and used to line or support the tunnel, its absence evidently unnoticed by block staff. Mr Justice Cory described the significance of this episode:

‘This demonstrates with startling clarity the inability of prison staff to control the prison and the ease with which material was concealed in circumstances where even the most cursory search would have revealed it.’

- 8.61 An internal inquiry was immediately set up under the supervision of John Steele, a former Controller of the NIPS who was by then Director of Policing and Security in the Northern Ireland Office (NIO). Mr Steele was assisted by Jim Daniell, then Director of Criminal Justice in the NIO and a former Director of Personnel in the NIPS, and Ken Crompton, then Governing Governor at HMYOC Hydebank Wood, later to become Deputy Governor at HMP Maze. The team reported in late April 1997, very shortly before Billy Wright’s transfer to HMP Maze.
- 8.62 The main findings of the report can be summarised as follows:
- The factor weighing most heavily in enabling prisoners to construct the tunnel was that they were in complete control of their accommodation. They were unlocked for 24 hours a day, with staff confined to the circle for most of the time. With no patrols, lock-ups or cell checks prisoners could be confident there would be no interference with their activities. Albeit with the benefit of hindsight, it was found that the decision to end night-time lock-ups was a **‘critical factor in the development of conditions which enabled prisoners ... to plan and construct the tunnel’**.
 - The twice-daily headcounts were not being carried out in such a way as would enable staff to check activity on the wing, or give management any confidence in their efficacy. If prisoners were not positively identified by staff the block

would return 'assumed headcounts' to the ECR, which in turn would return the roll to the Duty Governor as 'assumed'.

- CCTV coverage of the wings was poor.
 - There had been only three block searches in the preceding 12 months, and the quality of searching was unsatisfactory.
 - Prisoners had access to a wide range of tools for handicraft purposes, giving them the option of adapting tools to aid in the construction of the tunnel.
 - Certain categories of prisoner, such as Officers Commanding (OCs), were permitted to visit other blocks. Inter-block movement was supposed to be authorised by a Security Governor but there was concern that this did not always happen.
 - It was essential that relevant information was passed on to the Security Department, but again there were concerns that this was not always happening.
 - Many of the rules were not being applied, particularly those introduced following the grant of 24 hour unlock in 1994. The continued existence of orders and rules which all concerned knew did not reflect current practice was **'confusing, damaging to the morale of staff and managers alike ... inimical to good discipline and can compromise security'**. Consideration should be given to the production of more user-friendly orders; a better system of verification should be put in place; and an effort should be made to move away from the blame culture to create a more supportive atmosphere.
- 8.63 In considering what was to be done, the authors of the report concluded that this moment presented an opportunity for NIPS HQ, HMP Maze management, the staff associations and staff to develop a shared vision and to produce a 'doable' programme of action in support of it. Key objectives included regular fabric checks, controls in relation to the introduction or movement of contraband, sufficient human or technical presence on the wings to enable staff to be aware of prisoners' activities, and good intelligence and information including the identification of unusual behaviour on the part of prisoners.
- 8.64 The report stressed that any new measures needed to be **'sustainable and realistic'**, and that ideally there should now be **'drawn in the sand a line'** that would only shift for **'sound prison management reasons'**. Once determined, the procedures would have to be reflected in all relevant documentation, including the security manual, Governor's orders and the establishment contract. Thereafter followed a 'menu' of recommendations, as Jim Daniell subsequently explained:

‘Locking the prisoner down every day and staff walking the wings was one way of ensuring that it would be impossible for prisoners to build a pile of spoil in one of the cells, so we made a recommendation about that. However, we had to ensure that if the prison discovered that they could not sustain staff walking the wings, they could admit this and draw another option from the menu to achieve the same result, for example a technical solution such as CCTV.’

8.65 Many of the main recommendations on the Steele ‘menu’ were of particular interest to this Inquiry. They included:

- twice daily lock-ups, with movement outside the block stopped if prisoners failed to comply;
- during both lock-ups, a headcount and visual check of all cells and communal areas (it was thought this might also facilitate a rolling programme of cell checks covering one in five cells every day; governor grades should be present on occasion for support and verification, but primary responsibility for verification would lie with POs and SOs);
- a review of block staffing to assess critically the value added by each post;
- the introduction of a search programme with full block searches on at least a fortnightly basis;
- prison authorities to take greater control of the prisoner allocation process;
- inter-block movement by prisoners should ideally not take place (and where it did, this should only be with the signed authorisation of a governor grade, with the prisoner being searched on departure and return); and
- new pan, tilt, zoom (PTZ) cameras with record facility between abutting wings.

8.66 The report was presented to the Secretary of State for Northern Ireland (SOSNI) on 25 April 1997, coincidentally the day of Billy Wright’s transfer to HMP Maze. He commended it as an excellent report that demonstrated an appalling situation, noting that **‘the choice was between running a prison where some control was exerted within it or simply holding the perimeter’**. Alan Shannon, who was present at the meeting, outlined four factors that had led to this situation. First, the concentration of terrorist prisoners in one prison, which was **‘madness’** by any other standards but unavoidable in Northern Ireland. Second, prisoners had been allowed to live in segregated conditions (that is, alongside only prisoners of the same paramilitary faction) and control had gradually been eroded. Third, HMP Maze was run with local staff who were subjected to systematic conditioning and intimidation. Fourth, staff had to manage all this against the background of the

government's objectives in relation to the Peace Process. The SOSNI considered that each of the recommendations was sensible and would not take a particularly long time to implement. However, the peculiar environment of HMP Maze is apparent in the decision to develop a **'game plan'**, whereby John Steele would speak to the political parties, Martin Mogg to the prisoner OCs and the Governor to HMP Maze staff. Alan Shannon concluded that HMP Maze was like a volcano: no one was very comfortable with it and it was clearly an unsatisfactory situation but the recommendations gave an opportunity to recover lost ground.

- 8.67 Following the SOSNI's acceptance of the report, a Steele Implementation Team was set up to plan the implementation of the recommendations. It was headed by Brian McCready from NIPS HQ and included HMP Maze Deputy Governor Tom Woods and an administrative civil servant from the Directorate of Operational Management. The implementation team reported to a Steele Steering Group headed by Alan Shannon, which met to agree on action to be taken. The implementation team met regularly and produced written progress reports. As part of its remit, and with a view to assessing the feasibility of implementing the recommendations, the team also commissioned reports from various parts of the prison, such as the Security Department. According to Robin Masefield, **'The immediate implementation of Steele was always going to be a short-term project.'** The team finished work on 25 June 1997. Despite the fact that HMP Maze subsequently encountered difficulty in implementing or sustaining some of the important recommendations, such as those relating to searching, the implementation team was never reconstituted.
- 8.68 On 28 April 1997 prisoners were advised of the new regime. Detailed rules were promulgated along with sanctions to be imposed for any breaches. These included twice daily lock-ups for the purpose of a headcount and fabric check (sanction: no movement out of block and telephones cut off); cells and communal areas to be searched frequently, on average once a fortnight, with prisoners given a full body search (sanction: as above); all prisoners to be given a rub-down search before and after visits, with a percentage being full searched (sanction: loss of visit; if the disobedience was concerted, the faction might lose visits); yards to be vacated in advance of a final headcount at 7.45 pm (sanction: next visits suspended and telephones cut off). Loyalist prisoners in particular took exception to what they saw as punishment for the actions of the PIRA and on 28 April 1997 UDA prisoners went onto the roof of their block in protest.
- 8.69 The NIPS had very limited success in implementing the recommendations. Significant resistance was encountered from prisoners in response to the attempt to impose lock-ups, headcounts and cell checks. The hostility of loyalist prisoners in particular to these measures is perhaps reflected in the fact that Alan Shannon

himself became involved in discussing the details with prisoners' political representatives. When the Director of Operational Management, Martin Mogg, visited HMP Maze in early May he decided to watch on camera the headcounts in a number of blocks and found that there were very few staff in the blocks, apparently owing to a POA branch meeting:

'This may have been the reason why at no time did I observe staff actually checking the prisoners cells, it is possible that this had been done earlier than the time I was watching, however it did cause me concern, particularly as the numbers were reported in, some ten minutes after I started watching.'

- 8.70 Alan Shannon also visited a UVF block to determine the effectiveness of the morning headcount and cell check: following UVF protests about the new regime it had been agreed that they would assemble in the wing dining rooms to be counted there.

'No member of staff appeared in the wing until approximately 8.25 am. This took the form of one officer with a clipboard. We did not see prisoners going into the dining hall, nor did we see the member of staff going into the dining hall nor did we see any cell checks being carried out. At 8.45 am the ECR reported that all blocks had completed headcounts and numbers were returned.'

- 8.71 Mr Shannon commented on the fact that widespread inconsistency of practice had already emerged, with inevitable confusion in the minds of staff and prisoners about what was required of them. This inconsistency was spelled out in a written minute from Martin Mogg to Alan Shannon at the end of June in which he reported that the PIRA had one lock-up a day in cell, with a second headcount in the wing dining rooms; only three cells per wing were being checked each day. In UVF and UDA blocks there were no lock-ups at any time, headcounts took place in the dining room and only three cells per wing were visually checked each day. (There is no reference in this minute to either faction in H6.) Attempts to introduce more regular fabric checks met with resistance and threats from the UVF.
- 8.72 At the end of November 1997, by which time he was Governor of HMP Maze, Martin Mogg was reporting that while headcounts were taking place, the quality of fabric checks was **'variable'**. There are references in the PO's journal to assumed headcounts being returned from time to time in H6, and after the date of Billy Wright's murder the NIPS was still assessing how to achieve satisfactory headcounts. Security Governor Steve Davis said that any time an assumed roll was returned he would take action, for example by speaking to the OC of the block or

faction involved, although if the problem had been with the evening headcount he would not have been able to address the problem until the following morning. He went on to say that at Martin Mogg's insistence movement of prisoners, for example to visits, would have been stopped until the problem was resolved. It appears that the NIPS was aware of the problem and tried to deal with it throughout 1997. However, Sir David Ramsbotham, the Chief Inspector of Prisons, noted in his 1998 inspection report that little had changed: **'After headcounts prisoner numbers were assumed to be correct on a daily basis and reported as such. This arrangement was totally unsatisfactory.'**

- 8.73 While a block search programme was introduced the prison was unable to sustain it for more than a few weeks, with the result that, according to correspondence dated 20 November 1997 from Martin Mogg to Alan Shannon, no searching had taken place since July of that year. In evidence Jim Daniell, on being asked for his comments, said, **'I wouldn't say it necessarily causes me some surprise. I would say what it does cause me to ask, or would cause me to ask the question, if that was the case, what other measures were put in place to ensure that what those searches were aimed at were being countered.'**
- 8.74 The Inquiry was given no evidence that procedures for prisoner allocation changed during 1997.
- 8.75 It would appear that attempts were made to impose tighter controls on inter-block movement, which was the subject of discussion with prisoners' representatives. In June 1997 Alan Shannon advised the Prisons Minister **'new restrictions on the movement of prisoners between blocks have been imposed and are reportedly working satisfactorily'**. However, by November Mr Shannon was writing to Mr Mogg complaining that inter-block movement had substantially increased and that the number of individual prisoners involved had also increased, implying that the controls on named individuals had broken down. He also noted that there was no evidence that these prisoners were being searched. **'All of this smacks of drift and weak management.'** Martin Mogg confirmed that no searching was taking place. Mr Shannon reported these problems to the Minister on 18 December 1997, adding that Martin Narey, who was carrying out an inquiry into the Averill escape, had been asked to look again at the matter.
- 8.76 The recommendation that new PTZ wing cameras be installed was accepted and was added to the rolling refurbishment programme, with the new cameras to be installed a block at a time. H6 does not seem to have been a priority for refurbishment and a new camera had not yet been fitted in the INLA wing of H6 prior to Billy Wright's murder. By March 1998 new cameras had been installed in H2, H3, H6 and H7.

- 8.77 In respect of drawing up Governor's Orders which could be applied, the Ramsbotham Report suggested that little had changed by 1998:

'In the eyes of many staff the lack of clear rules for the operation of the prison, the lack of staff consultation and communication, and the alleged undermining of the management line by the Governor's practice of negotiating policy by direct consultation with officers commanding, had reduced the staff on the blocks to mere go-betweens or runners of errands for prisoners.'

Echoing some of the Steele recommendations from almost a year earlier, Sir David Ramsbotham recommended that there should be greater awareness among staff of the role of prison, its rules and protocols. There should be regular consultation with staff about the practicalities of implementing policy and feedback to senior managers on the impact of policies on staff and prisoners.

- 8.78 Alan Shannon acknowledged that the discovery of the tunnel had provided prison management with an opportunity to improve control. Other than the issue of block searching he did not recall there being any financial or political obstacles to implementing the report's recommendations. He said that he had regular meetings with the implementation team who kept pressure on HMP Maze management. He thought that the report was **'well judged'**. The NIPS had already been trying to introduce a programme for searching but had been constantly frustrated by staff shift patterns, absenteeism and training needs. Recommendations involving physical changes, such as installing new cameras, needed time to implement. The sudden abandonment of the new rule for two lock-ups a day was an example of the way in which the pressures inherent in managing the prison tended to force compromise. Mr Shannon acknowledged the problem with the Governor's Orders. Where the NIPS was comfortable with certain practices it was sensible to amend the Governor's Orders to be consistent with operating practices. The problem was that where there were practices that the NIPS did not want, the Orders could not simply be diluted. The NIPS had to work out what was an achievable scenario and work towards that.
- 8.79 Sir Richard Tilt identified the discovery of the tunnel as the **'perfect example'** of how far the level of security had fallen from what he would have expected in a high security prison. It was, he said, difficult to describe the situation as other than a **'complete breakdown'** in what would normally be understood to be basic security. Sir Richard considered that the eight weeks taken by the implementation team had been a very short period of time. He agreed that the NIPS had taken the incident very seriously, and readily conceded that although the team had been stood down in June 1997 it did not necessarily mean that implementation had

not continued. However, he was of the view that the team should have monitored progress for longer, working with senior officials and HMP Maze management in developing the 'menu' of proposals, particularly because of the change in culture which this would necessitate.

- 8.80 Sir Richard also expressed the view that there should have been a concerted effort to enforce the sanctions at the outset of the implementation programme. Put shortly, the tunnel incident presented a great opportunity to regain some control of the prison. As it turned out, this was the last opportunity to **'clamp down'** before the murder. There could have been a better prioritisation of some of the proposals; for example, the physical changes could have been implemented at speed rather than simply incorporated into the existing refurbishment programme. Referring to the fact that some orders and instructions were not observed, Sir Richard acknowledged that there might have been understandable reasons why this should be so. In his view this was the worst of all worlds, with instructions left in place but not very much done to make sure they were being followed, headcounts being an example of this.
- 8.81 In the course of its submissions to the Inquiry, the NIPS pointed out that the Steele Report itself recognised that implementation would be difficult. Shortly after receiving the report, the NIPS had appointed new management at the prison to **'commence the process of trying to regain ground which had long since been lost to prisoners'**. The submission focused on the issue of searching. It suggested that with the Immediate Reaction Force (IRF) out of commission as a search team during their full-time supervision of H2 following the August 1997 riot, and with the arrival of Martin Mogg as new Governor in October, it was reasonable and inevitable that some weeks would pass during which Mr Mogg would familiarise himself with the situation. Mr Mogg was also constrained by the budget available to him. In all the circumstances, Mr Mogg set himself a realistic timetable for the commencement of searches in January 1998. The NIPS acknowledged that the slow pace of improvement was regrettable, but held that this was inevitable. Messrs Mogg, Shannon, Davis and others applied their best efforts in good faith and were confronted by obstacles at every turn. The submission invited the Panel to regard the problems of implementing the Steele recommendations as evidence of the difficulties faced by management rather than proof of lack of effort or failure by individuals or the organisation at large.
- 8.82 Unsurprisingly the Wright family took a different view. In submissions on their behalf it was pointed out that following the re-establishment of the regime and the re-introduction of searches after the discovery of the tunnel, very quickly **'the system once again broke down'**. It was submitted that a pivotal moment was when, following the LVF riot in August 1997, it was decided to staff H2 with the IRF.

‘In a complete failure to manage the priorities of a limited staff resource, the prison authorities’ reaction was to stand down the search teams and assign them other duties. Whilst the situation was undoubtedly exacerbated by endemic absenteeism, the decision to abandon frequent searching in the face of all that had gone wrong, was deeply flawed.’

- 8.83 Submissions on behalf of the Wright family also criticised the Governor’s concerns about the expenditure associated with the search programme, describing it as **‘staggering that this mentality continued to prevail in the aftermath of a massive failing in security’**.

Report by Security Governor Steve Davis

- 8.84 As noted in paragraph 8.25, Steve Davis had arrived in HMP Maze as Security Governor from HMP Maghaberry, where he had filled the same post, on 13 August 1997, the day of the LVF riot. He applied himself to analysing the particular problems in HMP Maze from a security perspective, and after two months produced a detailed paper assessing the problems and attempting to suggest some way forward. The copy of the paper which the Inquiry has is dated 28 October 1997.
- 8.85 In some respects the paper reiterated in a new and urgent way problems which had long been recognised, but Mr Davis also identified issues which had previously been neglected or not properly understood and suggested new policies for HMP Maze. Among familiar issues was the malign effect on staff of the relentless conditioning to which they had been exposed over many years, a **‘process that has nullified and defied all attempts by Management to address the worsening situation’** and which had led to HMP Maze being **‘an extremely destructive place to work with well motivated staff quickly falling into the Maze pattern ... Staff in Maze are isolated and ignored, there is a feeling that they are in a hopeless position and the rest of the Prison Service is passing them by.’** Mr Davis then pointed to the impossibility of implementing prison rules or operational instructions, inevitably leading to low staff morale. **‘Staff feel that they have no worth and are caught between management on one side and prisoners on the other.’** Also familiar was his concern over the number of visitors and the length of visits, and over the number of inter-block moves which by October 1997 amounted to between 50 and 80 per month for some of the factional representatives.
- 8.86 A new insight was Mr Davis’s recommendation of more imaginative ways of negotiating with the OCs of the paramilitary factions, in contrast to the haphazard and incoherent approach which had been adopted by those engaging on behalf

of the management with the various paramilitary groups. Mr Davis identified the differing characteristics of the republican and loyalist factions, each of which required a different and carefully calculated approach by the prison authorities. He pointed out that the weakness of the searching regime was exacerbated by lack of training of HMP Maze staff in searching procedures compared with those at HMP Maghaberry, and the confusion in the minds of the IRF and Standby Search Team (SST) as to whether their main role was in Control and Restraint or in Searching. He praised the IRF for their professionalism in the face of extreme provocation, but expressed concern that the IRF relied on cross-deployment of auxiliaries who had not received appropriate training.

- 8.87 As a newcomer to HMP Maze Mr Davis was struck by the slackness of staff discipline, with many leaving the prison before the end of their shift, and with the staff becoming less careful over maintaining a smart appearance. He recommended the appointment of a Discipline PO to work in liaison with the Personnel Department, with a similar job description to the old Chief Officer, to improve and co-ordinate standards across the prison. No management effort appeared to have been made to tackle this problem.
- 8.88 The paper reflected a careful observation and analysis by the new Security Governor, and it might have been expected that Governor Martin Mogg would have discussed it with him. The Inquiry heard that Mr Davis received neither acknowledgement nor thanks for his work and there is no evidence that any changes were made as a result of it, despite the serious situation it revealed and the practical suggestions it contained. Surprisingly there is no reference anywhere in the paper by Mr Davis to the Steele Report, although that Report covered much of the same ground as his paper. This raises the question of why Mr Davis did not appear to see it as his job, in his capacity as Security Governor, to oversee the implementation of the Steele recommendations. Instead he wrote his 28 October paper, which suggests that attempts to implement the Steele recommendations had been effectively abandoned. Alan Shannon claimed that he had no recollection of having seen Mr Davis' report, but offered the view that it contained nothing that was not already known.
- 8.89 Counsel for the Wright family in his closing submission commented favourably on Mr Davis's paper, and was sharply critical of the fact that there had been no response to it. He was particularly scathing about Mr Shannon's response, and claimed that the NIPS and local management were suffering paralysis by analysis, instead of instigating tangible action. He also pointed out in particular the use by Mr Davis of the phrase '**regaining control of the Maze**', acknowledging that there was an acceptance on his part that control had been lost and required to be retaken.

Adam Ingram

8.90 After the election of the Labour Government in May 1997, Adam Ingram was appointed as Minister of State in the NIO with prime responsibility for security and the economy. In an adjournment debate in the House of Commons on 21 January 1998, over three weeks after the murder of Billy Wright in HMP Maze, Mr Ingram said this:

‘... the attendant security and control problems are understandably and uniquely complex and difficult when balanced against the need to maintain a humanitarian regime. Those who are charged with the management responsibility of undertaking such a challenging role are regularly faced with the need to make difficult and sensitive decisions about security at the prison. That is an unenviable task which they have to perform on our behalf.

That situation is what the Government have faced since taking office last May and what previous Governments faced in the years before that. It is why the Government have put in place a progressive programme of tightened security measures, including twice daily head counts; cell fabric checks; a comprehensive search of cells and the blocks; control of materials available to prisoners; the installation of enhanced closed circuit television coverage in the blocks; and the scanning of all visitors along with other management measures, with more to come.

It is not the case, as the hon. Gentleman maintains, that security has been relaxed since May. The opposite is true, as the measures I have described prove.’

8.91 Mr Ingram explained that he had not said everything in the debate as he would have liked, because he ran out of time. He did however say that the statement he made would have been accurate on the basis of the information he had been given. He had been briefed beforehand and he had before him a draft speech. He would also have had discussion with Mr Shannon.

8.92 It might be thought that the key word in the statement was the word **‘progressive’** in the context of a programme of tightened security measures. Mr Ingram said that the use of that word indicated that there was not something which had been implemented as of a particular date, or that the measures had been implemented in their totality. Its use meant that it was something that was happening over a period of time.

- 8.93 He accepted that Monthly Intelligence Assessment Reports would land on his desk. One such, for October 1997 and published by the PIU on 17 November 1997, states:

'All factions continued to comply with headcounts, fabric checks of cells and have continued to vacate the exercise yards as agreed at 2200 hours. Due to staff shortages and other staffing difficulties no full searching of prisoner accommodation has taken place since mid July.'

- 8.94 He was also in receipt of a memo dated 18 December 1997 from Mr Shannon which, in relation to cell searches, said:

'Although a system for random and thorough accommodation searches was introduced in the weeks following the discovery of the tunnel, it subsequently proved to be unsustainable in terms of staff availability and cost. However, the new Governor has re-examined the position, and intends to introduce a deliverable accommodation search programme, operating 3 days a week, from 1 January.'

- 8.95 That information probably had its origin in a memo dated 20 November 1997 from Governor Mogg to Mr Shannon in which Mr Mogg reported:

'Cell searches – no cell searches have been carried out by the SST since July. My predecessor promised the POA, 48 staff to search, and 2 units of C&R [Control and Restraint] are on standby, a further 28 staff. This is totally unrealistic on a regular basis and was only achieved in the past by the payment of AEH on a Monday, at a cost of over £10K a time. I am working at the POA to change these expectations and will be providing a total of 42 staff on 3 days a week for searching. I now hope to be able to implement these arrangements from 1 January 1998.'

- 8.96 While Mr Ingram probably did not see this memo, he acknowledged that as at 18 December 1997, he did know that cell searches were not being carried out. He said that he would have been aware that cell searching had not been conducted for six months up to the murder. It is to be noted that, at least in this respect, Mr Ingram did not qualify his statement to the House by making it clear that if there was a comprehensive search of cells and blocks, it had commenced only in 1998, i.e. after Billy Wright's murder.

- 8.97 It is of course true that the topic of what representations were made to the House by Mr Ingram was not a topic in the Inquiry's List of Issues, but the evidence led was in the Inquiry's opinion germane to the Minister's knowledge of security measures prior to the date of the murder. It is also highly relevant to the nature and reliability of the information passed by the NIPS officials to the Minister.

- 8.98 It was also submitted on behalf of Mr Ingram that his statement post-dated the death of Billy Wright and that it therefore could not be said to have facilitated his death. In short, it was outwith the Inquiry's Terms of Reference. We agree with this submission and, so far as the statement itself is concerned, we need not further consider the accuracy and reliability of the information which Mr Ingram imparted to the House.
- 8.99 In their submissions the Wright family were critical of Mr Ingram in a number of respects, including the representations he made in the House of Commons adjournment debate on 21 January 1998 which have been dealt with in the preceding paragraph. Much of the questioning of Mr Ingram by Counsel for the Wright family was concerned with relevant information which Mr Ingram's officials failed to bring to his attention. In relation to the visit of the International Committee of the Red Cross (ICRC) to HMP Maze in November in 1997 it is said that Mr Ingram should have chased up a copy of the ICRC's Report, although it should be noted that that was not put to him in evidence. In the event he did not see it until after Billy Wright's murder. He did say in evidence that he did not think there was anything new in what the ICRC were saying. In relation to this, it seems to us that the only question is what the Minister would have thought at the time if the report had been timeously put before him, especially in light of the language that was used in it. However, since it was not provided, that question cannot be answered other than in a speculative way, which would be unhelpful.
- 8.100 The Wright family further submit that Mr Ingram should be criticised for his knowledge and acceptance that the prison rules and regulations were not being applied within HMP Maze. What he actually accepted was that not all prison rules and regulations were being applied in that prison. At the end of his evidence he said that he did not think it was possible to apply all the prison rules and regulations because of the threats towards prison officers that would ensue from that. As Minister, he and management accepted that that was the reality, at least for the time being. We understand that and are not prepared to uphold the criticism made of Mr Ingram in this regard.
- 8.101 There is a more general question of the degree to which Mr Ingram was aware of the intelligence which was available in relation to Northern Ireland as a whole. Counsel for the Wright family pointed out that he would have had frequent meetings with security and intelligence personnel, including the Chief Constable, the General Officer Commanding and the Director and Co-ordinator of Intelligence. He was shown intelligence documents which revealed the build-up of the INLA during the latter part of 1997, including their unwillingness to tolerate **'the "steady drip" of LVF attacks against nationalist targets in Northern Ireland'**. Counsel referred to the fact that after the Markethill bomb the INLA were hoping that the LVF would retaliate, so that the INLA would have

a justification for carrying out attacks on LVF members. This, combined with the ICRC Report, should have played a significant part in the decisions which were being made during this period, but Counsel claimed that the Minister appeared to have been told little of the background to the murder of Billy Wright, and questioned whether Mr Ingram's mind was as inquisitive as he claimed.

- 8.102 The Panel conclude that there probably were shortcomings in the amount and detail of the intelligence which the Minister received, but are aware of the extent to which any minister depends on the guidance of his civil servants and staff, and are clear that no blame can attach to Mr Ingram for not acting on information which he did not receive.

Control and Security in H Block 6

- 8.103 The issues of the transfer of Billy Wright and the LVF to H Block 6 in April 1997, of the transfer of Christopher McWilliams and John Kenneway to the same block in May 1997 and the LVF riot and their return to the block in October 1997 are dealt with in detail in Chapters 9, 11 and 12. General issues of control and security in H6 throughout this period are included for completeness in this Chapter, which deals with the overall situation in HMP Maze in 1997.

- 8.104 David Smith, who was Governor of H Block 6 between April and August 1997, told the Inquiry that there was a system whereby the locations office knew the whereabouts of every prisoner. Staff were told that **'the utmost care must be taken to ensure that both factions (LVF and INLA) do not come into contact'**. Additionally, prisoners Wright, McWilliams and Kenneway had been 'double-marked' to make sure they did not arrive in the same place at the same time, with the locations office paying particular attention to any movement outside H6. Special attention was also paid to them while they were in the block: **'the cameras were very rarely off those three'**. However, no other witness from H6 has referred to this and it is contrary to Brian Barlow's recollection, which was that McWilliams and Kenneway were treated no differently from other prisoners. Mr Barlow said the following:

'I have been asked if any additional measures were taken in light of McWilliams' and Kenneway's involvement in the hostage-taking incident, such as additional searching of their visitors and parcels. Once prisoners are put on a wing with twenty-four hour unlock it is difficult to treat them differently from anyone else. We viewed all prisoners as a threat. It would not have been possible to treat McWilliams and Kenneway any differently.'

Mr Barlow disputed that cameras had been trained constantly on prisoners Wright, McWilliams and Kenneway, or that they had been 'double-marked' in any way.

- 8.105 Pat Maguire, who was acting Governor of HMP Maze for a period in the second half of 1997, said that he would have expected improvements to be made to security in H6 if the two factions were to be re-located there together, such as modifications to the operation and management of the grilles to ensure the two sides could not come into contact. However he could not remember what had actually been done in that regard. Ken Crompton gave evidence that H6 **'as far as I was aware, had exactly the same security arrangements as every other block'**, aside from the need to ensure the two factions did not meet.
- 8.106 It appears that there was no means at HMP Maze by which particular attention could be paid to these prisoners. It would also be difficult to understand how the 'double-marking' system could have worked in practice, given the absence of staff on the wings and the known deficiencies in the camera coverage of the wings flagged up by the Steele Report. Had there been an intention to observe McWilliams and Kenneway constantly on camera, the delay in installing new PTZ cameras in the INLA wings becomes even harder to understand.
- 8.107 David Loyal, a PO in H6, told the Inquiry that initially there had been no procedures in place to keep the LVF and INLA apart: **'they may as well have been the same faction'**. He recalled that around July 1997, following a meeting with Brian Barlow at which block staff had expressed their concerns, Mr Barlow had ordered that there should henceforth be a metaphorical **'iron curtain'** between the two factions. This meant that staff were to do everything they could to ensure that prisoners from one faction never came into contact with those from the other. Mr Loyal's recollection was that prior to this meeting prisoners from opposing factions might have met in the circle when they were going to see the doctor, Block Governor or welfare officer, all of whom had their offices in the circle, or when they were going out of the block, for example, to visits. This had no longer been the case after the staff met with Mr Barlow. Kenneth McCamley, also a PO in H6, recalled:

'There was a need to keep prisoners from the two factions apart. The Circle had to be kept sterile of prisoners mixing. We controlled movement of prisoners from one side of the Block while the other side was locked.

For example, if a prisoner on A or B wing wanted to come into the Circle to see the doctor the officer working in the Circle had first to ensure that the C and D Circle grille was locked ... The officer had also to ensure that the Circle was free of prisoners. Only then could the prisoner come out through the A and B Circle grille and go to the medical room. ... If then a van carrying a prisoner from C or D wing

arrived in the forecourt it would have to wait in the forecourt while the officer in the Circle liaised with the medical room. The A and B Circle grille would then be locked while the C or D wing prisoner was coming in. This process would continue until all A and B wing prisoners who wanted to see the doctor had done so. The process would then be repeated for C and D wing prisoners.'

- 8.108 Sometime in May 1997 the acting Deputy Governor (Witness ZD) issued an instruction to staff about arrangements to be implemented for moving prisoners in and out of H6 in order to prevent confrontation in the circle or the forecourt:

'Staff will be aware that H6 is occupied by 2 different paramilitary factions and the utmost care must be taken to ensure that both factions do not come into contact. This to avoid [sic] the potential for any kind of confrontation. In future when prisoners are to be moved to and from H6 the following procedure will be observed –

- 1. The Principal Officer of H6 will contact Locations for transport stating the number, faction and destination of the prisoners concerned.**
- 2. Locations will task Transport, ensuring that in doing so both factions will not come into contact on route.**
- 3. Before returning to the Block the sending station, Visits, Reception, Hospital, Gymnasium will contact Locations and again give the number and faction of prisoners to be moved to H6.**
- 4. Locations will again ensure that in authorising such movement both factions will not come into contact en route. Such movement will not be authorised until Locations are satisfied that the route is clear of the opposing faction.'**

- 8.109 The normal procedure in other blocks was that vehicles taking prisoners to and from other locations in the prison would halt outside the gates to the block yard. Prisoners would then walk to or from the vehicle across the forecourt. In H6 the procedure was changed so that vehicles drove into the forecourt and parked immediately outside the Hennessy grille at the entrance to the block. Security Governor Steve Davis explained that

'there was a risk that a prisoner from one faction might be leaving the Block at the same time as a prisoner from the other faction was disembarking from a van. Vans were therefore allowed to drive into the forecourt of H6 because this reduced the travelling distance between Block and van. This was about stopping prisoners "getting into" each other and having a fight.'

The date of this change is unclear. Mr Loyal dated it to his meeting with Governor Barlow. The need to coordinate LVF/INLA movement also meant there should only be one van containing prisoners in the forecourt at any one time.

- 8.110 Mr Loyal's recollection was that apart from the 'iron curtain' and the new procedure for transportation, there had been no further changes to the procedures in H6 to take account of the co-location of the two opposing factions.
- 8.111 Despite these precautions, witnesses recalled occasions on which LVF and INLA prisoners came into contact. Ken Crompton referred to two such incidents:

'I understand there had been a complaint by INLA that on one occasion one set of prisoners were getting out of a van when there were prisoners from the other side in the vicinity who could have attacked them, although an attack did not actually occur.'

'There had also been a recent occasion in H6 when a prisoner from one faction (I do not know from which) had been allowed into the Circle while a prisoner from the other faction was receiving treatment in the medical room. When the prisoner left the medical room the two prisoners were present in the Circle together. I do not think there was a physical attack: there might have been a verbal exchange and the prisoners might have "squared up" to one another, but there was no injury, just the potential for it.'

- 8.112 There are also indications that, whether due to deliberate provocation or simply because of their physical proximity, the two factions did on occasion antagonise one another. An H6 officer submitted a Staff Communication Sheet recounting an incident on the night of 11 July 1997:

'Due to the continuous, sustained harassment, and threats of violence to A wing prisoners [INLA] from C&D wing prisoners [LVF] – who had refused to come in from the yard at 10pm – A wing felt obliged to post a sentry in their yard for their own protection. It took approx 10 seconds to break the turnstile and put a man in the yard.'

The Escape of Liam Averill

- 8.113 At 6.00 pm on 10 December 1997, the PIRA OC in H Block 8 revealed that prisoner Liam Averill had escaped from HMP Maze earlier that afternoon disguised as a woman. Averill had been attending the annual block Christmas party for families of the PIRA prisoners.
- 8.114 Christmas parties for prisoners and their families were introduced to HMP Maze in 1994. They were arranged separately for each block and took place at the gymnasium. Owing to the heightened state of excitement on these occasions, the

maintenance of good order was extremely difficult. In his report on the escape, Martin Narey found that there were significant problems identifying prisoners in the **'mass exodus'** from the blocks, and that there was **'general turmoil'**. There was even greater confusion as prisoners returned to the block. Mr Narey concluded that while no particular blame should be attached to any individual, there was a general sloppiness in the procedures which Averill was able to exploit.

- 8.115 Allowing for the fact that no evidence was led to suggest how the murderers of Billy Wright obtained their firearms, the escape of Liam Averill has no direct relevance to this Inquiry's Terms of Reference. However, it does highlight the continuing problems with control and security and the inability of staff to exert authority over prisoners.

Conclusions

- 8.116 Even allowing for the unusual environment of Northern Ireland, 1997 was a traumatic year for the NIPS and for HMP Maze in particular. In March PIRA prisoners dug a tunnel from H Block 7, which was fortuitously discovered by a patrolling prison officer dog handler. April saw the hostage incident in HMP Maghaberry, in which a prison officer was held at gunpoint by prisoners. In that month also the UDA prisoners took to the roof of a cell block in HMP Maze. In August the LVF prisoners went onto the roof of H Block 6. In December a PIRA prisoner walked out of the prison and, finally, on 27 December Billy Wright was shot dead by republican prisoners. It is possible to view each of these major incidents as a free-standing event. It is also possible to consider them as a series of incidents which were linked by the management style in the NIPS and in HMP Maze. In drawing conclusions in the previous Chapter we made reference to the fact that it is not the task of the Inquiry to comment in general terms on the management of prisons in Northern Ireland in the years up to 1997. However, it is within our Terms of Reference to draw conclusions about the management of the NIPS and of HMP Maze in 1997 as regards wrongful acts or omissions which may have facilitated the murder of Billy Wright.
- 8.117 It has already been noted that in organisational and in personnel terms the NIPS was a relatively small organisation with very complex and sensitive obligations. In 1997 many staff had spent a professional lifetime in the prison service, which for some stretched back to the expansion of the prison system in the early 1970s. Throughout this period they had worked under unremitting professional and personal pressure. This had understandably taken its toll both on individuals and on the organisation as a whole. Some uniformed officers had spent the whole of their service within the relentlessly threatening environment of HMP Maze. At the upper levels the pool of qualified staff was very limited and senior governors

appeared at times to be on a carousel which took them from HMP Maze, to HMP Maghaberry, to HMP Magilligan, to NIPS HQ and back again. Within NIPS HQ, staff had the option of transferring to other parts of the NIO but others spent many years working within the NIPS. It was clear to the Inquiry Panel that many of those who gave evidence to the Inquiry were very committed to their work and were frustrated by the limitations which were placed on the way they had to operate. Before going on to comment on organisational and individual weaknesses, the Panel would wish to acknowledge all of these organisational and personal pressures and the valiant way in which many staff responded.

- 8.118 In April 1995 the NIPS became a Next Steps Agency. As described in Chapter 5, this was a mechanism which was introduced across government at that time with the intention of separating strategic policy, which was to remain the responsibility of the parent government department, from operational management, which was to be the responsibility of the executive agency. Similar arrangements were introduced around the same time for the prison services in England and Wales and in Scotland. Given the close relationship between politics in Northern Ireland and what happened inside its prisons, a question was raised as to whether it was appropriate that the NIPS should become an agency in this way. The Inquiry Panel do not take a position on this matter and we were not presented with any evidence which led us to conclude that this development in itself was a contributory factor in the murder of Billy Wright.
- 8.119 The management board of the NIPS was known as the SPG. It was chaired by the Chief Executive and consisted of the four HQ Directors and the Governors of each of the prisons. The inclusion of the prison Governors as full members of the management board for the NIPS was unusual. It had a benefit insofar as it ensured that in developing operational policy the board would always be alert to the potential implications of its decisions at prison level. At the same time, it ran the danger of blurring the important lines of distinction between organisational management and local management. There will be discussion later in this section of the extent to which the SPG was aware of what was actually happening in HMP Maze in 1997 and, for example, the surprise expressed by Martin Mogg at what he discovered when he went there as Governor in October. In considering this and related matters it is important to bear in mind that throughout this period the Governor of HMP Maze was a member of the SPG. Having made this general observation, the Panel are of the view that this arrangement did not contribute directly to the murder of Billy Wright.
- 8.120 The work of each of the four directorates in the NIPS was relevant to what happened in HMP Maze in 1997. The lead directorate in terms of oversight of and liaison with HMP Maze was that of Operational Management and much of

the work of the other directorates was channelled through it and, specifically, through the Director himself. For this reason the Inquiry focused its interest on this directorate.

- 8.121 Martin Mogg had been recruited to the NIPS in 1993 as Director of Operational Management, a role which was central to the smooth running of the prison service. Alan Shannon made it clear in his evidence that he leaned heavily on Mr Mogg's operational experience, explaining that they would often speak several times each day. If there were operational matters to be discussed, Mr Mogg would often accompany Mr Shannon when he went to see the Minister. It was never suggested to the Inquiry that the job of Director of Operational Management was other than a full-time and demanding one. Despite this, Mr Mogg was allowed to take on a second and similarly demanding task in October 1997 as Governor of HMP Maze. We shall come shortly to the implications of this decision for HMP Maze. For the moment, we consider the implications for the directorate. However one looks at this equation, it is clear that from 1 October 1997 there was no full-time Director of Operational Management.
- 8.122 An important function of the Director of Operational Management was to be line manager of the Governors of the prisons. The role of Governor of a prison can be an isolated one and it is important that this person can turn to an operational superior for reassurance, support and supervision. There will be occasions when a Governor has to be given direction, when he needs to seek advice or when he needs confirmation that he is making the correct decision. On all these matters Governors in the NIPS would turn to the Director of Operational Management. In the NIPS HMP Maze was the most difficult prison to manage and there would have to be a particularly close working relationship between the Governor and his Operational Director. After 1 October 1997 Martin Mogg, as Governor of HMP Maze, had no one to turn to for operational guidance or support.
- 8.123 This fact takes on even greater significance when one considers the staffing situation elsewhere in the directorate. The way in which the directorate was run, as described in 8.8–8.12 above, shows that it was undermanned and that lines of management accountability in respect of a number of key responsibilities were not always clear. This became increasingly problematic as 1997 unfolded with a steady stream of serious incidents occurring in HMP Maze and elsewhere. This makes it even more difficult to comprehend why it was decided that from 1 October the directorate could be allowed to function without a full-time head. The Inquiry also noted that in February 1997 the post of Deputy Director had been abolished and replaced by an Assistant Director post. It was submitted that this was little more than a change of designation and that the responsibilities of Barry Wallace were substantively the same as those which had been exercised by his predecessor.

There was, however, one important difference. The new Assistant Director was one of three. As his title implied, the Deputy Director had deputised for the Director in his absence. After February 1997 the three Assistants deputised on an ad hoc basis.

- 8.124 Taking all of these matters into account, the Panel conclude that the change introduced to the structure of the Directorate of Operational Management, the vacancies which existed throughout 1997 and in particular the decision, which ultimately was made by Alan Shannon with Ministerial knowledge, to appoint Martin Mogg to the additional and onerous role of Governor of HMP Maze while retaining his responsibilities as Director, severely weakened the operational capability of the directorate. The Inquiry heard no evidence that the arrangements were subject to any review as the series of major incidents unfolded in the course of the year. We conclude that this was a failure of management on the part of the NIPS and its Chief Executive.
- 8.125 We have further considered whether this failure had any bearing on the murder of Billy Wright. Within the directorate Seamus McNeill had responsibility, among other matters, for the allocation of prisoners and for oversight of the PIU. Mr McNeill went on sick leave at the beginning of June. He did not return to work before retirement and his responsibilities appear to have been shared among various individuals. Between May and July of 1997 the head of the PIU was also absent, having been seconded to cover for vacancies at a senior level in HMP Maze. Given that the PIU had not been involved in the decision to transfer McWilliams and Kenneway to HMP Maze, there is no reason to think that it would have influenced subsequent movement of the various players between blocks in HMP Maze.
- 8.126 A specific issue to be considered is the extent to which subsequent events in HMP Maze may have been influenced by the fact of Martin Mogg's dual role. We deal with this matter below in respect of the management of HMP Maze.
- 8.127 The Inquiry was left in no doubt about the stressful nature of the role of Governor of HMP Maze and heard of the toll which this took on some of its incumbents. Johnston Baxter was appointed as Governor in 1993. Alan Shannon told the Inquiry that he had lost confidence in Mr Baxter by 1996 or 1997. The Inquiry heard no evidence from Mr Baxter and is not in a position to draw any conclusion as to whether Mr Shannon's loss of confidence in him was justified.
- 8.128 Tom Woods had been Deputy Governor at HMP Maze since 1994. He left the prison on a temporary basis in May 1997 and this move subsequently became permanent. His replacement, Ken Crompton, took up post in mid-October. For the intervening five months Pat Maguire, a Governor III, acted as Deputy Governor.

During the period when Mr Baxter was on final leave it appears that Mr Maguire was also acting Governor of the prison. Earlier paragraphs of this Chapter describe in detail other substantive vacancies at middle and junior governor level in the prison during this period. This situation was replicated at Governor V and PO level in H Block 6. The Inquiry did not seek evidence as to whether similar situations existed in other H blocks.

- 8.129 The picture that emerges is one in which there was a significant vacuum at senior levels in HMP Maze for a lengthy period in 1997, a period when the prison was under considerable operational pressure. The most flagrant example of this was the fact that the Governor who had lost the confidence of the Chief Executive, for whatever reason, was left in post while at the same time the experienced Deputy Governor was transferred out of the prison to work in a non-operational post in NIPS HQ without being replaced.
- 8.130 The solution to this problem in respect of the post of Governor was to place the job in the hands of Martin Mogg, who was already holding down the most senior operational post in the NIPS. Reference has been made above to the implications which this had for Mr Mogg's responsibilities as Director of Operational Management. Another aspect of this was that he could not have devoted himself full-time to managing what the NIPS consistently described to the Inquiry as a 'unique' prison, one of the most complex at least in the UK, if not also further afield. He was in NIPS HQ two days each week and while he was in the prison senior officers such as Robin Masfield came to consult him as Director.
- 8.131 The problem was not merely one of the capacity of one man, however capable he may have been. There was also an organisational problem. Reference has been made above to the important role of the Director in supervising and supporting the work of the Governor. This important tier of management was removed on 1 October 1997. One of the reasons that this danger may have seemed less important to Alan Shannon and Martin Mogg at the time may well have been that for some time before 1 October 1997 Martin Mogg had been closely involved in the management of HMP Maze. One example of this was his involvement in the drafting of a risk assessment covering the issue of staff going into the exercise yards in the evenings, a task which should have fallen to the Governor, given that the Failure to Agree had not been passed to NIPS HQ level. This matter is described in detail in Chapter 7. Another instance of Mr Mogg's direct involvement in HMP Maze management was the decision to return the LVF prisoners to H6 after the August riot, which is dealt with in Chapter 12. This happened at a time when Pat Maguire was acting as Governor and Deputy Governor, yet he told the Inquiry that he was not involved in this decision. A further significant example of the consequence of this absence of an important tier of supervision was the NIPS

response to the ICRC's warning about H6 in November 1997, which is described in Chapter 13. It would appear from the evidence presented that Mr Mogg saw the ICRC delegation in his capacity as Governor of HMP Maze and gave his response to their warning in that capacity. They then went to NIPS HQ, where they saw the Chief Executive. In normal circumstances, and in view of his acknowledged lack of operational experience, Mr Shannon would have been accompanied at that meeting by his Director of Operational Management who might or might not have taken a different view from that of the Governor. In the event Mr Shannon did not have that support.

- 8.132 Just as we conclude in 8.124 above that continuing substantive vacancies at a senior level in the Directorate of Operational Management constituted a failure of management on the part of the NIPS and its Chief Executive, so we conclude that there was a serious failure to deal appropriately and timeously with recognised management problems in HMP Maze. In the course of 1997 there was a series of incidents in HMP Maze which should have been sounding clear warning bells about the need for stronger management in the prison. These actions and the degree of inaction contributed to a situation in HMP Maze which made it increasingly possible that a further major incident might well occur. Tragically, this was what happened on 27 December. It would be wrong to conclude that decisions about organisational management contributed directly to the murder of Billy Wright. However, the Panel do conclude that the decisions described here, which were taken by the Chief Executive of the NIPS, with advice from the then Director of Operational Management and in the knowledge of Ministers, constituted wrongful acts or omissions which facilitated indirectly Billy Wright's murder and that they did so as a result of negligence rather than by intent.
- 8.133 The Inquiry has considered in detail the evidence which was presented to it in respect of the NIPS budget and financial situation in the mid-1990s and specifically in 1997. We have noted the overall budget in relation to allocations in previous years, the relative CPPP and the proportion of the NIPS budget which was allocated to HMP Maze. At the relevant time the NIPS was attempting to bring its budget expenditure under control and the Panel agree with Mr Shannon's evidence that the problem was not one of shortage of resources but rather the way that resources were used. We do not conclude that financial considerations contributed to the murder of Billy Wright.
- 8.134 It was put to the Inquiry by a number of witnesses that HMP Maze was understaffed. The Inquiry noted that the ratio of prison officers to prisoners was much higher in HMP Maze than in a high security prison in England and Wales. Taking account of the different circumstances in HMP Maze, the Inquiry decided not to make anything of this comparison. Instead, it considered in detail staffing

arrangements at HMP Maze and these are described in 8.34 to 8.48 above. As the Inquiry understands it, the complement of staff for HMP Maze changed little if at all over the years. This had originally been set at a level sufficient to manage eight H blocks, each holding 96 prisoners. It was also based on a regime in which officers directly supervised prisoners inside their accommodation within the wings and also during such activity as daily exercise. The argument that HMP Maze was understaffed was based on the fact that in 1997 the actual number of prison officers in post was less than the complement which had originally been agreed.

- 8.135 The Inquiry paid particular attention to staffing in the H blocks themselves. In 1997 officers rarely went onto the wings where the prisoners lived, as was demonstrated dramatically by the fact that prisoners in H7 were able to dig an extensive tunnel and fill two cells with earth without any officer noticing. Nor did staff regularly patrol in the exercise yards. A number of witnesses acknowledged that staff spent relatively long periods of time in the staff tea room, apparently with little to do.
- 8.136 No adjustment was made to the staff complement in a block to take account of a smaller number of prisoners; as an instance, in April 1997 there were 95 prisoners in H4 and 15 in H6. The Inquiry heard no evidence of any consideration being given to a reduction in staff when officers ceased to be in the wings on a regular basis, nor to an increase in night shift staff when 24 hour unlock was introduced. Similarly, no evidence was heard of any consideration of whether the staffing complement in H6 should be amended when the LVF were co-located with the INLA prisoners. The Steele Report made a specific recommendation that there should be a **'review of block manning with the objective of critically assessing the value added by each post'**. There is no evidence that anything was done about this important recommendation.
- 8.137 The Inquiry Panel note all of these facts, some of them with considerable surprise, but they see no need to comment on them in general terms in respect of their Terms of Reference. They do not conclude that the agreed staffing levels in H Block 6 were a factor in the murder of Billy Wright. The distribution of staff in H6 on 27 December 1997 is dealt with specifically in Chapter 14.
- 8.138 Several witnesses drew attention to the importance of the programme for refurbishing the physical conditions of each of the H blocks. Special emphasis was placed on the need to do this work in the agreed sequence in order to avoid any adverse reaction from prisoners. The need to refurbish the H blocks was an ongoing one, **'like the Forth Bridge'** in the words of one witness. The evidence submitted by those who were most closely involved in the refurbishment in 1997 indicated that it began simply as another phase of this ongoing programme. Since it included the installation of electric power points in individual cells,

it was welcomed by the prisoners, who were keen to take advantage of this development. The evidence about the sequence in which the blocks were to be refurbished was not uniform. This may have been due in part to the fact that the sequence, and indeed the extent of the work itself, had to be altered in the course of the year because of damage caused by prisoners involved in various events between April and August 1997.

- 8.139 The programme included the installation of some new security features, such as secure exit and entrance to exercise yards from the ends of the wings. The Steele Report, which was completed in April 1997, included several recommendations about security enhancements in the wings and related exercise yards. This work was taken ahead in parallel with the wing refurbishment. The Inquiry did not hear evidence that priority was given to any blocks or areas which had been identified as being particularly vulnerable to abuse or attack by prisoners.
- 8.140 The allocation of INLA and LVF prisoners to H6 and their interim transfer to other wings is dealt with elsewhere in this Report. In general terms, the Inquiry Panel do not conclude that the refurbishment work in 1997 and its sequence should have been a determining factor in the allocation of prisoner factions.
- 8.141 Commenting on the Steele Report the SOSNI noted that **‘the choice was between running a prison where some control was exerted within it or simply holding the perimeter’**. It is worth pointing out that this report was compiled neither by a security expert who knew nothing of prisons nor by someone from another jurisdiction. The named author was at the time the Director of Policing and Security in the NIO and, furthermore, had been Alan Shannon’s predecessor as Controller of the NIPS. From his previous experience and knowledge, he would have been well aware of what had gone wrong and what needed to be done. He was assisted by a former senior official in the NIPS and by a senior prison governor. One is entitled to assume that Mr Steele would not have made recommendations which he considered to be unrealistic or impossible to implement. Nor, when the report was produced, did anyone suggest that they were. Yet within a very short time it became clear that the Steele recommendations were not being implemented.
- 8.142 Mr Steele also made several recommendations for improvements to physical security in and around the H blocks. Some of them, such as the provision of PTZ cameras within the wings, could have provided crucial additional staff observation, particularly in a block such as H6 where opposing factions were co-located. The implementation of these Steele recommendations was scheduled to be done in conjunction with the refurbishment work which has been described above. It was not given specific priority.

- 8.143 Sir Richard Tilt expressed the view that the Steele Report following the discovery of the tunnel presented a real opportunity to regain some control of the prison; it could be described as the last such opportunity before the murder of Billy Wright. The Inquiry Panel agree with this assessment and take the view that the NIPS management should have been much more vigorous in implementing the recommendations of the Steele Report. Given his experience, Mr Steele recognised the challenges which would be involved in implementing his recommendations and he presented them in the form of a 'menu', as described above in paragraphs 8.64 and 8.65. The failure to implement many of his recommendations before 27 December 1997 meant that the INLA murderers were able to attack Billy Wright in the forecourt of H6 that morning. In that regard, the Inquiry Panel conclude that this was a wrongful omission which facilitated the murder of Billy Wright.
- 8.144 This Chapter has dealt in general terms with the management of the NIPS and the situation in HMP Maze in 1997. Subsequent Chapters will consider in detail the situation in H Block 6 from May onwards. At this point, the Inquiry Panel restrict themselves to noting that while there was an aspiration by staff within the block to ensure that there should be an 'iron curtain' between the prisoners in wings A and B and those in wings C and D, there were no alterations to physical security in the wing to improve segregation between the two factions. The few procedural changes which were introduced did not of themselves guarantee that the factions would never come into contact and certainly did not prevent provocative verbal exchanges.

9

The Transfer of Billy Wright to HMP Maze and his Location in H Block 6

Detention under Rule 32

The Remand Period

9.1 On 15 January 1997 Billy Wright went on trial and was remanded in custody in HMP Maghaberry, having surrendered his bail. He was charged with doing an act with intent to pervert the course of justice and making a threat to kill a named person. Two co-accused appeared with him on related charges.

9.2 While on trial Billy Wright was held in the prison's Punishment and Segregation Unit (PSU) under the provisions of the Prisons and Young Offenders Centres Rules (Northern Ireland) 1995 Rule 32. In 1997 this rule specified:

'(1) Where it is necessary for the maintenance of good order or discipline, or in his own interests that the association permitted to a prisoner should be restricted, either generally or for particular purposes, the governor may arrange for the restriction of his association.

(2) A prisoner's association under this rule may not be restricted under this rule for a period of more than 48 hours without the agreement of a member of the board of visitors or of the Secretary of State.

(3) An extension of the period of restriction under paragraph (2) shall be for a period not exceeding one month, but may be renewed for further periods each not exceeding one month.'

9.3 The initial decision to locate him in the PSU was made by Governor Duncan McLaughlan in exercise of his power under Rule 32. He made the decision based on information that Billy Wright was at risk from other prisoners, mainly from the Ulster Volunteer Force (UVF) but also from republicans. Mr McLaughlan recorded in his diary that this information had been provided by the Royal Ulster Constabulary (RUC). It is not clear that the information was provided in writing or indeed to which individual or department in the prison or the Northern Ireland

Prison Service (NIPS) it was provided. Certainly the RUC was in possession of information to the effect that specific threats had been made against Billy Wright by the Combined Loyalist Military Command (CLMC), by the Irish National Liberation Army (INLA) and by the Provisional Irish Republican Army (PIRA), but it is not clear that this information was documented, even in the most general way, for the benefit of the NIPS. The minutes of the Prison Liaison Group (PLG) meeting of 16 January record that '[Billy Wright] **will be held in the Punishment and Segregation Unit for his own protection – because of death threats made against him by Loyalist paramilitaries.**'

- 9.4 On 19 January 1997 two members of the Board of Visitors (BoV) approved an extension of Billy Wright's segregation under Rule 32 (2) and (3). The reason noted on the pro forma was: '**A DEATH THREAT EXISTS AGAINST YOU – as was advised to you and B of V by the Governor. It is therefore acknowledged that any change in the threat will result in an immediate reassessment of the situation**'. On 13 February the chairperson of the BoV and another member signed a further 28-day extension with effect from that date. The extension was described as being in Billy Wright's own interests. The second extension expired on 12 March 1997, by which date he had been convicted and sentenced.
- 9.5 Billy Wright was convicted of both charges against him on 7 March 1997. He was sentenced to eight years' imprisonment on both counts, to run concurrently. The two men who were convicted with him received sentences of eight years and 12 months and seven years and nine months respectively.

Initial Considerations

- 9.6 The process in the NIPS for allocating sentenced prisoners has been described in Chapter 7 of this Report. In Billy Wright's case there were two decisions to be reached. The first was whether he should continue to be held under Rule 32 conditions '**in his own interests**'; the second was to which prison he should be allocated to serve his sentence. These decisions fell to be taken separately but they needed to be made in conjunction, since a decision to keep him under Rule 32 conditions would affect the decision about the prison to which he would go.
- 9.7 On 8 March Billy Wright had his committal interview with Governor IV David Morrison. Mr Morrison noted that Billy Wright did not wish to stay in the PSU and he undertook to raise this matter with Governor McLaughlan.
- 9.8 On 10 March the cases of Billy Wright and his two co-accused came before the Assessment and Allocations Committee, which as usual met in HMP Maghaberry and was chaired by Seamus McNeill, Assistant Director of Operational Management. The others taking part were a Principal Officer (PO), a Senior Officer and a member of the Probation Service. The other two prisoners, who were both in

the medium risk security category, were allocated to HMP Magilligan. The minutes of the meeting note, **'They are within the allocation criteria for Magilligan and for them to remain in Maghaberry could be seen as lending some legitimacy to A5970 Wright's request to be housed in normal location in Maghaberry.'**

- 9.9 As regards Billy Wright, who was in the high risk security category, the minutes record:

'As Wright is still regarded as being under threat of death following statements issued by the CLMC he will be kept under Rule 32 in in [sic] Maghaberry PSU for the foreseeable future. An up to date threat assessment on the prisoner has been sought from the RUC. Following sentencing Wright has made no secret of the fact that he is keen to move to normal location. He has also made it known that he is desirous of separate accommodation in Maze for his fledgling loyalist [Loyalist Volunteer Force] LVF faction.'

- 9.10 On 10 March the NIPS Operational Management Directorate wrote to RUC Special Branch (SB) seeking an up to date risk assessment on Billy Wright: **'In order for us to review the need for his continued restricted association I would be grateful if you would confirm, by return, whether the threat against him is considered to be ongoing or whether it has been lifted.'** SB responded to this request on 4 April. The reply referred to **'updated threat assessments on Wright'** and three others, treating them all as subject to the same threat and stating simply that **'no information has been received which would indicate that the threat against these individuals have [sic] been removed.'**

Extension of Rule 32

- 9.11 On 12 March two members of the BoV visited Billy Wright in connection with his continued confinement in the PSU. The next day Seamus McNeill wrote to Martin Mogg, Director of Operational Management, to report the prisoner's reaction:

'When two BoV members spoke to him yesterday in connection with the re-signing of the Rule 32 authorisation, he gave them a hard time. He was astute enough to know that if they did not sign it the Secretary of State had the authority to do it and this would "confirm" that the decision to lock him up 23 hours a day was political. The BoV signed the authority.'

- 9.12 The same day the monthly BoV meeting took place. The minutes record that one of the BoV members had felt threatened by Billy Wright when he went to sign the Rule 32 extension and that Governor McLaughlan had spoken to Billy

Wright about this. In evidence Sophy Bryson, Chairperson of the BoV, recalled that Billy Wright had made the BoV members feel very uncomfortable, perhaps by implying there would be publicity given to the fact that the BoV was **'acting as a rubber stamp for the authorities'**. The BoV members had not wished their names to appear in newspapers, particularly in connection with this. The BoV asked Governor McLaughlan to make NIPS Headquarters (HQ) aware of the threat. Sophy Bryson undertook to write herself to the Chief Executive, Alan Shannon.

- 9.13 On 21 March Mrs Bryson telephoned Alan Shannon. She followed up the call with a letter dated the same day. After laying out the BoV's concerns about long-term use of Rule 32 in a prisoner's **'own interests'**, she went on to deal specifically with Billy Wright:

'As I told you, we do not wish to make a special case out of his situation, yet it would be unrealistic to ignore the fact that a prisoner with his high profile has the potential to disrupt stability both within the prison and outside in the community. He has already made those BOV members, who signed for his restriction under Rule 32 last week, feel distinctly uncomfortable. There are two reasons for our disquiet and I do not feel that I gave enough weight to the first of these when speaking to you to-day, namely that we do not feel that we are in possession of enough information to make the decision that the threat to his life must be regarded as real; Wright himself tells us that he is willing to disregard the threat. Where there is a threat to someone's safety coming from within the prison, then we are able to get enough information to satisfy ourselves, but since the argument for his segregation rests on sensitive external security information, we are not in a position to give a logical explanation for our signing. Secondly we strive to be objective and stand aside from politics in any form, but we are in a difficult position at present: if we sign again, we shall be seen as siding with "The Establishment" against loyalists; if we do not sign, we may well be seen by other factions as aligning ourselves with the loyalists. You will appreciate our dilemma.

As I mentioned to you, the Board sees two possible solutions to the problems outlined; either that Wright and his followers should be accommodated at the Maze, or, alternatively, if this is not an option, that the Secretary of State could be asked to sign in the case of these men, since he would clearly be fully informed of the external security issues involved which we must take on trust ...'

- 9.14 Alan Shannon replied on 26 March, accepting the validity of the BoV's concern about signing Rule 32 authorisations in the absence of awareness of the full facts. He undertook that future authorisations in the case of Billy Wright would be signed at NIPS HQ on behalf of the Secretary of State for Northern Ireland (SOSNI). On 10 April Martin Mogg signed a further one-month extension **'for the Secretary of State'**. The situation was very unusual and Seamus McNeill could recall only one other occasion when the SOSNI, rather than the BoV, had been asked to provide such authorisation. The extension narrated that it had been found necessary to restrict Billy Wright's association **'as advice has been received that your life would be at risk in normal location'**.

Conditions in the Punishment and Segregation Unit

- 9.15 The PSU in HMP Maghaberry consisted of 28 cells located on two floors and, as its name implies, was used to hold both prisoners undergoing disciplinary punishment and those on segregation under Rule 32. In general terms prisoners held there were confined to their cells for up to 23 hours a day, with the remaining hour for taking exercise in the open air. Prisoners were also allowed out of cell for specific reasons, such as visits by family and friends, but otherwise they remained locked in their individual cells.
- 9.16 When the BoV wrote to Alan Shannon on 21 March they expressed general concern about long-term detention in the PSU, commenting, **'we do not like to see any prisoner held under Rule 32 for a long time as this restriction of association cannot be good for mental health and is perceived as added punishment by the prisoner'**. At that juncture three prisoners had been in the PSU for over six months.
- 9.17 Billy Wright's supporters outside the prison described him as **'a political pawn locked up 23 hours a day'** and questions were asked by unionist politicians about the conditions in which he was being held. In a note prepared on 20 March 1997 for the purpose of preparing the Minister's response to questions raised by Peter Robinson MP and the Rev Dr Ian Paisley MP, Seamus McNeill described Billy Wright's regime in the following terms:

'He receives the one domestic visit per week appropriate to sentenced prisoners. He has access to legal advisers, when necessary. He exercises for one hour per day with three of his associates who are not considered to pose a threat and whose association has been similarly restricted on the basis of RUC advice since their committal on remand in August last year.'

- 9.18 The note also asserted, **'The RUC have advised that Wright is under a very serious and ongoing death threat from the Combined Loyalist Military Command.'** The Inquiry was provided with no evidence of RUC advice in these specific terms to the NIPS. In the absence of up to date information from the police and of any written threat assessment, it is surprising that the NIPS felt able to be so categorical about the nature of this threat.
- 9.19 In the event, Billy Wright was held in the PSU until a final decision was reached about his long-term allocation.

Transfer to HMP Maze

Options for Allocation

- 9.20 The Governor of HMP Maghaberry, Duncan McLaughlan, said in evidence that he visited the prisoners held in the PSU on a daily basis and that he got to know Billy Wright well. On 16 March 1997 Mr McLaughlan wrote in his diary:

'After his sentence I talked with Wright about his sentence and how he would spend it. He regards the conviction as a political event and will fight it. Inside he wants his own block in the Maze and quoted the eighty who would support him. He also suggested that he could live in Foyle House, that is where most of his supporters in Maghaberry are; to do that would mean segregation in Maghaberry. He also suggested a transfer to England or Scotland. Above all he does not want to spend his time on Rule 32.'

In evidence Mr McLaughlan said:

'He wanted his status to be recognised as political. He wanted to live in accommodation with his own people, the sort of accommodation that you would have in the Maze and the sort of facility accommodation practice we did not have at Maghaberry, because that was the very antithesis of what Maghaberry was about.'

- 9.21 There is no evidence that Billy Wright ever raised again with the NIPS the possibility of serving his sentence in an English or Scottish prison or that he ever made a formal application about this. Such a transfer could only have taken place at his request. As Alan Shannon read the situation, it would not have suited Billy Wright's purposes to be located outside Northern Ireland as he wished to establish himself as the credible leader of a new paramilitary grouping.
- 9.22 Because Billy Wright was in the high risk security category he was not eligible to go to HMP Magilligan, even if he had wished to. This left only two options: HMP Maghaberry or HMP Maze. As mentioned in Chapter 7, the NIPS was determined

that as far as possible HMP Maghaberry should operate as a normal high security prison. Among other things, this meant that prisoners were not allocated within the prison according to their paramilitary factions, that the prison operated on a non-segregated basis and that prisoners were not allowed to behave in any overtly paramilitary fashion.

- 9.23 Seamus McNeill, who met with Billy Wright on several occasions to discuss his allocation, considered that his demands were twofold. First, he wanted out of the PSU. Second, he wanted to go to HMP Maze, where **'proper'** paramilitaries were held:

'my clear understanding was that Mr Wright saw himself on a par with other paramilitary factions. Other paramilitary factions had their own accommodation. In our view, that accommodation could not be provided at Maghaberry and the only place it could be provided was at Maze. So I was never satisfied that Mr Wright would himself have been satisfied with anything other than being seen on a par with other paramilitary groups.'

- 9.24 Other records at the time suggest that Billy Wright's position may not have been so clear cut. The Monthly Intelligence Assessment Report (MIAR) for March 1997 implied that he wanted to be placed on normal location in HMP Maghaberry:

'He quickly made it known that he was unhappy with the prospect of serving his sentence in the Punishment Unit under Rule 32 ... Wright contended that he would be safe if placed on normal location within the prison and stated he would use whatever legitimate means are necessary to be removed from Rule 32.'

- 9.25 The minutes of the BoV meeting on 13 March 1997 show that **'Governor McLaughlan reported to the meeting that prisoner Wright would still be held in the PSU because the threat on his life must be taken seriously and the prison had a duty of care to hold him safely in custody. Wright had expressed several options to the Governor regarding where he would like to be transferred to.'** This is consistent with the understanding of Sophy Bryson, who was of the view that Billy Wright was willing to be housed in HMP Maze or HMP Maghaberry, so long as he got out of the PSU.

- 9.26 Also in March an informal petition was found in Erne House in HMP Maghaberry in a cell occupied by a member of the Ulster Freedom Fighters. The 35 prisoner signatories wished it to be known **'that we feel Billy Wright is being held in barbaric and inhumane conditions and that he should be moved to the general population as soon as possible. ... none of the undersigned will**

harm Billy Wright in any way nor do we know of anyone who would harm him in the jail’. The petition is referred to in the MIAR, although Seamus McNeill said in evidence he had not seen it before. He went on, **‘I think no petition like that would have absolved the Governor of his specific duty of care to Mr Wright. ... I would not have taken at face value the undertakings given in that petition.’** Another loyalist prisoner in Bann House wrote to Billy Wright stating that he would have **‘no trouble’** from prisoners in that block: **‘All of us are behind you as they will see’.**

9.27 The NIPS’ concerns about placing Billy Wright on normal location in HMP Maghaberry were twofold: the risk to his safety posed by other prisoners in the integrated conditions, and the risk that Billy Wright would pose to the integrated regime. Alan Shannon referred to the efforts the NIPS had made during the 1990s to maintain the integrated regime at HMP Maghaberry, in the face of prisoner demands for segregation: **‘... we perceived Billy Wright as someone who would have wanted to challenge that practice, also, and, therefore, one of the reservations we had about him going on to normal location in Maghaberry was the probability that he would seek to achieve some kind of segregated status within Maghaberry.’**

9.28 Billy Wright indicated to the BoV that he was prepared to disregard the CLMC threat, but Mr McNeill recognised that this would not absolve the Governor from his duty of care: **‘Mr Wright certainly put to me the possibility of normal location, but I am sure the Governor would have said what I said to him, which was that the Governor has a specific and general duty of care and he cannot set that aside simply because a prisoner said, “I think I will be safe”.’** However, when Billy Wright met with Peter Robinson MP on 18 March, by which time he was expressing a desire to go to HMP Maze, his primary motivation for seeking a transfer appears to have been his personal safety rather than any political motivation:

‘He was very convinced, on the basis of what he had heard, that his life was in danger if he were to remain in Maghaberry. He made it very clear that the threat was from Republicans, though he didn’t identify which element of the Republican paramilitary community he thought the threat was coming from. ... I think [he] was on 23-hour lock-up, which didn’t please him either. He clearly wanted to have more association and it was one of several reasons that he felt it better that he was in the Maze. ... I was convinced that his motives were entirely around his own safety.’

- 9.29 At the meeting of the PLG, also on 18 March, it was noted that **'WRIGHT'S ultimate objective is separate accommodation for his emerging faction. This could be provided within MAZE but provision of visits would be difficult. There was also concern that WRIGHT'S transfer to MAZE could provoke a reaction from other Loyalist prisoners. The options as to where WRIGHT will be located are being considered.'** This comment demonstrates that attention was now focusing on the possibility of transferring Billy Wright to HMP Maze, subject to a resolution of practical difficulties such as visits. Seamus McNeill confirmed this in evidence.
- 9.30 It was recognised that any decision about Billy Wright's location would also affect the as yet unknown number of other prisoners who identified with him and who might wish to join him as part of a discrete LVF faction. There were at that time three other LVF prisoners in the PSU with Billy Wright, all of whom had been held there since the previous August. Billy Wright was known to be a charismatic individual, well capable of attracting recruits to his cause. Mr McNeill's view was that the appropriate prison for such a faction was HMP Maze, not HMP Maghaberry. This was despite the fact that the NIPS had previously resisted demands by splinter groups for separate accommodation at either HMP Maze or HMP Maghaberry. He went on to say that Billy Wright would not have been allowed separate accommodation for his faction at HMP Maghaberry, but that if a cohesive LVF faction emerged there then, depending on their strength and their ability to disrupt the regime, serious consideration would have to be given to transferring them to HMP Maze. What distinguished the LVF from other splinter groups was its potential strength and Billy Wright's determination to maintain it as a new faction which presented a significant threat to the policy of integration at HMP Maghaberry.
- 9.31 On Tuesday 11 March 1997 a prison officer at HMP Maghaberry submitted a Security Information Report which stated that a loyalist prisoner had **'informed staff that he was a mate of prisoner A5970 Wright (UVF/HIGH) as are 18 to 20 other prisoners in Maghaberry. [He] stated they were not happy about Wright serving his sentence in the PSU, and that Wright was going to approach the No. 1 Governor to see if they could be moved to a special wing in Maze. If they didn't get any satisfaction by going down the right channels, the prisoners involved would start to "wreck up" so they would be moved to Foyle 2, then they would wreck it so they could all get to the PSU.'**
- 9.32 On the same date another prisoner source reported that the LVF would release a statement at 6.00 pm setting out two demands backed by a threat: that the LVF be given the leg of a block at HMP Maze; that the authorities set up the

accommodation at HMP Maze within seven days; and that if no move was made to meet the demands officers would be shot and HMP Maghaberry would be wrecked.

- 9.33 Also on 11 March a telephone call to Ulster Television (UTV) using a recognised codeword threatened that, if the issue of loyalist prisoners held in the PSU was not resolved within two weeks, widespread disruption would result. The caller claimed to be from the LVF. UTV did not report the ultimatum. Loyalist prisoners at HMP Maghaberry apparently expected the statement to be broadcast. They congregated in large numbers in the television rooms for the screening of **'UTV Live'** that night. An officer in Foyle House reported a prisoner as saying that **'Foyle 3 and 4 would blow not necessarily that night but shortley [sic].'** In Foyle House, after the television news, prisoners who had been congregating round the television came out to use the phones. The incident corroborated other intelligence and was suggestive of fairly widespread support for Billy Wright within HMP Maghaberry.
- 9.34 When, on 7 April 1997, Seamus McNeill met Billy Wright to tell him that the NIPS were considering moving him to HMP Maze, he was pleased. On 24 April Mr McNeill went to tell Billy Wright that the transfer had been postponed. He asked Billy Wright what might happen if the threat against him were lifted and he could be placed on normal location in HMP Maghaberry. Billy Wright was very evasive and Mr McNeill formed the impression **'that he would seek to create a segregated LVF landing or landings'.**

The Calculus of Risk

- 9.35 At a meeting of the Anglo-Irish Secretariat on 17 April 1997 the British side told the Irish delegation that the rationale for considering a transfer of Billy Wright and his followers to HMP Maze was primarily about **'good order within the prisons system as a whole'.**
- 9.36 Part of the operational logic for having an LVF wing in HMP Maze was to draw loyalist dissidents back to HMP Maze from HMP Maghaberry and HMP Magilligan and to contain loyalist dissidents there for the future. Since the ceasefires an anomalous situation had developed whereby hard-line paramilitaries, predominantly loyalist, had migrated from HMP Maze to other secure establishments. These transfers from HMP Maze carried with them a threat to the stability of the non-segregated regimes at HMP Maghaberry and HMP Magilligan.
- 9.37 Overall numbers were also a consideration. The NIPS could not justify allocating segregated accommodation to a very small LVF faction. Demands for segregated accommodation from two other comparatively small groups, the loyalist

'Greysteel' murder gang and INLA dissidents, whose members had been expelled from HMP Maze by the main factions, had been successfully resisted. Duncan McLaughlan explained the approach adopted in HMP Maghaberry:

'What we did do, if we ever had a group of five or six prisoners who tried to combine, we split them up to different parts of the prison. We never, ever and it was policy and practice, never had a segregated, if you like, part of the prison for people who shared the same background.'

- 9.38 Numbers by themselves, however, were not the determining factor. Though the NIPS had an interest in containing dissidents in HMP Maze, it had no interest in promoting any increase in the number of factions. To do so would have caused a series of problems in respect of politics, of law and order and possibly a threat to the Peace Process, while delivering no operational advantage.
- 9.39 From the moment Billy Wright was sentenced one question was being continually asked: if he were sent to HMP Maze, how many supporters might he take with him from HMP Maghaberry and HMP Magilligan? HMP Maghaberry Security Information Centre (SIC) calculated that in addition to the four LVF men including Billy Wright in the PSU there were 18 in Foyle and six in Erne House, 28 in total. In a minute to the Permanent Secretary (PS) on 12 March 1997 Martin Mogg referred to **'some 20–30 prisoners who are likely to rally to Mr Wright's call'** from HMP Maghaberry and HMP Magilligan. On 13 March Seamus McNeill wrote to Martin Mogg noting that Billy Wright and his supporters claimed that up to 70 prisoners would join his faction. Mr McNeill commented, **'... this ... would indicate that he expects either significant defections – around 30 from existing Loyalists Blocks in Maze – or that a fir [sic] number of new loyalist committals will join him.'**
- 9.40 On 14 April 1997 Seamus McNeill had his second meeting with Billy Wright and there was discussion about the number of prisoners who might wish to join him if he went to HMP Maze. Mr McNeill recorded that Billy Wright had scaled down his estimate to between 30 and 40: there would **'certainly be no more than two wings'** (that is, 48). He would not poach from the Ulster Defence Association (UDA) wings but there were a couple of prisoners in the UVF wings who might want to join. As of 24 April the NIPS had received 30 transfer requests from prisoners in HMP Maghaberry and HMP Magilligan who wished to join Billy Wright in HMP Maze.
- 9.41 In the event the NIPS' assessment of numbers proved to have been reasonably accurate. In something over two months from the date of Billy Wright's transfer, LVF numbers in HMP Maze had risen to between 20 and 30. Most of these prisoners had transferred from HMP Maghaberry.

9.42 The NIPS remained concerned about the possibility of serious disruption in HMP Maghaberry and HMP Magilligan by LVF supporters if Billy Wright and his followers were not transferred to HMP Maze. Martin Mogg outlined this risk in a paper of 12 March to the PS. Mr Mogg expressed the issue as being where the inevitable, that is, segregation for Billy Wright and his supporters, should be conceded, at HMP Maze or at HMP Maghaberry. There would be no positive and several negative consequences of segregation in HMP Maghaberry. The main disadvantages as far as HMP Maze was concerned arose out of likely opposition from other loyalist factions. Mr Mogg advised the PS that accommodation at HMP Maze was available, although visiting facilities would be a problem, depending on the numbers involved. The minute to the PS made no mention of where in HMP Maze the accommodation might be. Mr Mogg summarised the NIPS' view as follows:

'Purely from a prisons management perspective, if a campaign is mounted with a degree of popular support likely to lead to problems at Maghaberry or Magilligan, then the setting up of separate accommodation at Maze is the best solution. If this is to happen then it should be conceded earlier rather than later and as a result of reasonable request rather than violent confrontation.'

9.43 On 14 March 1997 the PS responded to Martin Mogg's minute of 12 March, agreeing that the issue was one **'which needs to be gripped early, rather than be allowed to fester'**. He agreed also that a meeting would be timely and left it to the NIPS to arrange a meeting on Alan Shannon's return. The matter was subsequently discussed with the Minister at a meeting which took place on 24 March, as described in 9.66 below.

Discussions about Transferring Billy Wright to HMP Maze

9.44 By the middle of March the arguments for allocating Billy Wright to HMP Maze were taking shape. Although there was room for discussion about the length of time he should remain in the PSU, there was never any suggestion that he should spend his entire sentence there. There was little doubt that Billy Wright regarded himself as a paramilitary prisoner, convicted on political grounds. His ambition was to gather around himself those of a similar mind. The principle on which HMP Maghaberry operated was that of non-segregation, with no recognition of paramilitary factions. If Billy Wright was allocated to one of the main wings in HMP Maghaberry, this principle would be under severe threat. There were also real concerns that attempts might be made from a variety of prisoner sources to attack or even murder Billy Wright if he were on a non-segregated wing in HMP Maghaberry.

- 9.45 The Inquiry has recovered a draft briefing paper prepared between 7 and 12 March 1997 by Seamus McNeill for Martin Mogg. Mr McNeill explained to the Inquiry that by then he would already have discussed the main issues with Martin Mogg and Alan Shannon. He wrote that according to a prisoner source, Billy Wright was determined to achieve separate accommodation in either HMP Maze or HMP Maghaberry, and went on to explore the two options separately. Mr McNeill's view was that there were few operational advantages in providing segregated accommodation at HMP Maghaberry. There was also a risk of disruption if Billy Wright remained in the PSU: there were prisoners on normal location who could do his bidding, and other prisoners who would feel threatened. There was also a possibility that he might engage in a hunger strike or dirty protest.
- 9.46 Mr McNeill concluded that there were **'significant operational attractions'** in providing accommodation at HMP Maze. Such a decision would accord with the strategic position of HMP Maze as a paramilitary prison and allow any dispute between loyalist factions to be contained within that prison. The configuration of accommodation at HMP Maze meant that a discrete area could be given to the new faction. He recognised that the HMP Maze option also had disadvantages. There would be difficulties with the creation of a fifth faction at HMP Maze, mainly among the other loyalist factions, particularly the UVF. He also recognised that because of the CLMC threat, separate facilities would be required for LVF visits. Mr McNeill noted that as many as 60 prisoners might wish to join Billy Wright at HMP Maze, which might in turn put pressure on the loyalist ceasefires. On the other hand, if Billy Wright attracted only a small number of followers HMP Maze would find itself having to run separate accommodation for a small paramilitary rump, which would **'put at risk the strategic objective of reducing and eventually closing Maze'**.
- 9.47 This was the first NIPS document to raise the possibility of housing the LVF in H Block 6. Mr McNeill told the Inquiry that he had consulted the Governor of HMP Maze before writing this.
- 9.48 In response to this paper, Barry Wallace, another Assistant Director of Operational Management, suggested the alternative approach of trying to have the CLMC threat lifted in order to allow an opportunity for Billy Wright to be managed in the integrated conditions at HMP Maghaberry. Mr Wallace pointed out that Billy Wright was serving a lengthy sentence: **'It would give time to re-assess the situation if Wright were then in integrated conditions as his present threat would be removed.'** He feared that to give the LVF separate accommodation might prompt renewed demands from other splinter groups, including INLA prisoners at HMP Maghaberry; he identified Christopher McWilliams as the

potential leader of that group. In evidence Seamus McNeill agreed that the possibility of lifting the threat could have been raised with the prisons spokesman of the Progressive Unionist Party (PUP), with whom he was in regular contact. However, **'If he had told me the threat was lifted, I wouldn't have believed him. I just didn't think there was any mileage – I think in a sense the UVF had nailed their colours to the mast as well. I couldn't conceive of any circumstances where they would simply nicely roll over and say, "It's okay".'**

- 9.49 On 13 March Seamus McNeill wrote to Martin Mogg to warn that Billy Wright was pressurising the BoV not to sign his Rule 32 extension. He was also threatening to go on a hunger strike, with its potential climax timed to coincide with the build-up to the parade at Drumcree in July. Mr McNeill confirmed in evidence that the threat of a hunger strike had been taken seriously. He recalled that by now he had become anxious that a decision be taken as soon as possible: **'I was seriously concerned at this stage. ... the more there was delay, the more was the pressure on Mr Wright to initiate whatever props he had in place.'**

Threats from the Loyalist Volunteer Force

- 9.50 On or shortly before 21 March 1997, the Prison Information Unit (PIU) received information that **'the Loyalist Volunteer Force (LVF) – aligned to Billy WRIGHT – intended to attack two Governors and an officer outside the prison'**. On 21 March a faxed threat warning was issued to all establishments to the effect that loyalist paramilitaries intended targeting prison staff outside establishments. The PIU sought further information from the police and on 27 March RUC SB E3B replied:

'Intelligence received at this office indicates that Loyalist paramilitaries may intend to attack a Prison Governor or Prison Officer.

In particular paramilitaries have indicated that they may intend to attack one of the Prison Governors and they believe both live in Belfast.

Intelligence also indicates that Loyalist paramilitaries are actively targeting a Prison Officer who attends Gospel Meetings.

Comment

Whilst these reports are linked to Loyalist prisoner unrest at HMP Maghaberry, we are unable to say if any of the intended targets described above are the same persons outlined in your intelligence of 21.3.97.'

9.51 From intelligence documents in the Inquiry's possession it can be confirmed that there was specific information that Billy Wright was planning LVF attacks on three named prison staff. It was feared the attacks were to take place within the next couple of days. In late March intelligence was received in HMP Maghaberry SIC that a visitor of Billy Wright's, Mark 'Swinger' Fulton, had remarked possibly with the intention of being overheard, **'They are going to start hitting the screws outside in the very near future.'** The minutes of the SB liaison meeting held on 2 April 1997 recorded:

'It can only be a short time before they [LVF] carry out an attack, with BILLY WRIGHT sending out instructions for the shooting of Prison Officers who have offended him ... BILLY WRIGHT is reported to have issued directives to the LVF to shoot a Prison Officer.'

9.52 The Inquiry has received no evidence, other than in Alan Shannon's minute to the Minister of 22 April, which is covered at 9.82 below, that any attacks actually took place; and the basis on which Mr Shannon made that assertion is unclear. The more important point is that, as described below, by 25 April the matter was no longer a live issue. Billy Wright's transfer had been agreed and there was no need for him to pressurise the prison service. Threats to wreck HMP Maghaberry had also ceased.

Opposition to Billy Wright's Transfer to HMP Maze

9.53 There was also pressure on the NIPS not to transfer Billy Wright to HMP Maze and Mr McNeill began to receive overtures from the PUP, who were vehemently opposed to the creation of an LVF wing at HMP Maze and who warned of the risk that UVF prisoners might defect to Billy Wright's faction. Mr McNeill regarded this pressure as confirmation of the seriousness of the CLMC threat. The PUP argued that to grant the LVF the recognition inherent in giving them their own wing at HMP Maze could affect the loyalist ceasefire and the MIAR for April notes a press statement to that effect by the PUP's Billy Hutchison. The PUP also lobbied the Political Affairs Division of the Northern Ireland Office (NIO) and the Irish Government. In a meeting with NIO officials they claimed that the creation of an LVF wing at HMP Maze would **'give the LVF real status in the paramilitary community and would stimulate their growth ... The last thing the Government should be doing was to encourage the most violent and unpredictable element on the loyalist paramilitary scene, whatever the short term advantages in prison management terms.'**

9.54 UVF opposition to the transfer continued and resistance to the plans to locate all UVF prisoners in one H block appears to have been motivated, at least in part, by UVF fears that the accommodation they vacated would then be allocated

to the LVF. A bomb hoax outside the gates of HMP Maze was attributed to the UVF and was thought to be connected to the transfer issue. The MIAR for April records how there had been a **'strong reaction'** to the issue from UVF prisoners: **'Prisoners in H3 made it known that they would decapitate WRIGHT if he transferred to MAZE.'** The assessment noted that the outside representatives now seemed resigned to Billy Wright's transfer, and that it was hoped the UVF prisoners would ignore him and his contingent.

- 9.55 On 10 April 'Plum' Smith of the PUP telephoned Seamus McNeill to request a delegation meeting with UVF prisoners in HMP Maze on the afternoon of Monday 14 April. Mr McNeill suspected that the principal item of discussion was to be UVF tactics to oppose Billy Wright's transfer. On 14 April, the PUP delegation met a group of 30 UVF prisoners in the prison gymnasium. An SB source reported:

'All of the prisoners were opposed to BILLY WRIGHT being transferred to the Maze as they felt that they had fought for years for minor concessions such as separate visits from republicans and that the NIO were seen to be going overboard in appeasing WRIGHT. They also felt that it would be harder to maintain discipline in the prison wing, as if anyone were to step out of line they could simply ask to be moved to WRIGHT's wing of the prison.'

- 9.56 On 17 April a request for an inter-block visit between UVF blocks H1 and H3 was refused. That night the prisoners in H1 and H3 refused to cooperate with headcounts. The Deputy Governor informed the prisoners the next day that there would be no movement from the blocks until a headcount had been obtained. One prisoner from H3 then told officers that he had had enough and wanted to transfer to HMP Maghaberry. Twelve other prisoners from H3 and six from H1 decided to join him in seceding from their respective blocks. The group of 19 prisoners declared themselves to be the **'Protestant Action Force'** (PAF) and were transferred to the prison hospital. Once at the hospital they demanded a wing of their own in HMP Maze. There was substantial intelligence reporting on UVF deliberations that week. One source stated:

'It was agreed that the UVF will continue to do everything possible to undermine the LVF. [BLANK] expressed concern that the LVF were getting a wing in the Maze Prison as it gave the LVF further recognition. [BLANK] to give orders that a number of UVF prisoners under the guise of the "Protestant Action Force" also demand a wing hoping that the prison authorities will refuse both requests. BILLY WRIGHT will not be "let off the hook" and both he and the LVF will eventually be dealt with.'

- 9.57 Another source reported that **'the requests from some loyalists to transfer to Maghaberry Prison is only a tactic and if BILLY WRIGHT is granted a wing of his own violent reaction will occur in both the Maze and Maghaberry Prisons.'** There was further reporting to the effect that the PAF and others had requested to have their own wings in response to Billy Wright: **'The Loyalist paramilitaries believe if the NIO grant this concession to WRIGHT they are in fact attempting to drive a wedge into Loyalist unity.'** It is not known how much of this intelligence was shared with the prison authorities. Whether on the basis of information received or by making their own assessment, the prison authorities began to suspect that the whole PAF episode had been stage-managed in order to prevent H6 being occupied by Billy Wright and his supporters.
- 9.58 The minutes of the SB Liaison meeting held on 16 April recorded:
- 'Both groups [UDA and UVF] are reported to be very unhappy that the Prison Authorities may grant BILLY WRIGHT a wing in the Maze Prison for himself and his associates in the LVF. The UDA/ UVF expecting approximately 30 of their members to go over to WRIGHT and the risk to their OCs [Officers Commanding] in the jail of every time they issue an Order, it may be questioned, with the UDA/ UVF member threatening to move to WRIGHT's wing. Should this happen both organisations will cause trouble inside and outside the Prison.'**
- 9.59 On 19 April the driver of a refuse lorry was ordered to drive his vehicle to the main gate of HMP Maze after his workmate had been held hostage and beer kegs loaded on to the vehicle. The incident turned out to be an elaborate hoax which was thought to have been orchestrated by the UVF in connection with the PAF incident. On 22 April there was a vehicle bomb scare at HMP Maghaberry when a vehicle containing a refuse bin was stopped in the vicinity of the prison. After seven hours the device was declared a hoax. It appeared to the prison authorities to have been loyalist inspired and possibly related to the impending transfer of Billy Wright.

The Northern Ireland Intelligence Report of 22 April 1997

- 9.60 On 22 April the Security Service circulated a Northern Ireland Intelligence Report (NIIR) marked 'Immediate' and containing a threat warning. The NIIR, which contained information derived from an RUC source, deserves to be quoted in full (subject to some necessary redaction):

'TITLE: UVF: INTENTION TO ATTACK PRISON OFFICERS

DETAIL

1. UVF intends to carry out attacks on Prison Officers. These attacks are believed to be imminent.

RUC COMMENT

A. This proposed action by the UVF follows unrest involving UVF prisoners in HMP Maze since Friday 18 April, when 19 prisoners requested a move to HMP Maghaberry or their own wing in the Maze, claiming they were members of the Protestant Action Force (as distinct from UVF). This may have resulted from the Prison Service's intention to give the dissident UVF member Billy WRIGHT his own prison wing which will contain 20–30 dissident UVF members, loyal to him. The mainstream UVF prisoners are objecting both to the intentions concerning WRIGHT and to the conditions being imposed on them since PIRA's escape tunnel was discovered.

SECURITY SERVICE (BELFAST) COMMENT

A. The UVF's anger about WRIGHT being provided with segregated accommodation in the Maze is likely to stem primarily from the fact that WRIGHT and his supporters are mostly UVF exiles and are now being accorded comparable status within the prison. The UVF may also be concerned at the prospect of yet further defections to the UVF once WRIGHT's position in the Maze has been established: WRIGHT's faction is likely to be the only one to offer strong and charismatic leadership to loyalist prisoners. The UVF regards segregated accommodation as acknowledgement by HMG of a group's status, rather than as the Prison Service's only practical solution to accommodation problems.

B. The WRIGHT issue has generated representations from PUP spokesmen to NIO officials outside the prisons sphere, ... , with the suggestion that favouring WRIGHT in this way might jeopardise the CLMC ceasefire. We assess such a scenario to be highly unlikely.

C. The name "Protestant Action Force" has been used on some occasions by the UVF as a nom de guerre in connection with some of the groups terrorist activities. It has never existed as a separate faction.'

This NIIR was circulated to, among others, '**PS/ Sir John Wheeler**' in both London and Belfast. The significance of this is considered further in 9.84 below.

- 9.61 When considering the weight to be attached to the NIIR of 22 April, it should be noted that it was part of a stream of reporting that continued over the days that followed. On 21 April the NIPS Prison Operations sent a fax to all establishments with the warning '**Information has been received from the RUC to indicate that attacks on the homes of prison officers by loyalist paramilitaries are imminent.**'

- 9.62 On 23 April 1997 the NIPS PIU received information from RUC SB E3 which was relayed on to Seamus McNeill in the following terms:

'I received a telephone call from [Witness FH] E3B to-day reference Billy WRIGHT's transfer to MAZE. They have received information that feelings are running high in the "mainstream" UVF over the WRIGHT transfer and that prison staff will be attacked if WRIGHT moves to MAZE.'

Seamus McNeill noted: **'This ties in with the earlier threat notice issued to all establishments on 21/4/97, advising that attacks on staff by loyalists were imminent.'**

- 9.63 The previous week's intelligence was summarised in the minute of the SB Liaison Meeting held on 30 April:

'UVF/... will react violently to the transfer of WRIGHT to HMP Maze and the granting of a reported wing to the LVF. This is likely to take the form of:-

attacks against Prison Officers' homes and property;

disruption within HMP Maze and Maghaberry;

street protests in Loyalist areas.

The UVF/... will also take action against the families of any of its members defecting to WRIGHT.

... Attacks on Prison Officers by UVF members ... are imminent.

... UVF's intention to target and attack Prison Officers' homes. ...

... Ill feeling within the UVF against the NIO is extremely high. UVF is extremely agitated by the NIO concession to WRIGHT in granting him a wing at HMP Maze. UVF attitude is that the Prison Authorities are giving LVF a status which it does not deserve and will have a potential to create a third Loyalist paramilitary organisation.

... UVF are considering ...

(1) Targeting Prison Officers who work at the Maze, attacks would be against their property, ie cars, houses.

(2) ... cause inconvenience to the Prison Authorities at HMP Maze and Maghaberry by requesting separate wings for the RHC [Red Hand Commandos] YCV [Young Citizens Volunteers] and PAF prisoners. ...'

- 9.64 The political affiliates of the UDA, the Ulster Democratic Party (UDP), also approached Mr McNeill to make representations via their prisons spokesman, John White, on 10 April. Their concern, as Seamus McNeill advised Alan Shannon, was that **'the dissidents expelled from the UDA would be seen to return to HMP Maze under a different banner'**. They too were evidently worried that Billy Wright would poach their prisoners. However, Billy Wright appears to have reached an agreement with the UDP, since John White subsequently told Mr McNeill of the UDP's 'line' that UDA prisoners should not react in any way if Billy Wright was moved to HMP Maze. Mr White also queried whether the lifting of the CLMC threat would allow Billy Wright to be placed on normal location instead, but Mr McNeill told him it was **'too late'** for that. In evidence Mr McNeill explained this by referring to his scepticism about undertakings from loyalists generally, and the apparent inability of loyalist politicians to **'deliver'** within the prison.
- 9.65 Alan Shannon was of the same opinion:

'I am not sure what credence I would have given to an assurance from Mr White that a threat had been lifted. At the very least, I would have wanted to have that fully explored with the RUC. Secondly, there was the Republican threat. Even though we weren't aware of specific threats, we were very well aware that Billy Wright's alleged activities were such that both Republican factions were hostile to him, so I don't think we considered – well, I know we did not consider normal location in Maghaberry to be a safe option.'

Initial Ministerial Involvement

- 9.66 On 24 March the Minister met with Alan Shannon, John Steele (Director of Policing and Security) and Jim Daniell (Director of Criminal Justice). This was the day after the discovery of the PIRA tunnel from H Block 7 and it may be that the meeting was convened to discuss the establishment of the Steele Inquiry into this. They also discussed the situation concerning Billy Wright. It was highly unusual that a matter such as the allocation of an individual prisoner would be discussed at ministerial level; indeed, Sir John Wheeler said in evidence that he could recall no other instance when this happened. There were wider considerations in the case of Billy Wright, including a potential threat to the loyalist ceasefire, and the fact that MPs, including Dr Paisley and Mr Robinson, had taken an interest in the case, as would the Irish Government in due course.
- 9.67 Three options were considered at the meeting:
- (a) To keep Billy Wright and his followers in the PSU at HMP Maghaberry so long as the RUC advised there was a serious threat to his life. Alan Shannon's advice

was that this was not acceptable because of the threatened hunger strike and also because it might mean keeping him there for his entire sentence, effectively four years. The Minister agreed that this was unacceptable.

- (b) To house him on normal location in HMP Maghaberry. Mr Shannon expressed very serious reservations about this, firstly because of the governor's duty of care and secondly because it was considered that *de facto* segregation would follow if he were to be placed on normal location.
- (c) To establish dedicated accommodation for him at HMP Maze. A fifth paramilitary faction at HMP Maze would further reduce the flexibility of accommodation. In addition, there was a danger that such an arrangement would enhance Billy Wright's standing, attract recruits from other groups and threaten the loyalist ceasefire.

9.68 It was concluded that transfer to HMP Maze was **'the least unattractive option'** and on 1 April 1997 the Minister confirmed that Billy Wright should be transferred there.

Preparations for the Transfer

9.69 HMP Maze Governor's Journal records that on 7 April 1997 Seamus McNeill visited HMP Maze to discuss with Governor Johnston Baxter **'the possibility of prisoner Billy Wright and his followers being transferred to this prison.'** Accommodation in H Block 6 and the old visits area **'were agreed to as way forward'**. At that stage the Governor was confident that he could staff visits from within existing resources. Mr McNeill took the opportunity to examine the proposed visits facility, which was to be in the one building remaining from the old visits area at HMP Maze, beside the Administration Gate. Based on provision for other factions, Mr McNeill calculated that the ten rooms in this building would be enough to meet the visiting demands of 50 to 60 prisoners, including those for legal visits. He estimated that the work would take about two weeks. On that basis the transfer might have been envisaged for the week beginning Monday 21 April.

9.70 Also on 7 April Mr McNeill had his first meeting with Billy Wright. He reported the details of this visit to Alan Shannon on 8 April, writing that Billy Wright had been pleased that he was moving to HMP Maze as this would remove him as an **'issue'**, and that he now estimated that 50 prisoners would join him. Mr McNeill recorded that he told Billy Wright initially only that **'we were considering moving him to Maze'**. The need for a separate visits facility was explained to Billy Wright. In evidence Mr McNeill said that the feeling in the NIPS at the time was that the virulence of the threat to Billy Wright was such that the safest thing for him, his followers and their visitors was to provide separate visiting facilities. According to Mr McNeill Billy Wright was not concerned that the standard of the visits facility might not be as good as for other factions.

- 9.71 Billy Wright gave Seamus McNeill an assurance that he and his supporters would not engage in disruptive behaviour at HMP Maze. When the regime at HMP Maze was explained to him, he expressed the view that it was too soft. He did not approve of 24 hour unlock. Staff would have access to LVF wings for headcounts. His men would agree to lock in their cells for headcounts and for searching as and when the Governor decided. Access to exercise yards would not be abused and staff could lock the outer grilles. Billy Wright said that even if he were released on appeal he had contingency plans for another strong leader, identity undisclosed, to take over. Staff would not be threatened or abused. They would be respected provided they did not antagonise the prisoners. Implementing Governor's orders would not be classed as antagonistic behaviour. He intended to have his accommodation as the model for all loyalist blocks. Towards the end of the meeting Mr McNeill agreed with Billy Wright that, once the visits area refurbishment work at HMP Maze was completed, he would be transferred there with his followers who were at that time in the PSU in HMP Maghaberry.
- 9.72 Billy Wright left Mr McNeill in no doubt about his position: **'He was seeking only parity of treatment with less honourable Loyalist factions and if this was not granted he would begin on 1 May a hunger strike to the death.'**
- 9.73 Practical arrangements for the transfer continued thereafter, including work on providing separate arrangements for LVF visits. Seamus McNeill discussed progress with Billy Wright when he visited him again on 14 April and duly reported to Alan Shannon that Billy Wright said he would cooperate with the Governor because the Governor was looking after his safety. Mr McNeill noted that Billy Wright had been less bullish than before and had expressed concern for the safety of his visitors. He had also been worried that the UVF might try to infiltrate prisoners onto his wing. Mr McNeill's paper to Mr Shannon suggested that a leg of H Block 6 would be the **'best location'** in HMP Maze for the LVF faction. It also noted that separate visiting facilities would be required. These were matters that he had discussed with the HMP Maze Governor on 7 April.
- 9.74 Mr McNeill told Mr Shannon that he would see Billy Wright again on Monday 21 April. One reason was his concern that Billy Wright was letting it be known that he would be moving on 22 April and Mr McNeill wanted to disabuse him of that notion. He also intended to raise the visits issue, on which Billy Wright had said he would be flexible. There is no record that the two met on 21 April although there is a record that they did so the following day.
- 9.75 There is evidence that on 21 April Billy Wright was issued with a pro forma on which to make his written request for a transfer to HMP Maze. Mr McNeill also thought that he might have said to Billy Wright, **'Look, fill in a transfer**

form, a petition form', although it is not clear when he might have said that. In any event the form as filled in by Billy Wright contains reference to an unnamed NIO official and Mr McNeill accepted this was likely to be a reference to himself, although he disputed the substance of what was written in that connection.

- 9.76 The pro forma which was issued to Billy Wright on 21 April was Form 18 AD (Revised 1982). This pro forma was to be used by all prisoners making a petition, that is, a request, to the SOSNI. A number of formal details were filled in on page 1 by an unknown hand. The section headed '**Subject of Petition**' was filled in by the same unknown hand as '**Transfer to Maze**'. Billy Wright signed his petition and dated it 21 April 1997. In the space provided on page 3 he wrote,

'Having been assured of my safety and a normal prison life at the Maze by the NIO I now formally request a transfer to HMP Maze.'

- 9.77 In evidence Mr McNeill stated that he had not said to Billy Wright that his safety would be assured if he went to HMP Maze; that he simply did not know on what basis Billy Wright had made the statement; and that he did not see the petition until it came to him in a bundle of papers he got from the Inquiry. He said,

'No. [Neither] I, nor any Governor, could ever guarantee any prisoner's safety. ... at no time did I ever guarantee Mr Wright's safety. In the discussions with Mr Wright, I think he and I both accepted that the Maze was a safer location for him than normal location in Maghaberry, but I never in terms said, "You will be safe at Maze".'

- 9.78 Steve Davis, Security Governor V, who had signed the form after Billy Wright had filled in his section, said that he could not recall wondering what assurances had been given and that Billy Wright had not asked him for assurances. He commented, '**Unfortunately, prisoners sometimes write things that either didn't happen or certainly were not raised with me.**' Duncan McLaughlan, Governor of HMP Maghaberry at the time, stated that it would have been foolish to give such an assurance. Alan Shannon had the impression from Seamus McNeill's reports of the conversations that Billy Wright's safety or certain safety aspects were discussed, but was of the opinion that Seamus McNeill was much too experienced an officer to have given Billy Wright a guarantee of his safety.

- 9.79 The space reserved for 'Governor's Remarks and Recommendation' on page 2 of the pro forma was completed by Steve Davis, who wrote:

'Find attached an 18 AD from A5970 Wright regarding a transfer to H.M.P. Maze. The threat to Wright is well documented and it is unlikely to be resolved leaving the P.S.U. as the sole viable location for him in Maghaberry.'

Mr Davis signed and dated the form 22 April 1997 and it was then transmitted to the NIPS Headquarters. On the same date Alan Shannon sent a minute to the Minister, copied to the SOSNI and 21 others, as described below.

Further Ministerial Involvement and the Transfer to HMP Maze

9.80 In the course of a meeting with John Steele to discuss the state of the CLMC ceasefire on 9 April 1997, members of the PUP expressed very strong anxiety **‘that the NIO might be about to concede recognition to the LVF by giving Wright and his associates their own wing in the Maze.’** After this meeting the Private Secretary to the SOSNI wrote on 11 April to Alan Shannon:

‘The Secretary of State has commented:

“Nothing on the lines suggested by [the PUP representatives] ... should take place without reference to Sir John Wheeler and myself.”

9.81 It does not appear that Sir Patrick Mayhew, the SOSNI, had any further personal involvement in the matter of Billy Wright’s allocation. Sir John Wheeler explained in evidence that by then the General Election campaign was underway and he as Minister was left to manage these matters, keeping the SOSNI informed. Alan Shannon explained to the Inquiry how he viewed the SOSNI’s instruction:

‘The decision involved balancing prison management considerations against political decision considerations. When Sir John Wheeler took his original decision, we had pointed out the political considerations in the minute that we sent him and discussed it with him, but it was subsequent to that, when Ministers then received representations from other political figures. So it wasn’t unusual for the Minister to say, “Well, hold on a minute. Maybe we should think a little bit more about this in the light of the pressure I have come under from other sources”. So my view on this was that he wasn’t so much putting a stop to it as saying, “Well, you know, perhaps go ahead and make the preparations, but don’t actually implement them without coming back to me”.’

9.82 On 22 April, and in light of the SOSNI’s instruction, Alan Shannon wrote to Sir John Wheeler advising that the NIPS proposed to move Billy Wright to HMP Maze on Thursday 24 April. He advised that there had been recent attacks on off-duty prison staff, one possibly by the LVF, and that the RUC had warned that further attacks were possible. The Minister was told that Billy Wright and the UDA appeared to have reached an accommodation about the **‘non-poaching’** of prisoners, but that the PUP were still vociferous in their opposition to the move.

9.83 An immediate response was received from the Minister’s office:

'Since the Minister's early agreement to the transfer of Wright, a number of factors have emerged.

The Minister has studied security intelligence information and has become aware of the risks – both within the prisons, as loyalist factions fight for equal and greater privileges, and in risks to prison staff. ...

Sir John has come to the conclusion that Wright should not be transferred to HMP Maze; and wishes you to explore again what the options are should the decision be ultimately made to retain Wright and his followers at HMP Maghaberry. The Minister considers that the issue of where Wright is located within prison should be kept under review on a day-to-day basis. Sir John feels that there are no easy or firm decisions which can be made at this moment in time.' (Emphasis in original document)

It was noted in the minute that the Minister had considered the opinions of the RUC and the Ulster Unionist MP Ken Maginnis, who were opposed to the transfer, and that of Dr Paisley, who was in favour. The Minister had also taken into account the imminent publication of the Steele Report into the PIRA tunnel in H Block 7.

- 9.84 The Inquiry has considered whether the **'security intelligence information'** mentioned in the response from the Minister's office was a reference to the NIIR dated the same day, 22 April. When asked about this at interview, Sir John said that he had no recollection of what that evidence might have been. Having considered papers, in his statement to the Inquiry, he stated:

'... I think it very likely that I was made aware at this time of particular risks to the security of prison officers arising out of the planned transfer of Billy Wright to the Maze. ...

I would have been concerned about this intelligence ... by this stage, 22nd April 1997 ... I was now being informed of specific intelligence of an increased threat to prison officers if Billy Wright were transferred to the Maze. In addition, Mr Shannon's submission of 22nd April 1997 had informed me of actual attacks on 3 members of Maze staff and that the RUC had advised that further attacks were possible.'

- 9.85 Seamus McNeill visited Billy Wright on 24 April to tell him that his transfer to HMP Maze had been postponed, citing the reason that the atmosphere at HMP Maze was tense (a reference to the ongoing problems with the UVF and the imminent publication of the Steele Report). Billy Wright was very angry at the news, claiming that it left him with no option but to commence a hunger strike, which would inevitably result in his death before Drumcree. Mr McNeill told the Inquiry how he had feared Billy Wright would both carry out this threat and cause disruption,

initially at HMP Maghaberry and perhaps in other prisons. At the time he also anticipated that there would be trouble both at HMP Maghaberry, because of Billy Wright's continued incarceration in the PSU, and at HMP Maze, because of the regime changes arising from the recent Steele Report.

- 9.86 The following day, 25 April, the Minister met with Alan Shannon, Martin Mogg, John Steele and Jim Daniell, apparently at the request of Mr Shannon. The outcome was that the Minister reversed his decision and agreed that Billy Wright should be transferred to HMP Maze. There is no evidence that any new information was put forward at the meeting, or that there was any discussion of intelligence, other than possibly the threats to attack prison staff. According to Alan Shannon, **'We simply went over the same considerations again.'** Nor, does there appear to have been any discussion about the need to obtain any risk assessment.
- 9.87 The minute of the meeting records that Alan Shannon told the Minister that the NIPS had now received requests from 30 prisoners who supported Billy Wright for a move to HMP Maze: these prisoners were currently housed mainly in HMP Maghaberry, with some in HMP Magilligan.

'Mr Shannon advised that if Wright went on hunger strike then there would be undoubted sympathy from various sections of the community ... It was also possible that Wright's followers within Maghaberry could start attacking Catholic inmates which would inevitably result in requests for segregation within Maghaberry. This was something which the Prison Service was determined to avoid. Alternatively, they could wreck their accommodation which would result in a move to alternative accommodation. The only accommodation available is at Maze ... Wright's followers are exerting pressure on prison staff through intimidation and physical attack.'

Mr Shannon also referred to the CLMC threat: **'Wright has currently a minimum of 4 years left of his sentence which means that either he remains in solitary confinement for that length of time or moves to the Maze.'**

The Minister was told that Billy Wright had done a deal with the UDP not to poach UDA prisoners; the UVF remained opposed to the transfer but might be constrained by the PUP.

- 9.88 In oral evidence Sir John Wheeler had difficulty in recollecting which considerations precisely weighed with him on this occasion:

'... as you read the story of these events over these few days, the Panel will immediately see the complexity of the situation as it changed day by day, and the competition, if I can use that expression, as

between the interests of pursuing the political policy objectives of the Government and the safety and security of prison officers and of Billy Wright himself.

He went on to say:

... I have to try to recollect 11 years ago what was going on, but certainly the threats that were around towards prison staff would have been in my mind; the need for Wright to serve a sentence in as proper and normal conditions as possible; the need to perhaps not take into account the threats to ceasefires and other issues which concerned some parts of the office, but I think it was finally a decision that the best option was to agree to the transfer to the Maze as my senior adviser from the Prison Service recommended.'

9.89 The minutes of the meeting summarised the conclusion:

'Sir John outlined that he understood the difficulties that the Prison Service faced and what was paramount was the management of Wright's sentence. It would not be appropriate to hold him in solitary confinement for a period of 4 years and we should avoid a hunger strike situation. The Minister therefore agreed that Wright should be moved to HMP Maze.'

9.90 It was further agreed that Billy Wright should be moved as soon as practicable, which would avoid further attacks on staff by the LVF. The NIPS wasted no time and he was duly transferred to HMP Maze later that day, 25 April, along with the three other LVF prisoners in the PSU. Billy Wright subsequently received a response from the NIPS Operational Management Directorate to his petition, advising him that his request for a transfer to HMP Maze had been granted.

9.91 In explanation of the speed of transfer, Seamus McNeill pointed out that a prisoner should not have to spend any longer than was necessary in the PSU. Furthermore, **'the general feeling was, "The decision has now been taken. Let's move him. Let's, in a sense, lance the boil and the Maze will cope", as it had coped in the past with a series of issues.'** He thought that he would have told Duncan McLaughlan, **'The transfer is on and the sooner the better'**, and that Governor McLaughlan would then have made the operational arrangements to effect the transfer. Alan Shannon drew attention to further factors that he said pointed towards the need to transfer Billy Wright before the end of the week, if possible. It was now several weeks since the original transfer decision had been taken; Billy Wright had been told he was to be transferred; preparations had been made and it was widely known in the prisons that he was going to be moved; there was also the hunger strike threatened for 1 May. In addition the Steele

Report was about to be completed. **‘So it was attractive to us to get this done and dusted before we moved on to the next point of contention.’** Finally, the General Election was imminent and Ministers were keen not to leave unfinished business. The MIAR for April also indicated that there was little doubt that the transfer had prevented orchestrated disruption by loyalists in HMP Maghaberry.

The Duty of Care to Billy Wright

9.92 The Prison and Young Offenders Centre Rules (Northern Ireland) 1995 state clearly in rule 116(2) the Governor’s responsibility towards prisoners.

‘The governor shall be responsible for the safe custody of all prisoners until they are discharged from his custody by the expiration of their sentence or by order of a court or by Royal Warrant or by order of the Secretary of State.’

9.93 Before turning to the issue of Billy Wright’s location in H Block 6, something should be said about the duty of care owed to him by the prison service. No party to the Inquiry disputed that the NIPS owed a statutory duty of care to all prisoners. Alan Shannon agreed with the proposition that the NIPS and all its personnel operated on the understanding that they had such a duty. The general duty of care was understood to have been supplemented, but not displaced, by various statutory and administrative provisions for the allocation of responsibility within the prison service.

9.94 In a letter to Dr Paisley dated 8 April 1997 Mr Shannon responded to the claim that keeping Billy Wright in the PSU was some kind of punishment. He wrote: **‘This is in no sense punishing him but rather the implementation of measures necessary to keep him alive and in discharge of the Governor’s duty of care.’** On 27 April 1997 Mr Shannon confirmed his understanding of the duty of care: **‘The Governor has a statutory duty of care, which could not be absolved by any kind of waiver.’**

9.95 In his witness statement, Governor Duncan McLaughlan stated:

‘It was my belief that Billy Wright was under a threat; however I cannot remember how I knew this. I do not remember receiving any documentation stating that he was at risk; but it was common sense. The contact that I had with paramilitary groups reinforced that. However, no matter what I was told by the Royal Ulster Constabulary (RUC), and what information I was given, I would have put him in the PSU. Even if the RUC had said that it was safe, I would not have

accepted that. I knew of Billy Wright, and my view was that he would have been extremely vulnerable and at risk within the prison. There is no way that I would have allowed him to be “loose” around the prison. He had antagonised enough people from different organisations that there was a risk he could have been attacked. He could also have acted as a focal point for other, similarly minded, prisoners. It was the Governor who had the duty of care in relation to prisoners and it was my judgement that counted’.

At the HMP Maghaberry BoV meeting of 13 March 1997, when commenting on Billy Wright’s position, Mr McLaughlan reminded BoV members that **‘the prison had a duty of care to hold him safely in custody’.**

- 9.96 In his witness statement Sir John Wheeler said of Billy Wright’s committal, **‘With Billy Wright in prison, the NIPS now owed him a duty of care of which they were well aware’.** Alan Shannon stated in evidence that the rationale for the transfer of Billy Wright from HMP Maghaberry into segregated accommodation at HMP Maze included the discharge by the NIPS of its duty of care towards him. When the British Secretary of the Anglo-Irish Secretariat explained the rationale to a representative of the Irish Government on 11 April 1997, he said that despite the threat to his life Billy Wright was reluctant to remain in the PSU in HMP Maghaberry; that there would be problems in putting him elsewhere in HMP Maghaberry where there were already dangerous and disaffected breakaways from other organisations; and that given the duty of care to Billy Wright, it remained necessary to segregate him (in HMP Maze). Mr Shannon concurred with the British Secretary’s explanation at the time.
- 9.97 In June 1997 Mr Shannon told the Minister, Adam Ingram, that the transfer of prisoners into existing factional accommodation at HMP Maze was dependent on being sure that the transferees were acceptable to the prisoners who were there already: **‘to do otherwise would be detrimental to our duty of care’.** In evidence he explained that he meant **‘duty of care’** with reference to both the transferees and the prisoners already there. He had also pointed out to the Minister that Billy Wright, exercising responsibility for his own safety as a factional leader, was cautious about accepting new recruits. Mr Shannon conceded that Billy Wright did not have control over who was admitted to the wings on the opposite side of H Block 6.
- 9.98 Notwithstanding the acceptance of segregated accommodation at HMP Maze, Mr Shannon acknowledged that the duty of care to individual prisoners remained central to the Prison Service’s approach. When the question emerged in June 1997 of whether or not 24 hour unlock should be conceded, Alan Shannon expressly

considered the possible consequences as regards the duty of care. In evidence he accepted that where there was a block containing opposing factions, with 24 hour unlock and free or relatively free yard access, the ability to discharge the duty of care would be substantially diminished. However, Mr Shannon did not accept that the introduction of 24 hour unlock at HMP Maze had removed the Governor's statutory duty of care.

The Threats from the Irish National Liberation Army against Billy Wright

- 9.99 What the Minister had not taken into account, since he said in evidence that he was unaware of it, was intelligence received by the Security Service on 21 April 1997 that the INLA were strongly opposed to the proposed transfer of Billy Wright to H Block 6; that they intended to kill him at the first opportunity if he was moved there; and that they had the means to carry out their intention (a hypodermic syringe filled with poison). That intelligence, which is discussed in detail in Chapter 15, was disseminated by the Security Service to the RUC only, and did not reach the NIO or the NIPS. Sir John Wheeler said in evidence that **'If this had come to my notice, as Minister, in April 1997, here is a specific statement that INLA intend to kill Billy Wright. ... I would have asked the Chief Executive for the Northern Ireland Prison Service, "What are you going to do about this? It is quite unacceptable that a prisoner's life should be at risk in this way".'**
- 9.100 John Steele confirmed that during his involvement in the decision-making process to transfer Billy Wright, he never became aware of any such information about an INLA threat to Billy Wright's life.
- 9.101 Seamus McNeill was demonstrably taken aback when confronted with evidence of the INLA threat in the course of his evidence: **'Had I seen that document on 21st April, then we were into a whole new ball game ... it may have been that Mr Wright would have had to have stayed in Maghaberry.'** Had the INLA threat been known, he said, it would have been accorded the same significance as the CLMC threat and would have made him and the Governor **'think more than twice'** about housing Billy Wright in H6; **'all the options would have had to have been explored again.'** He said he had been in **'daily'** contact with the police, including SB, but that he had had no such direct contact with the Security Service, although he would have seen them at PLG meetings and when they delivered the overall intelligence assessment. He had not been told about the INLA threat at PLG meetings by either SB or the Security Service.
- 9.102 There is no evidence that the NIPS proactively canvassed the views of the intelligence agencies on the general threat posed to Billy Wright by republican prisoners, nor specifically on the wisdom of housing him in the same block

as the INLA. Alan Shannon agreed in evidence that at no stage had a risk assessment been obtained covering the risk posed to Billy Wright from republican organisations and that the only advice the NIPS sought from the police related to the CLMC threat: **'That seems to be because we were seeking confirmation of a CLMC threat which was conveyed to us at an earlier stage.'** He considered that the obligation lay on the external agency to tell the NIPS of any information they had about a republican threat to Billy Wright, although he also accepted that the NIPS ought to have obtained a risk assessment in relation to any threat to Billy Wright, whether loyalist or republican. He later implied that when the NIPS sought an update on the currency of the CLMC threat, the police should have proactively told them about any republican threat as well: **'I wouldn't have expected the police to confine themselves to the narrow question.'**

- 9.103 It was well known that republicans generally were extremely hostile towards Billy Wright, and the NIPS said that they acted on the assumption that such a general threat existed. However, there was specific intelligence in the system from October 1996 indicating that the INLA intended to murder Billy Wright in the very near future. This is contained in a document recovered by the Inquiry from the Security Service. The document came from the police computer system and the information it contained originated from an Army intelligence unit. Alan Shannon acknowledged that, had the NIPS known of this intelligence, it would have been **'relevant'** to a consideration of where Billy Wright should be detained in HMP Maze.
- 9.104 Finally, shortly before Billy Wright's transfer to HMP Maze the Irish Republican Socialist Party (IRSP) issued a public statement by voicing the INLA's opposition to Billy Wright's transfer to H6 and warning of the possibility that confrontation might spread beyond the prison gates were he to be moved there. Seamus McNeill said this statement had never been brought to his attention but Alan Shannon thought he probably had been aware of it at the time. However, he went on,

'... the chief characteristic of the Maze Prison was that the different factions did not come into any contact with each other whatsoever. There was no other prison in our system which offered that security feature. So we knew that all the factions were hostile to Billy Wright and his people, but we were putting him into an environment where he should have had absolutely no contact with any of those people at all.'

He also stated that material published in the press would not normally generate a request to the police for a risk assessment, since information of this type was constantly appearing in the media.

Billy Wright's Location at HMP Maze

9.105 Having laid out the circumstances which led to Billy Wright's transfer to HMP Maze, we now turn to the issue of where he and his followers were to be located within HMP Maze. An inevitable consequence of the transfer decision was the creation of an LVF faction in HMP Maze. At the point of Billy Wright's transfer three other prisoners were also moved to HMP Maze from HMP Maghaberry PSU. It was known that there would be pressure from a number of other prisoners to be allocated along with this group; estimates ranged from a dozen or so up to 80. Had the upper estimate been realised, an entire H block with 96 places would have been required. Given the configuration of HMP Maze, the minimum space required was one leg, that is, two wings of an H block, with 48 spaces.

The Option for a Whole Block

9.106 In August 1993 UVF prisoners at HMP Maze had rioted, severely damaging their accommodation in one wing of H4 and all the accommodation in H7, which housed PIRA prisoners on one side and UVF prisoners on the other. On 10 January 1994 Duncan McLaughlan, then Deputy Director of Operational Management, prepared a note for his colleagues at the NIPS HQ **'to aid discussion on the use of H Blocks at Maze on completion of the repair work ...'** This included the statement:

'The ground rules for the use of blocks are that one faction should not occupy an entire block and that one block remains empty to take prisoners from another if it needs to be vacated ...'

9.107 Although the policy that one faction should not occupy an entire block had been abandoned by 1997, the policy of keeping one block empty remained in force. Alan Shannon explained how this policy contributed to shaping the choice of accommodation for Billy Wright:

'We did look at other options. The first one, and the obvious one, was the empty block. It had been a strategic practice for a number of years to try to keep one block spare, because, as you can see from the events at the Maze in those years, it was not unprecedented for prisoners to wreck their accommodation and then have to be moved to some alternative accommodation. So it was necessary to have a reserve.

On top of that, we had embarked on what's called a refurbishment programme, but that wasn't just painting and decorating. That was installing some very important security measures, and it came to embrace, indeed, the Steele recommended measures also. So we were firmly committed to that refurbishment programme. We were knocked

off course a number of times; by the tunnel, for example. ... We were knocked off course again by the Billy Wright episode in August 1997. So it was a matter of considerable importance to us that we got on with that programme.'

- 9.108 Retaining contingency accommodation was not a luxury. In March 1997 the empty block was H8. On the discovery of the tunnel in H7 on 24 March 1997 the PIRA prisoners in that block were transferred to the contingency accommodation in H8. By August 1997 the empty block was H2. On 13 August 1997 the LVF prisoners in H6 C and D wings rioted and set fire to their accommodation. They were then transferred to contingency accommodation in H2. In evidence, Sir Richard Tilt agreed that **'if possible'** one spare block ought to have been kept available to meet short-term contingencies; and that the need to maintain contingency accommodation was a relevant factor in assessing the location options for Billy Wright.
- 9.109 Another justification for only using seven of the H blocks was the rolling programme of refurbishing the material conditions of the blocks. This matter has been dealt with in 8.49 to 8.55. According to Robin Masefield, who was Director of Finance and Estates Management in 1997, the Governor had overall responsibility for the programme, including the responsibility for determining which works would be undertaken and the order in which blocks would be refurbished. He said that the role of the Director of Operational Management was to provide management support, and Prison Estates Management provided advice, liaison with external bodies and information on progress. Mr Masefield said his own role as Director had been limited and he could recall no issue that had required his input. Several witnesses also expressed the view that the sequence in which blocks were refurbished was determined by HMP Maze management, although it would appear from documents seen by the Inquiry that staff in the NIPS Operational Management and Estates Management Directorates were also involved in the decision making. It is clear that there was no consistent schedule to determine the order in which blocks were refurbished and the sequence changed several times in the course of 1997 for a variety of reasons.
- 9.110 A further consequence of only using seven blocks was that it released staff to fill vacancies elsewhere in the prison. The complicated issues of staffing at HMP Maze are dealt with in some detail in 8.34 and following. There is no need to rehearse them here, other than to note that the semi-permanent closure of one block was of considerable assistance in managing them.
- 9.111 There was no evidence that the NIPS considered the option of allocating the LVF prisoners an entire H block in April 1997.

The Option for Two Wings

- 9.112 The Inquiry recovered the occupancy figures for each H block on 28 April 1997, three days after Billy Wright's transfer. At that point there were two other loyalist and two republican factions in the prison. The exclusively loyalist blocks were H1, H2 and H3. H1 was a mixed UDA/UVF block, with 45 UDA prisoners in A and B wings and 27 UVF prisoners in C and D wings, giving 24 spare cells. There were 74 UDA prisoners in H2, giving 22 spare cells. There were 60 UVF prisoners in H3 spread more or less equally through all four wings, giving 36 spare cells. In total there were 119 UDA prisoners and 87 UVF prisoners and 82 spare cells or, potentially, on the basis that legs had to be segregated, one spare leg consisting of two wings of 24 cells each.
- 9.113 In numerical terms the 87 UVF prisoners could have been accommodated in H3. This would have released H1 wings C and D for the LVF prisoners, leaving UDA prisoners in wings A and B. This would have required the cooperation of both the UVF and the UDA prisoners, which neither was minded to give, particularly not for the benefit of the LVF. The strong opposition of the UVF, both inside and outside the prison, and of their political affiliates in the PUP to the prospect of the LVF coming to HMP Maze and being given their own accommodation has been described above.
- 9.114 Some weeks after the transfer of Billy Wright, Martin Mogg attempted to persuade the UVF to cooperate in a rationalisation of their accommodation in order to facilitate the block refurbishment programme. He wrote to Alan Shannon in the following terms:
- 'On 11 June 1997 I visited Maze and talked with ... the O/C of the UVF prisoners. After a somewhat aggressive start [they] explained that their belief was that a move out of H1 would result in the loss of territory and mean overcrowding when "more UVF prisoners came to the Maze". ... Despite a considerable debate, persuasion and threats on my part, he was adamant that H1 C & D would not move into H3 under any circumstances, unless we used force. ...'**
- 9.115 Even had the UVF prisoners been willing to inconvenience themselves for the benefit of Billy Wright and his followers, there would have been serious concerns about putting the LVF prisoners into the same block as the UDA prisoners, who had also made clear their strong opposition to the creation of an LVF faction in HMP Maze. In common with the UVF, the UDA were concerned that some of their members might defect to the LVF. One might also assume that the prison authorities also took into consideration the fact that there were 45 UDA prisoners in wings A and B, which means that they would have significantly outnumbered the LVF prisoners.

- 9.116 There were three PIRA blocks. On 28 April, H4 held 95 prisoners, leaving one empty cell; H5 had 91 prisoners, leaving five empty cells; and H8 had 96 prisoners and no empty cells. That gave a total of 282 PIRA prisoners and six spare cells. This meant that there was no arithmetical possibility of moving PIRA prisoners to accommodate the LVF; a suggestion which they would have resisted in any case.
- 9.117 It should be noted that the configuration in the loyalist and PIRA wings did not remain static throughout 1997. The situation in the latter half of the year is dealt with in Chapter 12.
- 9.118 The remaining faction consisted of 15 INLA prisoners, who were held in H Block 6 C and D wings. A wing housed the recently transferred Billy Wright and his associates. B wing was technically the PSU for the prison although punishment and segregation were not features of HMP Maze.

Co-location in H Block 6

- 9.119 In the minute which he drafted between 7 and 12 March Mr McNeill referred to a leg of H6 as being **'the best location'** for Billy Wright, although he gave no reason as to why that was so. The final version of the minute to the PS, dated 12 March, notes that **'Accommodation at the Maze is available'** but does not specify where this accommodation was.
- 9.120 An e-mail from Seamus McNeill to Martin Mogg on 13 March assumed that in the event of Billy Wright's transfer to HMP Maze he would be located in H6. Referring to the tactics which Billy Wright might use to gain segregation for the LVF, Mr McNeill wrote, **'He and his supporters are claiming up to 70 prisoners would join his faction. ... 70 is just about as many as we could live with in one leg of H6.'**
- 9.121 An entry in Duncan McLaughlan's diary dated 4 April notes,
'Billy Wright
Seamus is seeing him Monday to tell him that he is to be given his own wing in the Maze. That should help me by getting rid of a number of his followers in Maghaberry who are troublemakers. He will be housed in H6, on the opposite wings to the INLA prisoners. That will cause difficulties and both he and INLA will react, against us and each other.'
- 9.122 By 7 April H6 had clearly been decided upon as the location for Billy Wright if he was transferred to HMP Maze. The HMP Maze Governor's Journal for that date records a visit by Seamus McNeill **'to discuss the possibility of prisoner Billy Wright and his followers being transferred to this prison. Accommodation in H6 and Old Visits areas were agreed to as way forward.'**

- 9.123 On 14 April Governor Baxter informed the HMP Maze Local Security Committee: **‘Within the 2 weeks, prisoner Billy Wright will be coming into the Maze with a number of prisoners with him. These prisoners will be located in H6 C & D Wings with a separate visiting and legal visiting area away from other areas.’** The minutes do not record any further discussion about the issue of location. (In fact the LVF prisoners were initially located in H6 A wing, while the INLA prisoners were housed in C wing. The two factions changed legs in July 1997, with INLA occupying A wing and the LVF in C and D wings.) Governor Baxter made a similar pronouncement about the intended location of the LVF the following day at a meeting with the Prison Officers’ Association (POA). The predicted timescale for the transfer was accurate.
- 9.124 On 15 April the INLA prisoners in H6 were told that they would be expected to transfer from C wing to A wing to make way for the LVF occupation of C and D wings. The reaction of INLA and the IRSP to this has been covered earlier in this Chapter. Mention has also already been made of the demand made on 18 April by a number of UVF prisoners in H1 and H3 for a wing of their own for what they claimed was another new faction. Writing to the Minister to advise him of loyalist views on Billy Wright’s expected transfer, Alan Shannon commented that the demand for another wing had been made **‘with an eye we suspect to H6 which is earmarked for Wright’**.
- 9.125 In evidence Mr McNeill said that the decision to place Billy Wright in H6 if he was transferred to HMP Maze was taken following discussions with the Governor of HMP Maze, who had already been consulted by the time of the minute of 12 March. Mr McNeill had discussed the issue with the Governor both by telephone and in person and they had agreed that H6 was the most appropriate accommodation, the only remaining difficulty being the provision of visits. The priority had been to keep Billy Wright away from the UVF, as they were the main threat to him. Mr McNeill said he had perceived the situation as extremely urgent because of Billy Wright’s threatened hunger strike.
- 9.126 Asked why the submission to the Minister made no mention of where Billy Wright would be held, Mr McNeill explained that the NIPS was a Next Steps Agency and the precise location had been viewed as an operational matter. It had been discussed between himself, Alan Shannon and Martin Mogg, and at that stage they were agreed, in consultation with the Governor, that H6 would be the location. **‘I think there is a case for saying it should have been included in the minute or the submission. I am not sure whether it was discussed in detail at any of the subsequent meetings, which I didn’t attend. ... I think it would be rather blunt, but fair, to say that INLA didn’t feature in our consideration at that time.’** He explained that this was because the threat

- assessments from SB had concentrated solely on the threat from CLMC and that the Security Service had never contradicted that at any of the meetings they had attended.
- 9.127 Once the Minister had made his decision and confirmed it in writing by minute dated 1 April 1997, H6 came to be talked about as Billy Wright's intended transfer location. Sir John Wheeler stated he had no recollection of being involved in any discussion about the fact that Billy Wright was going to be housed in H6 alongside the INLA. He explained, **'That would be a matter for the Chief Executive and the Director of Operations and the Governor of the Maze. It would not be a matter that Ministers would expect to be involved in.'** The Minister was however made aware of the proposed location by the information in Alan Shannon's minute of 22 April to the Minister, referred to at 9.131 below.
- 9.128 Alan Shannon agreed that the choice of H6 was a matter of operational detail which was probably not discussed outside the NIPS. He said H6 was **'obviously the first option to consider, because we had H6 open, staffed, and a small group of INLA prisoners occupying, if you like, one corner of it. So if we needed additional accommodation in the Maze, that was the first place to look. That's not to say that we didn't either then or subsequently consider all the other options.'**
- 9.129 Asked whether he had any concerns about locating the LVF in the same block as INLA, Mr Shannon made three points. First, the LVF **'could not'** be given their own block, so Billy Wright would have to share with some group from whom he was under threat. Arguably it was safer for him if this was a republican group as staff might not be sure whether another loyalist faction was friendly towards him. Second, HMP Maze had had mixed blocks until 1993–94 and had managed without problems. Third was the recommendation in the Hennessy Report that there should be mixed blocks, so as to make it more difficult for one group to dominate. Mr Shannon acknowledged that there had been no other instance of a republican and a loyalist faction sharing a block since the withdrawal of staff from the wings and the introduction of 24 hour unlock in 1994.
- 9.130 The official position of the NIPS, as expressed in a minute to the SOSNI dated 8 March 2001 in briefing for a meeting with Mr David Wright, was that Billy Wright had requested a transfer to HMP Maze in the full knowledge that he would have to be housed with INLA prisoners, that being the only available accommodation.
- 9.131 In Alan Shannon's minute of 22 April 1997 to the Minister, he mentioned the UVF protest and referred to H6 as having been **'earmarked for Wright'**. This was the first and only record of the Minister being told where it was proposed to house the LVF within HMP Maze. The Minister was not involved in any discussions about the merits of the location or asked to give his approval.

- 9.132 Alan Shannon emphasised that, at the time, the concern about the transfer was not the control problem in H6. The assessment of the Governor and the Director of Operational Management was that **'the control problem'** was manageable. The concern was **'the political one and the security implications which went well beyond the Prison Service'**. Mr Shannon also said: **'I discussed [co-location of opposing factions] at some length with both the Governor and the Director of Operational Management, and they were both confident that they could go back to that situation and manage it satisfactorily.'** Mr Shannon said that within the NIPS the view was that there was no alternative to co-location. The rationalisation of the decision came later **'as people urged other options on us'**.
- 9.133 The four LVF prisoners, including Billy Wright, were moved into A wing of H Block 6 on 25 April 1997.

Control Measures in H Block

- 9.134 Physical, procedural and dynamic security structures in HMP Maze are described in Chapter 7 of this Report and these were in general the structures which operated in H6 throughout 1997. It would appear that at the time when the LVF prisoners were first located in H6 no additional arrangements were introduced to ensure that they and the INLA prisoners did not come into contact with each other. David Loyal, a PO in H6, told the Inquiry that initially **'they may as well have been the same faction'**. INLA and LVF prisoners were liable to meet in the circle when they were going to see the doctor, block Governor or welfare officer, all of whom had their offices in the circle, or when they were going out of the block, for example, to visits.

The INLA Reaction to the Transfer of the LVF and Subsequent Events

- 9.135 On 21 April 1997 an IRSP delegation visited the leaders of the INLA prisoners. Immediately after the meeting the IRSP issued a press release headed **'Confrontation Fears over Wright Move'**. The press release gave voice to the INLA prisoners' concerns about **'the prison authorities'** proposal to move Billy Wright and his LVF faction to the republican socialist H Block 6. The statement ended with a threat of violence:

'The IRSP would urge the prison authorities to pull back from this proposed move. Feelings within the prison are running high. Should this issue be forced any resulting confrontation has every possibility of spreading beyond the prison gates.'

- 9.136 The story was carried by the press. The INLA had not previously shared a block with a loyalist faction and it may be that they had genuine fears about whether the prison's control and security measures could prevent contact. On the evening of 25 April the IRSP prisons spokesman, Willie Gallagher, issued a statement:

'The transfer of Billy Wright to an INLA H-Block is a serious error of judgement. I just hope the relevant authorities realise this and take corrective action immediately. Otherwise they must be prepared to accept whatever chain of events, inside and outside Long Kesh, that they have set in motion.'

- 9.137 On 9 May the report of the regular weekly PIU visit to HMP Maze on that day recorded that **'The pressure from INLA reference Billy WRIGHT in H6 seems to have eased.'** The report also noted that by 12 May there would be 14 prisoners in the LVF wing. The report went on:

'Should the LVF faction expand to the extent that they require two wings it would become necessary for them to move to H6 C and D D [sic]. The difficulty then would be getting the INLA faction to move to H6 "A" where the LVF are presently housed.'

- 9.138 It may be that the NIPS were reluctant to force the issue of a move or at least wished to pick their moment. On 30 May there was an LVF threat that if LVF prisoners were not transferred from HMP Maghaberry to HMP Maze within 24 hours, HMP Maghaberry staff would be attacked. HMP Maze staff were advised as a precaution.
- 9.139 More prisoners meant a greater demand for visits which could only exacerbate the difficulties that remained to be resolved with the POA about how the new LVF visits were to be staffed. Both the speed of transfer and the visits issue continued to be a source of friction. The newly refurbished LVF visits area remained unused because of **'industrial action'** and LVF visits were taking place in the hospital. This was not an ideal venue because it involved the risk of confrontation between other factions and the LVF.
- 9.140 By 6 June 1997 there were 15 prisoners in the LVF A wing and 14 in INLA C wing. On 13 June the Governor explained search procedures to both factions. On 17 June LVF numbers rose to 21 and the numerical balance changed decisively in favour of the LVF. The block was searched on 30 June. The LVF prisoners fully complied with search requirements but INLA prisoners initially refused to cooperate. Nothing of significance was found when the search was carried out in the afternoon. The factions changed sides on 7 July. The wings were searched again before the new arrivals were allowed to take occupation of their new quarters. The MIAR for July stated:

'Due to the increase in LVF numbers, INLA prisoners agreed to move from H6 (C & D) wings to H6 A Wing. The INLA have 17 prisoners and the LVF have 28 prisoners. The move took place on 7 July without incident, the LVF wings were left "spick and span".'

- 9.141 The assessment of the PIU was that Billy Wright had established his power base and that initial promises of good behaviour were beginning to fall by the wayside. The LVF was flexing its muscles.

Conclusions

- 9.142 The reasons for holding Billy Wright under Rule 32 conditions in the PSU in HMP Maghaberry during his time on remand and for the period after sentence are well documented. There is no evidence that Billy Wright complained about being held under these conditions while he was on remand, although he did so once he had been sentenced. He continued to be held under Rule 32 conditions until a final decision was made about where he should serve his sentence and he left HMP Maghaberry on 25 April. This was not an unreasonable length of time, and was much shorter than that for which the three prisoners who went with him to HMP Maze on 25 April were held. The Panel conclude that, in all the circumstances, the PSU was the correct location for Billy Wright during this period and they also note that all the proper procedures were followed in seeking authority for this decision.
- 9.143 Once Billy Wright had been sentenced, a decision had to be taken about where and in what circumstances he should serve his sentence. One possibility was that he should serve his entire sentence under Rule 32 conditions. This option was never seriously considered by the prison authorities for a number of reasons. The Panel have no hesitation in agreeing with the decision that Billy Wright was not to be held under Rule 32 conditions for the period of his sentence.
- 9.144 A further question arises as to whether he should have been kept under Rule 32 for a longer period of time than he was. The only justification for doing so would have related to the timing of his transfer to the location where he was to serve his sentence. This matter is considered in detail below and, on the basis of this consideration, the Panel make no comment on this specific issue.
- 9.145 Consideration about where Billy Wright should serve his sentence was extended and complex. The key dates were as follows:
- | | |
|----------|---|
| 8 March | Post sentence interview at HMP Maghaberry |
| 10 March | Case considered by the Assessment and Allocations Committee |
| 12 March | Martin Mogg wrote to the PS in the NIO on 12 March laying out the various options |
| 14 March | The PS replied, agreeing that an early decision was needed and that there should be a meeting with the Minister |
| 24 March | Meeting between Minister and officials of the NIO and the NIPS |
| 1 April | The Minister gave agreement for transfer to HMP Maze |

- 11 April The PS/SOSNI wrote on behalf of the SOSNI to Alan Shannon indicating that Billy Wright should not be transferred to HMP Maze without reference to the Minister or himself
- 21 April Billy Wright submitted a petition for transfer to HMP Maze
- 22 April The Minister was informed of the intention to transfer him to HMP Maze that week
- 22 April The Minister responded immediately, vetoing the transfer
- 25 April The Minister met with officials from the NIO and the NIPS and agreed that the transfer should go ahead. It happened that afternoon.

The Inquiry considered this sequence of events along with the decision-making process about the various options for Billy Wright's allocation leading to the final decision to place him in HMP Maze in H Block 6.

- 9.146 The Governor of HMP Maghaberry noted in his personal diary that, in the course of discussions with him, Billy Wright had **'suggested a transfer to England or Scotland'**. The Inquiry heard no further evidence that Billy Wright formally requested such a move and in those circumstances the Panel see no need to express a view on this option.
- 9.147 The two prisoners who were convicted along with Billy Wright, who were both in the medium risk security category, were allocated to HMP Magilligan. Billy Wright was in the high security category, which meant that he was not eligible for normal transfer to HMP Magilligan. Consideration might have been given to transferring him to the PSU in HMP Magilligan, had it been decided that he should remain under Rule 32 conditions. However, that option had properly been discounted. The Panel conclude that Billy Wright should not have been allocated to HMP Magilligan.
- 9.148 The next option was that Billy Wright might be allocated to HMP Maghaberry but not to the PSU there. Given that HMP Maghaberry was a non-segregated prison, there were two main considerations to be resolved before a decision could be taken to allocate Billy Wright to HMP Maghaberry. The first concerned his personal safety; the second concerned the effect which his presence might have on the good order of the prison.
- 9.149 From the point of his admission to HMP Maghaberry Billy Wright had been held in the PSU, segregated from all prisoners apart from his three fellow members of the LVF, with whom he took daily exercise. This segregation was imposed on the grounds of the threats which had been made against him by others. The initial decision on segregation was made by the Prison Governor on the basis of threats made mainly by loyalist prisoners, but also by republicans. Billy Wright did not argue against this decision. His decision not to seek bail once his trial began may

have been an indication that he felt at risk in the community. The threat made against him by the CLMC was public knowledge and the RUC confirmed on 4 April that they had no reason to think that this threat had been removed. By definition, the writ of the paramilitary factions stretched over the prison walls. If anything, the risk to a threatened prisoner might be considered to be higher in a prison such as HMP Maghaberry because of the confined space and the proximity of prisoners to each other. Thirty-five prisoners signed a document insisting that neither they nor anyone in the prison would harm Billy Wright and he told the BoV that he was prepared to disregard the CLMC threat. The prison authorities, correctly in our opinion, took the view that the assurance could not be taken at face value and that they could not accept Billy Wright's willingness to ignore the threat. In any event, there was also the danger of an attack by republican prisoners. Peter Robinson said in evidence that Billy Wright had told him that his primary motivation for seeking a transfer was because his life was in danger in HMP Maghaberry: **'He made it very clear that the threat was from republicans ...'**.

- 9.150 Had Billy Wright been allocated to HMP Maghaberry, the prison authorities did not anticipate that he would settle to a quiet life in a non-segregated block. There was continual pressure from prisoners to introduce segregated units and prison intelligence indicated that both loyalist and republican groups, each for their own ends, would have welcomed a successful attempt by Billy Wright to set one up. The prison SIC calculated that there were at least 28 other men in the prison who would wish to join an LVF faction. Billy Wright had initially raised with the Governor the possibility of going to Foyle House, where he had 18 known supporters. This would have created a *de facto* paramilitary faction. That would have spelled the end of HMP Maghaberry as a non-segregated prison. For reasons of his own safety and the good order of the prison, the Panel conclude that Billy Wright should not have been allocated to HMP Maghaberry. However, in reaching this conclusion we draw close attention to what is contained in paragraph 9.175 below.
- 9.151 Considering the issues in this logical manner and from this distance in time, it might seem inevitable that the final decision would be to transfer Billy Wright to accommodation in HMP Maze. It would appear that officials in the NIPS realised this from an early date after 7 March 1997. In his minute of 12 March to the PS Martin Mogg demonstrated clearly that the view in the NIPS was that the arguments for allocating Billy Wright to HMP Maze were stronger than for any other allocation. However, the decision was not to be reached in as straightforward a manner as that.

- 9.152 There were strong interests which were opposed to Billy Wright going to HMP Maze. The most vocal opposition came from other loyalist paramilitary factions, supported by their political affiliates. At the point which the political process in Northern Ireland had reached in 1997 there was a fear in some quarters that new paramilitary groupings would emerge, splintering off from existing groups, determined to renew the cycle of violence. One of the greatest perceived threats came from Billy Wright and his nascent UVF, as has been described in Chapters 3 and 4 of this Report. There was concern among politicians, particularly on the loyalist side, that Billy Wright's activities might unbalance the sensitive peace negotiations. There was a more specific fear among paramilitary groups that Billy Wright would attract to himself an increasing number of their members who were dissatisfied with political developments. There was a clear expectation that these fears were more likely to be realised if Billy Wright were to be allocated to his own segregated accommodation in HMP Maze.
- 9.153 The threats to Billy Wright's life by his paramilitary former colleagues have been documented earlier in this Chapter, as have the ongoing threats from republican paramilitaries. There was also involvement by loyalist politicians for and against Billy Wright's transfer to HMP Maze, with Ken Maginnis urging the Minister not to approve it and others, including Ian Paisley and Peter Robinson, encouraging him to do so.
- 9.154 Senior officials in the NIPS understood from the outset that any decision to transfer Billy Wright to HMP Maze would potentially have repercussions well beyond the prison system and that they would have to consult before making any decision, notwithstanding that such a decision was in essence an operational matter. For that reason Martin Mogg wrote to the PS on 12 March and the latter agreed that the matter should be discussed at a meeting with the Minister, which duly took place on 24 March. There is no evidence that there was any discussion at that meeting about where in HMP Maze Billy Wright was to be accommodated. On 1 April the Minister confirmed his agreement that Billy Wright should go to HMP Maze. The Panel conclude that at that time this was the correct decision. We do so while drawing attention again to what is contained in 9.175 below.
- 9.155 From the outset, discussion within the NIPS about a possible transfer of Billy Wright to HMP Maze also had to include consideration of where in HMP Maze he was to be located. There were a number of options. The first might have been to put him in a wing along with either the UDA or the UVF. The CLMC, who had threatened Billy Wright's life, included both the UDA and the UVF factions. The NIPS MIAR for April 1997 reported that UVF prisoners in H3 had **'made it known that they would decapitate WRIGHT if he transferred to MAZE'**. Opposition from the UDA was less strident but no less real. Like the UVF, they

feared that some of their supporters would change their allegiance to the LVF if the opportunity presented itself. The UDP, speaking on behalf of the UDA, at one point told Seamus McNeill that they would not react in any way if Billy Wright was transferred to HMP Maze. This was not an undertaking that the prison authorities were prepared to test. In any event, Billy Wright would not have accepted this arrangement. The Panel heard no evidence that the option of placing Billy Wright in a UDA or a UVF wing was ever seriously considered, nor do we think that it should have been.

- 9.156 A further option was to place him in an H block which had no prisoners belonging to any other faction; in effect, to create an H block for the LVF prisoners. In April 1997 H Block 7 was empty, having been vacated by PIRA prisoners after the discovery of the tunnel the previous month. One argument advanced for keeping an empty block was to allow the refurbishment programme to proceed. This programme has been discussed earlier in this Chapter and also in Chapter 8. From the evidence which has been presented to them, the Panel do not conclude that the refurbishment programme on its own was sufficient reason to retain an empty H block.
- 9.157 Another argument for retaining an empty block was the need to have contingency accommodation in case of a major incident which required an occupied block to be evacuated in an emergency. In 1997 this happened in March, in August and again on 27 December. A further consideration was that, had the empty block been taken back into use, an additional 80 officers would have been required to staff it. The Panel conclude that the argument for retaining an empty block for contingency reasons and the additional staff numbers which would have been required to operate it, were each adequate reasons for not placing Billy Wright and the three prisoners who transferred with him on 25 April into H Block 7. Once more, we draw attention to what is contained in 9.175 below.
- 9.158 The final option was that Billy Wright should be placed in a separate wing within a block which was occupied by another faction. The configuration of prisoner numbers according to their factions has been described above. As regards loyalist prisoners, it would have been arithmetically possible to move the 27 UVF prisoners from H Block 1 to H Block 3 alongside the other 60 UVF prisoners. This would have created space for Billy Wright and the three other LVF prisoners to occupy H1 C or D wing, with 45 UDA prisoners in the other leg of the block. The Panel also note that it would also have been arithmetically possible to move two UDA prisoners from H2 into H1 alongside the other UDA prisoners there and to require the 72 UDA prisoners remaining in H2 to fill up all cells in three wings of H2, freeing one wing for Billy Wright.

- 9.159 The evidence which the NIPS had at the time identified the main threat to Billy Wright as coming from the factions which constituted the CLMC. On 4 April the RUC had confirmed to the NIPS that there was no indication that this threat had been lifted. The threats which were coming from the loyalist prisoners appeared to confirm this in very violent language. In any event, any such move would have required the cooperation of both the UDA and the UVF factions; this would not have been forthcoming. Any attempt to move prisoners from either group in order to facilitate Billy Wright's transfer would undoubtedly have been resisted violently by both factions. There would have been a distinct likelihood that prisoners would damage one or more blocks so badly as to make them uninhabitable. Taking account of all of these factors, the Panel conclude that the prison authorities were correct in deciding not to locate Billy Wright in H Block 1 or 2 on 25 April. Once more, we draw attention to what is contained in 9.175 below.
- 9.160 The number of PIRA prisoners meant there was no configuration which would have created enough space for Billy Wright in H Blocks 4, 5 or 8. That left H Block 6, which held 15 INLA prisoners in C and D wings.
- 9.161 The NIPS appeared to come to the view at an early stage that the most likely allocation for Billy Wright was HMP Maze, and they also appear to have identified H6 as their preferred location within the prison. We comment below on this decision-making process.
- 9.162 Throughout March and April 1997 the principal concern in the NIPS in respect of the safety of Billy Wright was the threat from other loyalists, about which the NIPS had specific evidence and about which the loyalists were very vocal. The NIPS were aware of general republican threats against Billy Wright but had no intelligence about specific threats. Intelligence came into the possession of the Security Service on 21 April that the INLA were strongly opposed to the transfer of Billy Wright to H6 and that they intended to kill him at the first opportunity if he was moved there. Elsewhere in this Report there is detailed discussion about this intelligence and who was made aware of it. It is clear that it was not passed to the NIPS and, therefore, they could not take it into account.
- 9.163 An IRSP delegation visited the leaders of the INLA prisoners on 21 April. There was no evidence that this significant visit was brought to the attention of the Governor, nor that it was passed to the NIPS. That evening the IRSP issued a press release voicing the fears of the INLA prisoners about the plan to transfer Billy Wright to H6 and warning of the danger of confrontation **'spreading beyond the prison gates'**. Seamus McNeill said that he was not aware of this press release. Alan Shannon said that he probably had been aware of it but went on to say that a press release such as this would not normally generate a request to

the RUC for a risk assessment as it was a regular occurrence. The Panel found this comment from Mr Shannon most surprising. This was not a run of the mill press release. It related to a specific matter which at the time was exercising the NIPS at the highest level, as well as the Minister and senior officials.

9.164 Mr Shannon acknowledged that the NIPS had not sought a risk assessment from the RUC about republican threats to Billy Wright, although he argued that, when replying to the request for an update about the CLMC threat, the RUC should have told them about any specific republican threat. Once it became clear that the preferred option was to allocate Billy Wright to H Block 6, the NIPS should have made a request to the RUC for a risk assessment about the level of threat to him from republicans, specifically drawing their attention to the fact that consideration was being given to locating him in a block which also held INLA prisoners. The Panel conclude that the failure of the NIPS to seek this risk assessment was a wrongful omission which indirectly facilitated the murder of Billy Wright and that it was negligent rather than intentional.

9.165 On 21 April Billy Wright submitted a petition form to the SOSNI as a formal request for transfer to HMP Maze. In the normal course of events the process of allocating a prisoner after sentence would not have required him to submit a request in this manner. It was never explained to the Inquiry exactly why Billy Wright submitted this petition. A form of this nature is normally issued to a prisoner at his own request, so it is possible that the initiative for this may have come from Billy Wright as a way of confirming that he did wish to go to HMP Maze. In evidence Seamus McNeill thought that he might have suggested to Billy Wright that he should fill in a petition, although he did not say why he might have made that suggestion. Mr McNeill saw Billy Wright on either 21 or 22 April. They had met previously on 7 and 14 April. In the body of the petition Billy Wright wrote, **'Having been assured of my safety and a normal prison life at the Maze by the NIO I now formally request a transfer to H.M.P. Maze.'** The Inquiry considered in great detail the possible implications of this statement by Billy Wright. The only person from **'the NIO'** who might have given such an assurance to Billy Wright was Seamus McNeill and he accepted that the reference was probably to him. However, he disputed that he had given such an assurance:

'In the discussions with Mr Wright, I think he and I both accepted that the Maze was a safer location for him than normal location in Maghaberry, but I never in terms said, "You will be safe at Maze".'

9.166 By 21 April the proposal that Billy Wright should go to H6 was virtually common knowledge and the Panel conclude that Billy Wright was also aware of that. He had had discussions with the Governor of HMP Maghaberry and with Mr McNeill

about going to HMP Maze. The Panel conclude that it is inconceivable that these discussions would not have included the exact location in HMP Maze where he was to go. We conclude that when Billy Wright wrote the petition he was aware that the intention was that he should go to H6. He did not specifically object to that. We think it likely that both Billy Wright and Seamus McNeill accepted that HMP Maze would be **'a safer location for him than normal location in Maghaberry'**. We do not conclude from the evidence that Mr McNeill or any other official on the NIO gave Billy Wright an assurance in terms of his **'safety and a normal prison life at Maze'**.

- 9.167 Finally, we turn to the matter of the further Ministerial involvement in the decision to transfer Billy Wright to HMP Maze. On 11 April the Private Secretary to the SOSNI wrote to Alan Shannon. The SOSNI had been made aware of the concerns of the PUP that the NIO might be about to concede recognition to the LVF by giving them their own wing at HMP Maze. The SOSNI commented that nothing along these lines should happen without reference to him and the Minister. It would appear that the SOSNI's concern related to the political implications of recognition of the LVF rather than the operational issue of where Billy Wright was to be located, or in the words of Alan Shannon, **'balancing prison management considerations against political decision considerations'**. Sir John Wheeler explained that with the General Election imminent further decisions were left to him.
- 9.168 The operational process had been continuing on the basis of the Minister's agreement of 1 April that Billy Wright should be transferred to HMP Maze. By 21 April that decision was about to be finalised and so, in terms of the minute from the PS/SOSNI of 11 April, the Minister was informed on 22 April of the proposal to transfer Billy Wright two days later. An immediate reply came from the Minister's office instructing that Billy Wright should not be transferred to HMP Maze: **'the issue of where Wright is located within prison should be kept under review on a day-to-day basis.'** The Minister reached this new decision having **'studied security intelligence information'** and having **'become aware of the risks – both within the prisons, as loyalist factions fight for equal and greater privileges, and in the risks to prison staff'**. The minute from the Minister's office noted that the Minister had considered the opinions of the RUC and Ken Maginnis, who were opposed to the transfer, and Dr Paisley, who was in favour. He had also taken account of the imminent publication of the Steele Report.
- 9.169 The Inquiry considered the exact terms of the Minister's response and specifically what it should make of the phrase that he had **'studied security intelligence information'**. Reference has already been made to the NIIR dated 22 April from

the Security Service, which contained a warning that the UVF intended to attack prison officers and that this related to their anger about the proposal to provide Billy Wright and his followers with segregated accommodation in HMP Maze. This NIIR had been circulated, among others, to the Minister's office. At this point the NIPS had already issued a warning to all staff about information received from the RUC **'that attacks on the homes of prison officers by loyalist paramilitaries are imminent.'** When asked about this **'security intelligence information'**, initially Sir John Wheeler had no recollection of what it might have been, although having considered papers he thought it very likely that he had been made aware of particular risks to the security of prison officers. He also said that Mr Shannon's submission of 22 April had informed him of actual attacks on three members of HMP Maze staff. The Inquiry found no other evidence that such attacks had taken place.

- 9.170 On the basis of the evidence, the Panel conclude that the **'security intelligence information'** considered by the Minister was very likely that contained in the NIIR of 22 April. Having considered this new intelligence and taken the advice of those who were at the meeting of 25 April the Minister decided that the transfer should go ahead. The Panel conclude that the Minister should not be criticised for reconsidering his original decision in the light of the NIIR of 22 April nor, having done so, for confirming his original decision of 1 April.
- 9.171 All of these discussions concerned the threat to Billy Wright from loyalist prisoners. The Inquiry then considered whether the Minister knew or should have known about the proposal to locate Billy Wright in a block which contained INLA prisoners. In his minute of 22 April to the Minister Alan Shannon referred to the intention to locate Billy Wright in H6 but did not seek the Minister's approval for this. There is no evidence that the Minister or anyone else involved in the meeting on 25 April was aware of the intelligence received by the Security Service on 21 April that the INLA were strongly opposed to Billy Wright's transfer to H6 and that it was their intention to kill him at the first opportunity if he were moved there.
- 9.172 Sir John Wheeler told the Inquiry that at no stage was he involved in any discussion about the fact that Billy Wright was going to be housed in H6 alongside the INLA. He said that this was an operational matter in which Ministers would not expect to be involved.
- 9.173 The decision to locate the UVF prisoners in the same block as the INLA faction created a unique situation in HMP Maze in 1997 in that prisoners from two opposing factions, neither of which was on ceasefire, were housed adjacent to each other. The Inquiry heard evidence about the control measures which were in operation in the block. It does not appear that any consideration was given

to whether there should be any alteration to the staffing complement, nor to the duties of staff. The only additional physical security enhancement was the interlocking of the circle grilles, which required two circle officers. As with other blocks, improved security both inside and outside the block was to be introduced as part of the refurbishment programme; but H6 was not given priority in this programme. Separate vans were provided to take prisoners from each faction to visits and, uniquely in HMP Maze, these vans came directly up to the Hennessy grilles. Paradoxically, as is described in detail in Chapter 14, this arrangement played a significant part in the murder of Billy Wright. Arrangements to ensure that prisoners from opposing factions did not come into contact with each other in the circle area of the block were introduced only after there had been confrontations between prisoners. In short, no risk assessment was undertaken before or when the two factions were accommodated together. The Panel conclude that the failure to undertake such a risk assessment was a wrongful omission which indirectly facilitated the murder of Billy Wright and that this was negligent rather than intentional.

- 9.174 The sequence of events and considerations described above demonstrates how the NIPS were drawn to reach the decision that **'the "least worst" option'**, to use their inelegant phrase, for the allocation of Billy Wright in April 1997 was A wing in H Block 6 alongside the INLA prisoners. The Panel conclude that this decision was a wrongful act that directly facilitated the murder of Billy Wright on 27 December 1997 and that it did so by negligence rather than by intent.
- 9.175 This Chapter has analysed the decision-making process in the NIO and the NIPS which led to Billy Wright's allocation to H Block 6 on 25 April 1997. This process needs to be placed within the wider context of decisions which had been made in the course of the preceding 25 years about the development and configuration of prisons in Northern Ireland. These matters have been discussed in detail earlier in this Report, specifically in Chapters 7 and 8. In broad terms, they include the initial decision to construct HMP Maze in the form of eight single-storey flat-roof blocks; the failure subsequently to undertake any radical re-design of what was originally intended to be a temporary prison; the **'unique'** manner in which HMP Maze was managed and staffed; the decisions to close HMP Belfast and to manage HMP Maghaberry as a non-paramilitary prison, which left HMP Maze as the sole prison in Northern Ireland for prisoners who maintained their paramilitary allegiances. These actions and decisions over a long period of time all contributed in different ways to the specific and fateful decision to allocate Billy Wright to H Block 6 in April 1997.

10

The Hostage Taking Incident

Introduction

- 10.1 On 28 April 1997 two prisoners in HMP Maghaberry armed with handguns took a prison officer hostage. The significance of the incident for this Inquiry is that within days these same prisoners were transferred to the Irish National Liberation Army (INLA) wing of H6 in HMP Maze where, some months later and with the assistance of another INLA prisoner, they again equipped themselves with handguns and murdered Billy Wright. Their names were Christopher McWilliams and John Kenneway.
- 10.2 ‘Hostage incident’ is convenient shorthand for what was a confused and not readily intelligible event. It is the right label in that McWilliams and Kenneway were afterwards convicted of false imprisonment by unlawfully and injuriously imprisoning Prison Officer Michael McCarthy and detaining him against his will. During the incident, McWilliams, referring to Mr McCarthy, did say they had **‘a hostage’**. What happened was that the officer and the hostage-takers were trapped together between the outer and inner grilles of the entrance lobby to the Foyle House accommodation block. This was not what the hostage-takers wanted; they wanted to get through into the concourse or ‘circle’ of Foyle House. The HMP Maghaberry Security Governor Steve Davis described the happening as **‘a hostage incident by accident’**.
- 10.3 The challenge for the Inquiry has been to discover what the intentions of McWilliams and Kenneway were, without necessarily reaching a concluded view, and what the prison authorities might reasonably have thought them to be. This is a challenging exercise because the hostage-takers’ background was one of hidden movements, veiled motives and disinformation. Before conclusions are drawn the evidence of eyewitnesses and of the command team will be rehearsed in detail, the evidence as to prior knowledge on the part of the prison service and others will be looked at, and the intelligence available at the time and subsequently will be considered. But first something should be said about the backgrounds of McWilliams and Kenneway, the hostage-takers.

Christopher Michael Patrick McWilliams

- 10.4 The late Christopher (Crip) McWilliams did not give evidence to the Inquiry. He died of natural causes on 28 June 2008.
- 10.5 In 1986 McWilliams and others were found guilty of possessing a firearm and ammunition with intent to endanger life. McWilliams was sentenced to 14 years' imprisonment and committed to HMP Maze. He was released on licence in 1991, having served seven years. On 14 April 1994 McWilliams was sentenced to life imprisonment for murder. At the time McWilliams was unacceptable to the republican factions in HMP Maze, from which he was transferred to HMP Maghaberry.
- 10.6 McWilliams was far from being a model prisoner at HMP Maghaberry. He was the principal suspect in relation to a very serious assault on a prison officer which occurred on 1 April 1996. In August 1996 a republican prisoner, Kevin McAlorum, was attacked in the prison by an assailant using a hypodermic syringe. McWilliams was named as the assailant but, significantly, not by Kevin McAlorum.
- 10.7 The monthly intelligence assessment report (MIAR) for August 1996 commented:

'Both McWilliams and Prisoner [X] have fallen foul of the INLA. There is concern that by killing McALORUM they would ingratiate themselves with the INLA.'

An intelligence report of October 1996 commented:

'It is now known that CHRISTOPHER McWILLIAMS is attempting to reform an INLA faction within HMP Maghaberry. JOHN MARTIN KENNAWAY serving 25 years for conspiracy to murder is McWILLIAMS' right hand man.'

Reports during the month indicated that the INLA was attempting to organise and recruit within the prison. Individuals were identified as having been enrolled in the INLA group. The leader of the group was reported to be McWilliams, supported by the individual who subsequently became 2ic INLA H6, and by Kenneway. Management was said to be monitoring the situation with a view to taking appropriate action if necessary.

- 10.8 A report from the Principal Officer (PO), Bann House, in December 1996 identified McWilliams and Kenneway with a republican faction that had emerged after the onward transfer to HMP Maze of a group of Provisional Irish Republican Army (PIRA) prisoners who had originally been convicted and imprisoned in England. After this transfer it was reported that drug trafficking within Bann House had increased dramatically. In mid-March 1997 Barry Wallace, Assistant Director

of Operations, expressed concern that if Billy Wright's demand for segregated accommodation were granted a similar demand would be forthcoming from an INLA faction **'probably led by McWilliams'**.

- 10.9 On 12 April 1997 McWilliams was involved in an attack on a fellow prisoner who was alleged to have assaulted a catholic prisoner in the dining hall. The fellow prisoner fought back and McWilliams sustained significant injuries. The Security Governor of HMP Maghaberry subsequently made the assessment that McWilliams had lost credibility within HMP Maghaberry and that the incident might have prompted McWilliams to focus on getting to segregated conditions at HMP Maze.
- 10.10 McWilliams had a reputation for violence, unpredictability and extreme fitness. He was a prisoner with nothing to lose. A Prison Employment Assessment remarked that McWilliams was someone who required constant supervision.
- 10.11 After the hostage incident the MIAR for April stated:

'Prior to the incident McWILLIAMS had never been acceptable to the INLA in MAZE and KENNAWAY had left the INLA accommodation [there] on more than one occasion. Shortly after the incident both were accepted by the INLA in MAZE. The speed with which this was done would indicate that the attempt to kill McALORUM was a pre-arranged price for their acceptability.'

John Martin Gerard Kenneway

- 10.12 John Kenneway died in the Punishment and Segregation Unit (PSU) of HMP Maghaberry on 8 June 2007. He had been released under the Good Friday Agreement but was returned to prison for breach of his licence. He was held in the PSU for his own protection because of PIRA death threats.
- 10.13 Kenneway's prison career started in 1989 when he was sentenced to three years for possession of a firearm. On 8 October 1993 he was sentenced to 25 years' imprisonment for conspiracy to murder, possession of firearms and ammunition with intent, and four counts of false imprisonment. He was later transferred to HMP Maze. In 1995 Kenneway embarked on a series of transfers between HMP Maze and HMP Maghaberry prisons.
- 10.14 Kenneway returned to HMP Maghaberry on 15 December 1995 where he remained until after the hostage incident. The assessment of HMP Maghaberry Security Governor Steve Davis was:

'Throughout his periods at Maghaberry Kenneway maintained close relationships with like-minded Republican prisoners and could never have been described as an individual who could accept integrated

conditions. As an individual he was relatively easy to manage as he himself posed little threat to the security of the prison, however, when placed within an organisation with extreme Republican ideals he became totally subservient to that ideology and would willingly undertake any act. The danger with Kennaway occurs whenever he would come under the influence of a dominant individual who would go to any ends to subvert the security of an institution.'

- 10.15 In April 1997 both McWilliams and Kenneway were located in Erne House, HMP Maghaberry. One prison officer said, '**... they were always together. They were like brothers.'**

The Hostage Incident

- 10.16 On the morning of 28 April 1997 both McWilliams and Kenneway made requests to visit the prison hospital. Their requests were granted. Prison Officer Michael McCarthy was detailed to take the prisoners, along with others from Erne House, to the hospital.

The Eyewitnesses in Foyle House

- 10.17 The sections that follow rehearse the evidence of eyewitnesses who were trapped on the ground floor of Foyle House with the hostage-takers, starting with that of Prison Officer Michael McCarthy, who was held with the hostage-takers between two grilles in the 'airlock'-type entrance lobby to Foyle House. The inner entrance grille gave onto the circle. When the hostage-takers made their presence known at the inner entrance grille, three of the eyewitnesses were within the circle supervising prisoners waiting to be searched. These witnesses were Prison Officer David Kennedy, Prison Officer Roy McVeigh and Senior Officer (SO) CF. On the other side of the circle was the PO's grille. The PO's grille gave access to the Administration Corridor. The first room off that corridor was the PO's office. Three eyewitnesses who gave evidence were in this area, namely PO John Gorman, Governor David Eagleson and Prison Officer Thomas McKimm. Witness Prison Officer 8 was one of the two officers who were in the Secure Pod throughout the incident. The Secure Pod was adjacent to the entrance lobby where the hostage-takers and Mr McCarthy were held. Also included in this sequence is the evidence of PO Thomas Hopper, who witnessed suspicious activity elsewhere in the prison immediately before the hostage incident. The evidence of the witnesses who gave oral evidence is rehearsed in order of the witnesses' appearance at the hearings. A plan of the entrance to Foyle House where the hostage incident took place is at Appendix G.

Prison Officer Michael McCarthy

- 10.18 Prison Officer Michael McCarthy was the officer taken hostage. He was held against his will for four to five hours. He told the Inquiry that he had not returned to work since the day of the incident.
- 10.19 The witness told the Inquiry that both sentenced and remand prisoners were housed at HMP Maghaberry. Bann House and Erne House accommodated sentenced prisoners; Lagan House contained life sentence prisoners and remand prisoners; and Foyle House accommodated prisoners on remand only.
- 10.20 On the morning of 28 April 1997 Mr McCarthy was assigned the duty of accompanying prisoners, on foot, from their accommodation in Erne House to the prison hospital. The prisoners included McWilliams and Kenneway. Before they were handed over to him he gave each prisoner a pat-down search. This type of search involved the officer passing his hands over the prisoner's clothed body and the prisoner being asked to produce any suspicious objects for examination. Sometimes footwear was checked, but not on this occasion. Nothing of note was found.
- 10.21 On the way to the hospital, prisoners McWilliams and Kenneway were at the front of the group and Mr McCarthy was at the rear. McWilliams and Kenneway dropped back until they were effectively flanking him. McWilliams told the witness that he and Kenneway were carrying out a protest and that they were going to take over Bann House. Mr McCarthy thought that the protest was about the location of the Loyalist Volunteer Force (LVF) prisoners in HMP Maze.
- 10.22 McWilliams and Kenneway said that they had firearms but later stated that no one was going to get hurt.
- 10.23 Mr McCarthy appears to have moved on to tell the other prisoners in front of him to make their way to the hospital: someone would look after them there. He reached the entrance to Foyle House before McWilliams and Kenneway. He tried to alert his colleagues in the Secure Pod controlling the grilles by demanding to speak to the PO over the entry intercom. There was a delay in the door opening to admit him and during the delay McWilliams and Kenneway caught up. All three were then admitted and held in the airlock between the outer and inner entrance grilles.
- 10.24 Entrance to Foyle House was controlled from the Secure Pod which was a secure control room adjacent to the entrance and the circle with visibility over both areas through bullet-proof glass. Two officers manned the Pod. One operated the grilles and the other watched the CCTV images. There were five grilles giving access to the circle. One of these was the inner entrance grille. There were also grilles to the PO's office, the dining room, to the 5 and 6 landings on the first floor, and to the 3 and 4 landings on the first floor.

- 10.25 On entry to Foyle House Mr McCarthy saw that the two prisoners had tried to disguise themselves as kitchen orderlies. Kenneway had put on a pair of spectacles. Mr McCarthy assumed that the point of the disguise was to make it easier for him to get through the grilles into the house. The fact however that Kenneway and McWilliams were not in full kitchen uniform gave the game away.
- 10.26 When Prison Officer David Kennedy approached the inner entrance grille from the circle to ask what they wanted, McWilliams produced a pistol. McWilliams and Kenneway demanded to see Kevin McAlorum, who was held on remand in Foyle House. They said McAlorum was part of their demonstration. Later they mentioned wanting to see a governor.
- 10.27 Mr McCarthy said that McWilliams pointed his gun at everything and everybody in the circle area. The general alarm sounded. McWilliams tried to fire but the bullet fell out. He replaced it in the magazine. That meant pulling the magazine out of the grip, putting the round in at the top of the magazine and pushing the magazine back into the grip. McWilliams pulled the trigger but nothing happened. He and Kenneway discussed why the gun would not fire. McWilliams thought it was rusty.
- 10.28 Before the negotiating teams arrived SO Gorman came out of his office and spoke with McWilliams and Kenneway. The incident continued for some hours until the prisoners handed over their guns. Mr McCarthy definitely did not hear everything that was being said. There was a lot of noise and bells ringing. He did not hear the name of Billy Wright being mentioned.
- 10.29 Mr McCarthy thought that McWilliams and Kenneway had a plan but it did not work out as they intended. Kevin McAlorum was accommodated in Foyle House but at the time of the incident he might possibly have been elsewhere.

Prison Officer David Kennedy

- 10.30 Prison Officer David Kennedy came on duty in Foyle House at HMP Maghaberry at 8.00 am on 28 April 1997. At 10.00 am he was detailed to assist in bringing five prisoners in from the exercise yard to be searched by the search team. He was one of three officers supervising the prisoners waiting to be searched who were standing at the dining-hall grille. The other officers in the circle were Prison Officer Roy McVeigh and SO CF. There were two officers in the security Pod that controlled the main entrance.
- 10.31 At about 10.15 am Mr Kennedy was standing in the middle of the circle when he became aware of prisoners at the inner entrance grille asking to see the PO. The prison officer with the prisoners appeared to be agitated. Prison Officer Kennedy focused on McWilliams who was standing closer to the grille. McWilliams was

dressed in a 'bastardised' form of kitchen whites, a short white jacket, a paper hat and thick black-rimmed glasses. He looked like someone in disguise. It was almost comical. Part of Mr Kennedy's duties involved being in the kitchens three or four times a day. He knew all the kitchen orderlies and did not recognise either of the prisoners at the grille as kitchen orderlies. Prison Officer Kennedy thought that he probably asked McWilliams what they wanted to see the PO for. At that stage McWilliams pulled a gun from his waistband and started to speak.

- 10.32 McWilliams shouted about Billy Wright and the Irish Republican Socialist Party (IRSP). It sounded like a rehearsed statement. It was difficult to make out because of the noise made by the alarm bells. McWilliams was making a general statement to whoever was in earshot.
- 10.33 The two other officers with the witness, namely Mr McVeigh and Witness CF, dived for cover behind the Secure Pod. The witness shouted to them to open the grille from the circle so that he and his colleagues could get out. They did not however open the grilles. Prison Officer Kennedy felt that the gun was pointed at him. After a few seconds he joined his two colleagues behind the Pod. The grilles from the circle were shut and the three officers were trapped. McWilliams moved to his left where he had sight of the three officers taking cover. He pointed his gun directly at Prison Officer Kennedy who believed he was about to be shot. At that point the alarm went off and McWilliams pointed his gun at the bell. He seemed to be pulling the trigger but the gun did not fire.
- 10.34 Mr Kennedy believed that he remained in the circle for up to one and a half hours before an exit grille was opened. At one point SO Gorman tried to reason with McWilliams from a grille on the other side of the circle, and it was then that McWilliams asked to see Kevin McAlorum. He gave the impression that McAlorum was a friend. Prison Officer Kennedy stated from recollection that McAlorum was in the Education Block at the time. By the time the negotiators arrived Mr Kennedy had left the circle.
- 10.35 Prison Officer Kennedy believed that there was no prospect of McWilliams and Kennedy getting into Foyle House dressed as they were. In addition there was never any question of the grille being opened while the search team were at work in the block. Getting access to the PSU would have been even harder. The guns could not have been used to shoot out the grilles, and once the alarm had been activated control of the grilles passed to the Emergency Control Room (ECR).

Prison Officer Thomas McKimm

- 10.36 Thomas McKimm served as a member of the Standby Search Team (SST) at HMP Maghaberry between 1994 and 1997. He was in Foyle House on the morning of 28 April 1997. Information had been received that a package had been thrown

from one of the Foyle House windows to prisoners in the exercise yard, and four prisoners were brought in from the yard for full body searches. At about 10.15 am Mr McKimm was in the House Administrative Area adjacent to the circle on the ground floor.

- 10.37 Mr McKimm became aware of a commotion in the circle area. His attention was attracted by a loud voice coming from behind the inner entrance grille. He looked into the circle through the PO's grille and saw a man between the outer and inner main entrance grilles wearing a chef's cap, a white kitchen jacket and dark-rimmed glasses. In due course he recognised the man as McWilliams.
- 10.38 McWilliams was standing with his right arm outstretched and he had a pistol. He appeared to be pointing the gun at SO CF. McWilliams pulled the trigger but the gun did not discharge. He pulled the trigger again, twice. Had the gun fired, SO CF would have been killed or injured. McWilliams then brought the gun down and worked at it. Someone was shouting that they both had guns and Mr McKimm saw Kenneway with the barrel of a gun pointing out between the fingers of his right hand.
- 10.39 McWilliams looked at Mr McKimm, raised the gun again, pointed it in his direction and pulled the trigger. The gun again failed to fire. Prison Officer McKimm turned quickly away and, pushing another officer in front of him, took cover in the adjacent lavatory. At this point the alarm went off.
- 10.40 Initially Prisoner Officer McKimm got no sense of what McWilliams was shouting about. He then picked out certain words. McWilliams said something about the INLA, then Billy Wright, and then HMP Maze. He mentioned both Billy Wright and HMP Maze at least twice. It was like a pre-planned announcement. It did not make sense to the witness because he could not hear clearly what McWilliams was saying.
- 10.41 McWilliams did however ask for prisoner McAlorum to be brought down. The witness got the impression that they wanted McAlorum so as to increase their numbers. Around that time McWilliams asked for the Governing Governor and later he asked for a priest. Officer McKimm did not hear Kenneway say anything.
- 10.42 After Mr McKimm had given evidence, additional information was produced to the Inquiry in the form of a Staff Communication Sheet (SCS) which the witness had submitted to the Security Governor on 2 May 1997. This is the earliest account given by Mr McKimm and it is the account of a witness who made notes at the time. The contemporary notes are not available to the Inquiry, but it seems likely that notes were available to the witness when he made his communication to the Security Governor. He stated, **'Realising that I was in what could be a prolonged incident, I started to make notes of what had already occurred**

on scrap pieces of paper.’ This was **‘at approximately 10.30’**. The natural inference is that the note-taking continued, since the SCS gives several precise timings. The SCS states:

‘At 11.06 the PO’s office received a phone call instructing the prison staff present not to have any further communication with the armed prisoners, and that the prisoners were to be told this.’

When Governor David Eagleson submitted his thoughts on commendations to be given to staff involved in the incident, he wrote of Mr McKimm: **‘Officer McKimm ... had the presence of mind to keep a log of the incident from its start until the point when SO Gorman was withdrawn from negotiations.’**

10.43 The SCS also contains the following account of the hostage-takers’ utterances:

‘I heard McWilliams shout something about INLA – Billy Wright – the Maze, exactly what I don’t remember ... I heard McWilliams shout “We’ve got a hostage.” ... I heard McWilliams say to S.O. Gorman that he wanted a priest and the Number One Governor Mr McLaughlin [sic]. He said he wanted only the regular priest, no strangers. Something then happened outside the front of Foyle House that drew McWilliams attention. ... He then turned and shouted to SO Gorman something about men wearing flak jackets ... He turned and shouted to S.O. Gorman that if any armed police were brought in the hostage would be shot. This was at approximately 10.30 am. ... At 10.54 someone appeared outside the Foyle House entrance door. I could not see who it was. McWilliams spoke to this person. ... I heard McWilliams say that he wanted INLA volunteers from the landings. ... McWilliams shouted to SO Gorman to get McAlorum down from the landing. ... McWilliams wanted to know where McAlorum was and asked SO Gorman to check the “T-cards” in the P.O.’s office. ... At 11.01 McWilliams stated that he had an automatic pistol and Kennaway a “zip-gun” ... At 11.03 McWilliams again spoke to someone outside the door of Foyle House. I heard him say that he wanted Father [X]. McWilliams repeated this to SO Gorman.’

10.44 The SCS reported the termination of the incident happening at 2.41 pm.

10.45 The timings are consistent with the evidence of the Security Governor Steve Davis. He stated that he and a negotiator positioned themselves at the entrance to Foyle House where they established communication with McWilliams at 10.32 am. They opened negotiations at 10.35 am. At 10.45 am they left the scene to brief Governor Duncan McLaughlan in the Control Room. They returned at 10.55 am and resumed negotiations.

Prison Officer Roy McVeigh

- 10.46 On 28 April 1997, Prison Officer Roy McVeigh was deployed to Foyle House to assist the SST in bringing prisoners from the yard to be searched. He became aware of SO CF telling two prisoners in kitchen whites at the inner entrance grille, **'You can't get in.'**
- 10.47 One of the prisoners, who the witness later learned was McWilliams, then pulled a gun from his waistband and made as if to fire at the witness. The gun failed to fire. As McWilliams straightened his gun arm, Mr McVeigh shouted **'gun!'** and dived to the floor behind the Secure Pod.
- 10.48 The witness did not recall an audible alarm sounding at that time. His understanding was that the officers in the Pod had activated a silent alarm that electronically locked down all the grilles. Within seconds of the witness diving behind the Pod someone had stepped from the PO's office and hit the audible alarm button.
- 10.49 There was a curved mirror opposite the PO's office. From where Mr McVeigh was he could look in the mirror and see McWilliams behind the inner entrance grille. McWilliams pulled back the slide of the gun, and a bullet popped out. McWilliams pulled the clip out of the gun, returned the bullet to the gun and again tried unsuccessfully to fire it at the witnesses, Mr Kennedy and himself.
- 10.50 It was about 20 minutes before a grille was unlocked to let the prison officers out of the circle. Mr McVeigh crawled out. He tapped his colleagues saying, **'Right we are away'**. They crawled up about ten or twelve steps before standing up and getting to the landing.
- 10.51 Because of the noise of the alarm Mr McVeigh did not hear anything McWilliams or Kenneway said. He saw SO Gorman speaking to them but could not recollect how long the conversation lasted.

Senior Officer Witness CF

- 10.52 On the morning of 28 April 1997, SO CF was in Foyle House supervising prisoners coming in from the yard for a search. An officer with two prisoners arrived between the entrance grilles. One of the prisoners asked to speak to the PO, which SO CF thought very strange.
- 10.53 The two prisoners were dressed in kitchen whites with kitchen hats. One of them had thick dark-rimmed glasses. SO CF recognised the one with glasses as McWilliams and became suspicious. One of the officers in the Pod asked whether he should let them in but SO CF replied, **'No'**.

- 10.54 Then McWilliams produced a pistol from the waistband of his trousers. First he pointed the gun at Mr Kennedy and pulled the trigger, then he pointed it at the witness and pulled the trigger again. The witness and the other two officers dived for cover into the corner behind the Pod.
- 10.55 The witness could still see McWilliams, who was talking. He was trying to make the gun ready to fire by reloading the magazine.
- 10.56 SO Gorman was speaking to McWilliams across the circle from behind the PO's grille. The witness heard some of the conversation but because there was an alarm ringing it was difficult to hear it all.
- 10.57 SO CF remembered McWilliams saying, **'I'm here to shoot Billy Wright.'** There was no reference to this remark in the witness's police statement given ten days after the incident, on 8 May 1997, or in the witness's Inquiry statement given on 18 January 2007. SO CF explained that after the incident there were so many things going through his head. It took him almost a year to make up his mind that McWilliams had made the remark.
- 10.58 In both his police statement and his Inquiry witness statement SO CF described McWilliams starting to make demands and shouting: **'This is the INLA, you have moved Billy Wright to the Maze and you will fucking pay for it now.'** The remark about shooting Billy Wright, he said, was made after the remark about Billy Wright having been moved to HMP Maze and he was sure the remark was made. SO CF also said McWilliams said things about McAlorum but he could not remember at what point. He did not recall McWilliams asking for the Governing Governor, or his asking for a priest, or his commenting about the INLA volunteers in Foyle House.
- 10.59 In his Inquiry statement SO CF said that he had been asked who he believed was the hostage takers' intended target. His personal opinion was that they were going to shoot Billy Wright that morning, and when they discovered he had been moved they decided to create an incident so that they would be moved to HMP Maze. Because taking a prison officer hostage was a serious crime they would be classed as dangerous, and HMP Maze was where dangerous criminals went.
- 10.60 It was put to the witness that it was extremely strange, and it did not make sense, that McWilliams should make one remark about Billy Wright having been moved out of HMP Maghaberry, followed by another remark to the effect that McWilliams was in Foyle House to shoot Billy Wright. SO Witness CF replied, **'Sorry. I am not McWilliams. I can only answer what I heard.'** He explained that because of his position huddled in a corner, with an alarm ringing in his ear and officers talking to each other, it was difficult to hear what was being said, but he insisted that his recollection was accurate.

- 10.61 SO CF reiterated that it was not until ten or twelve months after the incident that he made up his mind that McWilliams made the remark about shooting Billy Wright. As to why he did not mention that remark in his Inquiry witness statement, SO CF said he must have overlooked it.
- 10.62 SO CF stated that he was sure the news of Billy Wright's transfer to HMP Maze would have filtered out to McWilliams and Kenneway. He said he believed that everything was in place to shoot Billy Wright in HMP Maghaberry, and because Billy Wright had moved, the two prisoners decided to create an incident so that they could get down to HMP Maze after him.

Senior Officer John Gorman

- 10.63 In 1997 PO John Gorman was a SO in Foyle House. His duties included supervising and detailing about 60 staff and he worked from the PO's office, almost directly opposite the entrance grilles to the house. The office had a window looking out onto the circle.
- 10.64 At around 10.00 am on 28 April 1997 the Dedicated Search Team was in Foyle House, about to carry out a search on some prisoners who were suspected of receiving something that had been thrown from a window into the exercise yard. When he was at the PO's grille, Mr Gorman became aware of a prison officer coming in through the front entrance with two prisoners.
- 10.65 The prisoners were wearing kitchen whites, and one was wearing glasses with thick dark rims. The accompanying officer shouted that they wanted to see the PO. The presence of the two prisoners was unusual. Mr Kennedy went to the grille to see what the prisoners wanted. Mr Gorman did not hear any response from the prisoners. The next thing was that Mr Kennedy dived into a corner shouting, '**He has got a gun**'. Mr Gorman recognised McWilliams with a gun. He did not at first recognise the other prisoner, but later identified him as Kenneway. McWilliams pointed the gun at the three staff, who dived into the corner. He then pointed it at the witness. He pulled the trigger five or six times but the gun failed to fire. The witness was at the grille to the PO's office about 15 feet from McWilliams. McWilliams stated that he had a pistol and that they had another weapon. Mr Gorman did not see the other weapon, but he subsequently learned that Kenneway had been armed with a zip gun.
- 10.66 McWilliams and Kenneway were shouting something about Billy Wright going to HMP Maze and that they were there for the IRA volunteers. They possibly said INLA volunteers, though the witness felt that it had been IRA volunteers.
- 10.67 Mr Gorman re-entered the office where the PO and Governor Eagleson were present. He told them what was happening and rang the ECR. He asked a search officer to jump out and hit the alarm button in the corridor. McWilliams pointed his gun at the alarm as if to shoot it but the gun failed to fire.

- 10.68 While the alarm was sounding, the witness spoke with McWilliams. Mr Gorman wanted to assure Mr McCarthy that someone was trying to work for his safe passage. The officers in the circle were at the side of the Pod; they could not see McWilliams, and the two staff in the Pod were on the floor. It was difficult to converse with McWilliams over the sound of the alarm but he wanted the alarm ringing for a purpose: it gave him time to think and others time to get a plan in place.
- 10.69 Mr Gorman said McWilliams appeared to be in charge of what was taking place. He demanded entry to the circle. He then demanded to see a priest, and then Governor McLaughlan. He said, **'You have to remember I've got a hostage here.'** When the alarm came to be switched off Kenneway shouted, **'If Billy Wright can go to the Maze, then we can go with our volunteers.'** McWilliams stopped Kenneway from saying any more and told the witness, **'Just you forget what he said.'**
- 10.70 When McWilliams realised some of the officers had managed to get out onto the landing, he became agitated, crashed the slide of his gun, caught the round that came out and returned it to the gun. Again he attempted to fire at Mr Gorman, but again nothing happened.
- 10.71 The witness repeated that McWilliams asked first for the IRA volunteers, then for a priest, then for the Governor. In his Inquiry witness statement Mr Gorman stated:

'I remember they were shouting about the Irish National Liberation Army (INLA) volunteers and they wanted to go to the landings to see them. Later on in the incident, McWilliams asked for the volunteers to be brought down to them ...'

When Mr Gorman told McWilliams that no one could be brought to the entrance grille, McWilliams asked for Kevin McAlorum. In the statement he gave to the police eight days after the incident, Mr Gorman stated that McWilliams had said, **'If we can't get all our volunteers down then get McAlorum down and we'll decide what we're going to do next.'** As far as Mr Gorman was concerned the reference to McAlorum came at the end. It came after McWilliams and Kenneway had whispered together. They appeared to change tack and then asked for McAlorum.

- 10.72 Mr Gorman did not agree with the statement in the subsequent report by Steve Davis that the demand to see McAlorum had been, as it was put in questioning, the only consistent demand made during the hostage incident. Mr Gorman did not think that the intention of McWilliams and Kenneway was to get McAlorum and shoot him. If McWilliams and Kenneway had a plan to shoot McAlorum they would have known about his movements and so would have known that he went to the Education Block between 9.15 am and 9.30 am.

- 10.73 The demand to see McAlorum was made towards the point at which Mr Gorman was instructed by telephone to break off communications with McWilliams to allow the negotiators to take over.
- 10.74 Mr Gorman was in communication with McWilliams throughout the period from the point when the alarm was switched on until it was switched off. It seemed a longer time than the 20 to 25 minutes between the ECR taking over the grilles and the hostage negotiation team arriving. Communication was made with McWilliams and Kenneway from outside Foyle House. When the negotiators took over, Mr Gorman's part in the incident was over. Although McWilliams and Kenneway had a hostage, they did not threaten him at any time.

Witness Prison Officer 8

- 10.75 Prison Officer 8 served as a Basic Grade Officer at HMP Maghaberry. On the morning of 28 April 1997 he was one of two officers on duty in the Secure Pod at the entrance to Foyle House. The other officer was Prison Officer 6, who let Prison Officer McCarthy into the lobby with two prisoners. Shortly after that, the witness was aware of a security incident unfolding.
- 10.76 One of the prisoners in the lobby, who was subsequently identified by the witness as McWilliams, pulled a gun from his waistband. Initially he pointed it at the three officers in the circle, but then turned towards the Pod and made a demand for the grille into the circle to be opened. The witness and Prison Officer 6 dived for cover. The witness crawled to the lavatory area at the back of the Pod and thereafter from time to time peeked back through the lavatory doorway to see what was unfolding.
- 10.77 Prison Officer 8 heard one of the prisoners shouting. Prison Officer 6 had hit the silent alarm that sounded in the ECR. The alarm bell mounted outside the office started ringing but the witness was not sure exactly when. While the alarm bell was sounding McWilliams had to shout. The witness could hear parts of what he was saying and according to his Inquiry statement his recollection from the start of the incident was that **'... McWilliams and Kenneway wanted Billy Wright to be brought into the Circle of Foyle House to shoot him'**; and that **'the Billy Wright thing was a very short burst'**. There was no reason why everyone else in the circle should not have heard 'the Billy Wright thing'. Prison Officer 8 agreed that his police witness statement also had a short burst about Billy Wright but it was a different short burst. According to the witness's police statement, after the witness dived for cover, **'McWilliams then began shouting about Billy Wright getting into the Maze.'**

- 10.78 Prisoner Officer 8 said that he believed that both his Inquiry statement and his police statement were correct. He agreed that if he did hear McWilliams say that he, McWilliams, wanted to shoot Billy Wright, that was a very striking thing. He could not explain why he did not tell the police about it. Prison Officer 8 was referred to his Inquiry statement where he said, **'McWilliams appeared not to know that Billy Wright had already been transferred to the Maze.'** He could not explain how that fitted with what he said in his police statement.
- 10.79 In evidence, the witness was clear that his recollection was correct and that McWilliams used the word **'shoot'**. He went to two debriefs after the incident. He could not recollect bringing up the threat to shoot Billy Wright at either of them. He was off work for 11 months after the incident. He mulled over the incident during his absence. During his absence Billy Wright was actually shot in HMP Maze and that caused him to reflect on the hostage incident. He had talked to colleagues about the events and quite possibly he discussed the matter with SO CF. He did not believe that he had been influenced by rumour, gossip or press reports, or by what other colleagues had said. He had read the evidence transcripts of Mr McLaughlan and Mr Gorman but not those of other witnesses. Prison Officer 8 was reasonably certain that McWilliams asked for McAlorum to be brought down.
- 10.80 Counsel for the Wright family put it to Prison Officer 8 that McWilliams delivered a flow of words that other witnesses had described as being like a prepared statement. Prison Officer 8 could not recall that. He agreed that there were two particular things that he was absolutely certain about: McWilliams mentioned Billy Wright by name and he also used the word shoot.
- 10.81 Prison Officer 8 said that four out of five points made by Prison Officer Markus Lewis (see 10.147) were wrong. He was not the officer in charge of Foyle House and he did not tell Witness ZCF that he was. He did not claim that the hostage-takers had said that they wished to assassinate Billy Wright and he did not report the views of McWilliams and Kenneway to Governor Steve Davis. The witness had no recollection of submitting an SCS about the incident or of telling Witness ZCF that he had submitted one. The witness stated that he would have had a reasonable recollection a few days after the event but he was still quite shaken. He read through his police witness statement before signing it. He was satisfied that it was true and that it gave all the evidence about the incident that it could give. Prison Officer 8 agreed that if McWilliams knew that Billy Wright had just been transferred to HMP Maze, it would make no sense for him to say bring Billy Wright into Foyle House.

- 10.82 Prison Officer 8 agreed that the demand for Billy Wright **'very quickly became a demand to have Kevin McAlorum brought down'**. He did not know what it was that caused McWilliams to change tack from asking for a loyalist to asking for a republican.

Principal Officer Thomas Hopper

- 10.83 In 1997 PO Thomas Hopper was in charge of the gymnasium complex at HMP Maghaberry including the sports field. On 28 April 1997 he was involved in escorting about 30 prisoners to the sports field.
- 10.84 One of the prisoners in the party going to the sports field was Maghaberry Prisoner 5, who tended to associate with McWilliams and Kenneway. On one occasion PO Hopper had to put these three prisoners out of the gym.
- 10.85 On the morning of 28 April Maghaberry Prisoner 5 came to the witness's attention. The route to the sports field led past and between Erne House and Bann House. Maghaberry Prisoner 5 stopped to talk to someone in a cell in Erne House. The cell was in the area of the ablutions block. The conversation lasted for a very short time and when Maghaberry Prisoner 5 was asked to move on, he did.
- 10.86 When the prisoners had been counted into the sports field and the sports field gate had been locked, PO Hopper again observed Maghaberry Prisoner 5 speaking to someone in a cell in Erne House. This time Mr Hopper thought it was a cell on the ground floor in the area of the ablutions block but he may have been talking to someone in the ablutions block. Maghaberry Prisoner 5 was only a matter of feet away from the window and from that distance the prisoner would possibly have been able to pass or receive something. Mr Hopper did not see anything passed from the window.
- 10.87 After the hostage incident, PO Hopper made a link between the actions of Maghaberry Prisoner 5 and the hostage incident, and on 2 May 1997 he submitted an SCS to HMP Maghaberry Security Information Centre (SIC) which said:

'At approximately 09.40 hrs I informed the ECR that they could start the sportsfield move from sportshall. During this move Maghaberry Prisoner 5 went to Erne House and was talking to someone (unknown to me) in a cell. I told Maghaberry Prisoner 5 to move on and he ran past me towards the sportsfield. When all the prisoners had past [sic] through Golf [Gate] 13 I locked the link gates and moved up towards the sportsfield. I observed Maghaberry Prisoner 5 again talking to a person at the ablutions area. When he saw me he ran off to the sportsfield.'

PO Hopper was referred to prison intelligence reports gathered in the course of the official investigation. The first was to the effect that on his way to the sports field Maghaberry Prisoner 5 passed the weapons to McWilliams through the Erne House ablutions lavatory window; the second was to the effect that when Maghaberry Prisoner 5 was going to the sports field he passed a package into Erne House to another prisoner for onward transmission to McWilliams. PO Hopper stated that the reports were consistent with what he had witnessed.

- 10.88 No searching of prisoners was carried out on the way from the gym to the sports field. It was assumed that prisoners had been searched when leaving their accommodation to come to the gym.

Governor David Eagleson

- 10.89 From the beginning of April 1997 David Eagleson was the Governor V in charge of Foyle House. At about 10 am on 28 April 1997 he was in the PO's office, ground floor, Foyle House. SO Gorman was in the office. Members of the SST were present in Foyle House because it had been reported that something had been seen being thrown into the exercise yard. The witness also recollected Officers Kennedy and McVeigh being present.
- 10.90 Governor Eagleson heard SO Gorman shouting, **'He's got a gun.'** Mr Eagleson looked out into the circle and saw staff scattering. McWilliams and Kenneway and Prison Officer McCarthy were in the airlock where people come in. McWilliams was brandishing a pistol and trying to fire it. Governor Eagleson did not know either of the prisoners at the time, but he subsequently learned that they were McWilliams and Kenneway.
- 10.91 Mr Eagleson heard the alarm go off a split second after John Gorman shouted. Mr Gorman stood behind the PO's grille and tried to engage McWilliams in conversation. Mr Gorman shouted, **'Put the gun down, Mac, put the gun down'**, or something to that effect. Mr Eagleson recalled McWilliams asking for the alarm to be turned off. He could not remember Kenneway saying anything. In his signed police statement dated 17 June 1997 Mr Eagleson had stated, **'I heard Kenneway shout something about Billy Wright going to the Maze.'** In evidence he said that the police statement was likely to have been accurate. He also indicated that as well as answering questions from the police he would have volunteered any information that the police wanted.
- 10.92 Governor Eagleson grabbed SO Gorman to pull him back in and he remembered Mr Gorman saying, **'I know him [McWilliams] from the Crum [HMP Belfast], I can talk to him'**, or words to that effect.

- 10.93 Mr Eagleson initially said that he did not think that Mr Gorman would have a better recollection of what was said during the incident. He later explained that he was talking about the first few seconds of the incident. He doubted whether anyone's memory was completely clear. It was pandemonium and everyone was terrified.
- 10.94 According to Mr Eagleson, the dialogue between SO Gorman and McWilliams lasted from almost immediately after the bell started ringing until the negotiators arrived at the door, which he thought was a couple of minutes.
- 10.95 Governor Eagleson was referred to the official report into the incident. The report stated that the incident started about 10.10 am and that a negotiator established contact at 10.32. He had no recollection of what McWilliams said in response to SO Gorman during that period. He had no recollection of what McWilliams might have said about the reason he was in Foyle House and he conceded that Mr Gorman's recollection was likely to be better. What Governor Eagleson said in his witness statement about the round at the top of the magazine of McWilliams' gun being defective was hearsay. It had percolated through the prison after the incident.
- 10.96 Later, Mr Davis appeared at the door of Foyle House as a negotiator. Once Mr Davis was engaged, Governor Eagleson did not hear what the prisoner said.
- 10.97 The incident was talked about all through the jail for a long time afterwards. Governor Eagleson thought he had relayed the story to different people dozens if not hundreds of times, and what was described later in the official report was the consensus:
- 'During the siege the most consistent demand made by the perpetrators was to see ... McAlorum (INLA/MED) who is located in Foyle House. ... on remand charged with possession of a firearm which was used to murder Gino Gallagher – former INLA Chief of Staff. It may well be that McWilliams, who was a close personal friend of Gallagher, intended to kill McAlorum.'**
- 10.98 The witness agreed with the suggestion that if Kevin McAlorum had been the target, McWilliams and Kenneway would have known or could have found out that he was someone who regularly attended the Education Block. It would have been easier to have attacked McAlorum in the Education Block or other communal areas. The witness could not remember if remand and sentenced prisoners were together in the chapel, and he was not aware of an attack by McWilliams on McAlorum in the chapel the previous August.
- 10.99 Governor Eagleson thought the incident seemed to have been reasonably well planned. It was possible that the prisoners could have got into the circle. They either had to get Mr McCarthy to persuade the Pod officers to let them in, or they

had to dupe the Pod officers into thinking that they had good reason to get in. It would have been unusual for kitchen orderlies to come into Foyle House at that time of the morning, but it would not necessarily have meant that they would not have got in.

- 10.100 By letter dated 12 May 1997 Governor Eagleson wrote to the Director of Operations with his recommendations for staff commendations in connection with conduct during the hostage incident. He mentioned Officer McKimm who **'took cover in the POs office but had the presence of mind to keep a log of the incident from its start until the point when SO Gorman was withdrawn from negotiations'**. The Inquiry has not recovered the log in question but it has recovered Mr McKimm's SCS dated 2 May 1997, which appears to be based on the notes he made at the time of the incident.

The Command Team and the Governor

- 10.101 In 1997 the Northern Ireland Prison Service (NIPS) had just introduced a central command structure for the management of serious incidents in prisons. The structure included a Gold Commander who had overall command of the incident and was based in NIPS Headquarters (HQ), a Silver Commander who was drafted in from NIPS HQ to take command of management of the incident in the prison and a Bronze Commander who was in charge at the scene of the incident. There was a strict hierarchy, with the Silver and Bronze Commanders reporting to the person above them in the hierarchy. The Governor of the prison relinquished control of the incident to the Silver Commander but continued to be in charge of the rest of the prison. Bronze Command included the trained hostage negotiators. The following sections rehearse the evidence of Witness ZD, who was the Silver Commander, Security Governor Steve Davis, who was part of Bronze Command, and the Prison Governor, Duncan McLaughlan.

Witness ZD

- 10.102 In 1997 Witness ZD was head of the Prison Information Unit at (PIU) NIPS HQ. He had been trained as a Hostage Incident Commander. On the morning of 28 April 1997 he was sent to Maghaberry to be Silver Commander at the hostage incident. Governor Alan Craig was assigned to him as his Operational Liaison Officer.
- 10.103 The Governor's Office had been designated as the Command Room. When Witness ZD walked in he found a situation that he described as **'complete chaos'**. There were far too many people in the room. Some were simply spectators. Three Trades Officers were attempting to assemble an electronic noticeboard. Governor Duncan McLaughlan was not present.

- 10.104 Witness ZD cleared the room of everybody who was **'surplus to requirements'**. He was able to take control quite quickly. Until Steve Davis returned from the negotiation point, there was a Staff Officer who then became the Communications Officer. There were also four negotiators and a Log Keeper.
- 10.105 Witness ZD received a briefing to the effect that there were firearms involved, though one of the guns had failed to discharge. All the prisoners had been counted and McWilliams and Kenneway were missing from their places. The witness in turn briefed a number of parties including the chaplain, the Board of Visitors (BoV) and the Royal Ulster Constabulary (RUC) Sub-Divisional Commander. The Prison Service was not equipped to deal with firearms incidents and the Chief Constable had power to take charge of any incident where life was at risk. On this occasion it was agreed that the prison authorities would deal with the incident, though the RUC had a contingency plan should their intervention have been required.
- 10.106 According to the Inquiry statement of Witness ZD, the prisoners initially demanded that Kevin McAlorum should be brought to them. As time passed, the negotiators became convinced that if the chaplain would come to the area to reassure them, the hostage-takers would release the hostage. It was critical to remove the guns. Once that happened the incident would effectively be over. A plan was worked out for the guns to be passed into the Pod by means of the revolving hatch used to pass radios and keys.
- 10.107 In his witness statement Witness ZD mentioned a Log Keeper in the Command Room, and the Inquiry has received a typed document headed **'FOYLE HOUSE – HOSTAGE – 28 APRIL 1997'**. Witness ZD said that he did not recognise this document but that it was a typical log from a hostage incident. At one point he appeared to accept the document as the log. The Inquiry has no other information about the document.

Governor Steve Davis

- 10.108 Steve Davis was the Security Governor and explained that McWilliams was one of a number of individuals to whom particular attention was paid. It was not possible to subject a prisoner on normal location to constant supervision, and there was a limitation to how far McWilliams and Kenneway could be kept apart. However, McWilliams and Kenneway were located on different landings in Erne House.
- 10.109 At about 10.10 am on Monday 28 April 1997, while Mr Davis was on his way from Mourne House, the general alarm sounded. This identified that a major incident was in progress or had just taken place. Mr Davis ran to the main prison and picked up a radio. Over the radio he heard that prisoners with firearms might have taken an officer hostage in the lobby area of Foyle House.

- 10.110 Mr Davis was a trained hostage negotiation coordinator. The role of a negotiation coordinator was to remain within earshot but out of sight, offering support and prompts to the negotiator. Mr Davis gave instructions for every suit of body armour in the stores to be brought and he called for Prison Officer 12 to report immediately as hostage negotiator. Prison Officer 12 took up position to the right of the entrance door with Mr Davis to his right. The negotiator established communication with McWilliams at 10.32 am. At the request of McWilliams, Steve Davis then made himself visible to McWilliams. McWilliams was at the window of the entrance door. Initial negotiations began at 10.35 am. There was difficulty hearing because of the alarm bells, and the prisoners requested that the alarms be turned off. Mr Davis relayed this request to Control by radio.
- 10.111 McWilliams did all the talking. He requested to see Governor McLaughlan, Prison Chaplain 1 and Kevin McAlorum. Generally, the negotiations were calm. McWilliams said that he and Kenneway were both armed and had a hostage. He also said that no one would be harmed. Information was relayed from the negotiation point to Control by radio. Mr Davis could not see any firearms at this point. At 10.45 Mr Davis and the negotiator left the scene to brief Governor McLaughlan in the Control Room.
- 10.112 Steve Davis and the negotiator, Prison Officer 12, returned to the negotiation point at 10.55 am and resumed negotiations. McWilliams was again the only perpetrator talking. He restated his demands, namely that he wished to see Governor McLaughlan, Prison Chaplain 1 and McAlorum. He also made a statement about Billy Wright being transferred to HMP Maze H6 but said that this was not the reason for his actions. The negotiator asked to speak to Officer McCarthy who confirmed that he was unharmed. The negotiator saw a silver-coloured automatic pistol in McWilliams' possession. Maghaberry Governor 1 arrived at 11.15 am and was briefed by Governor Davis. At 11.40 am Prison Officer 18 arrived. He continued negotiations, initially along with Prison Officer 12. Prison Officer 12 left at 11.45 am to report to the Command Room. Maghaberry Governor 1 left at 11.55 am to report to the Command Room. Negotiations continued and Prison Officer 18 assured McWilliams that no one would be harmed and everyone wished to resolve the situation peacefully. Steve Davis asked the Command Room to prepare plans to bring the situation to an end as negotiations were progressing rapidly.
- 10.113 Later in the afternoon Steve Davis returned to the scene with members of the RUC. The following items were recovered from the radio hatch of the secure Pod at Foyle House: one silver handgun; one magazine containing six rounds of ammunition; two cylindrical objects, silver in colour; two loose rounds of ammunition.

10.114 Governor Davis confirmed that in addition to his demands McWilliams made a statement about Billy Wright being transferred to H6 but said this was not the reason for his actions. That was in response to a question from the negotiator along the lines of **'Is this because of Billy Wright going to Maze?'** McWilliams answered, **'This has fuck-all to do with Billy Wright.'** Mr Davis explained that his concern was that McWilliams' and Kenneway's request for a like-minded prisoner could possibly represent the formation of a new republican faction. He said that this was the only time Billy Wright was mentioned.

10.115 Governor Davis explained his thinking:

'Probably the best way to do it is to go back a stage before the hostage incident took place and what was happening within Maghaberry at that time. You had the LVF, which had been pushing for effectively segregated prisoner status, for want of a better word. So they had been accepted or they had been pushing for their own identity. That had actually impacted significantly on Maghaberry, because there were a significant number of prisoners alleged or suspected of also wishing to go to HMP Maze, if such a wing was set up. So you had that sort of background and surrounding the sort of LVF [sic].

You had at that stage, then, the LVF in the guise of the four individuals, including Mr Wright, moved to Maze. A short time after that, you had this hostage incident, a short time after the Billy Wright transfer. Whenever myself and the other officer initially went to the door and asked did they want to come out, a range of demands were made, one of which was the priest, one was to speak to the Governor, and one was for Kevin McAlorum to be present. The term that was used, and I recall it being used, was a "like-minded individual" ... to be brought to the Circle area, the Foyle House lobby. That prompted a thought in my mind: were we seeing the arrival of a Republican equivalent of the LVF, ie a small faction that we hadn't any knowledge of, but suddenly this is now starting to present itself?'

10.116 It was put to the witness that others had said that McWilliams shouted, **'I'm here to shoot Billy Wright'**, and that Kenneway had shouted, **'If Billy Wright can go to the Maze, then we can go with our volunteers.'** Steve Davis did not hear either of these remarks in the course of his enquiries. He did not recall hearing anything of that nature. He did not hear Kenneway speak at all. He was away from the scene for approximately ten minutes and towards the end. He thought it unlikely that these things were said when he was elsewhere, for the reason that he had never heard of the remarks before in 11 years.

- 10.117 It was put to Steve Davis that the incident log made five references to McAlorum and two to Billy Wright. These were:
- 11.00 Prs requesting McAlorum
 - 11.02 Issue with perpetrators – Wright who transferred to H6
 - 11.09 demands from perpetrators ... Prisoner McAlorum
 - 11.14 McWilliams has requested to speak with McAlorum in the circle. McAlorum is the opposing faction. There could be a possibility that the gun could be turned on McAlorum.
 - 11.48 ... They want Wright moved out of Maze ...
 - 13.20 Perpetrators again requesting McAlorum
 - 13.30 Demand – if they do not get a response on McAlorum, they will react

The witness agreed. He explained that the reference at 11.14 to the possibility of the gun being turned on McAlorum was a contemporaneous thought.

- 10.118 As far as the demands were concerned, McWilliams could have seen the chaplain or the Governor at any stage and he did not need an incident to do that. Steve Davis had concerns that McWilliams had asked for McAlorum. That was the only demand that McWilliams could not facilitate in any other way. Mr Davis agreed to the suggestion that McAlorum had been committed for the murder of Gino Gallagher. There was a simmering feud between two factions of the INLA (see 3.35 and 3.36). Kenneway had been within the INLA in HMP Maze but had since been excluded. McWilliams would be classed as a republican rather than as a definite member of any one of the mainstream republican organisations.

Governor Duncan McLaughlan

- 10.119 Duncan McLaughlan had taken up post as Governor of HMP Maghaberry in January 1997. He kept a personal diary in which he recorded happenings of significance to him in his working life. He said he used the diary to **'blow off steam'**. It was maintained on a computer and Mr McLaughlan said that he was under the impression that he had lost the diary when backing up a disk. In 2008, shortly before he was due to give evidence to the Inquiry, while rebuilding his house he had found an old disk labelled 'Back-up 2002' and when this was loaded it was found to contain his diary. He had immediately declared the existence of his diary to his legal advisers.
- 10.120 The diary having come to light, it was clear that there were a number of matters in it that contradicted the witness's signed Inquiry witness statement. Mr McLaughlan said that the diary was his memory and where there were inconsistencies between his statement and the diary, the diary should prevail. In answer to questions from

Counsel for the Wright family, Mr McLaughlan absolutely rejected the suggestion that he had deliberately hidden his diary from the Inquiry. Until he found the disk he had not recalled having contact with the INLA in 1997. He denied that he was lying. He became aware, before he found his diary, that the Inquiry had recovered intelligence documentation about his meeting with the IRSP. He denied that he had panicked and realised that he had better disclose the diary. He also denied that he had not passed on information about his contacts because he had been more interested in maintaining his relationship with a terrorist organisation. Mr McLaughlan accepted that it had been a glaring omission on his part and that of the NIPS that proper procedures were not in place to cover the type of activity in which he had been engaged in April 1997.

10.121 Governor McLaughlan's diary contained the following account of the hostage incident and its setting:

'Sunday 27 April 1997

INLA

[X] of the Quakers phoned to say that Ard Chomhairle Member 1 had left a message asking that [sic] wanted to visit his men in the Maze – they are in the same block as Billy Wright and his men – to talk about Billy Wright and afterwards to see someone from NIO [the Northern Ireland Office] as they had seen me. From the tone of the conversation I assumed that they wanted to see me. Mogg and Shannon agreed that I should see them although when I told [X] it seemed that they had not asked to see me. I had told Shannon they wanted me because they trusted me.'

'Monday 28th April 1997

Maghaberry – hostage

Mid-morning the general alarm sounded, this time not as a test but for real. An officer had been taken hostage by two armed prisoners and was being held in the entrance to Foyle House. The prisoners had been trapped in the area between the solid entrance door and the second grill the [sic] gave access to the "Circle." The prisoners were Christopher McWilliams and Kenneway. One had an automatic gun and the other a zip gun – a home made gun. Two other officers were in the Circle but the prisoners seemed not to know that. The officer had been collecting them from Erne House to take them to the prison hospital. They had left Erne but the prisoners told the officer to take them to Foyle. They claimed that they wanted Billy Wright out of the Maze and asked to see me and a priest. The message was passed to them that I had left

the prison and could not be contacted. A short time later they asked to see a prisoners [sic] called McAlorum. That prisoner is firmly believed to have killed Gino Gallagher, the then leader, or Chief of Staff, of main stream INLA. Those who belonged to Gallagher's faction are held in the Maze. McWilliams had been part of the Maze group but had been thrown out for some misdemeanour. I know that he has been trying to ingratiate himself with INLA to gain re-admittance and had attempted to kill McAlorum in the Maghaberry Chapel last year. All of his attempts failed. I believe that the incident was an attempt by McWilliams to kill McAlorum. McWilliams had very little to lose in making this attempt. He had recently been given a life sentence but before he starts it he has to complete the unexpired portion of an earlier sentence – he had committed the crime that led to his life sentence between the date of his release from prison and the latest date of release had he served the full sentence. He has many years to serve and another life sentence will make little difference to him.

We did not allow him to see McAlorum.

The hostage team, led by [WITNESS ZD], came from HQ. Four hours later the prisoners gave up. They brought the situation to an end rather than us. McWilliams knew that he had lost.

The incident was not well managed. There was no handover procedure between me and [WITNESS ZD] – I chose to believe that he was on a high and did not want it – I must bear some of the blame. The consequence was that somehow he and his team believed that the prisoners and Mr McCarthy were held in the Circle of the block and did so until just before the very end when I saw the diagram they were working to. I challenged him but everyone argued that the prisoners were in the Circle. I asked if that was the case how had the prisoners moved to that area from the entrance to the block where they had been when we managed to release the officers who had been in the Circle, they had left by the back staircase grille – that had happened when I had been in the Control Room. It had been difficult because the officers in the control pod had panicked and initially could not be persuaded to press the button that opened that gate. No one could tell me how they had entered the Circle. All the planning, including that carried out in HQ, had been based on wrong information and the wrong location of the prisoners. The incident came to an end after about four hours when the prisoners readily gave themselves up. The situation almost managed itself. At the end the [sic] handed the guns in and Prison Chaplain stood

at the door as they came out of the block. I had asked [WITNESS ZD] that members of the Board of Visitors accompany the prisoners from the Block to the Punishment Unit. I told him of the bad reputation the Unit had and I did not want further accusations. He informed me that he was in charge of the incident – he did not involve the Board members until after the prisoners had been located in the Unit and had been searched.

During the incident I had phoned [Ard Chomhairle Member 1], leader (?) RSP/INLA, and asked him if McWilliams had been acting on behalf of INLA. He said that he was not and repeated the view he had expressed in the past that McWilliams was not acceptable to INLA. When McWilliams had been located in the Punishment Unit after the incident he told the Board members that he was acceptable to INLA. I asked Maze to check this with the INLA prisoners and it now seems that he is acceptable to INLA!’

10.122 Mr McLaughlan said he did not tell Witness ZD, the Incident Silver Commander, about his phone call to Ard Chomhairle Member 1 to ask about McWilliams’ affiliation. Mr McLaughlan stated that he made his telephone call towards the end of the hostage incident, either just before McWilliams was back in the full custody of staff or possibly when he went into the PSU. At that time McWilliams had said words to the effect that he was acceptable to INLA. At other points in his evidence the witness stated that he had made the call at the stage when McWilliams and Kenneway were claiming that they were acceptable to INLA.

10.123 There is no evidence that McWilliams and Kenneway made that claim before they were installed in the PSU. They were transferred to the PSU at 2.44 pm. Later that afternoon there was a meeting at HMP Maze between the INLA H6 representatives and the IRSP delegation. Ard Chomhairle Member 1 was at the meeting. It was at that meeting that Ard Chomhairle Member 1 learned that McWilliams and Kenneway were acceptable. The diary entries support the view that Governor McLaughlan contacted Ard Chomhairle Member 1 before the latter discovered that McWilliams and Kenneway were acceptable. That must have been before the meeting. The meeting took place at 4.05 pm. The telephone contact could have happened just as Governor McLaughlan said, after McWilliams was safely back in full custody, in the interval between 2.44 pm and 4.05 pm. The Inquiry also notes from the evidence of Witness AH that certain elements of the INLA and IRSP outside the prisons may have been aware of the hostage incident apparently before the incident became public knowledge (see below). The evidence is inconclusive as to whether the source of their awareness may have been Governor McLaughlan’s telephone call to Ard Chomhairle Member 1.

10.124 Mr McLaughlan's diary entry records that during the phone call Ard Chomhairle Member 1 **'repeated the view he had expressed in the past that McWilliams was not acceptable to INLA'**. In evidence Mr McLaughlan conceded that the entry suggested previous contact about the matter but he did not remember any previous discussion with Ard Chomhairle Member 1 about McWilliams' acceptability. It was general knowledge that McWilliams had been refused entry to HMP Maze by the INLA. When asked why he had felt the need to make the enquiry on this occasion, the witness said it was because he was surprised. It went against everything known about McWilliams and Kenneway. Kenneway had been evicted and McWilliams had never been acceptable. So what had suddenly happened to change the situation?

10.125 This response makes sense if the phone call was made after Mr McLaughlan had learned that the hostage-takers were claiming acceptability. This seems unlikely. It may have been that Governor McLaughlan was anxious to know in advance what the options might be for dealing with McWilliams and Kenneway whenever the hostage incident should be resolved and, in particular, was anxious to know whether the perpetrators could be transferred out of his prison to HMP Maze. The formal channels of communication to the INLA prisoners about whether or not McWilliams and Kenneway were acceptable to them were not activated until 30 April, and the Maze H6 PO/SO Journal includes an entry for 30 April in the following terms:

'Request from Security to C-D wing on the acceptance of to [sic] prisoners from Maghaberry McWilliams & Kenneway. To Wing Reply of approval. Passed back.'

McWilliams and Kenneway were removed from the PSU at HMP Maghaberry at 12.35 pm on 1 May 1997. They were admitted to H Block 6 C wing, HMP Maze, just over two hours later, at 2.50 pm.

10.126 Mr McLaughlan's Inquiry statement signed by him on 15 February 2008 did not mention that he had met an IRSP delegation within hours of the conclusion of the hostage incident. He explained that he had forgotten about the matter until he found his diary.

10.127 The diary entry recorded that at the meeting Ard Chomhairle Member 1 took the line that the gun had originally been smuggled into HMP Maghaberry to kill Billy Wright. The witness inferred that this was the official position of the INLA because the prisoners in the Maze had more or less said that. The Inquiry understands this to mean that the interpretation that the INLA prisoners in H6 wished to be put on the hostage incident was that it had its origins in a plan to kill Billy Wright. Mr McLaughlan agreed with his own Counsel that he, Mr McLaughlan, considered the INLA stance to be opportunistic.

- 10.128 Notwithstanding the line taken by Ard Chomhairle Member 1, Mr McLaughlan adhered to his view that McAlorum had been the target. He could accept the possibility that Billy Wright had been the target, but he did not believe it was a probability. Mr McLaughlan was referred to his diary entry for 28 April 1997: **'I believe that the incident was an attempt by McWilliams to kill McAlorum.'** It was believed that McAlorum had killed the Chief of Staff Gino Gallagher: whoever killed the man who killed Gino Gallagher would be buying his ticket into HMP Maze. Mr McLaughlan stated that he was surprised that the INLA had accepted McWilliams when they had previously rejected him. He agreed that McWilliams would have been an asset if the INLA had wanted Billy Wright killed but he did not remember whether the thought had gone through his mind at the time.
- 10.129 Mr McLaughlan confirmed his reasons for thinking that McAlorum had been the target. This had been his genuine personal assessment: he had no reason to be untruthful to his diary. He added that McWilliams had been trying to ingratiate himself with the INLA, and that McAlorum had in fact been murdered some time after his release. Mr McLaughlan agreed that he did not swallow the INLA/IRSP 'line' and that he had discounted what he had been told. He also said that HMP Maghaberry Security Governor Steve Davis had independently arrived at the same conclusion as the witness.
- 10.130 Mr McLaughlan accepted that what he had been told by Ard Chomhairle Member 1 was very significant information. He could not remember definitively if he had told anyone but he was **'99% sure'** that he had passed word to Martin Mogg, the Director of Operational Management. In February 1998, some weeks after the murder of Billy Wright, when he became aware that McWilliams might have a zip gun he had reported the matter straight away. Mr McLaughlan could not explain why there was no record in the diary of telling Martin Mogg. He did not know whether he had told Alan Shannon but he had not told Steve Davis, his Security Governor, or anyone else in the Security Department. It was not in the witness's or anybody's interests that his contacts 'outside' should become general knowledge. The explanation he offered for failing to tell Mr Johnston Baxter, Governor of HMP Maze, and Steve Davis, his own Security Governor, was that he needed to protect his sources. He denied that his subsequent commissioning of reports into the hostage incident had been a charade. The possibility that Billy Wright had been the target was taken into account by Steve Davis. Mr Mogg would have disseminated the information as appropriate. Counsel for the Wright family put it to him that Alan Shannon's evidence was that he, Alan Shannon, thought that Martin Mogg and Duncan McLaughlan had shared the view that McAlorum was the target. Mr McLaughlan agreed that that would indicate that

Mr Mogg had not told Mr Shannon, and the witness had not told Mr Shannon directly what he knew from his meeting with the INLA/IRSP. Asked why he had not contacted the Narey Inquiry team with the information, Mr McLaughlan repeated that the information that Billy Wright had possibly been the target had been available to NIPS HQ by mid-August.

- 10.131 Answering questions from Counsel for the NIPS, Mr McLaughlan accepted that he had no independent recollection of having told Martin Mogg; that there was no documentary evidence that he had told Martin Mogg; and that there was no witness to support his account of having told Martin Mogg. The witness denied that his 99.9 per cent certainty that he had told Martin Mogg was wishful thinking based on what he knew he should have done. The witness denied that he had chosen not to tell Martin Mogg because telling him would have impeded the transfer of McWilliams and Kenneway to HMP Maze. The witness insisted that he did not play games like that.
- 10.132 Duncan McLaughlan had previously put important information gathered from 'outside' contacts in writing to Mr Shannon and could not explain why, on this occasion, he had not reported in writing. He agreed that he must have known that there might be ramifications for the Peace Process were Billy Wright to be assassinated. It was put to Mr McLaughlan that he had failed in his duty of care to Billy Wright to make sure, by every possible method, that those at HMP Maze into whose charge Billy Wright was committed were made aware of the information about the threat to his life. He denied that. He had given the information to Martin Mogg, who had the responsibility to pass it on. He had exercised his duty of care to Billy Wright by placing him on Rule 32 and protecting him from forces in HMP Maghaberry that might have attacked him. In his Inquiry witness statement Mr McLaughlan said he remembered speaking to Billy Wright sometime before he left HMP Maghaberry and he remembered Billy Wright telling him that he was in his debt. This may have been because Billy Wright thought he was responsible for the transfer but Mr McLaughlan thought it meant because he was still alive when he left HMP Maghaberry.
- 10.133 The MIAR for April 1997, issued on 14 May, included the following account of the hostage-takers:

'KENNAWAY (INLA/MED) and McWILLIAMS (INLA/HIGH) – involved in the hostage incident in MAGHABERRY ... have been accepted by the INLA faction in MAZE. ... During the siege the most consistent demand made by the perpetrators was to see McALORUM (INLA/MED) ... After the incident was over INLA in Maze declared both McWILLIAMS and KENNAWAY "acceptable". A police investigation is continuing. Prior

to the incident McWILLIAMS had never been acceptable to the INLA in MAZE and KENNAWAY had left the INLA accommodation on more than one occasion. Shortly after the incident both were accepted by the INLA in MAZE. The speed with which this was done would indicate that the attempt to kill McALORUM was a pre-arranged price for their acceptability.'

Duncan McLaughlan accepted that nowhere in this report was reference made to the information he had received from the INLA. The information had come from someone who was likely to know the truth. The information would have been very pertinent. The information was not factored in to any reconsideration of the transfer decision.

- 10.134 Questioned by Counsel for Seamus McNeill, from NIPS HQ Operational Management Directorate, Mr McLaughlan agreed that Mr McNeill should have been given and needed to know the information given to Mr McLaughlan by the INLA/IRSP. He agreed that Mr McNeill had known about his contacts, and that he therefore had no good reason for failing to pass the information to Mr McNeill. Mr McLaughlan's final position was that he was convinced he had told Martin Mogg and had assumed that Mr Mogg would pass it on.
- 10.135 Counsel for the Wright family referred Mr McLaughlan to an article in the *Irish News* published on 16 January 1998, three weeks after Billy Wright's death and nine months after the hostage incident. The article stated, **'The first warning of a possible attack [on Billy Wright] came in April during the secret meeting between the policy group member and a leading IRSP member.'** The witness assumed that this was a reference to his meeting with Ard Chomhairle Member 1 and others on the day of the hostage incident. He noted the allegation in the article of a warning that **'... lives could be lost through the NIO decision to house INLA and LVF prisoners under the one H-block roof.'** The warning that he had been given on 28 April 1997, according to his diary entry, was something of that nature, namely that, according to the IRSP, **'the British Government did not want the peace process to succeed and that moving Wright to their block would guarantee their return to violence'**.
- 10.136 The article in the *Irish News* contained the following references to **'the April secret meeting'**:

'PRISON chiefs claimed during a secret meeting with the IRSP last year that LVF prisoners posed a bigger threat to life than INLA inmates held in the same Maze H-block, the Irish News has learned. A member of the NIO's senior policy group on prisons made the statement after being warned at the confidential meeting of the danger of senior

LVF prisoners being attacked by INLA inmates who shared the same H-block ... The first warning of a possible attack came in April during the secret meeting between the policy group member and a leading IRSP member. Prisons spokesman Willie Gallagher told the senior policy group member – a senior prison governor – during the meeting that he believed lives could be lost through the NIO decision to house INLA and LVF prisoners under the one H-block roof. ... It is understood that Mr Gallagher met the government official on the same day that two INLA prisoners in Maghaberry jail produced guns and took a warder hostage. ... Approached by the Irish News yesterday, Mr Gallagher agreed that he had met the senior policy group member in April and told him that a similar incident “or worse” could happen if Mr Wright and LVF members were held in the same H-block as INLA prisoners.’

Duncan McLaughlan’s Diary

- 10.137 In his oral evidence Mr McLaughlan said that originally he had no recollection of his meeting with the IRSP delegation at the Quaker House on 28 April 1997. He only remembered this when he recovered his diary on Friday 11 April 2008, three days before he was originally due to start giving evidence. Counsel for the Wright family accused the witness of lying and in his closing submissions he invited the Inquiry to determine the issue of Mr McLaughlan’s credibility on that basis.
- 10.138 The Inquiry considers it extraordinary that Mr McLaughlan should have had no recollection of his meeting with the IRSP delegation at the Quaker House. It must have been a memorable event, especially in view of the events which had just taken place in his own prison that day. More than that, at the meeting Governor McLaughlan actually encountered individuals who, if they had not themselves orchestrated the massively traumatic event in ‘his’ prison that day, claimed to know the inside story. And he typed an account of what they told him into his diary. Afterwards things happened, as he accepted, that might have kept the recollection alive or at least jogged his memory – the instructions issued by him at the beginning of May 1997 for the preparation of hostage incident reports at a time when he must have known that he personally was privy to intelligence of the highest relevance about Billy Wright having been the intended target; the receipt by him in July or August 1997 of Governor Davis’s Firearms Report referring to intelligence from a different source about Billy Wright having been the intended target; the submission by him to NIPS HQ in October 1997 of the composite report into the hostage incident with his comments on the recommendations; the actual murder of Billy Wright by the same perpetrators again using smuggled firearms; the subsequent publicity about and investigations into the murder of Billy Wright by the same perpetrators; the conduct of the perpetrators when they were

transferred back to the PSU at HMP Maghaberry after the murder and were then, again, reported to be planning to smuggle firearms; the Narey Inquiry in 1998; the Cory Inquiry in 2003; and the setting-up of this Inquiry in 2004.

10.139 There were further opportunities to remember in 2007. On 20 September 2007, in the course of finalising Mr McLaughlan's witness statement, the Solicitor to the Inquiry wrote to Mr McLaughlan's solicitors as follows:

'It has come to my attention that during the [Witness Statement] interview Mr McLaughlan effectively said that his contact with paramilitary organisations, particularly the INLA/IRSP, had stopped by the time he went to work at HMP Maghaberry ... The Inquiry is now aware that there is information, including intelligence documents, that indicate your client did have contact after moving to Maghaberry and indeed into 1998, after Billy Wright's murder. ... I would be grateful if you could ask your client again regarding his contacts in 1997 and early 1998.'

On 15 October 2007 Mr McLaughlan's solicitors replied saying that their client had already contacted them with six documents, copies of which were enclosed, relating to contact with members of the IRSP and the Ulster Democratic Party in 1994, 1995, 1996 and 1998. On 30 October the Inquiry's Solicitor responded to the effect that the Inquiry held intelligence documents showing that Mr McLaughlan had met the IRSP/INLA **'in late April 1997 and mid-January 1998'** and saying that there might also have been a meeting in September or October 1997. A reminder was sent on 28 November. The correspondence continued until 24 December. The outcome was a revision of the draft witness statement in which the witness confirmed that there had been contact with **'paramilitary organisations'** after he moved to HMP Maghaberry but saying that he had no recollection of meetings with the INLA/IRSP **'in late April 1997, possibly in September/October 1997 and following the murder of Billy Wright'**.

10.140 Whatever Duncan McLaughlan conceded in oral evidence, it is not true to say that he had no recollection at all. According to his witness statement he did have some memory:

'I have been asked whether I was aware of the INLA or IRSP's reaction to the transfer of McWilliams and Kenneway. I have a vague recollection of them saying they were surprised INLA at HMP Maze took them. However, I cannot really remember. By the end of my time at HQ, [X] was my main contact. However, as Governor at HMP Maghaberry I cannot recall having any contact with him. I would occasionally receive

a telephone call asking what something meant. I must have spoken to someone within INLA or IRSP for me to recall them saying that they were surprised at McWilliams being acceptable, and logically it would have been [X]. However, I cannot remember this response.'

10.141 The Inquiry is mindful in this connection of the gaps in his diary (see 11.20). The Panel find it very difficult to believe that in all the circumstances which have been set out above, Mr McLaughlan had little or no recollection of his meeting with the IRSP on 28 April 1997. Having considered this matter at length all that can be said, in the Panel's judgement, is that his evidence in this regard was very surprising and we remain dissatisfied with Mr McLaughlan's version of events.

10.142 The Inquiry has also deliberated on what inference should be drawn from the fact that Mr McLaughlan produced his diary a matter of days before he was originally due to give evidence. His position was that he had mistakenly deleted the diary from his computer when backing up a disk. When carrying out work on his house he came across what turned out to be a back-up disk of the diary and immediately passed it to his legal advisers. An external observer might regard it as an amazing coincidence that Mr McLaughlan should come across this disk just as he was preparing to give evidence. At the same time, the Inquiry notes the fact that Mr McLaughlan did produce the diary. Had he not done so, its existence would not have come to light. In that case, he would have had to respond to the evidence which the Inquiry did have of his meeting with the IRSP on 28 April, evidence which was at odds with his witness statement. Having considered this matter at length, the Panel accept, with some hesitation, Mr McLaughlan's assertion that he discovered the missing disk just before he was due to give evidence.

Allegations of Foreknowledge

10.143 The sections that follow deal with suggestions that there was advance knowledge in the prison system or the intelligence community that weapons would be brought, or had been brought, into the prison to attack Billy Wright. Prison Officer 2 was called as a witness to answer an allegation that he had foreknowledge. Prison Officer Markus Lewis believed that he had been told by the hostage-taker McWilliams before the event how McWilliams would smuggle in a gun and that he reported the information upwards. He also believed that in a monitored phone call just after the hostage taking McWilliams had boasted that he would kill Billy Wright. He was called as a witness so that this evidence would enter the record and could be tested. Witnesses Sophy Bryson, Chair of HMP Maghaberry BoV, Prison Officer Ivan Craig and Prison Officer Ivan Ross were called to comment on

their alleged involvement in the account given by Markus Lewis. Witness AH, a Security Service Agent Handler, was asked to explain intelligence **'that the INLA in the prison were in possession of weapons'**.

Prison Officer 2

10.144 In 1997 Prison Officer 2 was the PO in charge of Bann House, HMP Maghaberry. He was asked for his comments on the contents of an HMP Maghaberry Security Information Report (SIR) dated 17 October 1997, almost six months after the hostage incident. The SIR reported as follows:

'On 17th October ... Prison Officer 1 was approached on Bann 6 by [unnamed prisoner]. [He] entered the Class Office and started a conversation with the staff. He informed them that he would be speaking to the press this weekend, telling them the full story about the firearms incident that A2542 Kennaway was involved in and the fact that the authorities knew that Kennaway had the gun in Bann. He referred to PO Prison Officer 2 in particular. At all times the prisoner conducted the conversation in a jovial and bantering way. The other staff present were Offr's Smith, Prison Officer 4 and Prison Officer 5.

On 18th October 1997, Pr B6597 Robb approached officers PRISON OFFICER 1, Smith & Prison Officer 4 and informed them that the PO Prison Officer 2 and other staff would be appearing in the Sunday newspapers and that the officers should pass the information on to the relevant authorities. He also named another member of staff, but when pressed he was unsure of the name stating it was either [X] or [X] or something like that. Both conversations were reported to SO [X].'

10.145 The witness believed that the prisoner who was said to have made the first report had an INLA affiliation. The witness was told that the Inquiry had attempted without success to obtain a statement from the unnamed prisoner. The witness agreed that the prisoner who was said to have made the second report was Lindsay Robb, Ulster Volunteer Force, who had since been murdered. The 'firearms incident' referred to was the hostage incident at HMP Maghaberry on 28 April 1997.

10.146 The following exchange took place between Leading Counsel to the Inquiry and Prison Officer 2:

'Q. What is your evidence, Prison Officer 2? Did you or did you not have information in advance of the hostage incident on 28th April 1997 that Prisoner Kennaway had a gun?

A. Sir, I had no information of the whereabouts of a gun in that establishment.

Q. Did you or did you not have information that there was a gun in Maghaberry in the possession of any prisoner?

A. Sir, I wasn't aware of any guns in that establishment.

Q. Are you telling the truth, Prison Officer 2?

A. I am, sir.'

So far as the witness knew, there was no story in the press about the matter.

Markus Lewis

10.147 Markus Lewis had been a prison officer since 1979. He served at HMP Maghaberry from about 1990. Mr Lewis took an active interest in Prison Officers' Association (POA) affairs. He became Chair of HMP Maghaberry POA in 1997. His evidence in respect of document recovery is dealt with in Chapter 6.

10.148 Markus Lewis told the Inquiry that before the hostage incident he had reported to Sophy Bryson that McWilliams had violent tendencies and had made a threat to the life of Billy Wright. He said that HMP Maghaberry SIC held a tape of a telephone conversation in which McWilliams threatened the life of Billy Wright immediately after the hostage incident, at a time before McWilliams had been transferred to HMP Maze.

10.149 Mr Lewis explained that in about March 1996 a republican prisoner died in HMP Maghaberry and the other republican prisoners made it known that there would be revenge. On 1 April 1996 a prison officer was pulled into a cell in Erne House by four masked prisoners and assaulted with improvised weapons. The officer suffered a fractured skull and neurological injury. One of the suspects was McWilliams but, because of contamination of forensic evidence, no charges were brought.

10.150 In his third affidavit Markus Lewis said that in 1996 Governor McLaughlan introduced a regime that involved locking the prisoners in the main recreation room between 12.45 pm and 2.00 pm. The witness was on Dinner Guard duty one day in December 1996 when McWilliams struck up a conversation with him. He said that McWilliams told him that he, McWilliams, was **'going to kill the Rat'**. McWilliams explained that **'the Rat'** was **'wee Billy Wright'**. McWilliams told Mr Lewis how it would be easy to get a gun into the prison in the hollowed-out sole of a visitor's training shoe, which would then be swapped for McWilliams' trainer. Mr Lewis reported the matter to a PO who he presumed was in the Security Department. The PO in Security reported the matter to Governor Davis

and, from what Markus Lewis had been told, Governor Davis ridiculed it. Mr Lewis was annoyed and decided to approach Sophy Bryson. The witness approached Mrs Bryson before Billy Wright came to HMP Maghaberry, with the object of getting McWilliams put on Rule 32 segregation. He did not tell Mrs Bryson about the smuggling-in of a gun. He told her about the threat to kill Billy Wright and said he would be very shocked and very surprised if Mrs Bryson were to say that she had never heard of that threat. If she said she did not remember, he would give her the benefit of the doubt.

10.151 Mr Lewis confirmed the terms of his third affidavit in which he stated:

‘All prisoners telephone calls made by prisoners on official telephones in the PSU are recorded and some are simultaneously listened [sic]. In a safe in the SIC there is a recording of prisoner McWilliams speaking to [X] on the phone and telling her that he would kill “the Rat”. This call was recorded when he was in the PSU in HMP Maghaberry after he and Prisoner Kennaway had taken Officer Michael McCarthy hostage.’

When asked whether his knowledge of the tape was direct knowledge or hearsay Mr Lewis replied, **‘I have listened to it.’** He believed it was Prison Officer Ivan Craig who had let him listen to the tape. The witness believed that Prison Officer Ivan Ross had also mentioned the same tape to him. If there was another tape in which McWilliams talked about shooting Billy Wright, Mr Lewis was not made aware of it. It was put to the witness that the Inquiry did have a tape of McWilliams speaking in a phone call from the PSU at HMP Maghaberry; that McWilliams did talk about killing Billy Wright; and that McWilliams did use the phrase **‘the Rat’**. But the tape the Inquiry had was recorded after the killing of Billy Wright. Markus Lewis answered, **‘I wouldn’t know anything about that, sir.’** Mr Lewis rejected the suggestion that his recollection was good as to the content of the tape but at fault as to the date when the call was made. Questioned by Counsel for the NIPS, Markus Lewis accepted that the tape that post-dated the incident might have been the tape he had listened to.

10.152 When asked further about the April 1996 assault Mr Lewis confirmed that about a week after 1 April 1996 McWilliams said to him, **‘What do you think? me screw knapper cruncher’**, signifying I am a prison officer head cruncher. Mr Lewis asked McWilliams to explain what he meant and McWilliams laughed and said, **‘You know what I mean.’** Mr Lewis understood McWilliams to be making a boast that he was responsible for fracturing the prison officer’s skull on 1 April 1996. According to his third affidavit Markus Lewis reported the comments immediately to a PO he presumed was in the Security Department.

- 10.153 When asked about his report to a Security PO of the conversation in December 1996 about smuggling in a gun in a shoe, Mr Lewis explained that putting security reports in writing was not encouraged in 1996. He said that McWilliams was **'a very, very violent, disassociated person'** who must have threatened to kill Mr Lewis himself a dozen times.
- 10.154 Markus Lewis said that he told Sophy Bryson that it was only a matter of time before McWilliams killed someone. At the first news of the shooting on 27 December 1997 Mr Lewis said that he realised immediately without being told that the victim was Billy Wright. He did not offer information to the police or the Coroner. He did remember Mrs Bryson coming up to him with a group of BoV members approximately a year later in front of his POA committee and saying, **'That's the gentleman, ladies and gentlemen, who told me that a certain individual was going to kill a prisoner.'**
- 10.155 Questioned by Counsel for Prison Officers Craig and Ross, Mr Lewis said that he first heard rumours about the existence of a taped telephone call several years after Billy Wright's death. He first asked about the tape in 2002 and an officer in the SIC confirmed its existence. The witness went to the SIC and asked an individual whom he declined to name if he would play the tape to him. Mr Lewis listened to the tape and within 20 seconds heard one specific comment that he wanted to hear. He heard McWilliams making the comment that he, the witness, stated in evidence that McWilliams had made. Markus Lewis did not know whether he had listened to the entirety of the conversation. He stopped listening after he had heard one particular comment, which was enough to tell him that the rumours that were circulating in the prison were undoubtedly true.
- 10.156 Mr Lewis said that he discussed the tape with Mr James Duffy and two other members of the POA Committee. He did not raise it with Mr Finlay Spratt. Counsel read to the witness parts of the transcript of a tape recording of a phone call made by McWilliams from HMP Maghaberry PSU after the murder of Billy Wright. It was put to the witness that neither Mr Craig nor Mr Ross would support the existence of a tape recording of McWilliams before the killing took place. Mr Lewis said, **'I wouldn't expect them to, sir.'**
- 10.157 Counsel for Mr McLaughlan clarified with Markus Lewis that the specific threat made by McWilliams in December 1996 was not towards the Christmas end of December. Counsel then referred the witness to his third affidavit in which he stated, **'I approached Sophy Bryson [about McWilliams] a couple of months before Billy Wright's trial.'** It was put to Mr Lewis that Billy Wright's trial commenced on 15 January 1997. It was also put to him that Duncan McLaughlan did not start as Governor of HMP Maghaberry until 6 January 1997. It was

put to the witness that he had made a fundamental mistake and he replied, **'I would accept, sir, that working over a 12-year period without access to my diaries, I quite obviously make mistakes on dates, which I would like to rectify before this Inquiry.'** Counsel referred the witness again to this third affidavit where he stated, **'I know that she [Sophy Bryson] had a meeting with Governor McLaughlan as a result of me speaking to her.'** It was put to Markus Lewis that Mrs Bryson could not recall the meeting. Mr Lewis said, **'I think that's very, very sad, very sad. I hold Mrs Bryson in very high regard.'**

10.158 Referring to the tape of McWilliams' phone call, Mr Lewis said that McWilliams had a strong accent and spoke quickly and the tape was not easy to follow; but with 28 years' experience **'you learn a lot of the dialectical expressions that people from different parts of Northern Ireland use, yes.'** Mr Lewis confirmed that on 18 February 2008 he had told an Inquiry investigator that he had discussed McWilliams' phone call with both Mr Craig and Mr Ross; and that, according to his understanding, it was Mr Craig who had originally monitored the call. The witness was referred to his affidavit where he stated that he had approached Mrs Bryson a couple of months before Billy Wright came into HMP Maghaberry and that McWilliams boasted how he would **'kill the Rat'** in December 1996. The witness was then asked how sure he was about the dates of these occurrences. He repeated that he wished he could have had access to his diaries. When asked for his best evidence about the dates he replied, **'I'm reluctant to say this, sir, but I used to make entries in my diaries. It's why I wanted them.'**

10.159 By a letter dated 15 October 2008 from his solicitors Markus Lewis provided a description of his locker and an account of its location and contents. The matter was investigated by the NIPS. The results of the investigation were set out in a letter dated 2 December 2008 from the Treasury Solicitors. A copy of the letter was forwarded to Mr Lewis's solicitors, and by a letter dated 17 December 2008 Mr Lewis's solicitors wrote to the Inquiry stating: **'Mr Lewis accepts that the locker and its contents will not be located.'** In consequence, it was said, Mr Lewis did not have documentation to bring before the Inquiry, with the possible exception of one letter which is not relevant to the hostage incident.

Sophy Bryson

10.160 Sophy Bryson was Chair of the HMP Maghaberry BoV in 1996–97. She had contact with McWilliams over a period and in the immediate aftermath of the hostage incident on 28 April 1997.

10.161 Mrs Bryson could not recollect having been approached by Markus Lewis at the end of 1996 or the beginning of 1997 with a report that McWilliams had made a threat to kill Billy Wright and a request for McWilliams to be put on Rule 32

segregation. Mrs Bryson thought that if Mr Lewis had relayed a specific threat, that would have come back to mind at the time of the hostage incident and again at the time of Billy Wright's murder.

10.162 Mrs Bryson said that prison staff rarely if ever approached her to complain that the Security Department had dealt inadequately with a security issue.

10.163 In her second Inquiry witness statement, in relation to Markus Lewis, Mrs Bryson said:

'He is a very voluble man. He had plenty to say about everything and perhaps had a tendency to exaggerate. I would say that what he told me was always essentially true but he would embellish it. I would not go to the Governors and say, "Mark Lewis said ..." because they would throw their hands up and say "him again." ... On the BOV you are in a strange position in that you receive a lot of information but have no power to do anything. I think I would have filed away in my head what he was telling me but I would also tone it down a bit because I felt he exaggerated. ... I would say that his motivation was genuine concern for the health, safety and well being of his staff.'

In oral evidence Mrs Bryson said that she knew Mr Lewis as a POA representative. From time to time she would take what he said with a pinch of salt but his motivation was quite genuine.

Prison Officer Ivan Craig

10.164 On 2 April 1998 Ivan Craig gave a signed statement to the police in which he stated:

'On Sunday 1 March 1998 at 7 am I commenced duty in the key room [HMP Maghaberry]. At around 7 am Prison Officer [X] phoned the key room and informed me that prisoner Christopher McWilliams ... was currently using the payphone in the Punishment and Segregation Unit. I went to the telephone system and monitored the call, as is the normal procedure for a prisoner using the payphone from that unit. On listening to some of the conversation I became concerned as to the content. After the conversation had ended I informed the security department that both of the video/audio cassettes were to be retained.'

Mr Craig also gave two Inquiry witness statements and he adopted the terms of his statements. Mr Craig identified a copy tape of the telephone conversation of 1 March 1998, namely tape 291/98 copied from the original tape 262/98, and the transcript of the tape, both of which had been recovered by the Inquiry.

- 10.165 Mr Craig had no knowledge of any phone call made by McWilliams from the PSU in the period 28 April to 1 May 1997. If McWilliams had made a call during that period, before the murder, containing a threat to **'kill the Rat'** the witness thought that it would have been fairly common knowledge within the prison. The witness was still working in a residential block at that time and he did not move to the Security Group until August 1997. Mr Craig definitely did not monitor any call during the three- or four-day period in 1997 when McWilliams was in the PSU awaiting transfer to HMP Maze. The witness was not part of the Security Group and at the time he was on leave.
- 10.166 Mr Craig did have knowledge of a call made after the murder. That was the one which had been transcribed. In that call McWilliams talked about killing the Rat – he talked about how he had carried out the killing. The witness monitored the call in real time. He reported the call to the SIC and the SIC recovered the tape. In due course the police took a copy. That is how Mr Craig came to give his police statement in 1998. He explained that the monitoring facility permitted phone calls to be listened to in real time and simultaneously recorded. Mr Craig denied playing the tape of 1 March 1998 or any other tape to Markus Lewis.
- 10.167 Excerpts from the copy tape 291/98 were played to Mr Craig during his evidence and he confirmed that these were parts of the tape of the call he monitored on 1 March 1998. The witness categorically denied having discussed the recording with Prison Officer Markus Lewis. There was a very slim chance that perhaps inadvertently or in passing he might have mentioned the phone call.
- 10.168 Mr Craig confirmed that prisoners were aware that their phone calls were being monitored. It would have been extraordinary in the witness's experience for a prisoner to make a call that gave advance notice of an intended attack.

Prison Officer Ivan Ross

- 10.169 Ivan Ross was a prison officer in HMP Maghaberry PSU from 1987 to 2000. He was personally familiar with McWilliams. McWilliams was in the PSU, HMP Maghaberry, on at least two occasions in the period 1997 to 1998. Mr Ross was promoted in 2000 and worked in HMP Maghaberry SIC for approximately three and a half years after 2000.
- 10.170 Mr Ross was not aware of the existence of a recording of any phone call made by McWilliams from the PSU at HMP Maghaberry. He was positive about that. He denied discussing one of McWilliams' phone calls or taped phone calls with Prison Officer Markus Lewis at all and he was positive that he had no knowledge of any phone call made by McWilliams when he came back to HMP Maghaberry after the murder of Billy Wright.

10.171 The witness said that if he did overhear a telephone conversation with dramatic content it would not have been talked about outside the confines of the PSU with anybody. He would certainly not have mentioned it to one of his colleagues in the canteen afterwards. That would have been very unprofessional.

Witness AH

10.172 In 1997 Witness AH was a Security Service Agent Handler. On 28 April 1997 a source reported that there was a hostage incident at HMP Maghaberry. The source reported:

'hostage situation at Maghaberry Prison ... two INLA members have taken a prison guard hostage and are holding him at gunpoint. The issue concerns the transfer of Billy WRIGHT and the LVF to H-6 Block at the Maze prison.

Text Ends

Background

7. After talking to RUC E3, I can confirm that there is some substance to the report. Billy WRIGHT has now been moved to H-6 block, which used to be where the INLA inmates were housed. Some of them have now been moved to HMP Maghaberry; it is therefore possible that this is the origin of the current standoff.

However, RUC also think it possible the hostage situation (involving Christopher McWILLIAMS and John KENNAWAY) is the result of further internecine arguments among the INLA inmates at Maghaberry.'

10.173 The following day, 29 April, Witness AH composed a 'Note for File':

'3. On 28 April, two INLA members in HMP Maghaberry took a prison guard hostage, holding him for four hours with a handgun which had been smuggled into the prison. [Source] ... reported that this was a result of the WRIGHT/LVF move to H-6, a fact which was again initially rubbished by [WITNESS FG]. He claimed that the hostage situation was the result of further internal INLA feuding in the prison.

4. After checking with the prison authorities, however, [WITNESS FG] phoned me back and in rather ungracious terms explained that, in fact, Billy WRIGHT and his LVF supporters were going to be moved into the former INLA block (H-6). The move had necessitated the removal of INLA prisoners from said block and their reallocation of cells elsewhere. According to [WITNESS FG], this reallocation had led to some INLA

prisoners being sent to Maghaberry, much to their annoyance. He was forced to concede that there might therefore be some truth in [X]’s claim that the hostage takeover was a result of WRIGHT’s move.’

The issue between Witness AH and Witness FG (RUC Special Branch (SB)), was one about the reliability of the source. Two months later, in June 1997, Witness AH culled a snippet from the republican Sinn Fein newspaper *Saoirse*:

‘MON. APRIL 28: Two guns were found in Maghaberry jail after INLA prisoners took a warder hostage in protest at a decision to move loyalist “King Rat” Billy Wright to the INLA block in Long Kesh [HMP Maze].’

Witness AH treated the *Saoirse* version as providing ‘collateral’ for the source’s reporting. Witness AH made a Note for File on 27 June in which he wrote: **‘At the time [X]’s reporting was discarded by the RUC; with hindsight they may wish to reassess their view of this episode and [X] ...’.**

The ‘protest’ interpretation had already entered the record. The April intelligence assessment for the Intelligence Review Committee, purporting to be **‘agreed between Security Service (Belfast), RUC Special Branch and HQNI’**, stated: **‘On 28 April 1997, two members of INLA in HMP Maghaberry took a prison officer hostage, reportedly in protest against Billy WRIGHT’s transfer to an INLA block in the Maze.’**

10.174 It should be noted that the exchange between Witnesses FG and AH, reflected in the notes written by AH on 29 April and 27 June, concerned primarily the reliability and dependability of AH’s source, and AH was in fact vindicated by events. But another aspect of the exchange needs to be noted: Witness FG was mistakenly under the impression that some or all of the INLA prisoners in H Block 6 were moved out in order to make room for the LVF, and he believed that this gave the INLA additional cause for complaint and ground for protest. In fact no INLA prisoners were moved out, since there was ample room in H6 for Billy Wright and his associates. It is not at all clear why Witness FG thought as he did, but this error does not in itself alter the fact that there was a strong protest element in the INLA’s anger at the move of the LVF to HMP Maze, which gave recognition to a new loyalist paramilitary faction, and potentially posed a threat to the INLA prisoners with whom the LVF were co-located in H6.

10.175 Witness AH’s File Note of 27 June contained another comment of interest to the Inquiry:

‘[X] also provided preemptive intelligence that the INLA in the prison were in possession of weapons, which they intended to use in relation to this protest.’

The witness was pressed as to the meaning of his comment. Counsel suggested that the comment signified that the Security Service was in possession of intelligence that McWilliams and Kenneway had guns in HMP Maghaberry before the hostage incident. Witness AH rejected that interpretation. He was clear that the reference to intelligence about weapons was a reference to the intelligence provided on 21 April 1997, namely that **'... the INLA prisoners [in H6] intended to kill Billy Wright at the first opportunity if he were to be transferred to H Block 6 at the Maze; a likely method of attack was the use of a hypodermic syringe filled with poison; INLA prisoners at the prison were in possession of such syringes and poison.'**

Post-event Intelligence

- 10.176 The police had information about the contact between Mr McLaughlan and the IRSP which does not conflict with Mr McLaughlan's diary entry.
- 10.177 Witness ZCU was an Agent Handler. He gave evidence in closed session. He referred to a report dated April 1997 about INLA threats with respect to Billy Wright. The intelligence was understood to refer to threats by INLA that action would be taken against the prison and prison officers if Billy Wright were transferred to HMP Maze H6. The intelligence was not understood to refer to threats to the person of Billy Wright.
- 10.178 Witness ZBQ was Regional Head of RUC SB, Belfast Region, in 1997. He also gave evidence in closed session. He read the source report in question as meaning that there was nothing more sinister than issuing a threat.
- 10.179 Witness ZCQ was Detective Chief Inspector, RUC SB HQ, Department E3A, in April–May 1997. Referring to the same source report, he said that it was a matter of interpretation whether the reporting was about a threat, or the threat of a threat, in respect of Billy Wright. Chris Albiston, Head of Intelligence, RUC SB HQ, in 1997, read the source report as meaning that the INLA did not have the means of carrying out any threats in respect of Billy Wright.
- 10.180 An IRSP press release carried in the *Irish News* on 29 April 1997 stated:

'INLA prisoners refused a request by Portadown loyalist Billy Wright for a meeting in the Maze jail yesterday, an IRSP spokesman claimed last night. The move follows the recovery of a miniature Walther semi-automatic pistol and an improvised 'zip' gun after a hostage drama in Maghaberry prison, a few miles away. The Maghaberry crisis ended peacefully when a male prison officer was released unharmed around 2.45 pm after being held for several hours by two armed long-term prisoners in the jail's Foyle House section. IRSP prisons spokesman Willie Gallagher, who led a delegation to visit INLA prisoners in the Maze

yesterday, said he was convinced the hostage incident was linked to the transfer of Mr Wright from Maghaberry to the Maze’s jail H-Block 6 which houses republican socialist prisoners. “The INLA prisoners said they had translated their feelings very clearly across the block to Billy Wright and Co and basically let Wright know that his safety was in jeopardy. He in turn requested a meeting with the INLA OC who refused the request.”

- 10.181 On 3 May Prisoner Officer David Kennedy used an SCS to report that on 2 May he had occasion to speak to a number of prisoners in Foyle House of HMP Maghaberry. One prisoner mentioned the hostage incident and said: **‘Crip McWilliams came over here to kill Kevin McAlorum.’**
- 10.182 On 5 May 1997 an officer in Erne House received information from a prisoner that a gun and drugs were to have been brought into the prison by Maghaberry Prisoner 6 (PIRA/High Risk) on his return from home leave. This was to happen on the orders of Prisoner A687 McWilliams (INLA/high risk). Maghaberry Prisoner 6 failed to bring in the gun. Maghaberry Prisoner 6 received a beating from McWilliams in the gym or the sports field for not doing what he was told. Other prisoners overheard McWilliams tell Maghaberry Prisoner 6 that he would **‘fucking well bring them in the next time’**. McWilliams told other prisoners that he had beaten Maghaberry Prisoner 6 because he had failed to bring back Ecstasy tablets from his home leave. Maghaberry Prisoner 6 replied, **‘That’s bollocks, I brought them back – it was something else.’** Maghaberry Prisoner 6 had another period of home leave and brought the gun and the Ecstasy tablets with him when he returned. The gun and drugs were passed to Maghaberry Prisoner 5. He held the weapons. On the morning of 28 April Maghaberry Prisoner 5 went to the gym, to go to the sports field for football. He passed the weapon(s) to McWilliams through the ablutions toilet window on Erne Landing 1 as he was going to the sports field. The original target for McWilliams was to have been Billy Wright. When Billy Wright was moved to HMP Maze, McWilliams was told from outside to target McAlorum instead if he wanted to gain acceptance with INLA prisoners in HMP Maze.
- 10.183 Additional information was received from the same prisoner source. The source said that Maghaberry Prisoner 6 brought in the gun and drugs on return from home leave. He handed both to Maghaberry Prisoner 4 who acted as quartermaster. Everything smuggled in was given to him for distribution. He held the weapon. On the morning of 28 April 1997 Maghaberry Prisoner 4 passed the gun to Maghaberry Prisoner 5. During the sports field move Maghaberry Prisoner 5 passed the weapon(s) via the ablutions window to Maghaberry Prisoner 3. The package was wrapped either in a blue towel or in a brown paper bag. Maghaberry Prisoner 3 then passed the weapon(s) to McWilliams.

- 10.184 On 8 May information was received from Maghaberry Prisoner 7 that the weapon used in the hostage incident had been brought into the prison by another prisoner during the summer party on the sports field and passed to Kenneway. He stated that the weapon was hidden in the workshops until needed.
- 10.185 On the same day Maghaberry Prisoner 8 (PIRA/medium risk) informed staff that he had been given a package wrapped in a blue towel by Maghaberry Prisoner 9. The package had been passed to him via the stairwell window of Erne House. He was told that the package contained drugs and was instructed to deliver it to a certain cell which he declined to specify. Maghaberry Prisoner 8 stated that the package was too heavy to contain drugs. When he delivered the package it fell open and he saw a handgun and what looked like the handle of a socket set.
- 10.186 Two days later, on 10 May, a prisoner source in Erne House claimed that the story related by Maghaberry Prisoner 8 was untrue and that Maghaberry Prisoner 8 was instructed to pass that version of events to staff in an attempt to 'take the heat off' McWilliams and Kenneway. Security staff also noted that it would be impossible to pass any item through the stairwell window of Erne Landing 1 as it was welded shut and the glass was intact. On the other hand Security also noted that the description of the 'handle of a socket set' was close to the appearance of the zip gun used by Kenneway. On that basis Maghaberry Prisoner 8 must have seen the weapon at some time prior to its use in order to feed the description to the source.
- 10.187 A SB report of May 1997 stated:

'with regard to the taking hostage of a prison officer at Maghaberry Prison on 28 April 1997 [X] the two persons involved, although not claimed as INLA members in order to fool the prison authorities, were in fact members and had used the non-alignment stance as part of the ploy to escape from the prison.'

A police intelligence document of May 1997 stated:

'... the recent incident in Maghaberry Prison involving two INLA men, was a planned "hit" on another prisoner, which went wrong. As a result, a prison warden was taken hostage. [It is believed] the INLA man had intended to shoot another prisoner for a reason which is unknown ...'

In May 1997 a SB report said that the .32 pistol which was recently recovered in HMP Maghaberry had been sent from a named INLA member some time previously. The intelligence indicated that it was likely that the weapon was taken into the prison during **'one of the recent delegation visits'**. Another SB report

contained similar information. Again in May 1997 SB received information that **‘the INLA prisoner involved in the kidnapping of the prison officer at Maghaberry Prison ... had a visit from [a named INLA member] on Sunday 27.4.97’**. Intelligence indicated that the named INLA member gave a false name and address, had no reason to visit McWilliams, was an INLA courier and might have smuggled a weapon to McWilliams.

10.188 The MIAR for April 1997, issued on 14 May 1997, already referred to at 10.133, included the following comment:

‘Prior to the incident McWILLIAMS had never been acceptable to the INLA in MAZE and KENNAWAY had left the INLA accommodation on more than one occasion. Shortly after the incident both were accepted by the INLA in MAZE. The speed with which this was done would indicate that the attempt to kill McALORUM was a pre-arranged price for their acceptability.’

Reports on the Hostage Incident

10.189 On 6 May 1997 Governor Duncan McLaughlan instructed three reports on the hostage incident, namely (1) a report into the hostage incident (including recommendations), (2) a report into the firearms used in the hostage incident and (3) a report into the follow-up search after the hostage incident.

10.190 Governor Ian Johnston prepared the first-mentioned report. His conclusions included the following analysis:

‘It is not clear that this was a straightforward hostage taking situation. I believe three main options exist -

(a) This was an attempt to create a major protest in Foyle House over the situation regarding the Loyalist Volunteer Force in HMP Maze. This scenario was given to Officer McCarthy during the initial stage of the incident.

This is a possible answer, but the smuggling and use of firearms is entirely unprecedented and unnecessary for a “protest”.

(b) An attempt to hold staff hostage to gain unknown demands e.g. escape?

This is possible although the only demands issued concerned meeting Governor McLaughlan, a priest and Prisoner McAlorum. No demands were made to effect an escape or gain any policy change in the establishment. To smuggle firearms in the prison required much

planning and preparation, such preparation did not exist during the incident. Within 1 hour 40 minutes the perpetrators were requesting the “End Game”.

(c) An attempt to kill Prisoner McAlorum as part of an ongoing INLA feud over the death of Gino Gallagher.

This is likely since McWilliams and Kenneway wished to be accepted by the INLA at HMP Maze, the killing or attempted killing may have provided them with sufficient kudos with that organisation.'

- 10.191 Governor Steve Davis prepared the firearms report. He assessed the information received within the prison as to how the firearms were brought in. He considered it significant that the incident took other prisoners by surprise. He wrote that this was shown by the ease with which the staff were able to get the prison locked down after the general alarm had sounded and by the smaller than expected number of incidents during the week-long follow-up search. Governor Davis organised the information received into four scenarios.
- 10.192 Scenario 1 was that McWilliams had arranged for Maghaberry Prisoner 6 to bring in a gun and drugs when next returning from home leave. It was said that Maghaberry Prisoner 6 was beaten by McWilliams for not doing so and told to bring them in next time. The source providing this information said that Maghaberry Prisoner 6 did return with the gun on 7 April. The gun was passed to Maghaberry Prisoner 5, who passed it to McWilliams through the ablutions window of the gymnasium, before going to the sports field. This source thought that the gun was brought in for McWilliams to kill Billy Wright in the PSU, but once Billy Wright was transferred to HMP Maze, McWilliams had been told to target McAlorum instead, to enable him to gain acceptance with the INLA prisoners in HMP Maze.
- 10.193 Scenario 2 was very similar to scenario 1 except that Maghaberry Prisoner 6, when he brought the gun and drugs back on 7 April, gave them to Maghaberry Prisoner 4, and on the morning of 28 April 1997 Maghaberry Prisoner 4 passed the gun to Maghaberry Prisoner 5. He then gave it to Maghaberry Prisoner 3 for onward transmission to McWilliams.
- 10.194 Scenario 3 was that the gun used in the hostage incident had been brought into the prison by Visitor 1 and passed to Kenneway and that this had happened during the last family day. The weapon had then been hidden in the prison workshops until needed.
- 10.195 Scenario 4 was that Maghaberry Prisoner 9 was involved and passed a package wrapped in a blue towel to another prisoner via the stairwell window in Erne 1. The instruction was that the package contained drugs but Maghaberry Prisoner 8

when handling the package became suspicious. He thought that the package was too heavy and when it fell open he saw a handgun and what looked like the handle of a socket set.

- 10.196 Governor Davis dismissed scenario 3 for a number of reasons, the principal one being that the source was notoriously unreliable. Mr Davis found difficulty in believing that the weapons would have been stored in the workshops, which were often closed. Governor Davis also dismissed scenario 4, partly because items could not be passed through the stairwell windows, which were welded shut, and partly because subsequent information was received to the effect that the entire story was untrue.
- 10.197 Governor Davis's preference was for an amalgamated version of scenarios 1 and 2. He mistakenly stated that the source for scenario 1 was a different prisoner from the source for scenario 2. In fact the source was the same and the reporting officer was the same. There was therefore no corroboration and it was possibly misleading or at least unnecessary to talk about two different scenarios. It is not clear that the error otherwise affects Mr Davis's conclusions.
- 10.198 According to Mr Davis, scenarios 1 and 2 indicated the presence of an INLA cell structure within the prison. He continued, **'This has further been borne out by the fact that all individuals directly suspected of being involved have subsequently gone to Maze Prison following this incident.'** That was true of McWilliams and Kenneway, obviously. They were transferred to the INLA wing, H6, on 1 May 1997. Maghaberry Prisoner 6 was transferred to the INLA wing, H6, on 7 May. Maghaberry Prisoner 3 was also transferred to HMP Maze on 7 May, but his destination was one of the PIRA blocks. Maghaberry Prisoner 4 and Maghaberry Prisoner 5 were not transferred. The Inquiry has confirmed that Maghaberry Prisoner 3 and Maghaberry Prisoner 6 were the subject of various reports implicating them in an INLA faction at HMP Maghaberry.
- 10.199 Governor Davis was able to find independent verification for a number of points. For example, Maghaberry Prisoner 5 did attend the gymnasium on 28 April 1997 and then went to play football, all as confirmed in evidence by PO Hopper; and the CCTV coverage within Erne House captured some of the movements of McWilliams and Kenneway, all of which were consistent with the amalgamated scenario. Mr Davis also reported:

'Checks of the fabric of the Gymnasium revealed that a ventilation grille in the weights room had been tampered with to the extent that an individual could secrete an item within the ventilation duct itself. Furthermore on checking all other grilles it was found that they were covered in dust whereas the grille under suspicion, although damaged,

was completely clean. Our suspicions that this was the hiding place for at least the semi-automatic pistol were further aroused by the fact that this grille is effectively obscured from the observation window in the Principal Officers office and the camera.'

10.200 Having examined the information about the weapons and considered the logical possibilities, Governor Davis concluded that the account of smuggling in a weapon appeared to relate to the semi-automatic pistol. The leading possibility as regards the zip gun was that it had been smuggled through the visits area on 27 April:

'Having reviewed the videotapes of the sentenced visits for Sunday 27.4.97 it can be seen that McWilliams received a visit from Visitor 2 who when checked later by the RUC had given a false name and address. During the visit McWilliams and his visitor became intimate with neither looking entirely comfortable. McWilliams' visitor had her legs draped around him and her trench coat covered both their legs and groin area. It is entirely probable that prohibited articles were transferred during this visit as McWilliams appeared uncomfortable towards the end of his visit. As a consequence of what was seen McWilliams was full body searched, however, nothing was found.'

Conclusions on the Evidence

10.201 The evidence available to the Inquiry does not support the view that there was advance information available to any of the agencies of the state about the hostage incident. In their submissions neither the Wright family nor any other party sought to rely on the evidence of Markus Lewis. The Inquiry accepts that, in voluntarily sending his affidavits and providing other information to the Inquiry, Mr Lewis was genuinely trying to assist. However, much of his testimony was contradicted by other evidence which the Inquiry accepts. For these reasons the Inquiry rejects the suggestion that the prison authorities knew before the hostage incident that McWilliams intended to use a smuggled firearm to kill Billy Wright or that immediately after the hostage incident, in a monitored phone call, McWilliams voiced his intention to kill Billy Wright. At one point Mr Lewis himself appeared to accept that he could have been mistaken about the phone call. Having heard the evidence of Prison Officer 2, which was unchallenged, the Inquiry rejects the imputation that Mr Lewis had knowledge, before the event, of the presence of firearms in the prison.

10.202 Only two of the hostage incident eyewitnesses thought that McWilliams and Kenneway declared an intention to kill Billy Wright. These two eyewitnesses were Witness CF and Prison Officer 8. Witness CF's police statement, given ten days after the event, on 8 May 1997 contains no mention of McWilliams' supposed

remark **‘I’m here to shoot Billy Wright.’** It took him ten to twelve months, he said, to decide that the remark had been made, by which time McWilliams had actually shot Billy Wright. That may, of course, have affected his perception. There was however no mention of that either in his signed Inquiry witness statement given on 18 January 2007. He said he must have overlooked the matter.

10.203 Prison Officer 8, one of the Pod officers, claimed to recollect that **‘McWilliams and Kenneway wanted Billy Wright to be brought into the Circle of Foyle House to shoot him’**. That was not something he had mentioned to the police and he could not explain why he had not mentioned it. Nor could Prison Officer 8 reconcile that supposed remark, which implied that the hostage-takers were unaware of Billy Wright’s transfer to HMP Maze, with the remark he did tell the police about, namely that the hostage-takers were **‘shouting about Billy Wright getting into the Maze’**. There is ample evidence that McWilliams wanted to have McAlorum brought to the circle. If a remark about shooting Billy Wright had been made, it might be thought surprising that only these two witnesses, who were not the best placed to take in what was being said, should have recollected it.

10.204 According to his evidence, Governor Duncan McLaughlan was told by his contacts on the evening of 28 April 1997 that Billy Wright was, or had originally been, McWilliams’ intended target; but Mr McLaughlan did not believe it. Indeed, he recorded his disbelief in his diary shortly after the event. Mr McLaughlan’s account apparently received subsequent endorsement from the IRSP. On 22 October 2008 someone posted the following blog on the Internet:

‘Yesterday I attended the Billy Wright Inquiry hearing [day 104] to listen to Duncan McLaughlin give evidence specifically about the meetings he had with the IRSP ... McLaughlin did telephone me during the “hostage” incident to enquire as to the status of Crip [McWilliams] in which he was given the standard answer that he was not an INLA prisoner. ... A meeting was set up the same evening in the Quakers in which two other senior members of the IRSP and I met with McLaughlin. McLaughlin opened the meeting with describing the events of the “hostage” incident revealing a crucial piece of information which I decided to exploit in an attempt to strengthen our argument that the INLA and LVF should not share the same Block.

He informed us that during the stand-off the Crip had requested the presence of Kevin McAlorum describing him as a comrade but he, McLaughlin, believed the Crip had intended killing him in revenge for murdering Gino. He further stated that Crip had tried to kill McAlorum

the previous August. Now crucially he also stated that wee John had made a throw away remark towards the ending of the “hostage” situation about Billy Wright. I exploited this piece of information stating that I was convinced this incident had nothing to do with McAlorum and that I believed the guns were brought in to kill Wright hoping that this would be more than enough to convince the establishment to concede to our position. This was another lie I made up there with a view of hardening up our argument. We, of course, assumed that all these meetings and phone calls were bugged. We then informed McLaughlin that Crip was indeed a member of the INLA and I once again lied to him that I didn’t know this until meeting our prisoners in the Blocks that day. The claim that Wright was the initial target was a lie as was Crip’s “official” status. McLaughlin appeared not to buy that version I gave him and yesterday still maintained that he believed McAlorum was the target, something Crip confirmed to me many times in recent years.’

The Inquiry can see no reason not to accept the view reached by Mr McLaughlan in April 1997 that the claim about Billy Wright being the target was not true. Though not in itself conclusive, the blog lends support to Mr McLaughlan’s assessment of events.

- 10.205 Certainly there was a single piece of primary intelligence within the prison system, reported by an unknown prisoner on 5 May 1997, claiming that the firearms were brought in for McWilliams to assassinate Billy Wright in the PSU. The gun was said to have been smuggled in weeks before the hostage incident and several days before the INLA prisoners in H6 learned of the plan to locate the LVF in ‘their’ block. If the 5 May intelligence was correct it would mean that INLA was proactively targeting Billy Wright in the prison before he was perceived as a specific threat or concern to the existing H6 inmates. The Inquiry has seen a substantial amount of intelligence dated April 1997 about an INLA threat to, or ‘in respect to’, Billy Wright; but, without exception, all of that intelligence post-dates the emergence of the transfer of Billy Wright as an issue for the IRSP/INLA.
- 10.206 Even allowing for a very high degree of unpredictability and opportunism on the part of the INLA, it seems implausible that a meaningful plot to shoot Billy Wright within HMP Maghaberry could have been worked up in the relatively short period after 15 April, when INLA/IRSP first learned about Billy Wright’s imminent transfer to H6. Billy Wright was not an accessible target. He was segregated in the PSU, and that was a matter of public knowledge.

- 10.207 To judge solely by the evidence about the effectiveness of the prison grapevine, it seems probable that McWilliams and Kenneway were aware by 28 April that Billy Wright had been transferred from the PSU to HMP Maze. The proposal to move him to H6 and the actual transfer, when it happened on 25 April, had been reported in the media. INLA's protests had also been reported. Seven of the eyewitnesses – witnesses McCarthy, Kennedy, McKimm, Witness CF, Gorman, Prison Officer 8 and Eagleson (in his police statement) – recollected remarks made by the hostage-takers, principally by McWilliams, which implied that the hostage-takers knew about the transfer. The incident log has two entries showing that McWilliams knew about the transfer. In addition, witness McCarthy recollected the hostage-takers talking about their protest or demonstration about mixing prisoners in HMP Maze; and witnesses Kennedy and McKimm respectively referred to a rehearsed statement and a pre-planned or rehearsed announcement made by McWilliams when he entered the lobby of Foyle House.
- 10.208 It may be more difficult to determine whether the protest, if it was about the co-location of Billy Wright and his supporters with INLA in H6, was the object of the exercise; whether the protest was a pretext to get access to Kevin McAlorum; or whether calling for McAlorum alone was an afterthought.
- 10.209 As Governor Johnston observed in his post-incident report, **'the smuggling and use of firearms is entirely unprecedented and unnecessary for a protest.'** He implied there had to be something else. He thought an attempt to kill McAlorum was the likely explanation. The Inquiry certainly finds no reason to take issue with the assessment that **'the most consistent demand made by the perpetrators was to see Kevin McAlorum'**. The demand to see McAlorum or for McAlorum to be brought down was referred to in evidence by eyewitnesses McCarthy, Kennedy, McKimm, Witness CF, Gorman, Prison Officer 8, Witness ZD and Steve Davis. Duncan McLaughlan heard about it at the time. It was recorded twice in Thomas McKimm's SCS and five times in the incident log. McAlorum was a Foyle House prisoner, a fact that the hostage-takers clearly knew.
- 10.210 The Panel consider it to be a telling detail that McWilliams asked then SO John Gorman to 'check the T-cards'. A check would have revealed whether or not McAlorum was in Foyle House at the time. The various references by the hostage-takers to McAlorum being a fellow volunteer, a friend or 'of like mind' were, in the opinion of the Inquiry, clearly intended to mislead. Weighing up the various possibilities the Inquiry concludes that the hostage-takers meant either to shoot Kevin McAlorum or, at least, to signal to the INLA leadership a willingness to take the risk of trying to get to close quarters with McAlorum equipped with firearms which were meant for shooting him. The 'protest' was therefore a cover, and part of the plan. When SO Gorman made it clear that the hostage-takers could not

have access to the volunteers on the landings, and that the volunteers were not going to be allowed to join the protest en masse, the hostage-takers changed tack and asked for McAlorum specifically.

10.211 According to Mr Gorman, as the alarms were switched off – which was between 10.32 am and 10.45 am on Governor Davis’s timings, towards the end of Governor McLaughlan’s involvement in the Command Room – Kenneway made a throwaway remark: **‘If Billy Wright can go to the Maze, then we can go with our volunteers.’** Assuming the blog can be believed on this point, Governor McLaughlan heard about Kenneway’s remark, or at least the gist, because he mentioned it at the Quaker House meeting that evening. No reason has been advanced for rejecting Mr Gorman’s evidence on this matter or his further evidence that McWilliams stopped Kenneway from saying any more and told PO Gorman, **‘Just you forget what he said.’** Governor Davis did not hear the Kenneway remark, but he did form the impression that he might be witnessing the birth of a republican equivalent of the LVF. He prompted the negotiator to ask McWilliams a question along the lines of **‘Is this because of Billy Wright going to the Maze?’** McWilliams answered **‘This has fuck-all to do with Billy Wright.’** If this evidence is accepted as well – and, again, no reason has been given for rejecting it – the Inquiry is left with a small body of testimony that is in conflict with the ‘protest’ scenario. It may be that McWilliams did not wish to reveal that his motivation, or part of it, was to get into ‘the blocks’ at HMP Maze himself.

10.212 According to Judge Cory:

‘The report [into the firearms used in the hostage incident] noted that a source had specifically stated that the firearms were brought in to HMP Maghaberry so that McWilliams could assassinate Billy Wright in the PSU (Prisoner Safety Unit) [sic]. According to the source, once Wright was transferred to the Maze, McWilliams was told by his organisation to target Prisoner B [Kevin McAlorum] instead, in an effort to gain the acceptance of the INLA Prisoners at the Maze.’

The Cory Report continued:

‘Thus it would appear that the enmity existing between INLA and the LVF was so intense and visceral that INLA members were prepared to arrange to have guns smuggled in to Maghaberry in an attempt to kill Billy Wright. From the reports, it is apparent that prison officials were aware that the hostage taking incident was initially part of a plot aimed at killing Billy Wright.’

In the latter passage Judge Cory suggests that more than one source reported that **‘the hostage taking incident was initially part of a plot aimed at killing Billy Wright’**. In fact only one source passed on such information. That was the information of 5 May 1997 referred to in the earlier passage and referred to by Security Governor Steve Davis as ‘Scenario 1’ in the firearms section of the post-incident report. The intelligence of 5 May was one piece of information among many, sometimes conflicting, that were available to Governor Davis.

10.213 The clear preponderance of evidence available to this Inquiry is to the effect that Billy Wright was not the intended target of the so-called hostage incident.

The Search of HMP Maghaberry

10.214 David Morrison was the Personnel Governor at HMP Maghaberry in 1997. He carried out Billy Wright’s committal interview on 8 March 1997, as described in 9.7. When asked what he remembered of the committal interview he replied:

‘It is one of those bizarre things. You remember lots of things and forget lots of things. In this particular case, I did not recall interviewing him, and yet clearly I did interview him.’

Mr Morrison insisted on supplying copious amounts of information to the Inquiry including information on matters judged by the Inquiry not to be relevant to its Terms of Reference. He refused to sign his Inquiry witness statement unless all of the information was included.

10.215 Mr Morrison gave evidence about the full search of HMP Maghaberry following the firearms incident. He was one of several witnesses who told the Inquiry that following an incident involving firearms it would have been standard practice to search the whole prison. The prison had been on lock-down since the beginning of the hostage incident and remained in that state. At about 5.00 pm on 28 April Mr Morrison and other middle-ranking and junior governors were sitting in a room next to Governor McLaughlan’s office waiting for instructions. Governor McLaughlan called the witness in and told him, according to the witness, something like:

‘I have been on the telephone to somebody and I am satisfied that there are no more guns in the prison. We are opening for evening association. Make it so.’

Mr Morrison could not conceive of such an order being given. He told the Governor, **‘You can’t do this’**, knowing at the same time that the Governor’s instruction would have to be obeyed. Mr Morrison continued:

'I went in next door to my colleagues. They were all sitting around waiting for the off. I remember saying to them, "You are not going to believe this, but I have just been ordered to unlock this jail tonight." There was a general gasp of belief [sic]. That's where I did the wrong thing. I went to the phone and started to phone the first house PO to say, "You are not going to believe this, we are going to unlock the place tonight."'

Mr Morrison explained that a junior colleague did the right thing. The junior colleague **'went next door to McLaughlan and whatever he said to him, when he came back, he said, "We are locked down and we are searching."'** When pressed about his recollection of the incident the witness said:

'This is frustrating, because I would like to assist the Inquiry but there are parts of the day which I cannot remember. There are only salient points which I recall. I don't like to hide behind this. It was ten years ago after all. If I could remember, I would have told you.'

10.216 In his Inquiry witness statement Duncan McLaughlan described David Morrison's account as **'absolute nonsense'**. He would not have spoken to the INLA about guns in the prisons because he would not have believed what they told him. In oral evidence Mr McLaughlan conceded that his preference would have been not to have a full search. A full search after the event was a waste of time. He had never known a full search to find anything. His preference would have been for a focused search by the small, specialised search team, taking into account the movements of McWilliams and Kenneway.

10.217 In the event, however, Governor McLaughlan ordered a full search to proceed. The whole prison, except Mourne House, was searched over several days following the hostage incident. During the search 17 prisoners in Bann House allied to the INLA faction wrecked their cells. A number of fires were started. Three members of staff were assaulted. One of the officers had his nose broken. Finds included home-made handicraft tools, three steel knives and four Stanley-knife blades. Tablets were found in a number of residential locations. In one cell in Foyle House 689 tablets of seven different prescription medicines were found. In the aftermath of the search there were several attempted suicides. One prisoner committed suicide by taking an overdose of prescribed drugs on 28 May. The full search resulted in over 100 adjudications.

The Investigation of the Hostage Incident

10.218 The Criminal Investigation Department investigation of the hostage taking started immediately. Items were seized for forensic examination on and from 28 April 1997. The interviewing of eyewitnesses began with Prison Officer Michael

McCarthy, the hostage, on 2 May. On 6 May police officers interviewed SO John Gorman, Prison Officer 8 and Prison Officer 12. On 7 May, David Kennedy and Thomas McKimm were seen. On 8 May, Witness CF gave a statement to the police. Governor Eagleson was interviewed on 17 June. The perpetrators were questioned on 30 June. An unsuccessful attempt was made to interview a prisoner eyewitness on 30 June. After an earlier unsuccessful attempt INLA Member 6 was interviewed on 24 September. The understanding at NIPS HQ in mid-October 1997 was that the police were about to pass the papers to the Director of Public Prosecutions for Northern Ireland. The Inquiry was not made aware of any action having been taken in relation to this before Billy Wright's murder in December 1997, though McWilliams and Kenneway were brought to trial on this matter immediately following their trial for Billy Wright's murder.

- 10.219 There were two strands to the internal NIPS investigation. Three meetings took place at which persons who were involved in the incident were given an opportunity to express their views. These meetings had different purposes. In addition, investigations into the incident and its aftermath were instructed by Governor McLaughlan.
- 10.220 The evidence about the meetings was confused. The best picture that the Inquiry has been able to put together is that immediately after the incident there was a 'hot debrief' for staff who had gone to or been taken to the prison hospital. The idea was to let them 'blow off steam.' A few days later Governor McLaughlan held a debrief in the Governors' Lounge, HMP Maghaberry, for the core hostage management team. This is the event described by Witness ZD as the Core Team Debrief and it took place on 16 May 1997. The whole hostage incident command team was present, including the headquarters element, about ten to fifteen persons. The Inquiry thinks it likely that this was the meeting chaired by Witness ZD, Silver Commander during the hostage incident and head of the PIU. Judging by Witness ZD's minute on the subject dated 13 June 1997, the purpose of the debrief was to review the management of the incident so that lessons could be learned for the handling of future emergencies of the same kind. This was confirmed in oral evidence by Mr McLaughlan. The debrief was an especially important event given that 28 April 1997 was the first occasion on which the Hostage Core Team Model adopted from the Scottish Prison Service had been deployed. The recommendations arising from the Core Team Debrief appear to have fed into the investigations initiated by Governor McLaughlan and eventually resulted in the re-drafting of the Contingency Plans for HMP Maghaberry. A modified version of the Command of Serious Incidents model was adopted.

- 10.221 A few weeks after the hostage incident an event was held at a hotel primarily for the benefit of staff who had taken sick leave as a result of the incident. The Inquiry learned from Governor Davis that there was no agenda for the meeting. Control Room and Foyle House staff attended as well as NIPS psychologists. Mr Davis described the event as a forum in which staff had an opportunity to share their experiences and describe how they felt, rather than an information-gathering exercise. Officer Roy McVeigh told the Inquiry that he was taken to the prison hospital after the hostage incident. He said that PO Walter Graham from HMP Maghaberry chaired the meeting.
- 10.222 David Eagleson attended the debrief in the prison hospital but not the meeting at the hotel. The meeting was about welfare, he said. He did not bring a prison disciplinary charge against the hostage-takers, as he might have done, being the senior officer in Foyle House. He did not submit a report or ask his staff to submit reports. On 12 May Mr Eagleson sent a five-page letter to Martin Mogg, Director of Operational Management, outlining the course of the hostage incident and detailing the contributions of individual officers that helped to bring the incident to a successful conclusion. The letter contained recommendations for commendations. Witness Gorman was not aware of any internal investigation. He had no recollection of attending any meeting. Officer Thomas Hopper did not attend any debrief meeting. On his own initiative he submitted an SCS about possibly suspicious actions that he had witnessed shortly before the hostage incident. In his signed Inquiry witness statement David Kennedy stated that the two officers in the Secure Pod had panicked during the hostage incident; and that, at the meeting which he attended, he had raised the issue of the Pod officers' failure to follow standard operating procedures (for the grilles and alarms). In oral evidence Mr Kennedy agreed that he had attended the meeting at a hotel. He could not remember the date. He was sure there was a full and open exchange of views at the meeting. Officer Thomas McKimm attended two prison service debriefs including one in a hotel. He did not recall on either occasion giving a statement to a governor investigating the incident. Officer Roy McVeigh called the event at the hotel a 'wash-up' meeting. He had never been asked to provide a statement by the NIPS or the police. Prison Officer 8 attended a meeting at a hotel but he could not recollect what it was about.
- 10.223 On 6 May, Governor Duncan McLaughlan instituted three internal inquiries into the hostage incident. He instructed Governor Ian Johnston to investigate and report on all aspects of the incident; he instructed a Governor to report on the full search of HMP Maghaberry between 29 April and 4 May; and he instructed Security Governor Steve Davis to investigate and report on how the firearms came into the prison. The terms of the instructions to Mr Davis included the following:

‘Your inquiry will examine all aspects attaching themselves to this incident. ... Because of the seriousness of the incident there are no restrictions to the scope of your inquiry.’

As he wrote this Mr McLaughlan must have been conscious that he intended to withhold from his Security Governor highly relevant intelligence about the incident.

- 10.224 Mr Davis did not interview the officers involved in the incident at Foyle House. He was told not to talk to officers who were to be interviewed by the police. He did not receive copies of the police statements. He did not interview the staff in question after they had been seen by the police. Many staff went off sick after the incident. He did not think it likely that the staff involved in Foyle House would have had pertinent information about the subject of his brief, namely how the firearms entered the prison.
- 10.225 In oral evidence Mr Davis at first said that he did not ask the police if they had information about how the firearms were smuggled into the prison. He would have expected the police to share information. He later said that he presumed he had discussed the matter with the police and taken account of what he had been told in his report to Duncan McLaughlan. He would have discussed his findings with the SB Prison Liaison Officer before submitting the report. Counsel for the Wright family referred Mr Davis to a police intelligence report dated May 1997 to the effect that the .32 pistol recovered in HMP Maghaberry had been sent from a named member of the INLA. The weapon was alleged to have been taken into the prison during a recent delegation visit because such people would not have been searched. This was the first time Mr Davis had seen this information. Had he seen it at the time of preparing his report he would have commented on it: the assertion about no searches of delegates was incorrect.
- 10.226 By letter dated 29 May 1997 the Desk Section, Operational Management Directorate, wrote to Governor McLaughlan noting that he had instructed three reports and asking to know when the reports were likely to be forwarded to NIPS HQ because senior staff wished to consider them as soon as possible. On 25 June Mr Mogg wrote to Duncan McLaughlan reminding him that two months had passed since the hostage incident and the follow-up search, requesting him to submit the follow-up reports with his recommendations urgently. A copy of Steve Davis’s firearms reports seems to have arrived at NIPS HQ in July. Under cover of letter dated 1 October 1997 Mr McLaughlan submitted the three reports to NIPS HQ with his response to the recommendations. He wrote that: **‘Following a major incident there is a natural inclination to overreact.’** He proposed rejection of a number of recommendations which he judged to be disproportionate. The Desk Section noted the arrival of the reports **‘... some 5½**

months after the incidents [hostage incident, recovery of firearms, full prison search], **with the Governor's comments'** and suggested that the Chief Executive might wish to know about the matter. The Desk Section considered the reports which **'only now'** had been supplied, and submitted its views on 16 October. By letter dated 2 December 1997, Mr McLaughlan was instructed to take forward the agreed recommendations and to advise on progress by 1 March 1998. Witness ZD did not see the reports commissioned by Duncan McLaughlan. He stated that he would not have expected to see them or wanted to see them.

- 10.227 In his expert report for the Inquiry Sir Richard Tilt expressed surprise, given the seriousness of the incident, that a hostage incident report had not been commissioned by the Chief Executive and that the process was not time-limited. He would have expected some emerging findings within two weeks and a final report within about six weeks. Sir Richard wrote: **'The reports do not appear to have been timebounded or be in anyway [sic] connected to decisions about McWilliams and Kenneway and their receipt in Headquarters in October 1997, 5 months after the event seems quite extraordinary.'** Sir Richard accepted in oral evidence that NIPS HQ appeared to have been chasing the report and to have been unhappy about the time it was taking to produce the report.
- 10.228 Sir Richard's premise was the entirely reasonable one that the production of the reports was or ought to have been linked to the question of the management of the hostage-takers. The Panel conclude that this was a further reason why McWilliams and Kenneway should not have been moved to HMP Maze as precipitately as they were (see Chapter 11).

11

The Transfer of McWilliams and Kenneway to HMP Maze

Introduction

11.1 On 1 May 1997 at 12.35 pm, the hostage-takers Christopher (Crip) McWilliams and John Kenneway were transferred from HMP Maghaberry Punishment and Segregation Unit (PSU) to the Irish National Liberation Army (INLA) wing in H6 HMP Maze. Sir Richard Tilt told the Inquiry that the decision to transfer McWilliams and Kenneway from HMP Maghaberry to the INLA wing in HMP Maze within three days of the hostage incident was **'undoubtedly the most mystifying'** of all the matters he had been asked to look at. He stated, **'No matter how many times I look at this decision from any and every angle I can find no rational basis for the transfer within three days, nor does anybody advance such a reason.'** This Chapter considers the circumstances of the decision and the reasoning of the decision makers, and assesses the decision in the light of the Inquiry's Terms of Reference.

Adjournment Debate

11.2 The official explanation for the speed of the transfer was given in Parliament six years after the event. On 19 June 2003 Peter Robinson MP (Democratic Unionist Party Belfast East) raised a number of questions about Billy Wright's death on an adjournment motion in the House of Commons. The Minister of State for Northern Ireland, Jane Kennedy MP, responded for the government. About the transfer of McWilliams and Kenneway she said:

'Following the hostage-taking incident at Maghaberry, preventing the prisoners and staff who had witnessed that incident from discussing it in any way was a priority, as there was a strong possibility of witnesses being called to any subsequent trial. Given the number of witnesses, the simplest way of achieving that was to remove the prisoners to the INLA wing at the Maze. Magilligan was an option not open to the prison service, as it was, and remains a medium to low-risk security prison.'

In giving the reason for the swiftness of the transfer, the Minister drew word-for-word from a briefing note prepared by the Northern Ireland Prison Service (NIPS).

- 11.3 Seamus McNeill was the official at NIPS Headquarters (HQ) responsible for prisoner allocations in April 1997. In evidence he said that he had not heard of the reason given by the Minister. Neither had Alan Shannon, the Chief Executive. Sir Richard Tilt found the reason given by the Minister unpersuasive. He pointed out that the staff in the PSU would not have been involved in the hostage incident and those who had could have been banned from entering the PSU.
- 11.4 The transfer documentation recovered by the Inquiry is dated 2 May, the day after the transfer. The transfer request pro forma that the Inquiry has recovered, in the name of McWilliams, is unsigned and undated. The written confirmation of the transfer request from NIPS HQ Operational Management Directorate to John Kenneway is dated 7 May. It states: **‘This note simply confirms that careful consideration was given to your request and I understand that you have been facilitated with a move to H M Prison Maze.’** The Inquiry has recovered 50 other transfer request forms dating from 1997. All are signed and dated. In oral evidence Duncan McLaughlan, Governor of HMP Maghaberry at the time of the transfer, explained that the transfer had been **‘a verbal thing’** between him and Martin Mogg, Director of Operational Management. The only paperwork was the official authorisation for the transfer. It was created afterwards to keep the record straight. Seamus McNeill described it as **‘just housekeeping’**.

Martin Mogg’s Decision

- 11.5 Alan Shannon’s evidence was that the decision maker was Martin Mogg; but his impression was that Mr Mogg had made the decision to transfer McWilliams and Kenneway to HMP Maze under pressure from Governor Duncan McLaughlan. Mr Shannon was surprised that the transfer was taking place so quickly. He therefore asked for the reasons. Mr Mogg’s firm advice was that the prisoners should be moved and Mr Shannon found the reasons given by Mr Mogg persuasive. He therefore did not interfere. The reasons as narrated in Mr Shannon’s first Inquiry witness statement were:

‘First, when prison security is compromised in this way it would be a normal prison response to transfer the perpetrator to a new environment to reduce the risk of reoccurrence. In this case in the immediate aftermath, there was no certainty as to how the gun or guns had been smuggled and, therefore, if the perpetrators had remained at HMP Maghaberry there would have been a clear risk that they would be able to do the same again. If, for example, a member of staff had colluded with the prisoners, then supervision by a different

group of staff would reduce the risk. If the zip gun had been made in the prison workshop, then transfer to HMP Maze (which had no workshops) would have eliminated this risk. Moreover, prisoners at HMP Maghaberry were able to mix, and this made it easier for items to be passed around, and secreted. The dynamics at HMP Maze were different. In a different environment, any attempt to compromise security would have had to start afresh.

Second, Operations Division believed that McWilliams and Kenneway had been trying to attack Kevin McAlorum, and so there was good reason to move them for McAlorum's protection. In HMP Maghaberry there was general prisoner association in workshops, education, sport, chapel and visits, and so it would have been difficult to have kept them apart at all times on normal location.

Third, they conformed to the type of prisoners who would normally be located in HMP Maze. The only reason that they had not been at HMP Maze at the time of the incident was that they were not acceptable to INLA. Following this incident I understand that it was established that they were now acceptable to INLA and could therefore be moved to HMP Maze. I was not, of course, involved in the process of establishing that they were acceptable, but this would have involved consultation with INLA prisoners at HMP Maze. Such consultation would have required the assistance of Governor Baxter or a member of his staff.

In addition, Governor McLaughlan was keen to have these prisoners transferred. It is important to bear in mind that during the hostage incident the perpetrators attempted to shoot prison officers.'

- 11.6 In oral evidence Alan Shannon stated that the NIPS could not be confident that other prisoners were not involved. There was concern about the development of an INLA faction in HMP Maghaberry. McWilliams appeared to exercise a degree of leadership even from within the PSU. Once it was acknowledged that McWilliams and Kenneway were never going to be put back on normal location at HMP Maghaberry, then it was a question of timing. If the Governor of HMP Maghaberry and the Director of Operational Management judged that **'the time was now rather than later'**, Mr Shannon would not have been disposed to interfere. The hostage-takers were just the kind of prisoners that HMP Maze was used for.
- 11.7 Prior to the move, the perpetrators had been kept in the PSU to facilitate the investigation of the hostage taking and to prevent any further attack or retaliation. According to Mr Shannon a check would have been made with the police and, had the police objected, the prisoners would not have been moved. Mr Shannon

stated in evidence that he had been told by Martin Mogg that the police had **'finished with'** McWilliams and Kenneway; that the police had **'taken their statements and say they no longer required them.'** As the police had finished with them, Alan Shannon said, he felt the balance of the argument lay in favour of a transfer to HMP Maze sooner rather than later.

- 11.8 Police officers were in attendance at HMP Maghaberry on the day of the hostage incident. The Inquiry has received no evidence that the police did actually question the hostage-takers on that day or on the three following days before the transfer to HMP Maze on 1 May. Most of the police witness statements given by prison officers were taken on 6–8 May. Eight weeks after the transfer, on 30 June 1997, McWilliams and Kenneway were taken from HMP Maze to Castlereagh Police Office for interview. They refused to answer questions. An unsuccessful attempt was made on the same date to interview INLA Member 6, who was alleged to have smuggled the zip gun into HMP Maghaberry through visits on 24 April 1997. INLA Member 6 was not detained and interviewed until 24 September. The detainee refused to answer questions and was released on 26 September. One of the prisoner eyewitnesses was interviewed in early October. That was effectively the conclusion of the police investigation, although the formal forensic report on the firearms was not signed off until 15 January 1998. On 1 October 1997 Governor McLaughlan submitted the three reports, (1) on the incident, (2) on the smuggling of the firearms and (3) on the follow-up search, to NIPS HQ along with his comments on the recommendations in the reports. The understanding in NIPS HQ as at 16 October was that the Royal Ulster Constabulary (RUC) would shortly submit their file to the Director of Public Prosecutions.
- 11.9 Mr McLaughlan did not claim that the police had finished with McWilliams and Kenneway. His position was that HMP Maze was only five miles down the road and the police would have had no difficulty interviewing the prisoners there if they wanted. That, it seems to the Inquiry, is to ignore the difficulties that would have arisen had McWilliams and Kenneway refused to come out of the INLA wing for interview. In oral evidence, the Senior Investigating Officer within the RUC Criminal Investigation Department, Noel Nicholl, expressed surprise that he had not been told at the time about the transfer of the perpetrators to HMP Maze. There is a contemporaneous record dating from May 1997 showing that Special Branch (SB) were aware that McWilliams was in HMP Maze, although they believed him to be in 'the secure unit'. Interestingly, on the day when McWilliams and Kenneway were taken for interview by the RUC, the search teams were in H6, presumably with back-up from the Immediate Reaction Force.
- 11.10 Mr Shannon also stated in oral evidence that he assumed Mr Mogg had discussed the matter with colleagues. When it was put to the witness that neither Seamus

McNeill nor Brian Barlow, Security Governor at HMP Maze, was involved in discussions about the transfer, Mr Shannon replied:

'I didn't realise at the time that he hadn't consulted his colleagues. I mean, Seamus McNeill was his Deputy and he normally consulted Seamus McNeill about all of these matters. Seamus chaired the Allocation Committee and was normally fully involved in all of these things. So at the time I thought he had consulted these people. It was only later I realised he hadn't.'

When asked whether he would have overruled the Director of Operational Management if he had realised that there had been no consultation, Mr Shannon replied: **'I think had I realised at the time, I would have said, "Let's just hold on. Perhaps we should have a meeting and let's get in Seamus and get in the Maze and let's talk this through", yes.'**

- 11.11 Seamus McNeill was in fact presented with the transfer as a *fait accompli*. He was surprised and angry and his first, **'ill-considered'** reaction, he said, was: **'get them in a van and get them back** [to Maghaberry]. Had he been asked to approve the transfer he would have raised two objections: first he would have wanted to know about the progress of the RUC investigation because it was more difficult for the RUC to interview prisoners held in HMP Maze; and second, transferring the perpetrators would have sent out the wrong signals – he would not have wanted to be seen to be rewarding hostage-takers and it would not have gone down well with staff. Later on he might have looked at the request more sympathetically, but for the time being he would have said, **'Let them sit in the PSU.'** He would not have considered the transfer until he had seen the full report into the hostage incident, even if it meant keeping the hostage-takers in the PSU for **'weeks, if not months'**. He could, however, understand why Governor McLaughlan wanted the prisoners out of HMP Maghaberry.

Duncan McLaughlan's Witness Statement

- 11.12 In his witness statement Mr McLaughlan said that he had been surprised to find out that McWilliams had been acceptable to the INLA. He had thought McWilliams unacceptable to all organisations. He had not been involved in checking the hostage-takers' acceptability to the INLA. He did not know how their acceptability had been established. Staff at HMP Maze would have found this out. No one had told him that McWilliams was acceptable – it was only the fact of McWilliams' move which showed that he was acceptable. Mr McLaughlan had a vague recollection of the INLA/Irish Republican Socialist Party (IRSP) saying they were surprised that the INLA at HMP Maze had taken McWilliams and Kenneway. That recollection meant that he must have spoken to someone in the INLA/IRSP.

But he could not remember the response. His understanding was that McWilliams and Kenneway had taken part in the hostage incident to buy their way back into the INLA's good books, but that was not information he had received at the time.

- 11.13 Duncan McLaughlan said that he had visited McWilliams and Kenneway in the PSU. They had not raised with him the issue of their transfer. He could not remember who had told him that McWilliams and Kenneway were to be transferred, or who had made the decision. He had spoken to Mr Mogg and told him that he did not want McWilliams and Kenneway at HMP Maghaberry. He could not remember Mr Mogg's reaction, or the terms of the discussion. They would have spoken shortly after the hostage incident and may have had three or four conversations. He recalled that there had been some disagreement with NIPS HQ about the transfer but he could not recollect what. He would not have expected Seamus McNeill to be involved as it was not a routine allocation matter and Mr McLaughlan had gone directly to Mr Mogg. He vaguely recalled telling Governor Johnston Baxter that McWilliams and Kenneway were going to be moved, but could not recall Mr Baxter's reaction. The prison Security Department and the Administration Department would have organised the transfer.
- 11.14 The witness statement confirmed that the normal procedure was for prisoners to remain in the PSU until completion of the police investigation. McWilliams and Kenneway were kept in the PSU on a disciplinary holding charge. They would not have stayed there for the duration of their sentences. They were a threat to the institution because they had used firearms and taken an officer hostage. Mr McLaughlan had expected McWilliams and Kenneway to stay at HMP Maghaberry as HMP Maze was no longer taking new prisoners, but he did not want them there as they were a threat to Kevin McAlorum and to the prison. His concern was prison safety. As Billy Wright had been moved, it seemed sensible that McWilliams and Kenneway should be moved for similar reasons. As far as he knew, McWilliams and Kenneway had not been transferred to HMP Maze in the knowledge that Billy Wright had been their original target. The speed of the transfer was neither surprising nor unsurprising given that this was such an unusual situation. He had no great expectation that McWilliams and Kenneway would be transferred to HMP Maze or, if they were transferred, that they would be put in any particular location.

Duncan McLaughlan's Oral Evidence

- 11.15 The Panel have no doubt that Governor McLaughlan knew about the co-location of the INLA and the Loyalist Volunteer Force (LVF) in H6 at HMP Maze. He had known some weeks previously of the intention to place Billy Wright in the same block as the INLA prisoners, as has been recorded in Chapter 9. The witness told

the Inquiry that the diary record of his meeting with the IRSP on 28 April 1997 was headed: **'INLA – meeting about the move of Billy Wright to the wing in the Maze also occupied by INLA.'** He knew at the time that the only place for McWilliams and Kenneway in HMP Maze was the INLA wing, where they were acceptable, opposite to the LVF faction.

- 11.16 In evidence Mr McLaughlan said that he had anticipated trouble between the factions in H6. He explained that he anticipated groups of prisoners fighting each other. That had been the experience up to 1994 when different factions had been co-located on opposite sides of the same block. Care had to be taken when prisoners from different factions moved through common areas otherwise there was liable to be a fracas. That was why the NIPS had moved away from the co-location arrangement. After 24 hour unlock had been introduced in 1994 opposing groups had not been housed in the same block. That had been the situation until the co-location of the LVF and INLA. Mr McLaughlan accepted that it would have been more dangerous to house opposing factions in the same block after 1994. He later told the Inquiry that had he been HMP Maze Governor at the time he would have attempted to put the LVF and INLA in separate blocks. To permit this he would have postponed the refurbishment programme, assuming there was not the possibility of rejigging the population in other ways. He would have done everything possible to avoid co-location.

Comment

- 11.17 In his diary entry for 28 April 1997 Mr McLaughlan wrote that logically the only choice was that Billy Wright should go to H6. That was what he also told the IRSP delegation. Clearly this contradicts his oral evidence but it is consistent with the way in which he urged that McWilliams and Kenneway should be transferred to H6 notwithstanding that he had been told at the IRSP meeting on 28 April 1997 that Billy Wright was their intended target. He claimed however that he had no separate recollection of this meeting apart from his diary entry.
- 11.18 The question of whom Mr McLaughlan told about his meeting with the IRSP on 28 April has been dealt with in the previous Chapter, in 10.131–10.132. In brief he was **'99% sure'** that he had told Martin Mogg and that he had probably not told Alan Shannon. On the whole evidence, the Inquiry is satisfied that Governor McLaughlan did not tell Alan Shannon.
- 11.19 It is important to weigh carefully the evidence and submissions for and against Mr McLaughlan's conviction that he reported back to Mr Mogg. Mr McLaughlan was unable to point to any supporting evidence for his assertion that he had done so. There was no supporting document, no witness evidence, and his own recollection was not completely certain. In addition, there was no entry about this in Mr

McLaughlan's own diary. When Billy Wright was killed, Mr McLaughlan had no recollection of thinking back to what he had been told on 28 April 1997. He made no entry in his diary. Further, he had a motive to suppress the information, namely that if the matter had been reported, it would have interfered with the imperative, as Governor McLaughlan saw it, of getting the hostage-takers out of 'his' prison; and his non-reporting could have been justified, at least to himself, because he personally did not believe that Billy Wright had ever been the target.

- 11.20 On the other hand, when these last suggestions were put to him, Mr McLaughlan rejected them: **'I wouldn't play games like that,'** he said. There is nothing in the diary about the transfer of McWilliams and Kenneway – but then there is a gap where nothing at all is recorded between 30 April and 31 May 1997. Likewise there are no entries at all in the diary for the period 24 October 1997 to 19 January 1998. The Inquiry cannot on the evidence conclude that deletions were made to the diary which could account for any gaps. Mr McLaughlan explained the failure to submit a written report by the fact that there was no political content that had to go to the Northern Ireland Office and that he was **'preserving my contacts outside'** and **'protecting my sources'**, by which the Inquiry understands not the need to protect the sources as such, since the IRSP delegates were not agents, but the perceived need, desire perhaps, on the part of Mr McLaughlan to preserve his connection with his sources.
- 11.21 One piece of evidence that assists Mr McLaughlan is the fact that, according to Mr Shannon, either the day after the hostage incident or the following day, Martin Mogg told Mr Shannon about 'speculation' that the guns at HMP Maghaberry had been smuggled in to kill Billy Wright. Mr Mogg dismissed this theory as not credible. That Martin Mogg had this information so quickly is plainly supportive of Duncan McLaughlan's version. The only other source of information within the prison system about Billy Wright being the target was the Security Information Report (SIR) received by Security Governor Steve Davis. That report did not emerge until a week after the hostage incident. The Inquiry also notes that when the SIR did emerge and when Mr Davis's report came to be circulated, there was no evidence of any reaction to the information that Billy Wright had been the intended target. In short, it would appear not to have been a revelation. For completeness, Sir Richard Tilt offered the opinion that Mr Mogg, who was Mr McLaughlan's immediate supervisor, would have been the right person to tell.

Conclusion

- 11.22 On all the evidence, the Panel conclude that it is most likely that Mr McLaughlan did report the meeting to Mr Mogg. The Panel is conscious of the fact that in this as in other matters it heard no evidence from the late Mr Mogg.

- 11.23 In closing submissions, Counsel for the NIPS conceded that the information passed to Mr McLaughlan about Billy Wright having been the target was not taken into account when the NIPS made subsequent operational decisions. Counsel described the omission as a **'failing'** on the part of the NIPS. He described the matter as **'a startling discovery ... that has emerged ... as a result of some quite dogged investigatory work by the Inquiry's investigators'**. Counsel conceded that while the individual responsibility for the omission was Mr McLaughlan's, the NIPS as an organisation was also responsible as Mr McLaughlan's employer.
- 11.24 Personnel from a number of prisons told the Inquiry that they would have wished to know about the information; and that matters would have been handled differently had the information been known. The evidence of Brian Barlow, Security Governor at HMP Maze, was very strong on this point. This is understandable. On the other hand the almost identical information was fed into the system apparently from another source by the HMP Maghaberry SIR dated 5 May 1997. The SIR reported:

'The original target for McWilliams was to have been Billy Wright. When Wright was moved to the Maze, McWilliams was told from "outside" to target McAlorum instead if he wanted to gain acceptance with INLA prisoners in the Maze.'

The SIR was entered on the SASHA computer system in the Security Information Centre (SIC) at HMP Maghaberry. Though plainly Ronald Wallace, who headed the Prison Information Unit (PIU) at the time, had no recollection of the information, there is no reason to think that the SIR was not available to the PIU staff on their next regular visit to HMP Maghaberry after 5 May. In any event the Inquiry learned from Mr McLaughlan that the information reached NIPS HQ sometime in August 1997 as part of Steve Davis's report into the firearms used in the hostage incident. This is corroborated by the Minute from the HMP Maghaberry Desk at NIPS HQ to Mr Wallace dated 14 October 1997: **'Prior to this we only had sight of the firearms report and I commented on it on 15.8.97.'** (The Inquiry has not recovered the comment.) Mr Davis's firearms report was re-submitted to NIPS HQ on 1 October 1997 as part of the composite bundle of three reports with comments by Governor McLaughlan. Both Security Governor Davis and Governing Governor Mogg must have carried with them to HMP Maze, when they took up their appointments there on 13 August and 1 October 1997 respectively, knowledge that there was intelligence to the effect that Billy Wright might have been the intended target. There is no evidence that that knowledge informed their operational decisions. If that was the case, the Panel conclude that this was a wrongful omission on the part of the NIPS, which indirectly facilitated the death of Billy Wright. This was negligent rather than intentional.

'Absolutely Appropriate'

- 11.25 Duncan McLaughlan was quite candid about wanting to have McWilliams and Kenneway transferred out of HMP Maghaberry as soon as possible. He considered that it was for Martin Mogg, Mr McLaughlan's line manager in whom he had confided, to inform the Governor of HMP Maze about the speculation that Billy Wright had been the target. When the prisoners were transferred, the duty of care transferred with them to the receiving Governor.
- 11.26 The transfer itself, in Mr McLaughlan's view, was **'absolutely appropriate'**. He emphasised that his principal task was to protect HMP Maghaberry, to preserve the **"normal" integrated prison'**. There were difficulties in manning the PSU given the number of prisoners in segregation. The PSU was not designed to deal with that number. A reasonable regime could barely be run for the number of prisoners there. McWilliams and Kenneway had demonstrated by their actions that they were paramilitaries – the HMP Maze type of prisoner, not the HMP Maghaberry type – and they had been accepted as such by the INLA wing. Mr McLaughlan denied that he had rewarded the hostage-takers by transferring them to HMP Maze, although he could see how that interpretation could be made. He had been defending HMP Maghaberry, which was his job.
- 11.27 In trying to reconstruct the context of the decision to transfer McWilliams and Kenneway, the Panel note that Billy Wright and the three other LVF prisoners had been transferred out of the PSU to HMP Maze on 25 April. There appear to have been four prisoners left in the PSU at the date of the hostage incident, 28 April 1997. The segregation of McWilliams and Kenneway brought the number up to six. Given that there were more than two dozen segregation cells, this number does not seem excessive. On the other hand, Mr McLaughlan's point was not about accommodation but about staffing, and no party saw fit to challenge this aspect of his evidence.
- 11.28 Duncan McLaughlan's position over the transfer of the hostage-takers was not necessarily an attractive one, but ought it to be censured? In his Expert Report for the Inquiry Sir Richard Tilt wrote:

'I have been asked about the actions of Governor McLaughlan in the aftermath of the incident. I would not regard it as unusual for the Governor to wish to get rid of troublemakers as soon as possible after an incident. Indeed, it is common for Governors to try to persuade Headquarters to agree to rapid moves. However, the Governor has no power to move such prisoners and, therefore, it required someone at Headquarters to agree to the move and inform others that such a move had been authorised.'

Bearing in mind that the authority to make the decision to effect the transfer of 1 May 1997 belonged with Director of Operational Management Martin Mogg – who was apparently an individual who was not unduly susceptible to pressure – and that the decision was in fact made by Mr Mogg and justified by him to the Chief Executive, the Inquiry does not find it appropriate to criticise Duncan McLaughlan in this connection.

- 11.29 If Duncan McLaughlan did not make the decision to transfer the hostage-takers, to what extent did he involve himself personally in ensuring that the transfer could take place? In his signed witness statement he said that when he visited the hostage-takers in the PSU – as it was his duty to do – the prisoners did not raise the issue of their transfer with him. He continued: **‘I was not involved in checking with the INLA whether McWilliams and Kenneway were acceptable at HMP Maze.’** This was contradicted by his diary, which recorded:

‘When McWilliams had been located in the Punishment Unit after the incident he told the Board members that he was acceptable to INLA. I asked Maze to check this with the INLA prisoners and it now seems that he is acceptable to INLA!’

In its context – after the transfer of the hostage-takers to the PSU at 2.44 pm and before the meeting with the IRSP delegation at 6.45 pm – this entry implies that Governor McLaughlan initiated enquiries through official channels and got an affirmative answer that afternoon, before he heard from the IRSP at the Quaker House (see 10.138) that the INLA prisoners in HMP Maze would accept the hostage-takers into H6. That is how Mr McLaughlan himself read his diary entry when giving oral evidence.

- 11.30 The Inquiry learned from Mr McLaughlan that staff at HMP Maze would have obtained the answer from the H6 prisoners. There is no record from HMP Maze showing that the enquiry from HMP Maghaberry was processed on 28 April. The H6 Principal Officer/Senior Officer Journal records, in an apparently contemporaneous entry, that the answer was sought by HMP Maze SIC from H6 not on 28 April but on 30 April, at or after 6.20 pm. McWilliams’ unsigned and undated transfer request form purports to record that **‘SIC, HMP Maze have checked and found prisoner is acceptable to the INLA faction.’** The authorisation pro forma for transfers **‘by arrangement between prisons’** shows that the transfer of McWilliams and Kenneway was formally approved by NIPS HQ Operational Management Directorate on 2 May. This date and the state of the paperwork generally seem to make it unlikely that the acceptability of the transferees to H6 had been formally declared to the prison authorities

earlier than 30 April. The terms in which the SB intelligence report recorded the matter suggest that the acceptability check was made following Mr McLaughlan's meeting with the IRSP delegation at the Quaker House, indeed sometime after 29 April.

- 11.31 The possibilities would seem to be either that Duncan McLaughlan made some sort of undocumented, personal, informal enquiry on 28 April or that his diary account telescoped events that happened over several days. Notwithstanding Duncan McLaughlan's evidence that his diary entries were made the same evening or the next morning, it must be a possibility that the entries, or some of them, were not composed until days after the events they record. The entry headed 'Wednesday 30 April' refers in the third sentence to something that happened on Friday 2 May.

Sir Richard Tilt's View

- 11.32 Sir Richard said in evidence that no competent prisons manager would have made the decision to transfer McWilliams and Kenneway within days of the hostage incident. He could not recollect a single occasion in England and Wales in which a prison officer had been taken hostage with smuggled firearms. The HMP Maghaberry incident had been extremely serious. Sir Richard would not have wanted McWilliams and Kenneway on normal location talking about it. He would have wanted to keep the perpetrators segregated for a long period while deciding what should be done with them. One would have wished to ensure that a safer position obtained before letting them out again.
- 11.33 Sir Richard had taken account, he said, of the reasons advanced by Alan Shannon for the speedy transfer but was not persuaded by them. The considerations on which they were founded were not sufficiently compelling to justify moving hostage-takers so quickly and together. The risk of repetition was much reduced, almost eliminated, if the perpetrators were segregated in the PSU. Segregated prisoners could not smuggle in guns or visit the workshop to manufacture them. The '**unknowns**' referred to by Alan Shannon argued for segregation and against transfer, not for it. While the hostage-takers were segregated, more information might have been received about how the guns had been smuggled in. It had not been reasonable to transfer the hostage-takers without the completion of enquiries and, therefore, without risk assessments. Sir Richard could find no rational basis for a transfer within three days. That was so even assuming the hostage incident had had no connection with Billy Wright. The transfer to H6 could not have been justified if it were known that Billy Wright might have been the target.

- 11.34 Sir Richard Tilt made it clear that, in arriving at his view as to the quality of the decision making, he had considered and taken into account the special features of the Northern Ireland situation: he was **'not convinced'** that the decision to transfer McWilliams and Kenneway within days of the hostage incident **'was driven necessarily by the special circumstances of Northern Ireland'**. He was **'not [himself] persuaded'** that the **'Northern Ireland environment and political situation ... was a major problem in terms of keeping these two segregated'**; and it did not seem to him that the issue was **'significantly affected by the Northern Ireland situation'**.

Conclusion

- 11.35 Sir Richard accepted from Counsel for the NIPS that there were other pertinent considerations which were not listed in his report. He agreed that it would not have been legitimate to keep McWilliams and Kenneway on segregation simply as a punishment. His final position was that he would have envisaged segregation for months or even longer; that the timing of the transfer was however a matter of judgement; and that keeping McWilliams and Kenneway on segregation for only three days was well short of any reasonable range of decisions.
- 11.36 The Panel agree with the view of Sir Richard Tilt that the speed with which Kenneway and Williams were transferred to HMP Maze was most extraordinary. The transfer was effected substantially before the police had completed their investigations and long before Security Governor Steve Davis had compiled his reports on the incident which, even in the annals of Northern Ireland prison experience, was exceptional. It was not at that point known how the firearms had been introduced into the prison. There is no evidence of any pressure, either from the two prisoners or from the INLA/IRSP, that McWilliams and Kenneway should be transferred so quickly to HMP Maze. There was no evidence of any consideration that the two prisoners should be separated and held for a period in separate locations. The decision to move them immediately to HMP Maze was made by Martin Mogg. In the opinion of the Panel it must be regarded as a wrongful act, which was eventually to facilitate the death of Billy Wright.

12

The August Riot and the Return of the Loyalist Volunteer Force to H Block 6

The Background

- 12.1 On 13 August 1997 the Loyalist Volunteer Force (LVF) prisoners in HMP Maze, H Block 6, C and D wings rioted and made their accommodation uninhabitable. The LVF prisoners were decanted to the then vacant block, H2, where they were held under Rule 32 conditions until 1 October. On that date they were returned to H6, C wing, where they continued to be held on Rule 32 until 6 October. On 27 November they were given access to H6, D wing. The Irish National Liberation Army (INLA) prisoners opposed the return of the LVF to H6. This Chapter describes the background to the riot, the riot itself and the return of the LVF to H6.
- 12.2 In the period from 28 April 1997 to the date of the riot on 13 August 1997, the number of LVF prisoners in H6 rose from 4 to 28. They eventually outnumbered the prisoners on the INLA side of H6, with the result that on 7 July 1997, the LVF prisoners were moved to C and D wings and the INLA prisoners were moved to A and B wings. The increase in the number of LVF prisoners led to a number of problems, which centred on the location of their separate visits area and its manning by prison staff. Initially, the LVF visits took place in the Ulster Volunteer Force (UVF) legal visits area. After violent objection by the UVF, however, the LVF visits were held in the prison hospital area. It was recognised by the prison authorities that this arrangement could not continue satisfactorily, not least because of efforts by the UVF to dislocate these visits. It was clear to the authorities that, consistent with their persistent requests, a separate, dedicated visits area should be provided for the LVF prisoners.
- 12.3 That, however, raised a problem in terms of resources and manning. From the start, the Prison Officers' Association (POA) Committee at HMP Maze voiced their concern. Even in April 1997 they were adamant that extra resources would be required and this continued into May 1997. Governor Johnston Baxter was informed on 9 May that the POA would renew their objection to manning a separate LVF visits area without additional resources. The issue became a live one

as soon as the separate LVF visits area was available for occupation on completion of the refurbishment works in the old visits block. Following Governor Baxter's declaration on 16 May about staff redeployments in order to man the LVF visits and to safeguard the security of the prison, the POA served a Failure to Agree notice. Governor Baxter's declaration was supported by Alan Shannon, the then Chief Executive of the Northern Ireland Prison Service (NIPS). The POA's Failure to Agree notice was renewed after the first three weeks, and their disagreement was still extant at the time of the LVF riot on 13 August.

- 12.4 Governor's requests from LVF prisoners in H6 in the second half of May 1997 increasingly raised the question of visits: when would the LVF visits area open, and would Saturday visits be allowed? On 28 May Billy Wright warned H Block 6 Governor David Smith that any decision to deny Saturday visits would be judicially reviewed. What the LVF wanted within HMP Maze was equality of treatment with all other prisoners. On 30 May, Governor Pat Maguire confirmed to the HMP Maze Governors' Committee that until the LVF visits area was open, no more LVF prisoners could be transferred to HMP Maze. In the meantime, prison visits took place unsatisfactorily in the prison hospital.
- 12.5 On 3 June 1997 the LVF prisoners in H6 A wing threatened a hunger strike if they were not given 'proper' visits. They also threatened to use 'people outside' to make sure that no visits at all took place within the prison. The hunger strike began on 4 June, on which date Billy Wright sent a petition to the Secretary of State for Northern Ireland (SOSNI) demanding that he be given equality with every other prisoner in the jail and that he receive the same benefits as them. Having talked to Billy Wright and Alex Kerr, a close associate of Billy Wright, Governor Smith set out their complaints on the petition pro forma. They included a reference to the better treatment of prisoners who had held staff hostage at HMP Maghaberry, whereas the LVF prisoners who had abided by the rules were still held in HMP Maghaberry despite repeated requests by them to transfer to HMP Maze. In addition, the LVF prisoners could not take Saturday visits. Ulster Defence Association (UDA) prisoners who had wrecked their accommodation still had privileges which were denied to the LVF prisoners, who had not taken part in similar action. There was also a failure to provide educational facilities. In short, the LVF prisoners wished to be treated on an equal footing with other prisoners in HMP Maze. The hunger strike ended in the early evening of 6 June after the prisoners were given assurances that the problems which caused the hunger strike could be resolved.
- 12.6 The sense of grievance felt by the LVF contingent in HMP Maze could not have been alleviated by the proscription of the LVF, which was promulgated on 4 June and approved by the House of Commons on 12 June. By 16 June a limited

compromise agreement was reached between the Governor and Billy Wright. The LVF agreed to a reduction in visits to 36 per week and Mr Baxter agreed to accept four more LVF prisoners from HMP Maghaberry.

- 12.7 Efforts to resolve the dispute with the POA continued throughout June 1997 and into July. By mid-July the LVF prisoners were aware that the issue of their visits was dependent for its resolution upon the settlement of an industrial dispute involving the POA. On 1 August Pat Maguire, who was acting Governor, obtained approval from Martin Mogg, Director of Operational Management, for 190 hours of additional emergency hours (AEH) to cover the expected staff shortfall on Saturday 2 August. On 4 August a governor visited H6 and spoke with Billy Wright about the latest situation on visiting facilities. On 5 August Martin Mogg visited the prison to discuss **'current topics & areas of concern i.e. LVF visits'**. According to the prison's monthly intelligence assessment report (MIAR) for July, which was issued by the Prisoner Information Unit (PIU) on 8 August 1997, the LVF patience in relation to visits was **'rapidly waning'**.
- 12.8 Mr Christopher McClean made the Board of Visitors (BoV) mid-monthly visit to H6 on 12 August 1997. He reported that Billy Wright and another prisoner, Gary Blair, felt that the NIPS was discriminating against the LVF prisoners on grounds of their religion and/or their political views. Feelings were running high amongst the LVF prisoners: Governor Smith had been told that he would not be permitted to enter H6 C wing. Specific complaints included no Saturday visits; visits taking place in the prison hospital in conditions which were cramped, unhealthy and unsafe; the LVF visitors were regularly being kept waiting for one and a half hours even when they had travelled a considerable distance to make their visits; the non-provision of computers for educational purposes when other factions had been granted that facility; and the non-provision of handicraft equipment and materials. Mr McClean also reported Billy Wright's feeling that any industrial dispute about manning levels should not be allowed to jeopardise the conditions of the LVF prisoners. The LVF prisoners merely wished to have equality of treatment.
- 12.9 Later on 12 August eight LVF prisoners and their visitors staged a sit-in in their visits area until 5.35 pm in protest at the way they were being treated in relation to visits and other matters. At 7.00 pm officers manning H6 C and D wings were told by prisoner Alex Kerr not to enter the wings to do headcounts until the LVF were treated on an equal footing with the rest of the prisoners in the jail. At 7.30 pm all 27 LVF prisoners passed between C and D wings to allow staff to count them. It was the eve of the riot.

The Loyalist Volunteer Force Riot

- 12.10 Prisoner Billy Wright was recorded in the Emergency Control Room Incident Report as requesting to see a senior governor in order to protest about conditions, stating that staff would then be allowed down the wings for fabric checks. At 8.55 am the H6 Principal Officer (PO) reported that C and D wing prisoners were threatening to burn the wings. At 9.05 am C and D wing prisoners were observed barricading the wing grilles with wooden cell furniture and mattresses. A message was passed to the wing that a governor would come and talk to the LVF prisoners if the barricades were removed. All prisoners were hooded and most were armed with bed-ends or other weapons. The wing cameras were covered by the prisoners. The prisoners could be heard causing systematic damage inside the wings. At 9.34 am Senior Officer (SO) Marina Graham (formerly Beggs) overheard the C and D wing prisoners saying that they would burn the barricades and the wing, go onto the roof and take the INLA side of the block. The Immediate Reaction Force (IRF) was deployed to H6. The prisoners broke through the catwalk fence adjacent to the sentry box at C wing. At 9.32 am the prison went into Command Mode. At 9.35 am the prisoners were observed trying to get onto the block roof. At 9.43 am the IRF went onto the roof. Three prisoners were observed on the roof. The prisoners withdrew before physical contact took place. Within five minutes the IRF had cleared the roof of prisoners. The 16 INLA prisoners, some under protest, were evacuated to the gym. At 10.03 am LVF prisoners were observed breaking into the D wing catwalk. At 10.05 am fires were started throughout C and D wings, in the exercise yards, at yard sentry boxes and at gates.
- 12.11 At 10.20 am the LVF prisoners set fire to the barricade at the C and D wing grilles. The circle filled with smoke from the burning barricades. The barricades were hosed from the circle. There was a power cut because of fire and water damage to the electric wiring. As a result the lights went out and electric locks jammed shut. The block staff were trapped in the smoke-filled circle area. Staff began evacuating the block at 10.34 am. Trades staff dismantled locks to allow evacuation of staff and remaining INLA prisoners. Evacuation was complete at 10.59 am. Thirty-one staff were given oxygen. Several prison officers and one PO went off duty as a result of smoke inhalation. Fire crews in the circle were pelted with missiles. At 11.07 am Governor Maguire declared an Emergency. Shortly after 11.00 am all fires in the block were reported extinguished and all LVF prisoners were observed in the yards. At 12.01 pm some prisoners returned to the block and forced fire crews to withdraw. Staff were drawn from other prisons and a substantial control and restraint contingent was assembled and equipped to re-take the block. At 2.04 pm Billy Wright informed staff that there were five pounds of gelignite in the block primed to go off in one hour. Ammunition Technical Officers were instructed.

- 12.12 At 2.27 pm another major fire was observed in the block. All prisoners were reported to be in the yards. The prisoners declined a surrender offer at 3.31 pm. The prisoners retreated into the block and barricaded the two yard turnstiles. At 3.35 pm the yards were clear of prisoners. By 4.50 pm the IRF had cleared D wing. D wing was found to be totally wrecked. At 5.15 pm the prisoners retreated to C wing offering heavy resistance. At 6.31 pm all prisoners were reported to be in C wing dining hall. At 6.45 pm IRF snatch squads were ordered to make rapid entry using all entrances. At 7.12 pm Trades Governor Witness ZD reported unprecedented damage to H6 C wing.
- 12.13 At 8.30 pm an LVF threat warning was notified by the Royal Ulster Constabulary (RUC). Shooting attacks on prison officers and their families might be expected. Staff living in Lurgan, Portadown and Craigavon were informed by telephone. At 8.32 pm IRF intervention teams entered the classroom and dining room. At 9.05 pm intervention teams had taken the classroom and prisoners had retreated to the dining room. Prisoners were gradually subdued and removed. By 10.20 pm all LVF prisoners had been removed to H2. The INLA prisoners were returned to H6 A wing at 10.40 pm.
- 12.14 Although the prisoners claimed that the riot was spontaneous, HMP Maze Security Governor Steve Davis deduced that the LVF had planned for the riot **'at a time of their choosing'**, meaning to take on the prison system and **'flex their muscles'**. In his post-incident report Governor Davis drew attention to the sustained and highly organised nature of the violence to which the intervention staff were subjected. Even though the prisoners knew that their actions were ultimately futile, they still persisted in trying to cause as much physical injury to staff as possible.

Reaction to the Loyalist Volunteer Force Riot

- 12.15 As the riot was proceeding Martin Mogg sent a written report to the Minister in which he explained that the action was believed to be associated with a demand for better education and recreational facilities and treatment equal to that of other prison groups.
- 12.16 The monthly BoV meeting took place elsewhere in the prison as the riot was underway in H6. Governor William McKee reported to the meeting that the LVF had continued to complain about the real and perceived differences in regime measured against what the other factions were receiving, in particular in relation to visits.
- 12.17 The Irish Republican Socialist Party (IRSP) prisoners' spokesperson, Willie Gallagher, issued a statement about the LVF riot in which he maintained that the riot was not about conditions as the LVF stated, but was a direct attempt by the LVF prisoners

to take control of the entire H Block 6. He called for immediate segregation of the INLA and the LVF prisoners. The latter should be moved as a matter of urgency to other H blocks housing loyalists. Any internal difficulties were a matter for them to resolve.

- 12.18 While it is true that the riot had a considerable physical effect upon the INLA wings of H6 and no doubt upon some of the prisoners there, in the Inquiry's judgement there is no evidence to indicate that the object of the riot was to act violently towards the INLA contingent in H6. Rather, the object was to make a violent protest, however regrettable, against what the LVF prisoners considered to be an inequality of treatment by the prison authorities compared to other political factions in HMP Maze. Willie Gallagher's intervention at this point can, therefore, only be regarded as opportunistic.
- 12.19 The LVF outside the prison also issued a statement. They threatened action against the British and Irish Governments if there was further harassment of LVF prisoners or if any punishment was issued to those involved in the protest. The LVF also took direct action, and there were violent incidents in the Northern Ireland community at large which were attributed by the RUC to the LVF support for events within H6 on 13 August.
- 12.20 At 1.45 pm on 13 August, even before the riot had been brought under control, UVF prisoners in H1 started complaining about H2 being used to re-locate the LVF. At 8.45 pm on 13 August, Martin Mogg reported that the UVF had been assured that the move of the LVF to H2 was only temporary. The UVF contingent had been promised a move from H3 to H2 after it had been refurbished, which had been programmed for September. Six weeks later the LVF were still in occupation of H2 but it was explained to the UVF leadership that the move would take place in October. The UVF prisoners were amenable to this.
- 12.21 Governor McKee had also been tasked with telling the LVF of three decisions by HMP Maze management and NIPS Headquarters (HQ). He reported to Governor Maguire as follows:

'While talking to Wright I took the opportunity to inform him of the following:

- (1) The children's parties for LVF inmates would not now be taking place, to which he replied "So you are punishing our children now as well!".**
- (2) Any prisoner who lost remission would have their parole eligibility date put back by the amount of days lost.**

(3) There would be no consideration of the resumption of transfers from Maghaberry until the LVF were returned to normal conditions.'

From Billy Wright's reaction, Mr McKee understood that the targeting and attacking of prison staff would resume.

- 12.22 On 20 August 1997 a mob of up to 30 men who claimed to be members of the UVF wrecked the Golden Hind public house in Portadown, which was allegedly a meeting place for members of the LVF. The extensive publicity that Pastor Kenneth McClinton had achieved for himself locally and the LVF cause brought an unwelcome response: on 26 August 1997 there was a shooting attack on the McClinton home in Belfast. The army reported that the attempt was likely to have been in retaliation for McClinton's role as **'mediator during the LVF/UVF feud in the Maze during mid Aug'**. The report continued: **'The circumstances of the incident indicate that this was a strong warning from the UVF and may not have been a serious attempt at murdering him.'** The next day Billy Hutchinson, spokesman for the Progressive Unionist Party (PUP), told the BBC Radio Ulster programme *Talkback* that the UVF could **'wipe out'** the LVF in a week. Whether because of the UVF aggression or otherwise, LVF attacks on prison officers abated. Alan Shannon seems to have made it clear to David Ervine of the PUP, who represented the interests of UVF prisoners, that **'the Prison Service is continuing to refurbish this block, including installing electricity in cells, with the intention of making it available to UVF prisoners in hopefully a few weeks' time'**.
- 12.23 Pat Maguire, acting Governor, recorded in the Governor's journal on 14 August that an interim regime had been set up for the LVF prisoners in H2 C and D wings. Mr Maguire suspended the Prison Rules insofar as they were applicable to the LVF prisoners for the duration of the emergency. He met with Mr Mogg and toured H6 C and D wings. Attention was thereafter given to providing AEH for staff not only to repair damage to the INLA accommodation in H6 but also to resource the LVF visits. Discussions with the POA followed. They urged that the manning of the visits should not be at the expense of the rest of the prison and that the use of AEH for the visits should not affect the minimum staffing levels for the rest of the prison. Martin Mogg found merit in these observations, and as a result the transfer of eight LVF recruits to HMP Maze was cancelled.

Ajudications and Rule 32

- 12.24 The LVF prisoners in H2 were at first held under Rule 32 conditions on the Governor's authority. H2 was staffed for the duration of the LVF occupation by members of the IRF. On Friday 15 August 1997 NIPS HQ issued 28 day Rule 32 notices on behalf of the SOSNI to all LVF prisoners **'for the maintenance of**

good order and discipline'. The regime initially imposed was one of solitary confinement with no visits, but it was relaxed by fresh 28 day Rule 32 notices served on 18 August to allow exercise for one hour a day in groups of four and visits from 20 August. The faction was allowed four morning and three afternoon visits. The visits took place in the dedicated LVF visits area. Saturday visits commenced on 23 August 1997.

- 12.25 Also on Friday 15 August, all LVF prisoners were charged with breaching Prison Rule 38, which provided, **'A prisoner shall be guilty of an offence against prison discipline, if he – (1) mutinies or commits any act of collective indiscipline.'** The specifics of each charge were that the prisoner in question **'acting in concert with others did damage the fabric of H6 Block by fires and acts of wanton destruction to an estimated value in excess of £250,000 and did resist attempts by Prison Staff to restore order by use of physical force and barricades'**. The adjudications began on Monday 18 August 1997. Block Governor David Smith was given the task of conducting the adjudications. All 28 prisoners were found guilty, although one prisoner had his adjudication overturned on judicial review. The maximum penalty in each case was imposed, namely 28 days' loss of remission and 90 days' loss of evening association deemed to commence on 18 August 1997. The prisoners offered no defence on the instructions of Billy Wright. Governor Smith accepted that the riot had been mainly to do with visits.
- 12.26 On 9 September 1997 HMP Maze Security Information Centre (SIC) received a report from a staff source that Billy Wright expected Rule 32 to be removed once the **'28 Days punishment was up'**. He stated that the failure to remove the restrictions would be viewed as victimisation. When told that he was possibly being optimistic, his attitude hardened and he stated that the matter would be **'taken outside'**. Security Governor Steve Davis assessed that Billy Wright felt the need to re-establish his credentials following his perceived loss of face. The hardening of attitudes followed a report from a member of the medical staff that the LVF prisoners had threatened to **'cut his throat'** once they got **'out from behind the cell doors'**. The then-current Rule 32 notices were due to expire on 15 September.
- 12.27 On 10 September 1997 PO Witness ZN expressed concerns about the IRF manning levels for Saturday 13 September. The matter was taken up with acting Governor Maguire by Security Governor Steve Davis. Mr Davis explained that the IRF detail would be nine men short of its Target Staffing Level and below its Minimum Staffing Level (MSL) during significant periods of the day. The problem was exacerbated by the IRF commitment to H2 and by the need to pay an officer who was off that day playing in the NIPS Pipe Band. He forecast that failure to

guarantee that Rule 32 would be lifted for the LVF prisoners would result in a significant increase in tension over the weekend. Governor Davis requested AEH to bring the IRF up to MSL on Saturday 13 September.

- 12.28 On 17 September 1997 Billy Wright submitted a petition protesting against the allegedly unequal treatment of the LVF faction and questioned why a further period of 'punishment' had been imposed by the Rule 32 extension on top of the original Rule 32 notices, loss of 28 days' remission and 90 days' loss of association. The petition highlighted comparisons with the treatment of the Provisional Irish Republican Army (PIRA) prisoners in H7 following their mass escape attempt, the treatment of the UDA prisoners after their riot, the treatment of the UVF prisoners after their riot and the absence of punishment for INLA prisoners following **'possession of firearms, kidnapping of prison staff, attempted murder of prison staff and conspiracy to murder other prisoners'**. The petition questioned whether there was a political motive.

Concerns of the Board of Visitors

- 12.29 On 10 September a meeting took place at HMP Maze to discuss the BoV's annual report. A BoV is appointed for each prison establishment in Northern Ireland by the SOSNI under the Prisons Act (Northern Ireland) 1953. The BoV is required to:
- visit the prison regularly and report to the SOSNI on the conditions of imprisonment and the treatment of prisoners;
 - consider requests and complaints made by prisoners to the BoV; and
 - report matters of concern to the Governor or, in serious cases, the SOSNI.

The NIPS regarded the BoV as an essential and extremely important safeguard for prisoners in the system.

- 12.30 On the previous day, 9 September, BoV member Jimmy McClean had spoken with Billy Wright in H2. According to Mr McClean's report to the BoV, Billy Wright complained bitterly that the LVF prisoners had been treated more harshly than PIRA, UVF and UDA/Ulster Freedom Fighters prisoners following the respective acts of collective indiscipline by those factions. Billy Wright felt that the Northern Ireland Office (NIO) was deliberately discriminating against the LVF prisoners because of their political beliefs. He had received information that he was being accused of orchestrating a terrorist campaign from his prison cell. Billy Wright reportedly envisaged a dangerous situation developing outside the prison and he was not prepared to allow himself to be held responsible for any action taken. He told Mr McClean that he proposed therefore to seek transfer to a prison in Great Britain. Billy Wright stressed to Mr McClean that the LVF prisoners **'merely wished to have equality of treatment'**.

- 12.31 Mr McClean's report on the situation in H2 was submitted for the HMP Maze BoV meeting on 10 September 1997. At the same meeting the Board's Annual Report for 1996–97 was tabled and the NIPS Chief Executive, Alan Shannon, was in attendance. Board members took the opportunity to raise several questions with Mr Shannon about H6, the INLA and the LVF. BoV member Mrs Mary Gilpin, who had just visited the INLA prisoners in H6, reported that the INLA were afraid to share with the LVF and asked why Billy Wright had been transferred to HMP Maze. Mr Howard Crowe asked why the LVF were integrated with the INLA. Mr McClean, Mrs Mary Gilpin and another BoV member enquired why follow-up action after disturbances was inconsistent, it being noted that Billy Wright was of the opinion that his faction was being treated more harshly than others. There seems to have been a wry reaction to the suggestion that the INLA might be afraid. Mr Crowe had spoken to a senior INLA prisoner who stated that the INLA had no fear of sharing with the LVF. The matter was perceived to some extent as a prestige issue for the INLA: the PIRA would never have accepted being put in a block with the LVF. Alan Shannon's explanation for the original co-location decision, as recorded in the BoV minutes, was that **'as from the 1.4.97 the Maze was to drop 40 posts, if the LVF were "housed" in H6 no extra staff would be needed'**. As regards future plans, Mr Shannon was recorded as stating: **'there is nowhere else to place LVF prisoners except back into H6.'**
- 12.32 Turning to perceived inconsistencies in the treatment of collective disciplinary offences, Mr Shannon explained that every situation was different and each situation had to be carefully evaluated. There was police involvement in the case of the PIRA tunnel but not in the case of the loyalist riots at the end of April. It was the Governor's decision whether the police should be brought in. In 1992 a case had been taken to court which resulted in information that constituted a threat to the security of the prison being released. Prisoners could not be adjudicated on until the police investigation was complete. Computers were confiscated after the discovery of the PIRA tunnel for investigation by the police. Information of a sensitive nature had been found and there was a high level of encryption. Computers were not confiscated from the loyalists who rioted at the end of April because no information of a sensitive nature was found on their computers.

Submissions

- 12.33 Counsel for the Wright family submitted that the BoV was entirely right to raise the concerns which had been expressed to them about the danger of co-location, and the unwisdom of contemplating re-location of the LVF in H6 after the riot. Counsel pointed out the irony of the fact that a slavish attachment on the part of the NIPS and HMP Maze management to the rolling refurbishment programme, making it a priority greater than finding alternative accommodation for the two

factions, had led to many thousands of pounds worth of damage to H6, not to mention injuries to a significant number of prison staff. Counsel pointed to the inadequacies of what had passed for risk assessment and the failure of the NIPS to repair that omission before bringing the LVF contingent back, despite warnings and expressions of concern from the widest imaginable spectrum of stakeholders, including even the PIRA.

- 12.34 Counsel for the NIPS submitted in relation to the BoV evidence that it was only to be expected that prisoners would make every effort to use the BoV (and the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO): see the next section) as mouthpieces for their grievances, and to pass on threatening messages for prison management. Counsel for the NIPS noted that the BoV's concerns did not reappear in the minutes of their meetings in November and December; the BoV was not particularly critical of the NIPS after the murder; and their annual report for 1997–98 (in many ways an *annus horribilis* for HMP Maze) even spoke warmly of the NIPS's enviable and unique record in coping with its very difficult task.

Concerns of the Northern Ireland Association for the Care and Resettlement of Offenders

- 12.35 The concerns of the NIACRO about co-location of the two factions were first raised at a meeting they had with Adam Ingram, the Prisons Minister, in July 1997. The NIACRO is an independent voluntary organisation dealing with the rehabilitation of offenders. Alan Shannon explained that the NIACRO had a dual role. It provided for the care and resettlement of offenders after release, to which end it was funded by the NIO with regular contact with the NIPS. In his experience it also saw itself as an advocacy organisation able to challenge or criticise the government, so it was not unusual for the NIACRO to express prisoners' views to the NIPS. Mr Shannon explained that if prisoners were concerned about an issue and wanted to put pressure on the NIPS they would have used channels such as the NIACRO, the BoV and the International Committee of the Red Cross (ICRC).
- 12.36 The Inquiry has not seen any formal minutes of the meeting but has had sight of a sketchy manuscript note of what was discussed. Brian Gormally, Assistant Director of the NIACRO, who was present, did not have a strong recollection of the meeting. He explained that the NIACRO's concern was a general concern about holding different paramilitary factions in close proximity. He did not have any specific recollection of discussing co-location, but thought it extremely likely that it would have been discussed. The manuscript note appears to contain a reference to the Minister saying that it had been a 'political error' to allow Billy Wright to set up an LVF wing in HMP Maze, and that the decision was 'breathtakingly naive'.

Mr Ingram denied having said this, and despite searching questioning by Counsel for the Inquiry Mr Gormally could not recollect the Minister having spoken in such terms, although he did acknowledge that the NIACRO believed that it had been a political decision to move the LVF from HMP Maghaberry to HMP Maze. Counsel for the Wright family claimed in his closing submission that the Panel should be slow to reject this note, but we conclude that it is not possible to be sure about the authorship or authenticity of the words in the manuscript note.

- 12.37 David Wall, Director and later Chief Executive of the NIACRO, who attended the meeting, did not remember Mr Ingram saying anything like that. He thought it would have been highly unlikely for a Minister to say such a thing to them. Mrs Gilpin denied having been at a meeting in July with the Minister. Adam Ingram, the Prisons Minister at the time, did not recall a meeting with the NIACRO: his focus at that time would have been on the marching season. He did not recall their telling him of concerns about the co-location of the LVF and the INLA, but such concerns were part of the common narrative. He explained that everyone was commenting on it, no one was saying it was a good idea, but the advice was that it was the **'least worst option'**. He had no recollection of being asked for more resources for HMP Maze. There was a major efficiency drive to reduce the cost per prisoner.
- 12.38 By letter dated 25 September 1997 the Reverend Harold Good, Chair of the NIACRO, wrote to Alan Shannon to follow up concerns passed on from **'a number of prisoners'** about prisoner safety at HMP Maze:

'We understand that in one of the H blocks, prisoners from opposing Loyalist and Republican fractions [sic] are housed in different wings but on the same block. The concerns expressed to us indicated that there was a real risk of prisoners being injured because of confrontation between individual Loyalist and Republican prisoners as they were escorted into and out of their wings through the centre of the block.'

Mr Good asked the Chief Executive **'to urgently consider'** the concerns. Mr Good was not available to give evidence to the Inquiry. In oral evidence David Wall, Chief Executive of the NIACRO at the time, confirmed that Mr Good's letter referred to H6. Mr Wall had met Billy Wright and Gary Blair shortly before the letter was sent and thought it unlikely that Billy Wright had expressed concerns about sharing the block with INLA.

- 12.39 Alan Shannon replied by letter dated 7 October 1997, by which time the LVF prisoners had been re-located to H6. Mr Shannon's letter stated:

'From the point of view of both security and control, it is preferable for us to avoid single faction occupation. While there is of course no absolute guarantee of prisoner safety, the risks are minimised by careful management and prisoner co-operation. ...

We have now returned the LVF prisoners to this block. We had really no choice in the matter in view of the need to reconcile accommodation pressures and the refurbishment programme. We are however sensitive to the needs of the different groups and we are taking steps to provide both safeguards and assurances to those concerned.'

In oral evidence Alan Shannon explained that his phrase **'careful management'** referred to the special segregation measures in force in H6. Mr Wall conceded that the NIACRO was not aware of the operational measures put in place to prevent confrontation between the factions in the circle. The H6 issue was followed up at a meeting between the NIACRO and the NIPS Regimes Division on 12 November 1997. At that meeting the NIACRO did not put the same emphasis on the risk of confrontation. The NIACRO noted, without challenging the NIPS view, that there were no security concerns regarding the factions sharing H6. The NIACRO contention seems to have been that the NIPS should not have granted the LVF **'paramilitary status'** and so, by extension, should not have moved Billy Wright to HMP Maze **'just so quickly'**.

Submissions

- 12.40 Counsel for the NIPS reiterated his conviction that the NIACRO was also being used to articulate an already well-known complaint of the INLA prisoners in the hope of forcing change, and he pointed out that the tone of the NIACRO concerns was not surprising. A risk of confrontation between prisoners of opposing factions in the circle had already been identified, and steps would be taken to prevent this occurring.
- 12.41 Counsel for the Wright family submitted that members of the NIACRO had met the Prisons Minister on 10 July, and at that meeting had expressed their concerns to the Minister over the co-location of the INLA and LVF prisoners in H Block 6. This occasion, he submitted, should have caused the Minister to discuss the matter of co-location with the NIPS. Counsel for the Wright family also drew attention to the fact that, following the murder of Billy Wright, the Rev Harold Good had felt compelled to write to the SOSNI highlighting to her the fact that the NIACRO had previously expressed their concerns to the NIPS about co-location.

Conclusion

12.42 The Panel do not accept the NIPS's theory that all the complaints registered by the BoV and the NIACRO amounted to the same well-known points which had been made many times by the prisoners and/or by outside observers. The Panel recognise the particular range of experience and expertise which both the BoV and the NIACRO brought to their engagement with HMP Maze and with prisoners, and believe that the observations of each group needed to be taken more seriously by the NIPS than was the case. Evidence heard by the Inquiry showed that members of the BoV and of the NIACRO were wise enough not to allow themselves to be manipulated by prisoners.

Concerns of Other Paramilitary Factions

- 12.43 The IRSP press statement on the day of the LVF riot called for the immediate segregation of the H6 factions and for the LVF to **'be moved as a matter of urgency onto other H-Blocks already housing loyalists'**. It is clear that from, at latest, the second week of September 1997 the prison authorities were aware of the threat of an INLA reaction were the LVF to be returned to H6. The POA communication of 11 September referred to a threat to **'burn H6'**. The PIU weekly inspection report of 26 September mentioned that the INLA would have preferred the LVF to stay put in H2 or that the INLA should be moved out when the LVF moved in. It was understood that INLA prisoners were considering taking some type of action, which it was thought might involve a systematic **'wreck up'**. At 9.00 pm on Monday 29 September the H6 Night Guard reported to HMP Maze SIC that the INLA prisoners had issued a threat: if the LVF prisoners returned to H6, the INLA would not burn the block but would do something more spectacular. HMP Maze SIC passed the information to the PIU. The HMP Maze Security Governor, Steve Davis, interpreted the threat to mean that the INLA would do something more spectacular than the LVF had done.
- 12.44 On 21 September 1997 all INLA prisoners submitted petitions, in identical terms, to the SOSNI. The petitions sought answers to three questions. The first was why the prison authorities were intent on returning the LVF to C and D wings of H6 when they could not guarantee the safety of the INLA prisoners. The second was whether the INLA prisoners could take steps to defend themselves. The third was why the LVF could not be re-located in H3.
- 12.45 Witness ZD made the weekly PIU visit to HMP Maze on 26 September 1997. He learned from Security staff that the INLA prisoners were unhappy at the prospect of the LVF returning to H6. The UVF were quiet for the time being. They were waiting to see whether the LVF would be moved out of H2 and whether they themselves would be moved into the vacated accommodation there. It was

assessed that any **'untoward delay'** would cause the UVF to react. Witness ZD recorded that it was planned to move the LVF back to one repaired wing in H6 (C Wing) on Wednesday 1 October. It was assessed that the LVF prisoners might react negatively and it was decided to keep them on Rule 32 for a time.

- 12.46 There was speculation among prisoner communities elsewhere in HMP Maze as to what would happen when the LVF and the INLA were put back in the same block again. A significant reaction on the part of the INLA was expected. That was what Second in Command (2ic) PIRA told a member of prison staff and Governor Davis recorded on 23 September. Similarly, at a meeting on the same day with Governor Davis about the delay in the UVF taking occupation of H2, Officer Commanding (OC) UVF H3 appeared almost amused at the thought that the INLA could be the next inhabitants of H2 – the implication being that the INLA would do something that would result in them being decanted to H2 on Rule 32 conditions. Steve Davis thought that maybe OC UVF H3 was making an obvious prediction.
- 12.47 On 20 October 1997 Operations Division replied to the INLA petitions of 21 September concerning the relocation of the LVF to H6. The letter stated that the need to reconcile accommodation pressures and the refurbishment programme meant that options were limited. The INLA prisoners were told: **'The Governor is taking all necessary steps to ensure that the risks to your safety are minimised and your co-operation would be appreciated.'** By the time the responses of 20 October were received the issues had been superseded – Billy Wright was back in H6 with the rest of his faction on a normal regime.
- 12.48 On 1 October, the day of the return of LVF to H6, Governors David Eagleson and Steve Davis met the OC and 2ic of INLA. OC INLA was extremely angry and accused the Governors of trying to provoke confrontation and of putting the prisoners' lives at risk. OC INLA H6 accused the prison authorities of putting economic issues ahead of safety issues; inflaming an already difficult situation; refusing to consider other options; and forcing the INLA into a situation where they might have to take matters into their own hands. He put forward suggestions as to other options, namely (a) to move the LVF into a UDA wing, or (b) to split the UVF in H3, move one half to H2, move the LVF to the vacated wings in H3, refurbish H2 C and D wings, then move the remainder of the UVF into H2. OC INLA H6 was told by Governors Davis and Brian Barlow that these options were unacceptable: they would involve slowing down the refurbishment programme, moving the LVF every six to eight weeks and other factions being cramped for space. OC INLA H6 refused to accept the answer. He accused the prison authorities of using an economic excuse instead of considering the INLA's security.

12.49 Governor Davis reported that OC INLA H6 was deliberately vague as to what was meant by **'to take matters into their own hands'**. OC INLA H6 was asked on a number of occasions to explain but he refused to elaborate. He was asked whether he was speaking about offensive or defensive action. At this point 2ic INLA stated that he was talking about defensive action: the INLA would not be starting anything. At the conclusion of the interview OC INLA H6 claimed that the prison authorities were trying to defend the indefensible. He said he wanted to meet the decision maker face to face so that he could put the options to him. He was told that this would be done.

12.50 The reference to the decision maker seems to have been a reference to the new Governor, Martin Mogg, who came into post on Wednesday 1 October 1997. Mr Mogg's first entry in the Governor's journal included the following:

'... some reaction from INLA prisoners in H6 "A" Wing, firstly at being denied access to "B" Wing (this should not have been permitted in the first place) and secondly over LVF move. In view of the risk of hostage taking staff were warned to be vigilant and last night's head-count was not proceeded with. This morning a head count was achieved by negotiation with Steve Davis. INLA prisoners demanded to see No 1 Governor but I declined this invitation so early in my time here.'

12.51 The INLA responded by seeking to boost their numbers. Four transfers during September 1997 brought the INLA complement in H6 A wing to 22. On 3 October INLA prisoners were reported to have sent personal possessions including musical instruments out of the block. The PIU assessed that the move might be related to the talk of a **'spectacular'**. On 4 October Officer Raymond Urwin in H6 reported to SO Mark Watterson that he had observed John Kenneway and three other INLA prisoners behaving strangely in the yard on the INLA side **'in relation to discussing various areas in the yard & tower'**. SO Watterson reported the matter to the SIC.

12.52 In a Staff Communication Sheet of 6 October Governor Davis attempted to analyse the report in the context of other information that had emerged since 23 September. He wrote:

'At this stage it is difficult to assess what if anything this and other pieces of information means. It is certainly possible that we may be over reacting and we are seeing patterns that may not necessarily exist. However, it is implausible that everything contained above could be explained as coincidence. As a consequence it seems that the INLA are planning some sort of action from 12/13.10.97 onwards although we

have no evidence as to what may happen or what form action may take. Certainly their command structure appear under pressure to react to the arrival of the L.V.F. back in H.6.

Although small in number the INLA have a number of significant “operators” within their midst many of whom have little prospect of release in the short to medium term, hence the Maghaberry incident of 28.04.97. Furthermore they have a number of individuals within their ranks whose links to the Republican movement can best be described as tenuous and who would be willing to undertake any sort of action to prove their worth.’

The immediate response on the part of HMP Maze management seems to have been to arrange a meeting with the INLA. On 7 October Governors Mogg, Barlow and Davis met with INLA OC and 2ic. Martin Mogg recorded in the Governor’s journal the following account of the meeting:

‘Met with INLA representatives in Reception. Prisoners expressed concern over their personal safety with the LVF moving back into the block. I listened to their concerns and proposals, but reiterated that the refurbishment programme must go ahead. I was not able to give any promises of change to the current arrangements. They were courteous but made their points strongly. I also indicated that I propose to meet monthly with OCs rather than to be summoned on demand. It is important that we give the minority factions equal attention, they have the potential to cause us just as many problems as the rest.’

Steve Davis reported to the PIU that the same ground was covered as had been covered at the meeting of 1 October and that the same responses were given. If that was literally true then it means that the INLA commanders repeated their undertaking not to take offensive action. These matters (12.48 and 12.51) are dealt with more fully at 13.25–13.38.

The Decision to Re-locate the Loyalist Volunteer Force to H Block 6

12.53 In his second Inquiry Witness Statement, the NIPS Chief Executive Alan Shannon stated [*emphasis added*]:

‘Having had to move the LVF out of H6 in August 1997 the Director of Operations in conjunction with Maze Management thought long and hard about whether or not to return them. Part of the problem was

that H Block 2 (H2), to which the LVF had been moved, was needed for decanting to facilitate the refurbishment programme. Refurbishment had been “promised” to the Ulster Volunteer Force (UVF) faction. Mr Mogg did consider allowing the LVF to stay in H2, but that would have further disrupted the refurbishment programme and might have provoked a reaction from the UVF. He believed that the UVF might ultimately be persuaded to make more efficient use of the accommodation it was occupying, but the need to find accommodation for the LVF would not have been the right catalyst for that.

I cannot be specific about what documentation if any was generated by these discussions. The issue was discussed at various times by all of the senior management team.

Maze management certainly reviewed carefully the options before putting the LVF back in H6. Martin Mogg, as Director of Operational Management and the incoming Governor of Maze, was responsible for making the decision. However, he talked over the options with me and others. If I had disagreed with Martin Mogg I would have said so, but I did not do so as his position was persuasive and as Governor, he carried the statutory responsibility for prisoner safety. I cannot remember the details of discussions with Martin Mogg about this. We did not normally have formal meetings. Before he became Governing Governor he was in my office on a near daily basis, and even when he became Governor he came to see me once or twice a week. ... Generally, however, whether or not there was a documented risk assessment, the assessment of the respective risks was a key factor in the operational appraisal that led to the decision.

Maze management, in conjunction with the Director of Operations and the Director of Estates Management, looked at all the accommodation to see what other options were available aside from keeping the LVF in H2 or returning them to H6. I do not believe the decision to return the LVF to H6 arose from a desire not to be seen to give in to pressure from the Irish National Liberation Army (INLA). Had we been too thin-skinned about this there would have been a lot of decisions with which we would have had difficulty. I fully understood INLA’s unhappiness, because I had seen for myself the damage caused to H6 by the LVF. The decision to return the LVF to H6 (at least in the short term) arose from the sheer necessity of having no better options at that time.’

In oral evidence Mr Shannon accepted that as early as 21 August, that is, eight days after the riot, the PIU had documented that **'Apparently the plans are for the LVF to return to H6 when the damage has been repaired!'** At that point the Governor of HMP Maze, Johnston Baxter, was still on annual leave.

- 12.54 Clearly Mr Baxter did not make the decision to relocate the LVF to H6. Neither did his deputy, because there was no Deputy Governor in post in August–September 1997. The evidence of Pat Maguire, who appears to have been the acting Governor at the time, was that he had not been involved. The Security Governor, Steve Davis, in post from 13 August, said that he was not part of the decision-making process. If the decision had already been made, Governors Maguire and Davis certainly seemed to have been unaware of that fact on 8 September when both were present at a meeting of the Internal Security Committee, where a proposal to fit a 'bacon-slicer' to the end of H6 B wing was deferred **'until it is decided where the LVF prisoners are being located'**. Two days later the Chief Executive was recorded as having told the BoV: **'there is nowhere else to place LVF prisoners except back into H6.'** The prison's MIAR for August 1997, circulated on 16 September 1997, stated: **'Repair work in H6 (LVF wings) is continuing and is expected to be completed in October when it is planned to move the LVF back to H6.'**
- 12.55 At NIPS HQ Seamus McNeill, one of the two Assistant Directors of Operational Management, played no part because he was on long-term sick leave or had even taken ill-health retirement by this time; his post had not been filled. There was no evidence that Brian McCready, who filled in for Mr McNeill, took any part in the process. Barry Wallace, another Assistant Director of Operational Management, did not recollect any discussion of the issue and stated that he was not involved in the decision. Witness N, HMP Maze Desk Officer in Operations Division, told the Inquiry that he did not remember any discussions about the matter: he thought it had always been the intention to return the LVF to H6.
- 12.56 Alan Shannon conceded in oral testimony that it might not be far from the truth to say that there never was an intention to do other than return the LVF to H6. In terms of the Prison Rules, the Governor was responsible for the safety of prisoners and for allocating accommodation. Martin Mogg had made the decision as Governor-designate and as Director of Operational Management. Mr Shannon had formed the impression in conversation with Martin Mogg towards the end of August 1997 that Martin Mogg had come to his decision only after discussions. He did not accept that the absence of documentary evidence meant that there had been no appraisal of the options. When policy changes were under consideration the options were documented: but with operational issues there might well be no documentation. Mr Mogg had rehearsed the options in conversation with him.

Mr Shannon stated that the assessment of re-location options was made against the background of available intelligence and conceded that it would have been helpful to put it down on paper.

- 12.57 Mr Shannon explained that the default position was that prisoners who had wrecked their accommodation were put back into the accommodation they had wrecked, repaired but with no betterment. According to Mr Shannon, in the case of the LVF, Mr Mogg did rehearse the other options. To give the LVF exclusive occupation of a whole block and in particular to keep the LVF in the now-refurbished H2 would have been perceived as rewarding them; and rewarding one faction for destroying their accommodation would have caused difficulties with others. Besides, H2, when refurbished with in-cell electricity, had been 'promised' to the UVF. To go back on that undertaking and to allocate the block to the mortal enemies of the UVF would have produced a serious adverse reaction.
- 12.58 When the LVF were held in H2 from 13 August until 1 October, H2 was staffed by the IRF. Until that point the IRF had been used for block searching. As a result of the riot, block searching, which had re-started in June, had to be suspended. It simply was not practicable to have the IRF staff a block long term.
- 12.59 When he was asked in September 1997 why the LVF were accommodated in the same block as the INLA, Mr Shannon explained that it was for financial reasons. The budgetary constraints were real and serious. If, however, it was considered that the risk of managing the two factions in the same block was too great, the NIPS would have had to find more resources.
- 12.60 Sir Richard Tilt, formerly Director General of the Prison Service of England and Wales, offered the Inquiry expert evidence in relation to the question whether the decision about re-location fell below the standard of competence to be expected of prison managers in the circumstances. Sir Richard did not suggest that the LVF could have been put in with another loyalist faction. His preferred option would have been **'to combine INLA with PIRA'**, leaving the LVF in sole occupation of H6. The question that arises for the Inquiry is whether that option was considered in the autumn of 1997 and whether it would have been a practicable option at that time having regard to the fact that the INLA prisoners had been expelled from the PIRA blocks in 1995 and bearing in mind that, in circumstances which arose three months after the murder, PIRA and INLA prisoners did come to share a block. Sir Richard accepted that the cooperation of the republican factions would have been required for block-sharing in 1997.

12.61 Ken Crompton, Deputy Governor of HMP Maze from 13 October 1997, made enquiries within days of his arrival at HMP Maze and was led to understand that the option of the INLA sharing with the PIRA had indeed been explored by Governor Baxter – with negative results. Governor Steve Davis applied his mind to the option on 23 September 1997 and assessed that it was too soon to achieve it. By 13 November Governor Mogg was able to tell the ICRC delegates that the PIRA **‘would be willing, space dependent, to give INLA a wing on their block’**. At that time none of the PIRA blocks had space for the 22 INLA inmates, assuming single occupancy: H4 had 15 empty cells; H5 had 19 empty cells; H8 had 11 empty cells. There was no suggestion that the PIRA would have been willing to consolidate their accommodation to create a vacant 24 cell wing. Even if the PIRA had been willing, there was no possibility at that date of INLA preserving its identity by taking ‘ownership’ of two wings on one side of a block shared with PIRA. Notably, when, on 1 October 1997, the INLA leaders in H6 proposed options for separating the factions, they did not suggest that the INLA prisoners should move back to a PIRA block. From March 1998, when PIRA and INLA shared H3, each faction had its own side of the block.

Conclusions

- 12.62 Judge Cory took the view that the INLA statement of Monday 29 September 1997 about not burning the block but doing something more spectacular **‘ought to have prevented the rehousing of the LVF and INLA in the same block’**. Elsewhere in his Report Judge Cory appeared to draw back from this categorical view by saying: **‘it might have been expected, at a minimum, that the roofs and walls would be made more secure.’** The learned judge accepted – and, it might be thought, rightly so – that prisons cannot be operated on the basis of threats and warnings.
- 12.63 The submissions by Counsel for the Wright family to the Inquiry go further than Judge Cory’s criticism by implying that the riot was in effect a protest against co-location, with strong emphasis placed on the fact that the refurbishment programme was given priority over the safe segregation of opposing factions. The Inquiry rejects the link between the riot and the fact of co-location in itself; the riot could equally well have happened had the LVF been located on their own in another block, as the protest related to their conditions, particularly as regards visits. It might be said that the policy of holding vacant accommodation in reserve for contingencies was vindicated on 13 August 1997 because prison management was able to decant the LVF perpetrators immediately to H2 and to hold them there for several weeks on Rule 32.

- 12.64 It is not correct to say, as the Wright family submitted, that **‘the fact that rioting LVF prisoners gained access to the block roof appears not to have been recognised as a deeply worrying development’**. In the **‘Conclusions and Recommendations’** section of his report on the incident, HMP Maze Security Governor Steve Davis stated: **‘As part of the follow-up to this incident it is vital that we address the issue of protecting the roof areas of an H Block.’** He attached a sketch showing two examples of how this might be done. The proposals were taken forward to the Internal Security Committee Meeting on 8 September 1997 and thereafter to field trials by Trades Governor Francis Roland Lyons. Governor Mogg told the BoV on 12 November, **‘Yard fences are also to be reinforced to prevent access to the roofs.’**
- 12.65 Sir Richard Tilt accepted that all the considerations that argued against putting the factions in separate blocks would properly have been taken into account. Bearing this in mind, his final position in oral evidence was not definitive. He was asked whether the judgement to continue co-location from the beginning of October 1997 was **‘a judgment which fell within the range of reasonable options open to competent prison managers applying due skill and diligence to implement their duty of care to Billy Wright’**. He replied:
- ‘I don’t think that it did. ... I have always taken the view that it should have been possible for separate location of the two factions, but if you had finally considered all those separate location options and concluded that co-location was the only way forward, then the next step would have been to significantly strengthen the physical defences to keep the two factions from getting at each other.’**
- 12.66 The Panel recognises the difficult decision which had to be made, and all the considerations which had to be taken into account, as regards the location of the LVF prisoners after the August riot. In effect, it would appear that this decision was left to one man, Martin Mogg. The Panel are not convinced that it was inevitable that the LVF should be returned to Block H6 alongside the INLA. There were other options, each of which would certainly have presented problems. A difficult management decision had to be made. It would appear from the evidence that the NIPS considered all of them and eventually decided that the LVF should return to H6. The Panel do not criticise that decision in itself.
- 12.67 However, there were clear and well-articulated dangers in taking this option, particularly coming from the INLA. The authorities were well aware that two of the INLA prisoners in H6 had been able to smuggle guns into HMP Maghaberry five months previously and had been willing to use them. Having decided to return the LVF prisoners to H6 on 1 October 1997, the NIPS should first have carried out

a full risk assessment of the implications of that decision. The decision should not have been implemented until additional physical security was installed both inside and outside the block to ensure that there could be no contact between the two factions and until procedural security features, including the distribution of staff, were reviewed and altered as required. The Panel conclude that failures in this regard were wrongful omissions by the NIPS which directly facilitated the death of Billy Wright and that these were the result of negligence rather than intention.

13

Information and Warnings to the Northern Ireland Prison Service

Introduction

13.1 Previous Chapters have described many of the threats against Billy Wright from a variety of sources and dating back as far as 1991. This Chapter deals with the warnings and expressions of concern which were received by the management of the Northern Ireland Prison Service (NIPS) from the time of Billy Wright's admission to HMP Maze in April 1997 until the day of his murder on 27 December 1997. These warnings need to be read in the context of the threats which have already been described elsewhere in this Report, or which fall to be addressed in detail in Chapter 15. For the sake of completeness and clarity, the other references to threats and warnings are:

- Chapter 4, 4.2–4.20, republican threats to Billy Wright;
- Chapter 4, 4.21–4.34, the Combined Loyalist Military command threat;
- Chapter 4, 4.35–4.48, other threats;
- Chapter 9, 9.99–9.104, the Irish National Republican Army (INLA) threat of April 1997 (considered in detail in Chapter 15);
- Chapter 10, 10.147–10.159, allegations by prison officer Markus Lewis;
- Chapter 12: reactions to the Loyalist Volunteer Force (LVF) riot from the Irish Republican Socialist Party, the Ulster Volunteer Force (UVF), the INLA, the Board of Visitors (BoV) and the Northern Ireland Association for the Care and Resettlement for Offenders (NIACRO);
- Chapter 15, 15.1–15.10, the October 1996 INLA threat;
- Chapter 15, 15.11–15.13, the January 1997 Provisional Irish Republican Army (PIRA) threat; and
- Chapter 15, 15.14–15.184, the April 1997 INLA threat.

Putative Attempt by the Irish National Liberation Army to Get to Billy Wright

13.2 On 29 May 1997, two INLA prisoners had a disagreement with other prisoners and were thrown out of the INLA wing. They were housed separately in the punishment wing of H6, namely B wing. Staff were concerned that this might have been a ruse to get the two men to the hospital and in turn to Billy Wright. An incident report prepared by the Prison Information Unit (PIU) recorded that the two prisoners were thrown out of the INLA wing but it did not record the concerns of staff. This information, although imparted to Governor Brian Barlow and another member of the Security Information Centre (SIC) staff, was not recorded on an HMP Maze incident form or Security Information Report (SIR). It does not appear to have been assessed or considered in any way by HMP Maze SIC or for that matter the PIU. No mention of this incident was made in the monthly intelligence assessment report (MIAR) for May. What is clear however is that, as early as 29 May 1997, prison authorities were aware that there was a report which spoke of an apparently imminent risk of violent action by the INLA against Billy Wright. Mr Barlow told the Inquiry that this concern would have been unfounded as it would have been impossible to get to Billy Wright even through the hospital.

McWilliams Observed Checking Fences

13.3 A Staff Communication Sheet (SCS) submitted by Robert McQueen, a prison officer in H6, on 29 May stated:

'On the 29th May I was on duty in C+D tower observation post in H-Block 6.

At approximately 9.15am I observed PRS McWilliams and [BLANK] enter the yard.

Over a period of 10 mins both PRS payed *[sic]* particular attention to the height of fences ETC in the exercise yard. Additionally they appeared to be trying to work out their capabilities of seeing the possibility of getting to "B" wing.'

Mr McQueen told the Inquiry that he had been in the tower since before 9.00 am. His impression was that neither prisoner would have been aware of his presence in the tower because they would not have acted in the way they did if they had thought he was there. He saw McWilliams and the other prisoner pointing up to the roof and to the wire on the roof at the end of the yard, and measuring it with their hands. This went on for a good ten minutes and they kept looking round them. His impression was that they were attempting to estimate the height of

the fence and how quickly they could get onto the roof. Mr McQueen accepted that the wing on the other side of the block would have been B wing. At this time the INLA prisoners were still housed on the C and D wings of H6 and the LVF were in A wing; B wing was nominally the prison's punishment wing. He told the Inquiry that he considered their behaviour suspicious and that was why he wrote the SCS. He explained that he knew the prisoners involved and their capabilities. He told the Inquiry that at the time there was a certain amount of tension in the block about the two factions sharing. McWilliams' involvement caused him concern because he was a high risk prisoner and a known gunman. Mr McQueen told the Inquiry that when he saw the two prisoners together he knew they were planning something. Mr McQueen was referred to the **'Analysis/Consent/Recommendation/Reason for referral'** section of the SCS where the following was recorded:

'Two expelled prisoner [sic] were in B wing. Had INLA wanted to attack them, they could have done so in their wing, before expulsion.'

He told the Inquiry that he had never seen this and that he did not understand it. His main concern was that the prisoners were looking at getting onto the roof. It was suggested to him that what he saw could be construed as the prisoners working out a means of escaping from the prison. He accepted that this was another possibility but at the time there was a high level of threat of one faction harming the other. In response to questions from Counsel for the Wright family, Mr McQueen confirmed that he had no response from anyone but that his expectation was that someone would have sent some form of reply to him. He was referred by Counsel for the NIPS to the SIC assessment. It was put to him that the assessment was that it was unlikely that the two prisoners would really want to go to B wing, because if they had wanted to attack those prisoners, they could have done it whilst they were in the same wing. Mr McQueen told the Inquiry that there were numerous possible reasons why they would have wanted to go onto the roof. On further questioning, he confirmed that what he saw was unlikely to be an attempt by the INLA to get to those prisoners who had been expelled and who were in B wing. He accepted that the SCS did not say anything about an escape, or an attempt to get onto the roof.

- 13.4 Brian Barlow did not consider the reported behaviour to have any particular significance in itself: he would not have considered it to be particularly alarming. He stated that he would not have expected any particular steps to be taken in response to this SCS other than for it to be noted, and perhaps for the officer who submitted it to be thanked. In oral evidence he told the Inquiry that he had regarded some of the staff as being somewhat **'Walter Mitty-ish'** in their assessments and speculations. He had no specific memory of this SCS.

- 13.5 Steve Davis recalled seeing this SCS after he arrived at HMP Maze in August 1997. He had looked back through previous SCSs and SIRs to read into his new role. He did not draw any conclusions from it because at that time he would not have known what the set-up in HMP Maze was. He stated that it was not unusual for prisoners to look at fences, and that it was not possible to analyse this information further as there was nothing there to analyse. Ken Crompton (who was not in post at HMP Maze at the time) agreed that such behaviour could mean something, or it could be intended to **'wind staff up'**. Asked whether the incident would have been considered more significant had there been intelligence indicating that McWilliams had previously tried to target Billy Wright he stated that it possibly would, but added that as far as he was aware McWilliams had been targeting Kevin McAlorum, not Billy Wright.
- 13.6 When Sir Richard Tilt, former Director General of the Prison Service of England and Wales, was asked in evidence whether it would be fair to summarise this as a known INLA gunman apparently planning how to get onto the roof, he said that he would not go that far; it was one piece of intelligence. It was however not unusual for prisoners to do such things to wind up staff, and on its own he did not think one would take it as a clear indication that that was what they were planning. It had to be taken seriously, but had to be put together with other things that were happening. The Panel agree with Sir Richard's assessment.

Prison Officers' Association Meeting with Adam Ingram on 1 July 1997

- 13.7 It would appear that staff continued to be concerned with the co-location of the INLA and LVF prisoners in H6 and, in particular, with imminent risk of violent action by the INLA against the LVF. The Prison Officers' Association (POA) submission prepared for the meeting with the Prisons Minister, Adam Ingram, in July 1997 dealt with *inter alia* the situation in H6. It was noted under the heading **'LVF'** that:

'The LVF are located in H6 with INLA on opposite side of block who have informed staff that they intend given a chance to take out the LVF. Precautions have to be in place to ensure they do not come into contact with each other.

The POA have put forward 4 alternatives for LVF visits which have all been turned down by Maze management.'

The POA also submitted that NIPS management had imposed the LVF faction on HMP Maze with no consideration of resources, and that, should LVF numbers continue to increase, HMP Maze did not have the resources to man an additional wing. While the issue of resources appeared to have been raised at the meeting

with Mr Ingram, there was nothing to suggest from the minutes of that meeting that the risk of violent action by the INLA against the LVF was raised and/or discussed. James Duffy, who was the Chairman of the POA Committee at HMP Maze, told the Inquiry that he attended with amongst others Finlay Spratt, then Area Chairman of the POA. Alan Shannon, the Chief Executive of the NIPS, was also in attendance. The meeting took place at Stormont and lasted not much more than an hour. Mr Duffy represented the HMP Maze POA.

- 13.8 The purpose of the meeting was for the POA to express their views, concerns and fears to the Minister so that he could be aware of the reality of HMP Maze. Mr Duffy confirmed that he had drafted a paper on the POA's concerns prior to the meeting. He was adamant that he had raised the risk of violent action by the INLA against the LVF; that he read everything written in the submissions document unless it was marked **'Finlay said not to raise'** and that he read the section under the heading **'LVF'**. He explained that there was no reaction by Mr Ingram and his civil servants to this. The lack of a reaction, he suspected, was due to the fact that it was very likely that this information had already been reported to the Minister by his managers. Mr Duffy said in his evidence to the Inquiry that he was not aware at the time of the process of minute-taking, as he was concentrating on what he was saying in conveying his concerns. He did not have any explanation why the LVF issue was not mentioned at all in the minutes of the meeting which he later saw, but he reiterated that he had raised those concerns. He told the Inquiry that this was not the first time that he had received minutes that did not reflect what was discussed at meetings with the Northern Ireland Office (NIO). Mr Spratt had no recollection of the LVF issue being raised with the Minister, although it had been raised with the NIPS Headquarters (HQ) many times. When questioned by Counsel for the Wright family Mr Spratt accepted that since the issue of co-location was always of concern to the HMP Maze POA, he would not have been surprised if it had been raised by Mr Duffy with the Minister. Mr Ingram told the Inquiry that his meeting with the POA was a **'get to know you'** meeting. He had no recollection of Mr Duffy reading verbatim from his notes or reading out the passage about the INLA threat to **'take out'** the LVF. He thought he might already have been aware of the INLA threat to the LVF as part of the currency of threat and counter-threat of Northern Ireland.
- 13.9 The issue of resources continued to rumble on. On 3 July 1997 Mr Finlay Spratt wrote to Martin Mogg confirming their telephone conversation in which Mr Mogg assured him that **'... before these prisoners [LVF] were moved to the Maze discussions would take place with the Association, and the resources needed to deal with these prisoners would be provided.'** In oral evidence, Mr Spratt explained that the reason for sending this letter was to inform the POA

committee that the implication of the LVF transfer had been discussed with Mr Mogg. He did not recall any connection with the meeting of 1 July and thought that the timing was just a coincidence.

- 13.10 There is a sharp divergence in the evidence about whether the risk of violent action by the INLA towards the LVF was raised at the meeting of 1 July with Mr Ingram. Mr Duffy was very clear that he had spoken about this. On the other hand Mr Ingram, Mr Spratt and Mr Shannon had no recollection that the subject had been raised, although Mr Ingram and Mr Spratt conceded that it might have been raised. The minutes of the meeting do not disclose that it had been but, as Mr Duffy himself said, minutes of such meetings did not always reflect accurately what was discussed there. Counsel for the Wright family submitted that the omission from the minutes was deliberate and that references made by Mr Duffy to the POA's concerns had been **'strategically omitted'**.
- 13.11 There is no doubt that the subject was a serious one. The Panel take the view that if it had been raised, those present would probably have remembered it. Moreover, it is likely to have provoked discussion amongst those present. Being left in doubt we are in these circumstances unable to conclude that the subject was raised.

Incident on 11 July 1997

- 13.12 The Inquiry recovered an SCS submitted by Prison Officer Vivienne Boyd dated 10 September 1997 that described an incident which took place in H6 on the night of 11 July. She explained that the SCS was not completed at the time of the incident owing to the riots in August and the talk among the staff of the LVF being moved back into the block. She accepted that it might also have been prompted by a block staff meeting on 10 September. The SCS recorded the following:

'At the present time the only obstacle preventing prisoners gaining access to the roof of the block is a turnstile. I was under the impression that this was secure until the night of Friday 11th July when I was on Night Guard duty in H6.

Due to the continuous, sustained harassment, and threats of violence to A wing prisoners [INLA] from C&D wing prisoners [LVF] – who had refused to come in from the yard at 10pm – A wing felt obliged to post a sentry in their yard for their own protection. It took approx 10 seconds to break the turnstile and put a man in the yard.

My fears are that if access is gained to the yard, it can also be gained to the roof. The four staff on duty, since they are locked in, are completely at the mercy of prisoners, having absolutely no means of escape or protection. Neither do they have any possibility of assistance from other staff due to the Night Guard staff complement.'

Ms Boyd agreed that, as a Night Guard, she was effectively locked in the block. On the night of the incident, there were four members of staff. Her concern was that the prisoners could break through the turnstile and out into the yard and from there onto the roof. She did not actually see this being done but she had been told by one of the prisoners that this had happened. The prisoner also told her that the process of breaking into the yard took a matter of ten seconds. She agreed that the INLA had broken through the turnstile to get into the yard which meant that the turnstile but not the outer grille had been locked by the Phase Senior Officer (SO). She confirmed that the SCS completed by her disclosed that the INLA feared that the LVF would attack them and had therefore had a lookout in the yard. The SCS had been countersigned by the Principal Officer (PO) in charge of H6, who stated that he fully shared these fears. When questioned by Counsel for the Wright family, Ms Boyd confirmed that she had received no feedback from anyone in the NIPS.

- 13.13 Brian Barlow recalled the incident described, and said it was part of the reason why end-of-wing pods were being installed to create a new means of yard access in place of the vulnerable turnstiles. Asked how significant he considered the incident to be, he said it was nothing new: they already knew the turnstiles could be **'sprung'**. He thought the officer who submitted this SCS was more concerned about the safety of staff in the circle than with that of the prisoners. Steve Davis also recalled seeing the SCS after he arrived at HMP Maze. He did not know if an analysis of this SCS had been carried out and was not aware of the existence of any separate document that contained such an analysis. His reading of the SCS was that it was written from the point of view of staff safety, primarily rooftop access. As such, he said, it had to be read in conjunction with his report into the LVF riot of 13 August 1997, which addressed the issues raised in the SCS. He too made reference to the ongoing programme of replacing turnstiles with end-of-wing pods. Asked whether any consideration had been given to the possibility of prisoners from one faction gaining the roof and thus harming other prisoners in the other faction, he said it had not. On all previous occasions when prisoners in HMP Maze had gained access to the roofs they had directed their actions against staff, not other prisoners. Ken Crompton was asked how significant he would have considered the incident to be. He too recalled the inherent weakness of the turnstiles and how this seemed to have prompted the introduction of the end-of-wing pods. He thought that the prison had responded to the risk of staff being trapped in the blocks by introducing an emergency evacuation vehicle. He added that, had he been in post at this stage, he would have made sure that he would have started the process of brokering a **'peace agreement'** between the LVF and the INLA. He did not know what the Governor in post at the time had done. The incident did not seem to have been viewed in the specific context of the co-location of the LVF and the INLA in the one block.

- 13.14 Problems with the H6 turnstiles continued. An incident report of 26 July referred to Billy Wright himself and stated:

'At 2235 hours prisoner A5970 WRIGHT (Med [recte High] Risk; LVF) was reported walking in H6 C Wing yard after the turnstile bolt had been shot. Staff were advised to monitor the situation and at 2249 hours Wright re-entered the wing. Trades have since been advised that the bolt appears to be faulty.'

This incident was noted in the July MIAR, which confirmed that the LVF prisoners had damaged the turnstile hydraulics. Another incident report dated 9 August recorded, **'Prisoners seen in the exercise yard of "A" Wing Block 6. Bolts on yard turnstile not working. Trades informed.'**

The Loyalist Volunteer Force Riot

- 13.15 The LVF contingent in H Block 6 rioted on 13 August 1997, and caused extensive damage to the block. This incident is described in detail in the previous Chapter, and the reactions to it, which included a number of threats and warnings, are also covered in that Chapter.

H Block 6 Staff Meetings on 10 September 1997 and the Prison Officers' Association Response

- 13.16 Until around the end of September 1997 the regular PO in H6 was David Loyal. It was his practice to hold regular meetings with block staff, who frequently expressed their fears that one of the factions in H6 might harm the other if given the chance. He recalled that one day he had been chatting with staff when one officer mentioned that he had been speaking to staff from HMP Maghaberry. The officer claimed that the HMP Maghaberry officers had told him in July 1997 that McWilliams had tried to shoot Billy Wright there – apparently a reference to the hostage incident. The other officers present with PO Loyal were concerned by this. This was the first time PO Loyal had heard about any incident at HMP Maghaberry involving Billy Wright and McWilliams. Despite being pressed on the matter PO Loyal in oral evidence was adamant that the officer had received this information from the HMP Maghaberry officers. He immediately sent for Brian Barlow.
- 13.17 There is a dispute about what happened next. According to PO Loyal, the staff expressed their concerns to Mr Barlow quite forcefully: they said they were upset that they had been working in H6 without knowing that McWilliams had tried to kill Billy Wright, fearing that at any time there could have been a shooting with staff caught in the crossfire. They asked for the factions to be separated. PO Loyal gave evidence that it was principally the fact that firearms had been involved, rather than the fact that they were co-locating, that was the catalyst for

his concerns. It was suggested to him that it was unlikely that a specific threat against Billy Wright was raised at this meeting and that what was raised was more likely to have been concerns about general threats. PO Loyal disagreed and told the Inquiry that the reason he had sent for Governor Barlow was that a specific threat had been made against Billy Wright. He said that Mr Barlow gave them strict instructions that INLA and LVF prisoners should never be placed in a position where they were able physically to assault one another; they should therefore be kept separate, for example in the circle or when they were coming out of vans. He also said that Mr Barlow had stated that it would not be possible to accommodate the two factions in separate blocks as a block had to be left empty in case of emergencies such as flooding. Asked what changes took place after the meeting, he told the Inquiry that the meeting of prisoners in the circle stopped and arrangements for the visits vans changed to ensure that only one van was permitted into the forecourt at any one time. These arrangements came into force immediately and were strictly enforced. He added that the same staff spoke to the POA representatives, including James Duffy, and that they had expressed the same concerns. He believed that the POA had passed on these concerns to management. No one took notes at these meetings.

- 13.18 Ivan Blair, an H6 officer, gave a different account. He stated that PO Loyal would hold monthly meetings with block staff; that minutes were kept; and that Billy Wright was discussed at these meetings. In particular, the staff thought that Billy Wright was under threat. They discussed both general and particular threats to him. In fact they had even formulated a possible scenario in which Billy Wright would be targeted. In this scenario they anticipated that McWilliams and John Glennon would try to kill him in the front forecourt on the way to visits. It was anticipated that firearms would be used. This scenario was proposed some months prior to Billy Wright's murder. Mr Blair thought that PO Loyal had spoken to the Governor about these concerns but he never saw any changes being made as a result.
- 13.19 Another officer, Brian Thompson, stated that he too had mentioned the possibility of firearms being used. He told Governor Barlow that he believed that there would be a shooting incident in H6, but Governor Barlow had laughed at him, so he left. It was put to him that, in evidence, Governor Barlow had stated that he had not laughed and would never laugh in those situations. Mr Thompson told the Inquiry that Governor Barlow probably had every officer saying the same thing to him. He confirmed that the information that he had imparted to both PO Loyal and Governor Barlow had come to him directly from more than one of the INLA prisoners. He recalled that not long after this PO Loyal was moved from the block owing to INLA threats.

- 13.20 In his Inquiry statement Mr Barlow stated that he had met with PO Loyal two or three times but could not remember attending a meeting in H6 at which the hostage incident had been discussed. He did not recall attending a meeting at which there was discussed a fear that McWilliams might attempt to shoot Billy Wright in H6. There was only a general concern about having the two factions in H6. Billy Wright was never mentioned by name. The staff talked about the LVF attacking the INLA or the INLA attacking the LVF. However, there was no talk of anyone being shot. In oral evidence he expressed some recollection of the meeting and staff concerns about the hostage incident but held to the position that **'At no time did they express to me that he [McWilliams] was going to kill Wright in the Maze.'**
- 13.21 The date of PO Loyal's meetings with Mr Barlow and the POA representatives can be fixed at 10 September because that date is given in a letter James Duffy wrote the day after the meeting. Mr Duffy explained that the letter originated in a telephone call he received from staff working in H6. In response he went down to H6 and held a meeting there. He stated that the concerns expressed in this letter were those that the H6 staff had conveyed to him at that meeting. Apart from this letter the Inquiry has recovered no documentation about what was said at the meeting. Amongst other matters the letter included the following passage:

'3. Access to the roof from A + B side.'

Due to recent threats from the INLA that they will burn H6 if LVF are returned, leaves staff extremely concerned about the ease of access to H6 roof from A + B side of the block.'

Mr Duffy was asked what he meant by **'recent threats'**. He said his understanding of this was that the INLA were out to **'do'** the LVF prisoners rather than the block itself, that is, they would burn the block with the LVF prisoners in it. He said a number of staff had told him and other POA committee members that they had overheard INLA prisoners saying they were going to **'take out'** the LVF or burn them alive. The staff in question had spoken to him both individually and in groups, both face to face and over the telephone. The meeting with H Block 6 staff referred to in the letter was only one specific example of this. He could not recall over what period of time staff had made these reports to him. He recalled speaking to Martin Mogg about this subsequent to the letter of 11 September. He stated that he had warned Governor Mogg that he had been told the INLA had said they would **'burn the LVF alive'**: he said he told him this before Billy Wright was shot. He stated that he had asked Governor Mogg whether the LVF prisoners could be moved out of H6 into the empty block but was told that a block had to be kept free for refurbishment. He thought that he had also raised the issue of co-location with Martin Mogg's predecessor Johnston Baxter.

- 13.22 Steve Davis's understanding was that the background to the letter was the LVF riot: he had not been aware of the meeting with H6 staff. He said that as far as he was aware no member of SIC staff had been involved in that meeting. There had been **'issues'** between the LVF and the INLA but at that stage the LVF were still in H2. He did not know what the **'recent threats'** were. He had not spoken to James Duffy about this and was not aware of anyone else doing so. No one from the POA had ever spoken to him about such threats. As far as he was aware, he said, at that stage no one had spoken to the INLA about the LVF returning to H6. In oral evidence, when asked what he had done with the information in this document, Mr Davis replied that it had fed into his report, and he would have discussed these concerns with the POA. Asked if he specifically remembered such a discussion, Mr Davis said that he recalled discussion on a range of associated matters in the POA document, such as a lack of alarms, fear of smoke and whether to install a fire shutter or fans on each side and why the emergency keys did not seem to have been operating properly. He stated that he had taken the POA concerns seriously and that they had been addressed and resolved. Asked what the primary concerns of the POA had been, Mr Davis replied that the fact H6 was a shared block was of particular concern and that he had taken note of that. Mr Davis stated that the bulk of the concerns raised in the letter had been addressed by his report of the LVF riot – which did not deal with the issue of co-location. He could not say that he had discussed this letter with anyone, pointing out that his report on the LVF riot had already been sent to Mr Baxter and Mr Mogg.
- 13.23 Governor Barlow stated that he remembered the letter: it would have been filed in the 'Health and Safety file' that was kept in a locked cupboard in Steve Davis's office. He explained that the contents of the letter would not have been entered onto the prison computer system SASHA because the letter dealt with health and safety matters, not security matters. He did not know what was meant by **'recent threats'**. He did not know whether anyone had followed this up. He stated that he was already aware that the INLA were concerned at the prospect of the LVF returning to H6. His awareness came from meeting with H6 staff and talking to INLA prisoners, although he could not remember when he had done so. He could not remember whether anything had been done in response to the letter but said again it was **'the old story'** of how to protect a single-storey roof. He thought something must have been done to address the concern about there being only one coil of concertina wire on the roof, as otherwise there would have been no need for Billy Wright's killers to cut through the fence. He stated that he could not remember whether there had been a meeting with the POA about this letter or whether the POA had expanded on their reference to **'recent threats'**.

- 13.24 Ken Crompton stated that he had not been aware of the letter, or that block staff had passed on these concerns through the medium of the meeting of 10 September. He stated that it was routine to get that sort of threat from prisoners. It would not have been something they would have specifically asked the INLA about. They could not have taken the INLA out of H6 on the basis that the INLA might otherwise consider burning it.

‘Unusual Behaviour’ by the Irish National Liberation Army, 3–7 October 1997

- 13.25 The behaviour of INLA prisoners continued to cause concern after the return of the LVF. A SIR dated 4 October recorded the following incident, witnessed by an officer in the watchtower overlooking the H6 A/B exercise yards:

‘Four INLA prs were observed in A wing yard apparently discussing the observation tower & the fence around the yard. This discussion went on for some time. It should also be noted that all INLA prs in H6 sent out their musical instruments on Fri.03/10/1997.’

The source of the information was Prison Officer Raymond Urwin. Sometime after the shooting of Billy Wright, Mr Urwin submitted an SCS detailing what he witnessed on that day. He told the Inquiry that he had assumed that placing the information in the PO’s journal had been sufficient, but he was advised by someone that it was not and was requested to complete the SCS. He was unable to state who informed him that it was insufficient. He told the Inquiry that the prisoners seemed to be attempting to see if the tower was manned. He explained that even though the tower was lined with a specific type of paper which caused the windows to become one-way glass, if they stood on a specific spot the prisoners could see the light through the tower and determine if it was manned. One of the prisoners involved was Kenneway.

- 13.26 On the previous day, 3 October, the INLA prisoners were reported to have sent personal possessions, including musical instruments, out of the block. Asked what significance would be attached to the passing out of musical instruments, Mr Barlow explained that that would ordinarily have been regarded as an indication that the prisoners intended to stage a **‘wreck-up’** of some description. He agreed that it could also have been related to a planned escape. Although Mr Barlow could not recall whether he had known that Kenneway was one of the four prisoners observed discussing the tower and fences, he accepted that that information was contained in a subsequent SIR. Mr Barlow confirmed that he had considered the most likely plan to have been an escape. He explained that H6 was close to the gate and various possible escape routes. He considered an escape to have been an ideal way to highlight and bring to public attention what the INLA

regarded as their plight. Told that there was no entry on the SASHA system or in the Governor's Journal recording the suggestion that an escape might have been being planned, Mr Barlow replied that he could not remember whether there had been any communication with the PIU setting out a warning that INLA prisoners might have been planning an escape. Mr Davis told the Inquiry that this SIR should not be regarded in isolation, and that it had been linked to other information contemporaneously. He suggested that Kenneway's behaviour was not in itself unusual.

- 13.27 On 6 October Steve Davis wrote an SCS entitled 'INLA activity in H-Block 6', in which he referred to having received information from a staff source that day about two further examples of what he described as **“strange/unusual behaviour”** by the INLA. First, an INLA prisoner had asked to have his home leave brought forward by one week (the relevant dates are not specified). Secondly, Kenneway, who had been due to have a photograph taken with his family on 18 October, asked if this could be brought forward to 12 October. In his assessment Steve Davis considered that it was important for this information to be viewed in conjunction with previous information received by the SIC, namely, PIRA 2ic's comments on the INLA; the meeting with the OC INLA H6 and 2ic INLA H6; INLA prisoners sending out their musical instruments; four INLA prisoners paying particular attention to the yard towers and fences; and the INLA's statement that their response would be more spectacular than that of the LVF. He recorded that it was difficult to assess what if anything this and other pieces of information meant. It was certainly possible that the SIC might be over-reacting and that they were seeing patterns that might not necessarily exist. However, it was implausible that everything could be explained as coincidence. As a consequence it seemed that the INLA were planning some sort of action from 12 or 13 October onwards, although the SIC had no evidence as to what might happen or what form action might take. Governor Davis's summary has been quoted at 12.52.
- 13.28 Steve Davis stated that when considering these various pieces of information about the INLA he would probably have been looking at the possibility of serious disruption: prisoners sending out their musical instruments normally meant a **'wreck-up'**, and changing the dates of home leave and arranging a family photograph suggested that something was planned within a tight timescale. Asked what view he took of all that information together, Mr Davis replied that the SIC had discussed the matter and then released their analysis. Mr Davis recalled that there had been a sense that something was going on, but that they could not know exactly what that was. He thought he recalled that some prisoners had also changed their dates for home leave, which seemed to point to a timescale: home leave was being brought forward either because something

was to happen after that date or because that prisoner wanted to ensure that he was not present when whatever was to happen took place. Mr Davis was asked, given that the LVF had wrecked their accommodation and then set it on fire, what the INLA could have meant by their reaction being **'more spectacular'**. He replied that they could have wrecked their accommodation to the point where it was completely uninhabitable, but that there were concerns about the possibility of an escape.

- 13.29 Asked by Counsel for the Wright family, in light of all the information, whether he considered it important to keep careful watch on H6, Mr Davis replied that he did. Asked what measures were taken to achieve this, Mr Davis replied that the SIC would have looked at collecting information, spoken to staff and to the PO and kept a check on phone calls. He stated that they passed a good deal of information **'upwards and outwards'**, including to NIPS HQ and, he believed, the police through the Special Branch (SB) Liaison Officer. Asked whether the PIU at NIPS HQ would have carried out their own analysis, Mr Davis stated that this would have depended upon what information the PIU might have had in addition to that held by HMP Maze, but that he did not know whether any further analysis was in fact carried out. Brian Barlow remembered reading the SCS. He agreed with the assessment that it would be implausible that all the instances of INLA behaviour referred to could be dismissed as coincidence. Referred to the passage about the INLA's command structure appearing under pressure to react to the return of the LVF, he stated that it had been thought the INLA would react either by escaping or by making a general nuisance of themselves, not that they would react by attacking the LVF.
- 13.30 It appeared that in practice the only form of **'action'** the SIC took steps to guard against was **'action'** in the form of an escape by the INLA. Both Mr Davis and Mr Barlow said that what had been feared at that time was a possible escape by INLA prisoners. On this particular occasion the fear of an escape by the INLA arose because of the known weaknesses of the prison's perimeter, in particular a gate near to the rear of H6 that led directly to the outside of the prison. The whole of the perimeter near to which H6 lay was weak as it was close to a motorway. (Both the 1983 escape and the construction of a tunnel in March 1997 had taken place from H Block 7, the neighbouring block on the same perimeter.) Mr Davis confirmed that no intelligence had been received from any external body to indicate that the INLA might be planning an escape. He said that, on checking the perimeter, he and Mr Barlow discovered that the Army watchtower near H6 was not being manned continuously. Mr Davis asked that it be manned 24 hours a day, which the Army agreed to do. He and Mr Barlow had had other concerns about cameras on the perimeter having blind spots and requiring to be upgraded,

and cameras not being linked to the alarm system. They had carried out a review which included looking at the cameras and testing the alarm system, and found weaknesses in the alarm system.

- 13.31 Looking at the final paragraph of the SCS, Mr Davis included McWilliams in the category of **'significant "operators"'** without much prospect of imminent release. He also agreed that McWilliams would be one of those described as having only **'tenuous'** links to republicanism who would **'undertake any sort of action to prove their worth'**. Asked whether there was anything that could have been done in particular regarding McWilliams – for example by searching his visitors, given his boast that he could smuggle guns in again, or by regarding the INLA as a whole in a better or more thorough way – Mr Davis replied that there were a number of significant issues with respect to visits. The INLA did not have a separate visits area, being incorporated into the general republican visits area, so that visitors could arrive at the search box without the officers there knowing whom they were to visit, and, more generally, without their even knowing the names of some visitors.
- 13.32 The question then arises about what steps the SIC took to alert senior management, both to their observations about the INLA's unusual behaviour and to the conclusion that this meant the INLA might be planning an escape. The Inquiry has seen no documentation recording any instructions which Governor Mogg or Governor Crompton gave the SIC about the feared INLA escape. There is no 'audit trail' to show who was involved in any discussions or any actions taken. The section of the SCS that allows details of any action by the establishment, or of any analysis, comment, recommendation or reason for referral to be entered, has again been left blank. There is little or nothing in Mr Mogg's journal that could be read as relating to this issue. Mr Davis could not say whether he had spoken to Mr Mogg about the fear of an escape by the INLA, although he said he knew they had discussed **'wider Republican issues'**. He said that certainly he would have discussed with Mr Mogg his concerns about that part of the Phase where H6 was situated, primarily the gate at the rear of H6, and about the manning of the Army watchtower. He did not know if he had received anything in writing from Mr Mogg about this.
- 13.33 Mr Barlow could not recall whether the SB Liaison Officer had been consulted over these concerns, although he agreed that such consultation could have produced relevant information. In particular, given the situation obtaining in 1997, Mr Barlow agreed that anything happening within the prison would have had the sanction of people outside the prison, and that to find out what those external parties were thinking it would have been necessary to speak to SB. The Inquiry has seen no police documentation recording this information having been passed on or noted by the SB Liaison Officer.

- 13.34 Ken Crompton noted that copies of the SIRs dated 4 October bore his signature, dated 13 October 1997. He thought they might have been part of a number of documents that he saw on his first day at HMP Maze, but that they would not have held any great meaning for him then, as he did not know how the factions were allocated. He could not remember there being a fear of an escape by the INLA (or the PIRA) at that time. He could not remember any discussion about manning the Army tower. He pointed out that testing of the alarm system would have been ongoing, and routine. He said that if Governor Davis had had reason to believe there might be an escape, he would almost certainly have come to him or to Mr Mogg, but he could not recall him coming to him with anything like that. He stated that he had not seen Governor Davis's SCS of 6 October, but said that he had made him aware that he thought the INLA were up to something. Ken Crompton's recollection was that Governor Davis did not say to him that he thought anything should be done in response to his concerns about the INLA. Mr Crompton himself did not feel that anything should be done: **'If you receive information that is not something you can act upon, you hope more information will be forthcoming that you can act upon.'** He stated that Mr Mogg had worked out at that stage that they needed to speak to the INLA, because that happened soon afterwards.
- 13.35 Mr Crompton was asked whether in response to Governor Davis's concerns any consideration had been given to taking such steps as a search of the INLA's accommodation. He stated that he did not think that he, Mr Mogg or Steve Davis had suggested that. Asked at interview whether such action would not have been a reasonable response he replied that that would have been so had they had the capacity to search using the Standby Search Teams, but the fact that someone was planning **'something'** would not have warranted a special search. He stated that looking at it now with hindsight, of course they would organise a search, but on the basis of the information he had at the time he would not have done so. By this time the Immediate Reaction Force were no longer being deployed to staff H2, as the LVF had returned to H6: it is not clear why a search could not have been undertaken at some time after 1 October.
- 13.36 The MIAR for November contained no discussion of these issues. Asked why this was so, Witness ZD, who was head of the PIU at the time, told the Inquiry that there had been difficulty in defining what might have been meant by a **'spectacular'**, suggesting that any discussion would have been purely speculative. Asked, then, whether the Prison Liaison Group (PLG) had considered it one of its functions to consider the information provided in the MIAR and to decide what further action, if any, was warranted, he replied that it had. It was put to him that the minutes appeared to suggest that nothing was done with the information on

the INLA warnings. Witness ZD did not agree, suggesting that individual members of the PLG might have gone away to check what information they had. If they had had anything relevant, he believed that would have been fed back into the system; if they did not, nothing further would have been recorded. Witness ZD agreed that there was no intelligence available at that time to support the suggestion that the INLA's concerns appeared to have waned. He confirmed that the INLA prisoners had not asked for the return of their personal possessions and musical instruments.

- 13.37 Alan Craig, a former Security Governor at HMP Maze, told the Inquiry he would have expected the withdrawal of the instruments and the passing out of photographs to foreshadow a pretty immediate action on the part of the organisation doing that. He told the Inquiry:

'My general view would be that when organisations were planning something of a spectacular nature, they wouldn't want to telegraph that process a long period in advance. They would want to give us as little opportunity to react or to forestall their efforts as they possibly could.'

He agreed that if this information was obtained, for example, in October, and there was no spectacular in the next month or so, he would 'park' that information but would also retain it, and when other things happened in H6, he would bring it out, have a look at it and analyse it again because it was part of the picture.

- 13.38 Sir Richard Tilt considered that he would have expected that, once the LVF were returned to H6, a process would be put in place regularly to review intelligence. The appropriate action depended upon the threat. There were three possible scenarios: a disturbance by the INLA (including a fire) to express their anger about the return of the LVF; an assault on the LVF by some means, but involving access to the LVF wings via the roofs, which could be targeted against an individual prisoner (probably Billy Wright) or against the faction as a whole; or an escape of one or more INLA prisoners. They would also have to prepare for the LVF to attack the INLA, although intelligence did not suggest this was likely. They would also have to consider that the INLA could use firearms in any incident as they had prisoners who had smuggled firearms into the prison before. In the circumstances, the contingency planning with both the police and the Army would have been important. Sir Richard agreed that security should have been reviewed continually and options generated for dealing with the risks. The Panel agree with Sir Richard's assessment.

Local Security Committee Meeting, 13 October 1997

- 13.39 The Local Security Committee met on 13 October. The minutes of the meeting recorded that Martin Mogg was absent but that Ken Crompton (on his first day at HMP Maze) and Steve Davis both attended. The Army and the RUC were also present. Mr Davis presented a situation report to the meeting. He referred to the riot and the subsequent return of the LVF to H6. In particular, he reported that the INLA's command structure was under pressure from within because of individuals who wanted to take action against the LVF. There was nothing in the minutes to indicate that this matter was discussed or that any of those present had anything to say about this issue. Mr Davis was asked at interview about his reference to the INLA's command structure being under pressure, an observation he had also made in his analysis of 6 October. He explained that this had been his perception of the INLA Officer Commanding (OC) and his abilities in comparison with those of other OCs. He stated that his perception had been that the INLA OC was not of the same calibre as, for example, the PIRA OC. He had based this perception on such factors as the manner in which the INLA OC conducted himself, his confidence, how he negotiated and how he behaved in his dealings with staff. The INLA OC was under pressure not only because of the LVF issue but also because of his limited ability. He had found the INLA's 2ic to be very articulate and more impressive than the OC. It was put to Mr Davis that another witness had described the INLA as **'edgy'** around that time, a suggestion which Mr Davis had not heard before. He was also reminded of an INLA-LVF confrontation at the medical room, of which he had no recollection (see 13.41 below). Asked whether such a confrontation would have been unusual, Mr Davis stated that controls had been put in place precisely to prevent contact between the factions. He agreed that such a confrontation did not suggest that one side was going to attack the other.
- 13.40 Witness D's note of his visit to HMP Maze on 16 October recorded that two outside representatives of the INLA had visited Glennon alone on 10 October. No further detail was given. Mr Davis said the SIC had no way of finding out what was said at meetings between prisoners and their outside representatives unless the prisoners divulged this information, which rarely happened: there were no covert devices within HMP Maze that he was aware of at any stage during his time there. He said that, other than the fact that he was a life sentence prisoner, there was nothing about Glennon that had attracted his attention. He said he did not know if Glennon had held a particular rank in the INLA, such as that of **'intelligence officer'**, and doubted whether he was the OC. He explained that while other factions had tried to mirror the PIRA's organisational structure, in reality prisoners from other factions could have a multitude of roles. He did not know whether Glennon had associated with McWilliams and Kenneway, as there were no staff on the wings to pick up such information.

Further Incidents in H Block 6

13.41 Ken Crompton recalled two incidents where prisoners from the two factions came into contact with one another in H6. Firstly, he understood that the INLA had complained about an occasion on which prisoners from one faction had been getting out of a van when there were prisoners from the other faction in the vicinity, although an attack did not in fact occur. Secondly, he recalled an incident where a prisoner from one faction had been allowed into the circle while a prisoner from the other faction was in the medical room, a room off the circle. When the prisoner left the medical room the two prisoners found themselves in the circle together. He thought there might have been a verbal exchange and that the prisoners might have 'squared up' to one another. Both factions had blamed the prison for this incident. Ken Crompton said this incident had caused great anguish for the staff, because they had had a dilemma about whether or not to intervene and risk being attacked by one or other of the factions.

The Meeting on 24 October 1997

Introduction

13.42 The Inquiry heard a considerable amount of evidence about a meeting held in the Residential Governors' office at HMP Maze on 24 October 1997, attended by Governors Crompton, David Eagleson and John Ramsden and two BGOs from H6, Geoffrey Gillam and Brian Thompson. Witnesses were questioned at length about the circumstances as well as the content of the meeting. Bearing in mind the length of time that has elapsed since that meeting, it is not surprising that there were several different accounts. We consider the central issue to be what was actually said at the meeting and we do not propose to rehearse the detailed lines of questioning and lengthy submissions relating to more peripheral matters, such as how many prison officers attended, whether notes were taken, how long the meeting lasted, who sat where and so forth. We will therefore touch on these matters only to the extent that they have a material bearing either on a witness's credibility or reliability or on the significance to be attached to the meeting itself.

The Reason for the Meeting

13.43 Mr Ramsden, a former block governor at H6, told the Inquiry that he was approached by prison officer Raymond Murtagh on 24 October 1997. Mr Murtagh told him that he and other H6 officers were concerned at the two factions being together. Mr Ramsden told Mr Murtagh that he would try to obtain a meeting with Mr Mogg. Mr Ramsden returned to his Phase office and reported the matter to his line manager, David Eagleson, and they decided to invite Mr Mogg to the office to speak directly to the staff of H6 about their concerns. However Mr Mogg was not on duty and it was arranged that Mr Crompton would attend.

Mr Ramsden said he rang the SO in H6 and asked him to arrange for members of staff from H6 to come to the Residential Governors' Office two or three at a time and speak about their concerns.

- 13.44 Officer Brian Thompson stated that he remembered well the day of the meeting on 24 October 1997. He said the meeting was with Governors Crompton, Eagleson and Ramsden. He had been asked by SO Jack Buchanan to go to a meeting in the Residential Governors' Office, known colloquially as the 'Governors' bunker'. Mr Buchanan told Mr Thompson that there was a meeting there and they were looking for two officers to go, so Mr Thompson and Geoffrey Gillam went across. Mr Thompson said he did not know what they were going to be talking about at this meeting until he got to the Governors' bunker. In his witness statement, Mr Thompson said that he was asked to go to the Governors' bunker to talk to Governor Eagleson about what was happening in H6.
- 13.45 Mr Gillam wrote in his SCS of 30 December: **'On Friday the 24th October 97, I was detailed Evening duty H6 control room. At 1400 hours the day staff returned on post, and I reported to Senior Officer Buchannan [sic]. S/O Buchannan [sic] asked myself and Officer Thompson to go to the governors office in phase 3.'** As Mr Thompson had done, Mr Gillam said that Jack Buchanan referred to just going over to talk to the governors in relation to concerns within the block: it was nothing more specific than that. Mr Buchanan did not give any information as to whom they were to go and see. Neither did he mention any governors' names. Mr Gillam thought that the only possible subject for discussion would be with the issues in the block.
- 13.46 Mr Eagleson said he was responsible for organising the meeting of 24 October. He said the purpose of the meeting was twofold. It had been prompted by the fact that, before lunchtime that day, a member of the BoV had called into the bunker and asked to speak to him, and had relayed some concerns that two officers in H6 had passed on to her about the unsatisfactory co-location of the LVF and the INLA, because one group of prisoners was from the loyalist side of the fence and the other was from the republican side and they did not see eye to eye. He had told her that he would speak to the officers that afternoon, in order to let them and members of the BoV see that the governors took their concerns seriously. Furthermore, because they were only general concerns, his intention was to inquire about any particular areas of concern.
- 13.47 Mr Crompton claimed that he organised the meeting. He said he had been approached by the Chair of the BoV who had told him that the H6 staff were upset and concerned about their safety in the block. There had been an incident that day or the day before where a prisoner from one faction was in the medical room while a prisoner from the other faction was in the circle.

- 13.48 Having considered the accounts of the five participants, the Inquiry has concluded that the proposed subject matter was to be the general concerns expressed by staff in H6, with particular reference, however, to the co-location there of the LVF and the INLA.

The Meeting Itself

- 13.49 Evidence as to what was said at the meeting provides a sharper divergence of accounts between the three governors and the two prison officers. Mr Gillam submitted an SCS on 30 December 1997, three days after the murder. He and Mr Thompson also provided details of what was discussed with the governors in statements made to the police. The governors have had to rely on their recollections years after the event. The absence of any written or more contemporary account has not necessarily placed the governors at a disadvantage. In contrast, the numerous written accounts provided by the prison officers have been used in an attempt to test their evidence.

The Late Submission of the Staff Communication Sheet

- 13.50 When asked why he wrote a SCS after Billy Wright's murder, Mr Gillam said that following the murder he felt that the concerns that they had expressed to senior management had not been listened to, and indeed had been thrown to one side. He was very concerned about his and Mr Thompson's involvement within the meeting of 24 October 1997, so he decided then that a half-sheet required to be written. It was not written prior to any contact from the police officer who came to see him.
- 13.51 When Mr Thompson was asked why he himself had not written a SCS, he explained: **'I had already told three Governors exactly what we thought was going to happen. Why should I write it down on paper when I have told them face-to-face? They couldn't have missed what we said.'**

General Concerns

- 13.52 It appears to be accepted by everyone that there was talk about the state of security in H6. Following the death of Billy Wright, Mr Gillam recorded the terms of the meeting in the SCS.

'Officer Thompson and I were asked questions regarding the state of security in H6, and our views on what could be done to improve the working procedures to aid the health and safety for staff and prisoners, as H6 housed two opposing paramilitary factions (I.N.L.A and L.V.F).'

- 13.53 Mr Eagleson did not dispute this. He said part of the conversation would have been along those lines. He said that as he did not remember exactly what was said, it is possible, and entirely likely, that Mr Gillam was correct. When asked

what concerns the officers had passed on, he said it was only very general. The fact that the INLA and the LVF were co-located meant there was potential for some sort of incident to take place.

- 13.54 Mr Crompton, while acknowledging that his recollection was incomplete, thought that all the issues dealt with related to staff safety and how to keep the two factions from meeting inadvertently.
- 13.55 Mr Eagleson remembered the officers saying that they were concerned that two groups of people were co-located and that there was the potential for them to try to inflict harm on each other. He said he would have done his best to explain that at that particular moment it was the least worst option and to explain to them the restrictions on what options were available. He did not know if he used the phrase **'least worst option'** at the time. He said the conversation revolved around the officers' concerns about the two factions co-locating, and the consequent risk that something untoward might happen. He thought it safe to assume that what they had heard from the officers would have been passed on by Mr Crompton. His recollection was that the officers would have been pressed about specifics they wished to tell him about, but that the officers had nothing specific to say. The conversation was similar to conversations which he had with staff and managers all over the prison. Such a meeting would not have stuck in his mind months later unless there was something out of the ordinary about it.

Specific Concerns

- 13.56 In his police statement made following Billy Wright's murder, Mr Gillam said:
- 'We told them that bearing in mind that you already had McWilliams and Kenneway housed with INLA and that they had already been involved in a previous hostage situation in Maghaberry and that it was believed that they were determined to get Billy Wright that there was a strong likelihood that something was going to happen. We told them that we believed because they had already used a gun in Maghaberry that the nature of this attack may involve a firearm of some sort and we pointed out that they may in fact already have a gun in the Block. We also pointed out that they could fire from a window of A wing into the forecourt or from the roof.'**
- 13.57 Mr Gillam said that these additional points formed part of the discussion with the governors and were the more significant aspects of the information they had provided. He agreed that these five pieces of information were of key importance. He acknowledged that four of the points he made in his police statement were not in his SCS. He could not explain why those four points were missing from the SCS. He could not remember if he had ever spoken to the PO or SO regarding those four matters. He went on:

'I think our concerns were – generally, as I said earlier on in the statement, my real concern [at the meeting on the 24th] was the health and safety of staff and prisoners within the block in general. ... There's no doubt in my mind that we had referred to a possible use of a firearm to the Governors. It is also very clear in my mind that we stated that they could use the roof or the windows. It is also very clear in my mind that we also named the prisoners involved. It is also very clear in my mind that there was nothing done other than the memo, which was issued by Governor Eagleson.'

- 13.58 Mr Gillam confirmed that he had recorded in his SCS his gut feeling that something was being planned. He said that it was because of the questions the police officer put to him that he made the comments in his statement saying he felt a gun might be used and that a gun might already be in the prison.
- 13.59 Mr Thompson told the Inquiry that at the meeting of 24 October he and Mr Gillam had told the governors, first, that there was a problem with the cameras on H Block 6; secondly, that there was a difficulty over the lighting in H Block 6; and thirdly, that a steel grille needed to be put in place over the medic's door. Although he gave oral evidence that these were mentioned in the meeting, he acknowledged that none of these three things was mentioned in any of his witness statements. He said that he and Mr Gillam told the governors that the yards were not secure and that the LVF and the INLA hated each other. They mentioned the HMP Maghaberry hostage incident where McWilliams had got a gun in, and they thought that if he had been able to do that, then he could easily get a gun into HMP Maze. Mr Thompson and Mr Gillam told the governors there would be a shooting. They thought people would either come over the roof into the yard or throw an explosive device into the yard. The two men had told the governors this in strong terms that could not be misunderstood, and there were other issues brought up about cameras and lights. Mr Thompson thought Mr Gillam had raised the possibility of getting a steel grille put on the door to the medical room so that whoever was on duty in the circle would be able to see who was consulting the doctor.

Possible Source

- 13.60 It appeared to Detective Sergeant Timothy Gorrod, the police officer who took statements after the murder, that Mr Thompson had obtained specific information from a source or sources (a prisoner) to the effect that they were going to get at Billy Wright but **'any Prod would do'**. If a prison officer had that sort of information Mr Eagleson said that he would have asked him then and there to make a specific referral to the Security Department.

13.61 Mr Thompson denied that there was specific intelligence of that sort, but he suggested to the Inquiry that he had said to Mr Eagleson that there was a scenario in his mind whereby McWilliams, Kenneway and Glennon would get over the roof into the forecourt and shoot Billy Wright, and he mentioned specifically the hostage taking incident back in April at HMP Maghaberry.

Threats

13.62 Mr Gillam wrote the following in his SCS: **'We were also asked of [sic] our opinion on where the most likely threat would be from and whether it would be toward staff or the other faction.'** He also said, **'Officer Thompson and myself expressed great concern over the security to A + B side of H6, as both yard [sic] were open to the I.N.L.A including the central sterile area. We highlighted the fact that there was only two rolls of "S" wire on the roof in the central area. On several occasions [sic] we both had raised this point with a number of senior staff, to no avail.'**

13.63 Mr Gillam claimed he was asked: **'In what manner do you think a threat could take place?'** and how this would come about. He said it was a very informal conversation between all the participants and that he and Mr Thompson told them: **'yes, it is quite possible, if he had got a gun into Maghaberry, it is quite possible he could get a gun into here [HMP Maze].'** They went on to explain how McWilliams could shoot somebody from the side windows, lay the gun down and walk away with no fear of being charged because he could not be identified and he could use any cell he wished.

13.64 Mr Gillam confirmed that what they were telling the governors was in part speculation, in part based on rumour, but in part also based on direct observations that he had made and also in part on common sense. He conceded that no one directly told him or Mr Thompson that McWilliams was going to **'get'** Billy Wright. He had general concerns about a possible attack but there was no specific evidence for those concerns at that time.

13.65 Mr Gillam believed it was the general opinion of the block at that particular time that McWilliams and Kenneway were determined to get Billy Wright. He also said that it would have been a commonly held view within the block, and was indeed his own feeling, that because McWilliams and Kenneway had already used the gun in HMP Maghaberry, the nature of the intended attack might well involve the use of a firearm.

The Likely Assailants

13.66 On 30 December 1997 Mr Gillam wrote: **'On several occasions [sic] we both had raised this point with a number of senior staff, to no avail.'**

Regarding the recent incident of the shooting of prisoner WRIGHT, We had made the governors fully aware of our thoughts. We had named the prisoners involved, the way in which it could be carried out E.G. over the roof or through a window, we also told the governors of our gut feeling that prisoner McWILLIAMS was planning something along with prisoners GLENNON and KENNAWAY.'

Mr Eagleson denied this was said.

- 13.67 Mr Eagleson disputed the account of the meeting given by Mr Gillam and Mr Thompson; in particular their claim that he had referred to the Maghaberry hostage incident. When asked why he was so sure that this had not been mentioned at the meeting, Mr Eagleson responded by saying that in April of that year he had watched McWilliams trying very hard to shoot his colleagues in HMP Maghaberry. He had watched them scatter in terror and cower terrified in corners to try to get out of McWilliams' line of fire, and Mr Eagleson had been very, very frightened himself. He said it was not a memory that left one. Mr Eagleson was convinced that, had any specific reference been made to anyone involved in what had happened on that day, it would have resonated with him and would have stayed with him, but nothing specific about any named individual was discussed. Governor Eagleson said **'I have been asked whether the officers referred to the hostage-taking incident ... There was no mention of [it]. If there had been I would remember the meeting much more clearly.'** Mr Eagleson said that something of the nature of the HMP Maghaberry hostage taking incident, together with the specific scenario being mentioned, would be a matter of which he would have **'absolutely'** taken note.
- 13.68 When asked whether Billy Wright's name was mentioned as a potential victim and whether Brian Thompson mentioned Kenneway, Glennon and McWilliams, Mr Eagleson said that those names might have been mentioned because of those individuals' notoriety, but there was no discussion about any of those individuals doing anything in particular or having anything in particular done to them.
- 13.69 There was a slight change in Mr Eagleson's position between his statement and his oral evidence. In his statement, he said: **'The officers definitely did not mention McWilliams and Kennaway [sic]. I have been asked whether the officers mentioned Prisoner Glennon. They definitely did not mention him.'** In the witness box he said he had no recollection of McWilliams, Kenneway and Glennon being mentioned at all.
- 13.70 Mr Thompson was adamant that the names were mentioned. When asked whether he had quite clearly told the governors that he thought McWilliams would come over the roof into the forecourt or that an explosive device would be thrown into the yard, he replied,

‘In very strong terms we mentioned the names of McWilliams, Kenneway and Glennon. We told them in strong terms that we thought they could come over the roof and attack LVF prisoners in the forecourt. We mentioned the name of Billy Wright. I am not mistaken about these. These three Governors were sat across a coffee table for the whole of the meeting.’

- 13.71 Mr Thompson said that he also mentioned another scenario: namely, those shots might be fired through a window. He said he and Mr Gillam thought that, if all three prisoners did not come over the roof, they could fire shots through the cell windows or the dining hall window at LVF prisoners going to their visits.

Roofs

- 13.72 Both Mr Gillam and Mr Crompton agree that the issue of access to roofs was raised. When asked if the roof was a concern that was raised with the governors, Mr Gillam responded, **‘Very much so.’** He thought the governors’ view was: that will never happen, that could not happen. Mr Gillam thought they were quite dismissive of his opinion.
- 13.73 Mr Gillam said he was sure that he and Mr Thompson had been asked if they had any concrete evidence to offer the governors to back up their speculation. Mr Gillam said the answer would be no. It was a simple gut feeling that they had, based on the reputation of the person in question, namely McWilliams, and his association with other members. They could not put their finger on what this could be. That was the worst-case scenario.
- 13.74 Mr Gillam confirmed he was taking bits of information that he had gleaned from elsewhere, both hearsay and direct knowledge; for example, the fact that a gun had been used in HMP Maghaberry, his knowledge of McWilliams, the lack of protection of the roofs, the ability to go on the roofs, the exposure of the forecourt. All of these issues were coming together in his mind.
- 13.75 Mr Eagleson said that the officers might have referred to being unhappy with the security arrangements. From memory, the officers would have raised a concern about the roofs. He said that, according to the officers, the roofs were vulnerable and prisoners would not find it difficult to get onto the roof. There was a general discussion about the vulnerability of the roofs. With regard to the comments on the two rolls of wire, he said, **‘I do not recall them saying this.’** In any event, such a discussion would not be out of the ordinary. He had this sort of conversation **‘day in, day out’**.
- 13.76 Mr Thompson was adamant that he and Mr Gillam had mentioned this at the meeting. Following the murder of Billy Wright, Mr Thompson made his first witness statement on 30 December 1997. Although he talked about the meeting with the

governors on 24 October, he did not mention the rolls of wire on the roof. When asked about this, Mr Thompson replied, **'I thought after I gave this statement, sir, that it would be gone into in more depth. This was actually my murder statement, where I was slightly traumatised at the time.'** Mr Thompson acknowledged that he had not mentioned this in any of his written statements.

Movement of Prisoners in the Circle Area

- 13.77 Mr Gillam said that movement of prisoners in the circle was an issue that was discussed. He said it was a direct concern that he and Mr Thompson, and not the governors, had raised.
- 13.78 Mr Gillam said that, after the meeting on 24 October, Governor Eagleson issued a memorandum saying that there would be a requirement for one of the SOs to be present at times of a high level of movement within the block. If, for example, prisoners were on their way to the gymnasium the SO would be present within the circle area to assist the circle officer in his duties. It was not to oversee but rather to assist him with another pair of eyes.

Firearms and Other Devices

- 13.79 Mr Eagleson did not have any recollection of mention being made of a gun being used or potentially being used.
- 13.80 When asked why he thought there might be a gun threat to officers at the wing grilles, Mr Gillam replied, **'At that particular time, as we have said, Kenneway and McWilliams were recently housed with us, and indeed after the hostage situation within Maghaberry it was a possibility on either side.'**
- 13.81 Mr Thompson told the Inquiry that nothing was said about how guns might be brought into HMP Maze. He and Mr Gillam just mentioned that someone had got them into HMP Maghaberry and if they could do that they could do so in HMP Maze too. He went on to say that he and Mr Gillam had mentioned that guns could already be in the blocks or, if not, they could be brought in at the Christmas party. He said there was very little reaction to this. When he and Mr Gillam walked out of the bunker he thought they both said to each other, **'Bet you nothing is ever done about this.'** Mr Thompson told the Inquiry that Governor Eagleson had said that Governor Mogg wanted to get to grips with the situation and he would be informing him of what officers Thompson and Gillam had told him.
- 13.82 When asked by Counsel if he had any specific evidence for his concerns, Mr Thompson responded, **'What did he want me to do? Bring the gun to him? I can't go down and search a block by myself.'** When asked whether he felt that all he could really relay to the governors were his concerns, Mr Thompson's response was, **'That's all we could do; tell them our concerns.'**

They were in charge of the prison. It was up to them to search it. Certainly, if I had said this in the Crumlin Road, the place would have been torn apart in the search. This man [Crompton] done absolutely nothing.'

13.83 Mr Thompson said that at the meeting on 24 October he raised the issue that the INLA were planning to get guns or a bomb into the prison – or had guns or a bomb – that he knew the prisoners who were involved in the plan, namely the three who subsequently committed the murder, and that their likely target was Billy Wright. When asked why he had not told the POA, his response was, **'Well, at that time, I didn't actually know these three prisoners were being involved. I only knew from what the INLA were saying that they were going to do something spectacular, and I thought they would bring a gun in. Then, by the time we had that meeting, I must have formulated in my head it would be these three prisoners and this is how they would do it.'** He said that by the time the meeting of the 24th came, **'we were certain something was going to go on.'**

13.84 Mr Gillam was concerned about the INLA getting access to B wing because once the grille was removed allowing access to the classroom and association room, the INLA would have the complete run of that wing, although they did not have access to any of the cells. The cells always remained closed, but the INLA did have access to other facilities in that area. Mr Gillam said that an order concerning this matter was issued shortly after the meeting.

13.85 In his witness statement Mr Gillam said he was asked about the two factions. He said this was raised by the governors. They asked where the threat or indeed any perceived threat would be coming from, and whom it would be aimed at, whether at staff or at the other faction within the block. He said that as far as he could recollect, he and Mr Thompson felt that there was no direct threat to staff, at least no more than usual, because in that prison and particularly in H6, they were always under threat at some point. He said the governors seemed to suggest at the time that the threat was more from the LVF to the INLA. He and Mr Thompson said that, in their opinion, it would be entirely the other way round. When asked why he had taken this view, Mr Gillam replied,

'I explained to the Governors at the time that because of our prior knowledge of the people in question, that it was a gut feeling that I had that there was something going on, there was something being planned by indeed McWilliams, and because of his association with Glennon, something was going on. Kenneway, yes, he was always known to be an associate along the way, but definitely there was something else going on between McWilliams and Glennon at that particular time.'

- 13.86 Mr Gillam said it was a possibility that at the time the governors might have been thinking in terms of an escape.
- 13.87 In his post murder police statement, Mr Gillam stated, **'At this meeting we made particular mention of Billy Wright and prisoners McWilliams, Kenneway and Glennon and that we had been aware from talk within the prison that McWilliams was going to get Billy Wright whom he always referred to as King Rat or Rat.'** In oral evidence Mr Gillam said this was prison grapevine talk. It came sometimes from the prisoners, sometimes from prison officers as well.
- 13.88 Mr Gillam said that McWilliams always referred to Billy Wright as the Rat or King Rat, **'that type of thing'**, because at that particular time Billy Wright was very prominent in the Portadown area. On several occasions when they had let McWilliams out he had **'mentioned, you know – shouted up the wing something like "The Rat will be got" and things like that'**. Mr Gillam said the information upon which he had founded his belief that Billy Wright was under threat was not information he had received directly but was just what he had gleaned through prison chat and the officers' perception.
- 13.89 Mr Gillam confirmed that no one had ever said to him directly that McWilliams was going to kill Billy Wright. Mr Thompson said, **'We informed them of the deep hatred held by INLA for the LVF and particularly mentioned Prisoner Billy Wright.'**

Follow-up After the Meeting

- 13.90 After the officers left the room, Governors Crompton and Eagleson had a short discussion about what had been said and Mr Crompton returned to the administration area. From Mr Eagleson's memory, the conversation was something along the lines of **'Well, we didn't learn much there'** or **'Nothing new there'**.
- 13.91 The subsequent instruction which came out following the meeting was designed to control movement through the circle, especially when there were to be congregations of prisoners from one faction in the circle.
- 13.92 Mr Ramsden did not know the outcome, or whether any decisions were made following this meeting. As far as his involvement was concerned, there was no follow-up. He achieved what he had intended, which was to give the staff of H6 the opportunity to speak with senior management. He said that he did not speak to any H6 officer during or after the meeting.

Submissions

13.93 The Inquiry has received extensive submissions on behalf of all the parties involved in the meeting of 24 October 1997. The Panel has come to the view that it need not rehearse these submissions as they are almost entirely concerned with the reliability of the witnesses' accounts, about which the Inquiry must of course satisfy itself. In general terms it is correct to say, as is submitted by Counsel for Governor Ramsden, that the governors state that there were no specific threats arising from the meeting. It is understandable that recollections are not clearer following the passing of 11 years from the time of the meeting.

Conclusions

13.94 The meeting on 24 October 1997 was prompted by a member of the BoV (possibly Mrs Quinn) who reported that officers in H6 were concerned about certain security matters arising from the co-location in H6 of the two opposing factions. It does not matter whether arrangements for the meeting were made by Governor Crompton or Governor Eagleson. The fact is that officers Gillam and Thompson were detailed to attend the meeting in the Governor's bunker where there were present Governors Crompton, Eagleson and Ramsden. Neither Mr Gillam nor Mr Thompson knew the particular purpose of the meeting, but SO Buchanan informed them that the governors wished to discuss with them the current issues or concerns within the block.

13.95 The LVF were returned to C wing of H6 on 1 October 1997, just over three weeks before the meeting. In advance of their return, the INLA, housed in the opposing A wing, announced that if the LVF were returned to H6, they would not burn down the block but would do something more spectacular. That was well known by the time of the meeting of 24 October. Roof security was also very much an issue. Co-location was a constant issue. In that connection, there had been a very recent experience of a prisoner from one faction being in the medical room when a prisoner from the opposing faction was in the circle.

13.96 The real question is whether, as they maintained, officers Gillam and Thompson talked in detail about their concerns, with particular reference to potential attacks with weapons such as guns across the forecourt or over the roofs, involving named prisoners, both the likely assailants and Billy Wright as the intended victim, or whether, as the governors collectively maintained, the two officers spoke in general terms and without detail. This is not an easy matter to resolve, not least because of the substantial SCS which Mr Gillam provided on 30 December 1997, three days after the murder, and also because of what he said in his police statement at that time. Both he and Mr Thompson were much exercised then by the fact that, despite their representations, nothing had been done on the management side to address the concerns they had expressed.

- 13.97 The Panel has to say that it finds it surprising that, if these two officers had provided the detail they said they did in their post-murder statements and Mr Gillam did in his SCS, the governors, notably Governors Crompton and Eagleson, should have taken no steps whatsoever following the meeting. Mr Eagleson was clear that no INLA prisoners were named in the course of discussion with the two officers. Nor was there any reference to the HMP Maghaberry hostage incident. Had there been, Mr Eagleson said that he would certainly have remembered it because he was present at that incident and was very frightened by it. We find that part of Mr Eagleson's evidence very telling. As a matter of interest, no communication was made thereafter with Mrs Quinn by either governor to report the outcome of the meeting. Indeed, Governor Eagleson's recollection was that, after the officers had left, he and Governor Crompton were agreed that they had not learned much and that there was nothing new in what the officers had raised.
- 13.98 Assuming that they listened properly to what the two officers had to say, we find the conclusion reached by the two governors quite convincing. On the other hand, we were impressed by the way in which the prison officers gave their contrary evidence. Being in some doubt however, we do not find it established on a balance of probabilities that anything was said to the governors materially beyond what they already knew.

The 'No First Strike' Agreement

- 13.99 Paragraphs 5.17–5.18 of the November 1997 MIAR recorded the following:

'INLA prisoners continued to be quiet and their concerns about sharing accommodation with the LVF appear to have waned.

Both INLA and the LVF (who are located in H6) have stated they have a "no first strike policy" against the opposite faction. It remains to be seen if they can maintain their promises.'

It is not clear from documents on what basis this statement about a **'no first strike policy'** had been made. It was not clear when or to whom any undertakings were given, or what their content was. Martin Mogg's journal recorded that he met with LVF prisoners on 30 October, but did not specify what was discussed. On 31 October he recorded in his journal: **'Met INLA representatives at 1100. Expressed concern at being in block with LVF, and usual range of issues.'** His only other reference to meeting with these factions was on 21 November: **'Meeting with LVF followed by meeting with INLA'**. Again, no detail was given.

- 13.100 Ken Crompton recalled that the first 'chapel meeting' with the INLA took place in late October. He agreed that 30 and 31 October could have been the dates

of the first chapel meetings with the LVF and the INLA respectively. The INLA meeting was attended by two prisoners, one of whom was possibly OC INLA H6: he was not sure whether Kenneway or Glennon had been present but he was sure McWilliams had not been. Mr Crompton stated that at this meeting the INLA prisoners expressed concern that they were back in a block with the LVF. They indicated that they were very unhappy; that they felt it was unsafe; that there was no reason for it; that they had been perfectly happy when the LVF had been away in another block and that they saw no reason why that situation could not continue. They asked whether the prison could guarantee their (the INLA prisoners') safety. Martin Mogg had told them that housing the LVF in another block was not sustainable because of the refurbishment programme, and because he did not have the staff to be able to man another block. The INLA prisoners responded by saying that the prison would be responsible for their (the INLA prisoners') safety. Mr Crompton stated this was a standard prisoner ploy: if they wanted to force the prison into a situation, they would ask for a guarantee of their safety. It was just a way of exerting pressure, even within wings of like-minded prisoners who would feign a split as a means of gaining extra accommodation. It meant the prison would have to ensure that there were no points of contact between the two sides, manage the circle and ensure the two sides did not meet. He stated that in response they told the INLA prisoners that having talked to the LVF they (the governors) would guarantee that the LVF would not seek confrontation with the INLA. Ultimately what they got from both sides was: no, we will not attack the opposition but you are responsible for ensuring that our members do not end up occupying the same space at the same time. Quite clearly the agreement at that stage was 'If they won't attack us, we won't attack them.' Both factions were told that this agreement had been reached: Ken Crompton stated that he told Billy Wright and Martin Mogg told the INLA.

- 13.101 Asked what prompted the brokering of this '**no first strike**' agreement, Mr Crompton told the Inquiry that it would have been the tension between the two groups and the information that was flowing initially that the INLA were unhappy and felt unsafe. He rejected the suggestion that it had anything to do with the meeting on 24 October. He was asked at interview if there had been any discussion about what would constitute a breach of the agreement, but did not think this had ever been discussed. Nothing was said by either faction about what would happen if the agreement was breached. The INLA's concern was solely that their members and those of the LVF be kept separate in the circle and in the forecourt: there were no other points of contact between them. He did not remember there being any discussion about what would be the effect on the agreement of attacks which the LVF perpetrated in the wider community. The agreement was not put into writing.

13.102 Mr Crompton was asked whether anything was done differently following the agreement. He said that the prison had certainly ensured that prisoners did not meet in the circle, and that it already had the vans backing into the H6 forecourt to collect prisoners for visits. His opinion was that if what had been put in place worked as it should have done, then the prison had fulfilled its side of the bargain. It was in the interests of prisoners not to attack each other as they did not want a war within the prison. There was a sort of armed neutrality within the prison. He told the Inquiry that, in retrospect, it was naïve for Mr Mogg to rely on the **'no first strike'** agreement, but the history of HMP Maze was that the factions did not seek confrontation with each other in HMP Maze. Asked if he considered it was sensible to rely on an undertaking given by one faction, or indeed more than one faction at HMP Maze, Mr Crompton told the Inquiry that one would not place absolute reliance upon it, but those were the sort of deals that they had been organising at HMP Maze since 1972. Asked if there were other such agreements in place at the time at HMP Maze he told the Inquiry there were none that they had negotiated, but there was a standing sort of assumption that, because they had not been told otherwise, the others remained in place. When asked to what extent he considered that these standing assumptions were reliable, he told the Inquiry that they had held for a quarter of a century.

13.103 Mr Crompton did not recall whether the INLA had raised the LVF issue at subsequent meetings. His impression had been that things had seemed to quieten down in H6 after the agreement was reached. He had later visited H6 and found it to be quite relaxed, whereas the staff there had previously been quite tense. Billy Wright never expressed any concerns about his own safety: he was very relaxed, and happy with the facilities he now had. He appeared to be happy with his security. He had never said that he wanted to be moved from H6. He did not have the same safety concerns that the INLA had expressed. Mr Crompton confirmed that it was the INLA who felt vulnerable. Asked to what extent he or Mr Mogg made sure that the agreement was being adhered to, he told the Inquiry that in subsequent meetings that he had with Billy Wright it was basically just confirming that what was agreed was working well and there was no possibility of a breakdown from either side. He confirmed that he would have re-confirmed with Billy Wright that the **'no first strike'** agreement was in operation and that there were no further complications from their point of view.

13.104 Mr Crompton thought that NIPS HQ might have been told of the agreement by Mr Mogg. No documentation to this effect has been recovered. It does not appear that the SIC was involved in these discussions with the LVF and the INLA, though in oral evidence Mr Crompton told the Inquiry that following the **'no first strike'** agreement, the SIC would have been informed. Steve Davis's position was that he

was not told about what was said at such meetings. He explained the weight that he personally would have put on the agreement:

‘If you were told that a faction would not launch a first strike against the other, you would take it at face value but not necessarily believe it. Do you believe the comment about doing something “spectacular” or the one about there being no first strike? What you do is you believe neither of them. You cannot put more weight on one than on the other.’

13.105 Alan Shannon in evidence rejected the proposition that relying on **‘no first strike’** agreements and failing to take the precautions specified were acts and omissions. The management did not believe that it was relying on **‘no first strike’** agreements; it knew there were vulnerabilities but believed it had sufficient measures in place to maintain separation. Under questioning by Counsel for the NIPS Mr Shannon accepted that it would not be wise to rely on such undertakings to the extent of not putting in place any security measures. That however was not done; and the fact that a disciplined group had entered into a **‘no first strike’** agreement was a relevant factor in the overall assessment of risk but it had to be considered in context. The context was that the INLA and the LVF had been in H6 for months and there was not a single attack or clear evidence of a threatened attack. The management of HMP Maze was experienced in these matters, so it was normal practice to assess and judge what weight could be given to such assurances. Mr Shannon agreed with Sir Richard Tilt that past behaviour was the best predictor of future behaviour. There was for many years an unwritten rule that prisoners would not attack each other, at least at visits: the existence of the rule, and the fact that it worked, were relevant considerations when assessing the risk of prisoners attacking each other at visits. The **‘no first strike’** agreement was another example of the approach. He would not be critical of Martin Mogg seeking to extract the agreements from the INLA and the LVF: it was a sensible piece of management.

13.106 Sir Richard Tilt said that he would not have expected security and safety procedures to be built upon the words of prisoners, and these agreements should have played no part in the decision-making process. Dialogue and communication were always important, and no doubt achieved some things. However, he did not think major decisions could be taken on the basis of **‘no first strike’** agreements struck with prisoners. The **‘deals’** were a very poor and wholly inadequate substitute for proper security and control or the selection of a different location for either the INLA or the LVF. In his view, if HMP Maze managers did take account of the INLA’s **‘no first strike’** undertaking for the purpose of implementing their duty of care towards Billy Wright, that was not consistent with showing the proper consideration for his personal safety which was to be expected from prison managers of ordinary competence.

Submissions

13.107 Counsel for the Wright family was outspoken in his criticism of the reliance on a **'no first strike'** agreement by prison management and the NIPS. He pointed out that, against a background of degraded security and control measures, growing tensions within H Block 6, and numerous unequivocal warnings of danger, to rely upon honour among thieves in the context of HMP Maze was grossly naïve, to say the least. In any event, claimed Counsel for the Wright family, there had been no documentary proof provided to the Inquiry showing that the INLA had subscribed to such an agreement. This is not strictly true, because OC INLA H6 and 2ic INLA H6 had told Steve Davis that the INLA would take only defensive action and would not be starting anything and that is recorded in Mr Davis's note of the meeting.

13.108 Counsel for the NIPS submitted that security was not reduced because of reliance on **'no first strike'** undertakings. It was pointed out that similar undertakings had operated at HMP Maze over many years, for example the understanding that prisoners from opposing factions would not assault one another at visits or in the hospital. There was no difference in principle between those undertakings and the **'no first strike'** agreement. It was pointed out that the MIAR for November 1997 recorded that the INLA's concerns about sharing the block appeared to have waned, and that both factions had said that they had a **'no first strike'** policy.

Conclusions

13.109 The Panel share the opinion expressed by Counsel for the Wright family and by Sir Richard Tilt that it was foolhardy to rely on **'no first strike'** agreements. They note the contrast between the robust scepticism expressed by Governor Steve Davis and the reliance placed by Governors Mogg and Crompton and by Alan Shannon on such agreements. The Panel agree with the view expressed by Sir Richard Tilt that a **'no first strike'** deal was a wholly inadequate substitute for proper security and control.

Visit by the International Committee of the Red Cross, 11–14 November 1997

13.110 Between 11 and 14 November 1997 representatives of the International Committee of the Red Cross (ICRC) visited HMP Maze. Following this visit they reported to the Chief Executive of the NIPS that H6 was **'a powder-keg'**. The Inquiry heard extensive evidence about this visit and about the interpretations to be put on this comment.

13.111 The ICRC is an impartial, neutral and independent organisation which is mandated by the international community under the Geneva Conventions to visit prisoners of war and civilian internees to establish whether they are being treated according

to relevant international standards. It also visits those held in situations of internal violence. The main purpose of ICRC visits is to ask the authorities to take any steps deemed necessary to improve the treatment of detainees.

- 13.112 Delegations from the ICRC have made several visits to prisoners in the UK in the past and continue to do so. Sir Richard Tilt told the Inquiry that the ICRC had visited HMP Gartree in the mid-1980s, when he was Governor of that prison in England. They had visited England in the late 1990s, when he was Director General of the Prison Service of England and Wales, and also at other times.
- 13.113 Evidence given to the Inquiry indicated that the ICRC had been visiting prisoners in Northern Ireland regularly since the 1970s. Formal visits were carried out approximately every three years, after which formal reports were provided to the NIPS. Interim visits were undertaken between the formal visits, after which there were no formal reports but oral reports were given to the Governor of the prison and to the NIPS. The visit in November 1997 was an informal one, undertaken by two ICRC detention experts and a medical doctor.
- 13.114 In the course of the visit in November 1997 the ICRC delegation visited several H blocks and spoke to prisoners and staff. On 13 November the representatives met with Martin Mogg, who was at that time both Director of Operational Management and Governor of HMP Maze. No evidence was presented to the Inquiry that Mr Mogg was accompanied at that meeting by anyone else from the prison or from the NIPS. Deputy Governor Ken Crompton and Security Governor Steve Davis both told the Inquiry that they were not present.
- 13.115 On 14 November the ICRC delegation met with Alan Shannon. A briefing note prepared for Mr Shannon after the meeting on 13 November and before that of the 14th records that the delegation had found the atmosphere in the prison to be generally more relaxed than on previous visits, with **'one obvious exception, H6'**. The briefing note goes on:

'H6 was the primary concern for the delegation. They fear that it is a powder-keg with LVF on one leg and INLA on the other; with INLA particularly fearful of their position. INLA spoke of feeling under siege, being unable to relax and about the possibility of pre-emptive strikes if they felt further threatened. ICRC felt that it was affecting the psychological well being of INLA and giving staff cause for concern for their own safety. They recommended that the two groups should be kept in different blocks.'

A handwritten note of the 13 November meeting states:

'Billy Wright v INLA – hostile attitude – frightening to staff. Feel under threat & attitude is to preempt it – dangers from both side – take roof & storm other side ...'.

13.116 At the meeting with Alan Shannon on 14 November the ICRC representatives reiterated their concern about H6 and again recommended that one of the factions should be moved. The notes of the meeting record Mr Shannon's response:

'Until couple years ago factions shared blocks. A preference for us – controlled movement. Numbers dictated change – subdivisions of groups needing separate accom[modation]. More factions = less flexibility & more resources. Need empty block for refurbishment prog[ramme] ...'.

The note records that a member of the ICRC responded that there was:

'... definite threat to life & wellbeing in H6. If one faction got on roof nothing to stop them getting at opposing faction through roof.'

13.117 During evidence the Inquiry heard differing opinions about the significance of the ICRC report. The main argument presented by some witnesses for the NIO and the NIPS was that the ICRC was acting merely as a mouthpiece for the INLA prisoners, that it was not expert in security matters and that in any event what it was reporting was already well known to the authorities.

13.118 Several witnesses acknowledged the general credibility and expertise of the ICRC. Adam Ingram told the Inquiry that the importance of what the ICRC said would have been **'uppermost for those who had the management responsibility'**. Alan Shannon agreed, when it was put to him, that its members were **'leaders in their field in terms of external observers and inspectors of prisons throughout the world'** and that a visit by them was a significant and serious matter. Barry Wallace said that when he was Governor of HMP Magilligan he would have regarded a visit by the ICRC as very significant. He agreed that it was **'a fairly high-profile, prominent organisation'** with **'considerable experience in inspection of prisons throughout the world'**. Duncan McLaughlan described its members as **'the most impressive, knowledgeable people on the international scene about the inspection of prisons'**. Sir Richard Tilt stressed that **'the ICRC are seen as a much respected, wholly independent organisation'**. He said that, both as a Governor and as a Director General, he would have regarded an ICRC visit as **'a pretty important event'**.

13.119 It was put to the Inquiry that, in describing the situation in H6 as it did and specifically in referring to it as **'a powder-keg'**, the ICRC delegation was not delivering its own considered opinion but was merely repeating what it had been told by the INLA prisoners, who had intended this to put additional pressure on prison management. In considering this argument, the Panel have taken into account the acknowledged expertise of the ICRC in interviewing prisoners around the world who have strong political agendas and who are likely to try to influence its conclusions. We heard evidence that the delegation visited several blocks in the prison and that it exchanged views with prisoners from several factions as well as with staff. We note that on this occasion the delegation drew a clear distinction between its assessment of the situation in H6 and what it found in the rest of the prison. We are satisfied that the ICRC delegation was experienced enough to make a judgement about what it was told by prisoners and not simply to take this at face value. We are also alert to the fact that the ICRC traditionally chooses its words very carefully and is not given to exaggeration. We are satisfied that, had its representatives wished merely to convey what they had been told by prisoners without any assessment, they would have made that clear. We conclude that the delegation's own considered assessment was that H6 in November 1997 was a **'powder-keg'**.

13.120 We turn next to the assertion that the ICRC was not expert in security issues. The Inquiry heard evidence that in the course of previous visits the ICRC had expressed concerns about security. For example, in 1992 it raised the issue of the close proximity of prisoners from opposing factions at HMP Belfast and in 1995 it expressed concern about the effectiveness of searching procedures at HMP Maze. Despite this, several witnesses were at pains to emphasise to the Inquiry that the ICRC was not expert in security matters, and this point was also made in submissions by Counsel for the NIPS/NIO. We note that the ICRC did not claim to be expert in these matters, nor did the delegation comment on security issues. Rather, its representatives reported that the INLA felt they were **'under siege'**, that they spoke about the possibility of **'pre-emptive action'**. In the meeting with Mr Shannon a member of the ICRC commented that if one faction got onto the roof there would be nothing to stop them getting at the opposing faction through the roof. The possibility of one faction getting onto the roof and attacking the other faction was a non-contentious assertion. The LVF had gained access to the roof earlier in the year. On that occasion they had chosen to demonstrate against staff but they might just as easily have attempted to attack the INLA prisoners. Since the ICRC did not comment on security issues, we see no need to draw any conclusions about their expertise in these matters.

- 13.121 Finally in this regard, we have considered the assertion that, notwithstanding these other considerations, what the ICRC had to report was already well known to the authorities. In terms of the potential for one group gaining access to the roof and the danger that they might attack the other faction, we accept this assertion. We heard much evidence from witnesses about the fact that the authorities were alert to this danger. Similarly, the authorities at all levels were well aware of the fact that the INLA and the LVF were deadly enemies. However, a new and important piece of information came out of the ICRC visit. The ICRC is expert in listening to manipulative prisoners and in making assessments of what it is told. On this occasion, having observed the situation at first hand, having spoken and listened to prisoners from both factions and having spoken to staff on the ground, the ICRC, a group described as **'leaders in their field in terms of external observers and inspectors of prisons throughout the world'**, reached an assessment in November 1997 that H6 was a **'powder-keg'**. The NIPS/NIO submissions claimed confidently that this was not new information, but the Panel conclude that this was in fact important new information, granted the expertise of the ICRC and the emphasis which they placed on this particular exception to their general conclusions, and the Panel believe that it should have been properly considered at every level in the NIPS and in the NIO.
- 13.122 We heard clear evidence that this did not happen. Within the prison, the Deputy Governor and the Security Governor gave evidence that they did not know of this assessment by the ICRC. They both asserted that, had they known, they might not have accepted the ICRC's conclusion but the fact remains that at the time they were unaware of it, nor was the conclusion of the ICRC passed to the Security Department in the prison.
- 13.123 The NIPS reaction to the ICRC assessment of what the delegation found in November 1997 is encapsulated in Mr Shannon's assertion **'There was nothing in the briefing note that was a surprise to me.'** At one level, we can understand why Mr Shannon responded in this manner. He was being told that there was antagonism between the INLA and the LVF and he was being told that there were risks in holding these two factions in separate wings of the same block. None of this was new information. However, the ICRC was a highly respected independent organisation which had unparalleled experience of dealing with politically motivated prisoners and it was advising him at that particular juncture in November 1997 that H6 was a **'powder-keg'**. This was information from an experienced independent body. To that extent, it was new information. To say that it was not a surprise to him indicates either that Mr Shannon did not appreciate the significance of the fact that it was the ICRC which was providing this assessment, or that he was already aware of the dangers which it was highlighting.

13.124 The Inquiry was given no evidence that the assessment of the ICRC with regard to the situation in H6 in November 1997 was passed from the NIPS to the NIO for immediate consideration. Brian White said in evidence:

‘I think past practice in the ICRC is, although it would put forward views, I think that the ICRC did recognise that they had no executive responsibility in these areas and that the people who did obviously needed to take decisions.’

This is a correct summary of the ICRC’s position. The people who **‘needed to take decisions’** were in the NIO and they were not aware of the important assessment provided by the ICRC.

13.125 On 16 January 1998 the NIPS provided the Minister with a report on the ICRC’s visit to HMP Maze in November 1997. Counsel for the NIPS and the NIO acknowledged that there were shortcomings in the administrative handling of the ICRC observations. Counsel went on to aver that it was unlikely that the ICRC’s warning would have led to any change to the arrangements in H6. In evidence the Minister, Adam Ingram, stated that had he been given the information about the ICRC’s conclusions he would have relied on the conclusion in the minute relating to the ICRC’s visit which indicated that **‘the situation would have been kept under review’**. Counsel for the Wright family in his final submission pointed out that, astonishingly, five days after the ICRC had voiced concerns over the vulnerability of the roof, a proposal by Steve Davis to increase roof security was rejected by Governor Mogg, and he also severely criticised the delay in passing on the observations from the ICRC delegation to the Minister. While it is probably true that the ICRC warning came too late for any action to have been taken in time to prevent the murder of Billy Wright, we conclude that the fact that the Minister was not given immediate information about the ICRC’s assessment of the situation in H6 in November 1997 was a wrongful omission on the part of the NIPS.

The Finding of Bullets, 13 December 1997

13.126 On 13 December the parcels censor uncovered two envelopes each containing an ‘official’ UVF Christmas card and a .22 bullet (the same calibre as the bullets used to shoot Billy Wright). Both envelopes were addressed to PIRA prisoners. This incident was recorded in SCSs by the officers involved. Brian Barlow stated that he vaguely remembered a bullet being found in a Christmas card. He interpreted it as a threat to the prisoner to whom the card was sent. He stated that the SIC was concerned about this incident as it was a breach of security. Asked how it had been followed up, he said the bullet had just been passed to the RUC Criminal Investigation Department (CID) for them to investigate. He did not remember what the CID had done, or if the incident had been followed up in any other way.

He stated that there were no other finds of ammunition in the prison around that time. The only other occasion he remembered was when ammunition had been found in a drain at the gym during a search, but he said that that was not in 1997.

13.127 Asked in oral evidence how someone might have smuggled ammunition into the prison, Mr Barlow replied that smuggling by way of a card would not have been a way of doing so. He agreed that bullets could have been secreted on the person of a prisoner or by any other means that would involve going through the Rapiscan scanning machine, including in the hollowed-out heel of a training shoe. Asked how often ammunition had been found in HMP Maze, Mr Barlow replied, contrary to his statement, that it was not uncommon – perhaps a dozen times. Steve Davis also remembered the incident, although not the exact circumstances. He could not remember any other occasion during his time with the NIPS when bullets had been found in mail. He too stated that he would have viewed this as a threat to the prisoners to whom the mail was addressed: any determination otherwise would have been a matter for the police. He did not know if the police carried out any further investigation. He stated that there were no further finds of bullets. He agreed that a Rapiscan would not necessarily detect bullets: it depended on how the Rapiscan was set and what other items were present in the package. He thought it highly unlikely that the INLA would have relied on the mail as the means of obtaining the bullets used to shoot Billy Wright. It would be far too risky a strategy and they would be relying on too many variables over which they had no control.

Alleged Incident on 15 December 1997

13.128 During the course of interview, Brian Thompson asserted that on 15 December while he was working in one of the 'Tango' watchtowers he received a message from the Emergency Control Room (ECR) telling him to be alert for a possible escape, because two INLA prisoners had said that something was going to happen which would embarrass the NIO. That day was also the date of the Christmas party for INLA prisoners and their visitors. The Inquiry has seen no documentation to substantiate Mr Thompson's claim. Steve Davis stated that he had never heard of this allegation before. He observed that the ECR would not have taken such a step unilaterally, but would have gone through the SIC. He stated that the only information around that time was about a possible further escape by the PIRA, not the INLA, following the escape of prisoner Liam Averill on 10 December. He recalled that he had written a notice to staff about this and posted it at the Main Gate, warning of the risk of a further escape by the PIRA in the coming days and telling staff to be vigilant. Brian Barlow stated that he could not recall the incident described by Mr Thompson. Had there been such an incident he would have expected there to have been documentation such as an SCS. If such information had come to the SIC it would have been entered onto the daily log on SASHA.

Alleged Incident on 18 December 1997

13.129 John Seaward, who was a Basic Grade Officer in H6, told the Inquiry that at 12.30 pm on 18 December 1997, governors Martin Mogg and Ken Crompton visited H6 and, without reporting to the PO's office, asked wing staff to fetch the INLA OC. Mr Seaward reported the arrival of the governors to the PO and assumed this would be written in the journal. He said the Governor and his Deputy would never be in the same block at the same time. In the OC's absence, the 2ic came out from the INLA wing and had a short meeting with governors Mogg and Crompton behind closed doors in the Block Governor's office. Mr Seaward could hear a **'muffled'** but **'heated'** discussion. When the parties emerged, the INLA 2ic laughed and shouted towards the INLA wing: **'They think we have a gun.'** Mr Seaward told the Inquiry he was categorically, 100 per cent sure that this happened. Asked why he did not submit a SCS, he said it was for a variety of reasons, but principally because he had told the PO that the governors were present and what was said. In any event, there was no point in completing an SCS as the two most senior governors were aware of the situation.

13.130 Brian Thompson was also on duty on 18 December. He told the Inquiry that, while having a cup of tea, he saw governors Mogg and Crompton at the INLA grille talking to a prisoner who would have been the 2ic. Mr Seaward was in the circle at the time. He formed the impression, from their body language, that the governors were not too happy. In his Inquiry statement, Mr Thompson described how he witnessed an argument between the governors and the OC of the INLA. (He later stated it might have been the 2ic.) This was an unusual occurrence. As he was on a break and watching television he could not hear what was being said. He said:

'I could only see the Governors go down and speak to someone in the INLA wing. ... I ... could only really see the back of their heads but I could tell the conversation was getting a bit heated.'

In the following paragraph Mr Thompson described how Mr Seaward was **'in the circle doing the store at the time'**. Mr Seaward was not happy about the breach of protocol (not reporting to the Block Control Room (BCR)) and had reported it to the PO who had noted the incident in his journal. Mr Thompson stated:

'John Seaward reported to me that he had heard the OC come out after the meeting asking "who was slabbering about the guns". For that reason I am sure that the presence or otherwise of a gun on the wing was being discussed.'

The impression from this part of his statement is that Mr Thompson was told about the comment at the time. However, in his oral evidence to the Inquiry,

Mr Thompson was clear that it was only months later that Mr Seaward told him about the comment regarding the guns. It is also apparent that there are discrepancies between the accounts given by the two officers.

- 13.131 Kenneth McCamley was the PO on duty at H6 on 18 December 1997. He told the Inquiry that such an unusual visit would always be recorded in the PO's journal. It would be unusual for the Governor and his Deputy to visit together. They would always have made their presence known to the BCR and the PO or SO. He confirmed that he had written: **'Govs' Mogg & Crompton to see [2ic INLA H6]**' in the journal. He may have written it on a fresh page as it was an unusual event. He had made a similar entry following the arrival of Mrs Quinn from the BoV two days earlier. However on another occasion he had entered the visit of Governors I and III in the PO's journal sequentially at the time when they made their visit. A further possibility was that he was on his lunch break at the time of the visit. He told the Inquiry he could remember neither when they had arrived nor the purpose of their visit, beyond visiting the 2ic INLA H6. He was sure that, had he heard the account given by Mr Seaward at the time, **'Mr Seaward would have been straight down to the Security department without his feet touching the ground ...'**. Mr McCamley would also have ensured that Mr Seaward submitted a SCS. He was aware that the forum for discussion between prisoners from other factions and senior HMP Maze management was at meetings in the chapel.
- 13.132 Ken Crompton told the Inquiry that he and Martin Mogg had occasionally visited a block together. In his statement he denied ever having had a conversation with the INLA about the possibility of their having a gun. In the course of his oral evidence he simply said: **'I'm afraid I don't remember that occurring, no.'** Such a conversation would be memorable. Mr Crompton could not give any reason why Mr Seaward would make up his account.
- 13.133 Security governors Steve Davis and Brian Barlow were also unaware of the incident. Alan Craig recalled that the Governing Governor and his Deputy would together visit prisoners from time to time. As Security Governor he would not necessarily have been aware of the reason for the visit but he would have expected some general comment or feedback afterwards. Witnesses agreed that if they had received intelligence that the INLA had a gun, there would have been a full search of the INLA wing.
- 13.134 The Inquiry has obtained statements from other staff on duty at the relevant time on 18 December 1997. None can recall the alleged comment being made by 2ic INLA H6. Solicitors instructed by 2ic INLA H6 have written to the Inquiry stating that he has **'no recollection of a visit by Governors Mogg and Crompton on 18th December 1997.'**

13.135 On behalf of the POA, Counsel submitted that Mr Crompton accepted the possibility that he and Mr Mogg could have seen the 2ic INLA H6 on 18 December. He further accepted the possibility that the PO's log could be accurate insofar as it recorded their presence at the block. Mr Crompton had offered no reason why Mr Seaward would concoct his evidence. The POA suggest that there are unusual features in the conduct of the two governors that day:

'Firstly, it seems highly probable that they failed to check in with the PO as protocol would dictate. Secondly, it was most unusual for the two of them to attend a block together (see evidence of McCamley). Thirdly, the evidence tends to suggest a private agitated meeting with 2 IC INLA [H6] (see evidence of Brian Thompson).'

13.136 Similarly, Counsel for the Wright family invited us to prefer the evidence of Mr Seaward to that given by Governor Crompton.

13.137 On behalf of Mr Crompton, Counsel for the Crown Solicitor's Office (CSO) urged us not to accept Mr Seaward's evidence. If the incident had happened as described, other prison officers would have heard the shout or shouts as they were made. The remarks would have been heard at the very least by the officer at the A and B grille, who was about to let the 2ic INLA H6 back into the wing, or the officers in the BCR. Furthermore, if the incident had happened as described by Mr Seaward, it would have been **'the talk of the block'** that day and in the days following 18 December. Counsel for the CSO suggested that it was **'quite literally extraordinary'** that Mr Seaward would not have mentioned this to anyone until after the murder. Finally, it was suggested that there would inevitably have been a demand for a search of the block following such an utterance. Mr McCamley was particularly clear about his likely reaction to having heard such information. He would have sent Mr Seaward to the Security Department immediately. The absence of a SCS (half-sheet) was also significant and, **'more remarkably'**, there was no mention of it in Mr Seaward's statement to the police in the immediate aftermath of Billy Wright's killing.

13.138 We are satisfied on a balance of probabilities that governors Mogg and Crompton together visited H6 in the late morning of 18 December 1997 with a view to speaking to the OC INLA. It is unlikely that it will ever be known what it was they wanted to discuss. In the event, they spoke to 2ic INLA H6. In order to enter H6 they had to pass through the gate house. We believe that whoever was on duty there would have alerted those on duty in the block of the imminent arrival of the two most senior governors. There is no way in which the visitors could have entered the block without gates being unlocked by a member of prison

personnel to allow them to enter. They must obviously have asked a prison officer, presumably at the grille of A and B wings, if they could see the OC INLA. So it would have been well known what the general purpose of their visit was.

13.139 PO McCamley recorded their visit in the PO's journal. We do not find it established when he did this. He cannot say if he saw the visitors arrive and it may be that he made the entry after he returned from lunch on information he was given about the visit.

13.140 The key question is what, if anything, was said by 2ic INLA H6. Mr Seaward was very certain what he heard him say in the presence of the two governors. Mr Seaward's evidence, however, is uncorroborated. Mr Thompson's evidence about this came from what he maintains Mr Seaward told him and does not entirely accord with Mr Seaward's evidence. Further, the evidence finds no support from any other source. The fact is that Mr Seaward did not at the time mention it to anyone, nor did he recall it when interviewed by the police about the murder, a matter of days rather than weeks later. We find it very difficult to accept that Mr Mogg and Mr Crompton, if they had heard 2ic INLA say **'They think we have a gun'**, indicating that that was the subject of discussion, would have simply turned and left the block without later, at least, instituting a search. After all, the gun might have been used on prison officers as potential targets, not necessarily on a prisoner in the opposing wings of H6.

13.141 In all the circumstances we do not find it established that 2ic INLA H6 said in the presence of governors Mogg and Crompton what Mr Seaward in his evidence maintained he had said.

Conclusions

13.142 It is clear from this Chapter that the NIPS management received many threats and warnings during the course of 1997, not least in the form of Governor Steve Davis's thorough and perceptive analysis of security and control issues at HMP Maze, which he wrote in October 1997, two months after his appointment as Security Governor. Despite these many warnings, NIPS management continued to hold throughout to their conviction that the co-location of the two factions in H Block 6 could be managed. Some modest precautions were taken, but the steps were inadequate and the Panel conclude that more could and should have been done to protect the roofs, to overcome the deadlock between management and the POA over checking the fences and locking the yards, and responding urgently to the warnings of the ICRC. They also note that there were repeated failures of communication between different tiers of management, and frequent administrative shortcomings, exemplified by the failure to complete the SCS forms which were submitted by block staff. Mention has already been made of the

contrast between the robustly sceptical attitude of Governor Steve Davis to the **'no first strike'** agreement and the undue weight given to that agreement by the NIPS management and the NIO; the Panel are clear that Governor Davis was right in his assessment. The Panel conclude that the cumulative failures by both the NIPS and HMP Maze management were wrongful acts and omissions which directly facilitated the murder of Billy Wright and that they did so negligently rather than intentionally.

14 The Day of the Murder

Introduction

- 14.1 At approximately 9.50 am on Saturday 27 December 1997, Billy Wright was notified that he was to receive a visit that morning. At 9.55 am he entered the circle having been let through several grilles. At this point John Glennon, an Irish National Liberation Army (INLA) prisoner, observed him and signalled to his fellow prisoners Christopher McWilliams and John Kenneway that Billy Wright was leaving the block accompanied by another prisoner. Billy Wright progressed through a further three grilles on his way to the forecourt and walked the short distance to a white van where he took his place alongside prisoner Norman Green and an escorting officer in the rear of the vehicle. Billy Wright is recorded as having left the block at 9.59 am. The van set off slowly towards the entrance gates.
- 14.2 Meanwhile, McWilliams, Kenneway and Glennon had quickly left their side of the block through an opened turnstile, passed through a concealed hole in the fence which ran alongside the length of A wing, climbed onto the roof and jumped from the roof into the forecourt. Once on the roof they were spotted by prison officers stationed at the yard gates. These gates were immediately closed, effectively trapping the van within the forecourt. Simultaneously, McWilliams appeared at the front of the van, brandishing a firearm, and ordered the driver to halt. He then made his way to the side of the van, opened the sliding door and shot Billy Wright several times, fatally wounding him. The three killers made their way back to A wing, retracing their earlier route.
- 14.3 The Immediate Reaction Force (IRF) responded to the alarm and within minutes arrived at H Block 6 to find staff at the entrance gates in a distressed state. Green was shouting towards his fellow inmates. The Duty Governor was told at 10.07 am that Billy Wright had been shot. Instructions were given to seal the block. His death was confirmed at 10.53 am.
- 14.4 Governor Brian Barlow negotiated the surrender of Billy Wright's killers and their weapons. The remaining INLA prisoners were moved to H Block 3 at 2.40 pm that day. This Chapter considers this dramatic event in detail, focusing in particular on the issues that have aroused controversy over the years, namely:

- i) The block procedures on the morning in question;
- ii) The visits lists and whether the killers had prior notice of Billy Wright's visit;
- iii) The calling of Billy Wright for his visit and the extent to which this assisted the killers;
- iv) The positioning of the vans within the forecourt;
- v) The closing of the block gates;
- vi) The cutting of the hole in the fence alongside A wing;
- vii) The standing down of the watchtower overlooking A wing;
- viii) The non-operation of the high mast overview camera near to H Block 6;
and
- ix) The presence of firearms in A wing.

14.5 Additionally, although it is not strictly within the Inquiry's remit to investigate events following the murder, there are two aspects of the police investigation which the Panel consider to be worthy of some comment, namely the whereabouts and significance of the investigation's policy file, and the involvement of Special Branch (SB).

14.6 The Inquiry heard evidence from Ivan Blair and Francis David Hanna, the officers tasked with carrying out the morning headcount, fabric check and cell check in the INLA wing on 27 December 1997. The class officer's journal records that they came on post and tested the alarms at 8.15 am. It appears that the headcount was carried out at that time. The journal also records that five cells were checked and found to be all correct, although Prison Officer Hanna acknowledged that there would have been **'very little'** done by way of a fabric check.

14.7 Testing the alarm entailed both officers walking to the end of the wing, where the alarm button was situated. Both officers recalled that they had encountered no difficulty in undertaking these procedures that morning, and that they had been accompanied down the wing by an INLA prisoner. Their tasks did not require the officers to check the turnstile, or to go through the turnstile and check anything beyond it. The officers remembered seeing Glennon painting a mural at the junction of A and B wings, an event which was not in itself unusual. From that position Glennon would have had a view down the corridor towards the circle, and beyond that towards the C/D circle grille. A subsequent newspaper article in the Irish Republican Socialist Party's (IRSP's) publication *The Starry Plough* confirmed that this had been part of the plan:

'At approximately 9.00 am Vol. Glennon moved into position purporting to be painting a wall mural in the sterile area of A and B wing. His position provided him with a clear line of sight across both the circle

and the entrance of the LVF wings. In the event Billy Wright was sighted making his way to attend a visit, a pre-arranged code was to be issued to alert Vol. McWilliams and Vol. Kennaway ... The reason for the issuance of codes in this manner was to equip the ASU [Active Service Unit] with up-to-the-minute intelligence as to the number of LVF prisoners they were likely to confront and subdue in order to execute the operation successfully.'

- 14.8 On the Loyalist Volunteer Force (LVF) wings a headcount was also carried out, according to the class officer's journal, which also records a fabric check of five cells.
- 14.9 According to Brian Barlow, by 27 December 1997 the LVF were accessing their exercise yards via an end-of-wing pod (containing what was known colloquially as a 'bacon slicer') at the end of D wing, installed as part of the refurbishment following the riot on 13 August. The INLA accommodation had yet to be refurbished, and INLA prisoners therefore continued to access their yards via a turnstile.
- 14.10 There is conflicting evidence about the time at which the INLA turnstile was opened on the morning of 27 December 1997. Officer Hanna told the Inquiry that at around 8.30 am the INLA had asked staff to open the turnstile; this request would have been passed on to the Block Control Room (BCR) by intercom.
- 14.11 Two officers, Alan Danks and Aidan Flanagan, were on duty in the BCR that morning. Officer Danks told the Inquiry that he had arrived at the block shortly after 8.00 am and had found the INLA turnstile already open: the light on the control panel was green (a red light showed that a turnstile was closed). However, Officer Flanagan said that he had arrived at the block at around 8.15 am and that he had unlocked the INLA turnstile at around 9.00 am, explaining that the turnstile was unlocked only when prisoners asked for it to be. His evidence was that the turnstile had been the only thing keeping the INLA prisoners in, in other words that the yard grille had not been locked. Similarly, Officer Hanna said that the internal steel door had routinely been locked back in the open position.
- 14.12 On the LVF side of the block, an entry in the Principal Officer/Senior Officer's (PO/SO's) journal for 27 November confirms the installation of the bacon slicer:

'D wing now made available to prisoners in 'C'. Turnstiles in 'C' + 'D' locked. Slider at end of 'D' wing only access to yards. Middle yard gates opened. E.C.R. [Emergency Control Room] informed.'

- 14.13 Former LVF prisoners also told the Inquiry that on the morning of 27 December, in a vain attempt to come to Billy Wright's aid, they tried to get out through their turnstile but found it to be locked.

'There seemed to be nothing happening in the forecourt and no-one was going to Billy Wright's aid, so we tried to get outside through the turnstile. It was locked. This was unusual. The turnstiles were usually opened first thing in the morning; indeed, most of the time they were left unlocked. ... I am clear in my recollection that on this occasion we tried to use the turnstile but could not do so because it was locked.'

- 14.14 This evidence, which suggests an expectation on the part of the LVF that they could still use a turnstile, is, on the face of it, inconsistent with the above entry and with Governor Barlow's evidence. It is possible that, despite the installation of the bacon slicer, staff in H6 were still allowing the LVF to use a turnstile as a means of access to the yards. If so, this would be of some significance to other issues before the Inquiry given the known vulnerability of the turnstiles and the supposed importance of the rolling refurbishment programme, which included the installation of bacon slicers. Former LVF prisoners also told the Inquiry that on the morning of 27 December they had asked staff to open the turnstile and had been told that this would be done, but it had not been opened. This struck them as noteworthy because the turnstile had normally been opened in the morning. Officer Flanagan confirmed that he had opened only the INLA turnstile: **'We only opened the turnstiles when we were requested by the prisoners, and the LVF hadn't requested them that morning, just the INLA.'** Neither of the BCR officers recalled hearing of a request from the LVF. If the prisoners' version of events is correct, the reason for the failure to open the turnstile is unknown. It may be relevant that, as will be seen, there were staff shortages in H6 that day; in particular, while there would normally have been three officers posted to the corridor leading to the LVF wings, that day there was only one. Opening the LVF's bacon slicer would have required another officer.
- 14.15 We have carefully considered submissions from all parties on this subject. It is clear that the Wright family have particular concerns about this issue. Their Counsel submitted that the situation was **'highly unusual'** and that there was no **'proper explanation'**. However, we consider there is little significance to be attached to any inability of the LVF prisoners to utilise their turnstiles, if indeed that was a possibility. Had LVF prisoners accessed their yard to come to their leader's assistance they would have had to negotiate the security measures protecting the roof. By this time Billy Wright's assassins would have made good their escape. Accordingly, the locking of the LVF prisoners in their wings was not a necessary requirement for the execution of the plan.

Visits Lists

- 14.16 A prisoner wishing to receive a visit could fill in a permit (also referred to as a pass or chit), which would be sent out to the visitor named on it. A copy would also be given by the prisoner's H block to the visitors' car park, the administrative area of HMP Maze with responsibility for processing and searching visitors. From the copy permits, staff in the visitors' car park would compile a list for each H block of the names of prisoners from that block who were to receive visits. The Inquiry has heard that by 1997 the use of permits had declined, and that visitors could be admitted without a permit: permits were however still required for Saturday visits.
- 14.17 Jacqueline Townsend (formerly Wisely) was an Auxiliary Officer (AO) who had worked in the visitors' car park from March 1997. Her duties included the compilation of visits lists from copy permits. She recalled that she might be advised by telephone of extra visits, and would generally telephone each block on the day before the list was issued to check whether there were any further names to be added. A list would then be sent to each of the H blocks. She had performed this task almost every day she was present. Officer Townsend said that visits lists were prepared only for Saturday visits, Saturday being the busiest visiting day. She explained that she would receive permits throughout the week, and that generally the lists would be completed by the Thursday and sent to the individual blocks by the Thursday evening.
- 14.18 The Inquiry heard evidence from several witnesses about what happened to the lists once they reached the block. Officer Ivan Blair said the lists were generally received on the preceding Tuesday and distributed down the wings. Officer Raymon Mitchell said the lists were given to the PO in the first instance and thereafter distributed to the respective factions. Prisoner Robin King thought that such lists had been handed to prisoners by staff a couple of days in advance. Former LVF prisoner Gary Blair recalled the lists being left for prisoners at the grille to their wings along with mail and parcels. PO Kenneth McCamley had no recollection of the lists but suggested that they would have been sent from the visitors' car park to the BCR, the BCR then creating separate lists for the two factions and sending these down to the wings. Therefore, although the system for handling the visits lists once they reached in the blocks is not clear, we are satisfied that the visitor lists were issued to prisoners.
- 14.19 We are also satisfied that separate visits lists had to be prepared for the two opposing factions in H6. This would be an issue only in those blocks that housed separate factions, that is, H1 (Ulster Defence Association (UDA) and Ulster Volunteer Force (UVF)) and H6 (LVF and INLA). The need for separate lists had been drawn to the attention of staff in the visitors' car park by the PO there. Officer Townsend said her instructions were to send the two lists to H6 in separate envelopes, addressed to the block PO.

- 14.20 The Inquiry has seen a number of copy visiting permits for LVF and INLA prisoners issued between October and December 1997. Although we heard that prisoners issued visiting permits, these particular copies do not appear to have been written by prisoners: many are in the same handwriting, regardless of faction, and they may have been written in the visitors reception, a stamp from which they bear. Some of the permits are marked 'LVF', possibly to assist in arranging transport for visitors within the prison, as LVF visits were held in a separate block from those of all other factions. Officer Townsend told the Inquiry that the permits she saw did not always specify the faction to which the prisoner belonged. As an AO she did not have direct contact with prisoners and did not know their blocks or factions. If the permit did not specify the prisoner's wing or faction, **'... it would be a case of having to contact someone from the actual H Block itself to ascertain what wing they were actually in.'** She recalled that sometimes permits did not even specify the relevant H block, a problem she had raised with her PO, explaining that she was having difficulty in ensuring prisoners' names were entered onto the correct list.
- 14.21 Because the first visiting day after Christmas, 27 December 1997, fell on a Saturday, Officer Townsend prepared the visits lists for that day on the preceding Tuesday, 23 December. It appears that the visitors' car park closed on 23 December for the Christmas holiday. No visits took place between 24 and 26 December. Officer Townsend recalled that there had not been the normal high number of permits for that Saturday, which she attributed to Christmas parole and the holiday period. She told the Inquiry that she sent two separate visits lists to H6 on 23 December, and one list to each of the remaining blocks. That, she claimed, had been the last day she had had anything to do with the visits lists, and she could not account for what happened to them after that.
- 14.22 After Billy Wright's murder, LVF prisoners handed to his father, David Wright, a visits list for 27 December 1997 (referred to here as 'the shorter LVF list'). The letters 'H6 C' appear in the top right-hand corner, from which it can be inferred that this list had been prepared for the LVF side of H6. The absence of any reference to D wing can be explained by the fact that the LVF had been allowed the use of D wing only from 27 November. Between 1 October and that date they had been confined to C wing. However, the list contained the names of both LVF and INLA prisoners. One of the LVF names was that of Billy Wright. Gary Blair confirmed that the LVF had received a photocopy of a visits sheet with INLA names the day before Billy Wright's murder.
- 14.23 The Inquiry has also received copies of two further visits lists for H6 prisoners on 27 December 1997. One of these bears only the names of INLA prisoners ('the INLA list'). It is marked 'A+B' in the corner, and thus it appears that this was the

list prepared for the INLA side of H6. The third list appears to be a later version of the list given to David Wright. It contains the names of three further LVF prisoners (and is thus referred to here as 'the longer LVF list'). The handwriting has not been identified, but it is not that of Officer Townsend. It is otherwise identical to the shorter LVF list. The most likely explanation is that the longer LVF list was created by someone writing the three additional names onto the shorter LVF list, either the original or a photocopy.

- 14.24 Further research has shown that the additional three LVF prisoners in question all transferred to HMP Maze from HMP Maghaberry on 23 December: the H6 PO's journal records their arrival in the block at 4.30 pm that afternoon. It can thus be inferred that the longer LVF list was created after that time, and that it was created to take account of the three new arrivals. The likelihood is that this was done in H6 and not in the visitors' car park. The visitors' car park closed on 23 December for the Christmas holiday, and the late-afternoon arrival of the three LVF prisoners would have left the block staff with little time to communicate with the visitors' car park before it closed. There is no evidence that an updated list was ever sent to H6 by the visitors' car park. Officer Townsend thought that it must have been the shorter LVF list that she sent up to H6 and that someone else must have added the names to it. It can also be inferred that at some time prior to the creation of the longer LVF list the shorter version had been issued by block staff to the LVF prisoners in whose possession it was found by David Wright after the murder. It will be recalled that, according to Gary Blair, they had received a list on Boxing Day. Whether the longer list was also issued to them is not known.
- 14.25 A number of issues therefore arise. Did the INLA prisoners receive a visits list for 27 December 1997 showing Billy Wright's name? If so, how did this happen? And did it play any part in Billy Wright's murder?
- 14.26 It has been suggested that, if the same list was issued to the INLA prisoners, it would have given them prior notice that Billy Wright was to receive a visit on 27 December, thereby assisting them in their planning of his murder. In the part of his report covering this issue, Martin Narey concluded:

'We have seen a document listing the names of H Block 6 prisoners to be visited on Saturday 27 December. Billy Wright's name appears along with other LVF and INLA prisoners. It is probable that this list was, inadvertently, given to both INLA and LVF prisoners. This should not have happened ...'

Similarly, Mr Justice Cory thought the INLA were provided with the LVF list:

‘Prison Officials have since acknowledged that the mistake went even further. As a rule, each wing in H6 would only receive its own visitors’ sheets which would list the prisoners from that Wing who were expecting visitors on a particular day. However on Friday 26 December, both the LVF and INLA wings received the visitors’ sheets for all of the wings in the Block. As a result each faction must have been aware of the persons in the opposing Wing who would be called for visits on 27 December. This unusual procedure was attributed to staff error and nothing further seems to have been said about it. Whether this was simply a clerical error or an indication of something more sinister can only be determined at a public inquiry.’

- 14.27 In an interview given to the BBC *Newsnight* programme after his release from prison, McWilliams claimed that **‘it just so happened at that particular time that ... our visiting list went to the LVF wing and ... the LVF’s visiting chart went to our wing’**. He went on to claim that the killers had taken no notice of the list: **‘... the people who was involved in the operation hadn’t even got access ... of the LVF list at that particular time. If it has come into the wing it’s actually been thrown on the snooker table or even thrown in among the rest of the papers because it was of no relevance to ourselves.’** This was because, according to McWilliams, the INLA had been observing Billy Wright for at least two months prior to the murder, noting that the days and times of his visits varied. The prison had been relaxed over the festive period, he said, and they had decided to take advantage of that. Furthermore, he explained, it had been judged likely that Billy Wright would take the opportunity for a family visit on the first visiting day since Christmas. If not, said McWilliams, they had intended to get him on his first visit in the new year.
- 14.28 There is no evidence that the INLA received a visits list showing LVF names apart from the claim by McWilliams – who said he did not actually look at the list. In the course of the police investigation into the murder three visits lists were recovered from H6 staff: the INLA list and two copies of the longer LVF list. There can be no doubt that the visitors’ car park did send the INLA list to H6 and H6 did receive it. There is no evidence as to what happened to the INLA list thereafter, but the most likely outcome is that it was issued to the INLA. The INLA list is clearly marked ‘A+B’ and bears the names of only nine prisoners, one of whom would have been known to block staff as the INLA Officer Commanding: it would have been instantly recognisable to block staff as the INLA list, to be issued to the INLA wing. It contains no names of LVF prisoners. If this was the only list the INLA received, it follows that they did not get advance notice of Billy Wright’s visit. There has been no suggestion that the INLA received more than one list. By contrast, both versions of the LVF list are clearly marked ‘C’, and contain the names of well-

known LVF prisoners including Billy Wright. There are 22 or 25 names on the LVF list, depending on the version used, compared to a total INLA population of only around 22. Block staff would have recognised either version as the LVF list, to be issued to the LVF prisoners.

- 14.29 Officer Townsend said that her insertion of INLA names into the LVF list **'would have been an error on my part. ... the visits permits, when they come down, they wouldn't always have had what wing the individual prisoners were on, or indeed what faction they may have been affiliated to, and obviously I have not seen what faction they have been affiliated to. I don't know the prisoners individually and what faction they are affiliated to, so the error has been on my part.'** She added that it had sometimes been difficult to read the writing on the permits, a problem that she did not think had been addressed.
- 14.30 There is no evidence that on this occasion she contacted H6 to ascertain the faction to which any particular prisoner belonged, although she did not exclude the possibility that she might have called the block and been given the wrong information by someone there. Several witnesses said they had never before seen a visits list containing the names of prisoners from both factions. However, the discrepancy on 27 December was not unique. The Inquiry has seen a bundle of visits lists for December 1997. The LVF list for 13 December includes the name of one INLA prisoner, Glennon, and the INLA list contains the names of two LVF prisoners (not Billy Wright). Neither list was prepared by Officer Townsend. That staff in the visitors' car park could make such mistakes suggests a systemic weakness that was apparently known to supervisory staff. That H6 block staff did not spot the INLA names on the LVF list – not even when they were inserting the additional LVF names, as is postulated here – shows a level of carelessness at odds with the supposed 'iron curtain' strategy of keeping LVF and INLA prisoners apart. However, there is no evidence that either error bears the more sinister interpretation formerly advanced by Billy Wright's family.
- 14.31 Accordingly, it can be seen that the Narey and Cory reports, both written with a degree of haste and without the benefit of a thorough examination of all the evidence, wrongly drew the inference that the INLA's knowledge of Billy Wright's forthcoming visit was due to their receipt of a defective list. Cory's suggestion that prison officials acknowledged that such an error had taken place is not supported by any evidence heard by this Inquiry.
- 14.32 In any event, the visits lists would have been of limited assistance to Billy Wright's killers. The lists do not specify the time of day at which the visits were to take place. Billy Wright had frequent visits, and since October he had been in the

habit of receiving visits on Saturday afternoons. However, 27 December was to be the first time he received a visit on a Saturday morning. As the Cory Report says, **‘Contrary to the position taken by the INLA killers that they were aware of the pattern of his visits, this could not have applied to visitors received on Saturday morning by Billy Wright.’** However, the visits list could not have forewarned the INLA that the visit was to take place in the morning. If, as McWilliams said, they had been watching Billy Wright for some months, they could have been fairly confident he would have a visit on the Saturday even without seeing the list. Preparations for the murder could thus have proceeded on that basis. Furthermore, if Gary Blair is correct that the lists were not issued until Boxing Day, this would have given the INLA little in the way of advance notice. Common sense suggests that the necessary preparations – including, crucially, obtaining the guns – must have started earlier, as McWilliams has claimed. In all the circumstances, then, even if the INLA did receive a list showing Billy Wright’s name, it is likely to have been of little assistance to them. The calling of Billy Wright’s name and his relatively slow progress through the grilles would have given them all the time they required. We have carefully considered all the points made in the course of detailed submissions made to us. We have concluded that the INLA in A and B wings did not receive an LVF list or a list with any LVF names on it. The LVF in wings C and D, however, did receive a list to which some INLA names had been added.

- 14.33 We wish to add that we were impressed by the frank and thoughtful way in which Officer Townsend gave evidence, particularly given the undue importance attached by some, over the years, to the visits lists and their possible role in some wider conspiracy. We are satisfied that her mistake was as entirely innocent as it was inconsequential.

Calling Billy Wright for his Visit

- 14.34 On the morning of 27 December 1997 two Basic Grade Officers (BGOs) were the designated ‘visits runners’ for the INLA and the LVF. Their job was to escort prisoners to the visits blocks, then return them to H6. Both had been waiting in the block, in the staff mess, for visits to start.
- 14.35 The normal procedure was that, on receiving a telephone call from the visits block advising that a prisoner was required, the BCR would use an intercom to communicate this to wing staff. The communication would be to the officer posted between the inner grille and association grille. The BCR officer would also communicate with the visits runner. There were differing accounts of using the intercom to do this or simply shouting to the circle officer to have him notify the runner. The runner would collect the prisoner’s identification card from the BCR.

He would then go to the relevant circle grille and tell the officer posted behind it which prisoner he required. The prisoner would already have been notified that he was required for a visit, a practice dealt with in more detail shortly, and he would duly be let out of his wing through the series of grilles until he reached the circle. There the visits runner would give him a rub-down search before escorting him out of the block. A system evolved whereby a prisoner would be put on standby when his visitors arrived in the visitors' car park: this gave him time to get ready before the runner came to collect him. This involved a further communication between staff and the prisoner on his wing. According to Gary Blair, **'they shouted down the wing, "Blair for a visit", or, "Blair on stand-by", and then, "Blair, transport".'**

14.36 On the morning of 27 December the initial message from LVF visits to the BCR, at 9.50 am, was that Billy Wright and another LVF prisoner, Green, were on standby, in which case there must have been a series of communications with the wing. There could be a gap of five minutes or so between being placed on standby and leaving to go for the visit.

14.37 The Narey Report was critical of the way in which prisoners were called for visits:

'In reality, INLA prisoners did not need the [visits] list to be able to mount an attack. When an escort arrives to take a prisoner to visits, staff shout for the prisoners to come forward, such a shout being readily audible on the opposite wings. At that point an INLA prisoner hearing the call could have signalled the gunmen. ... We recommend that the practice of shouting prisoners for visits on mixed wings should cease.'

14.38 In practice there does not appear to have been a standard method of calling prisoners for visits. Some officers described how, on receiving the intercom message from the BCR, the wing officer would pass the message on to a nearby prisoner or go onto the wing to look for prisoners. Prisoners themselves might shout to one another to pass the message on. Other witnesses recalled that sometimes staff did shout, either from between the grilles or from the circle. LVF prisoners said they had sometimes heard INLA prisoners being called for visits. According to David Loyal, the PO in H6 for much of 1997, **'... the runner would have went to the grille and shouted down, for instance, "Wright" or "McWilliams", whatever side you are on, "for a visit". The Class Officer then would have called him or told the OC or whoever was about the grille, about the wing, "Tell somebody to be ready for a visit".'**

14.39 On the morning of 27 December Alan Danks, in the BCR, said he would have used the intercom to contact the officer on the C/D wing grilles. Raymond Murtagh, the circle officer, was told by the BCR that the LVF runner was required. He called

for the runner, who came out of the mess. Officer Murtagh said he then called to Raymon Mitchell, the C/D wing officer, that Billy Wright and Green were required for visits. He denied shouting this. Officer Mitchell said that he in turn spoke to Green, who had been standing near the grille, presumably waiting for his visit. He said he had addressed Green in a conversational tone, and that Green had been only 8–10 feet away. He did not think prisoners on the INLA side of the block would have been able to hear him. Green had gone to fetch Billy Wright. Officer Mitchell recalled that by the time he had made an entry in his journal Billy Wright and Green were waiting to be let out of the wing. By contrast, some LVF prisoners thought they had heard Billy Wright's name being shouted, and that this would have been audible to the INLA. An officer working on the INLA side did not remember hearing it. It is possible that Glennon, standing at the mural, might have been able to hear at least some of the communications in the circle. AO John Park, the driver of the LVF visits van that day, told the Inquiry that whilst sitting in the staff mess he had heard a shout from the circle, **'Visits for Wright'**.

- 14.40 The account provided by the IRSP said that Glennon had been alerted by the sound of the intercom buzzing, and by a prisoner shouting down the LVF wings **'C'mon Billy, that's us for a visit'** (which, if true, might suggest that Billy Wright himself had not heard any call). Glennon had then heard the LVF grilles open and saw Billy Wright and another LVF prisoner enter the circle. The article claimed that on hearing Glennon's coded signal McWilliams and Kenneway moved into position at the turnstile. Meanwhile, Glennon was watching from the canteen window, which looked into the forecourt; he was to give a further signal when Billy Wright had entered the van. The BCR journal records that Billy Wright and Green left the block at 9.59 am.
- 14.41 Almost certainly the call 'visit for Wright' or something to that effect was overheard from the circle, probably by Glennon who was engaged in painting a mural on the INLA side of the circle at the time. Although the evidence is not wholly consistent on this question, we find, on the balance of probabilities, that the call was loud enough to be heard across the circle to the opposing INLA wings. In a sense the fact that Billy Wright's name was called out, however innocently, assisted the murderers in the execution of their plan. Once this information had been revealed, those on the INLA side of H6 could put their murderous plan into action.

The Vans

- 14.42 Several witnesses recalled seeing two vans parked in the forecourt of H6 on the morning of 27 December. One of these, a white Renault Trafic van, was to be used to transport LVF prisoners to their visits. Its driver that morning was AO John Park. The other was a red Leyland DAF van that was to be used to take INLA prisoners to their visits, on this occasion driven by Officer George Boyd. Both drivers had

worked in the Transport Department since 1996 but neither had worked regularly with the H6 factions. Officer Boyd said that 27 December 1997 was the first time he had been to H6 since the co-location of the two factions. Officer Park said it was only the first or second time he had driven an H6 van. H6 was the only block that required two vans; this was necessary because of the so called 'iron curtain' policy that followed the co-location of the two separate factions housed there. A notice in May 1997 reminded staff that **'the utmost care must be taken to ensure that both factions do not come into contact. This is to avoid the potential for any kind of confrontation.'** The normal procedure in other blocks was for vehicles to halt outside the block gates; prisoners would then walk to or from the vehicle across the forecourt. In H6 the procedure was changed so that vehicles drove into the forecourt and parked outside the Hennessy grille, thus reducing the distance prisoners had to walk to get to and from their vans, cutting down the potential for confrontation. The need to coordinate LVF/INLA movement meant there could be only one van containing prisoners in the forecourt at any one time. PO Kenneth McCamley told the Inquiry that **'During the day-to-day running of the block there was only one vehicle permitted in H6 forecourt at any one given time.'**

14.43 There is conflicting evidence about whether particular vans were routinely used. Particular vans were attached to blocks, according to Officer Boyd, who said the red van was always used for INLA visits. His recollection was that the vans in use were all Leyland DAF except for the LVF van, which was unique in that its door was to the side. By contrast, Officer Park recalled that any van could be detailed to transport either faction. Prison Officer John Seaward was in no doubt that **'The LVF always used the same vehicle, which was the white, side-opening van.'**

14.44 According to the van drivers and some H6 officers there was no 'system' regulating how vans should be parked at H6. Witness Douglas Southall said:

'I have been asked if I have any knowledge if there was a set format for how the vans should be parked. I do not know of any special arrangements for the vans to pick up the prisoners. As far as I remember, the first van in would simply pick up the first prisoner available for visiting. There was no particular system that I knew about in relation to the vans.'

Another officer, who regularly worked in H6, explained:

'Basically, the driver would arrive at the forecourt gate. Once he was through the airlock and into the actual forecourt, he would sort of proceed up the left-hand side of the yard, turning at the top and reversing his vehicle backwards towards the Hennessy grille.'

14.45 Other witnesses have suggested that there was a system. Ralph Phillips, a convicted prisoner in C/D wing of H6 at the time of the murder, told the Inquiry:

‘There was usually two vans, one on the right-hand side for the INLA and one on the left for the LVF. ... usually we would have got into the one on the left and the INLA probably would have got into the one on the right.’

Another prisoner, Robin King, had a similar recollection:

‘Normally the van for LVF prisoners would have been parked nearer to the LVF wing, and the van for INLA prisoners nearer to the INLA wing. Otherwise there would have been a risk of getting into the wrong van or being taken to the wrong visit. I do not know if the van for LVF prisoners had been parked in its usual place that morning because by the time I saw it, it had been mobile and then it had been stopped.’

14.46 There would have been two vans in the forecourt at the same time only first thing in the morning. Once visits got underway they would have shuttled back and forth between H6 and the visits blocks, and only one van containing prisoners would have been in the forecourt at any one time. Nor would prisoners have gone out to the vans unaccompanied: a visits runner would have escorted them.

14.47 There is conflicting evidence about the positions of the two vans on the morning of 27 December 1997. The significance of this is that some witnesses recall the van for LVF prisoners being parked closer to the INLA wing. By reference to photographs showing the entrance to the block, we were able to see the location of the ramp leading from the entrance to the forecourt, allowing trolleys to be wheeled into and from the block.

14.48 Officer Park said that when he arrived at H6 in the white (LVF) van just before 9.00 am, the red van was already there: **‘As I was driving into the forecourt, it would be to my right-hand side of the entrance to the block’** – that is, viewed from the main gate, towards the LVF side of the block. He recalled seeing the red van parked in front of the hall guard cloakroom window, which was by the side of the hall guard nearest D wing. He said he had parked the white van on the other side of the hall guard, in front of the BCR window and thus closer to the INLA side. He had not known which faction occupied which side of H6. Officer Ian Cardwell agreed that when he came out of the block that morning **‘there was one van parked to the left and the LVF visits van was parked to the right’** – that is, viewed from the block, towards the INLA side; he confirmed that the red van was on his left, towards the LVF side. Brian Thompson, who was posted in the hall guard that day, recalled that when later he let Billy Wright into the forecourt,

the white van had been parked **'to the right as you come out of the grille'**; the red INLA van had been parked **'right in front of the grille'**. Another officer thought the red van had been parked closer to the LVF wing. He had looked out of the staff mess window on hearing the alarm and gunfire, and explained how his view of McWilliams had been obstructed by the red van parked at the door to the hall guard:

'I do not recall exactly where the red van was parked. I think the red van was parked in the area outside the Hennessy grille, closer to D wing than A wing. It was not unusual to see the van for INLA prisoners there: the position of the vans depended on who had arrived first and where there was a space. I think both vans were parked at the Hall Guard. Vans would pull up then reverse back to the hall guard. They would stop wherever there was a space.'

14.49 However, Officer Boyd said that when he drove the red van into the H6 forecourt at around 8.50 am the white van was already parked in front of the hall guard. He said he had parked the red van close to the INLA side of the block, indicating a point adjacent to the dining room at the top of A wing, with the rear end of his van facing the block.

'The reason I parked where I parked was because I knew it was a separated block and the chances were, if I had visits, prisoners coming out, and I was parked on the LVF side, there may have been some catcalling and abuse, so I parked on the INLA side to minimise that.'

14.50 A similar account was given by Raymond Hill, who was posted to the H6 A/B yard watchtower that morning. As will be discussed, he was called down from the tower, in response to which he went to speak to the block PO. He remembered seeing the vans as he left the block to return to the tower:

'On leaving the Hall Guard area I saw two vans there which were being used for the visits. I do not remember the vans being in any unusual position. Their respective positions are what I would have expected them to be. That is just my understanding from speaking to other prison staff in H6 that the INLA van would park nearest to A & B Wings whereas the LVF van would park in a position nearest the C & D Wings.'

14.51 After parking their vans both drivers went to the tea-boat (staff mess) to await the start of visits. Officer Boyd explained that it had been normal procedure to attend at the block and wait there. There is no evidence that the vans moved from their original positions until the white van set off with Billy Wright inside.

- 14.52 It was submitted on behalf of the Wright family that, **'The location of the parked van before the attack took place could have increased the length of time it took to get into the van with even a matter of seconds making a difference. It is therefore submitted that the position of the van helped facilitate the murder of Billy Wright.'** We conclude that it makes little difference where the LVF van was parked, any greater distance which Billy Wright might have had to walk being immaterial. In any event, the evidence about the positioning of the vans in the forecourt is so contradictory that we are unable to reach any firm conclusion about which van was parked nearer to the LVF side – the van used for INLA prisoners or the van used for LVF prisoners.

Closing the Block Gates

- 14.53 On the morning of 27 December 1997 the officer responsible for the block gate was John Seaward. The block gate comprised two pairs of double gates that formed an 'airlock' and allowed vehicles to enter and leave the forecourt; next to them was a separate pair of gates for pedestrian access. The gates were operated manually. Officer Seaward stood in the airlock between the inner and outer pairs of gates. Shortly before 10.00 am he saw prisoners entering the white LVF van; he said he would also have received a message from the BCR informing him that there were prisoners going to visits. He also saw two officers, Brian Richardson and Ian Cardwell, pushing food trolleys down the forecourt towards him. The white van started to move slowly towards the inner gates; its driver John Park said it had been travelling at walking pace. In response, Officer Seaward said he had started to open the inner gates. Officer Cardwell helped him: they were 'big, heavy' gates and it took time to open them.
- 14.54 As he did so, Officer Seaward noticed a figure appear on the roof of A wing. A matter of seconds later the figure jumped down into the forecourt and Officer Seaward recognised him as McWilliams. He had known McWilliams for a number of years as a very violent prisoner, and knew he had been involved in a hostage incident at HMP Maghaberry. Officer Seaward's reaction was, **'Horror ... I thought it was another hostage situation ...'** He said he had not known at that stage that McWilliams' objective was in fact to get at people in the van. He saw McWilliams run across the front of the van, produce a pistol from inside his coat and attempt to open the sliding door of the van, banging on the side of the van and telling the driver to stop. Officer Seaward saw two more prisoners dropping off the roof.
- 14.55 Officer Seaward explained his own response: **'Initially, when the van was coming down, once the inmate had jumped off the roof, the reaction is to close and secure the area.'** He said that he and Officer Cardwell had therefore closed the vehicular gates. He recalled that they were unable to get the 'bar'

across, as they had closed the gates incorrectly, and with some manipulation it would therefore have been possible for prisoners to get out through the gates – although they would then have been confronted by the outer gates. He saw another prisoner running towards them, with another weapon. He and Officer Cardwell took refuge on the ground behind the sentry hut in the airlock. He heard gunfire. The officers managed to open the pedestrian gate, allowing them to escape outside the block perimeter fence, and locked the gate to secure the area. He said they had feared that they were being fired upon. He acknowledged that **'Once we had exited ourselves from the situation ... we realised there was a serious situation, we had left people to die, but the training is to secure the area.'**

- 14.56 Officer Cardwell told the Inquiry, **'As far as I can remember, the gates were either open or partly open and Officer Seaward shouted to me that there was prisoners on the roof. When I glanced round, I saw one prisoner coming over the roof. I subsequently ran into the airlock with my colleagues and we closed the gates.'** His immediate reaction was that it might be an attempted break-out. **'... I ran in and, if I can remember correctly, helped Officer Seaward and Officer Richardson close the two vehicle gates.'** He continued **'... we closed the gates and then we looked through from that airlock. I think I activated an alarm point on the way out through the front wicker gate.'**
- 14.57 So, too, John Park recalled that **'Officer Seaward was partially opening the gates to allow the van to come through. When I seen Officer Seaward's face, all I can describe it as is horror. He was looking over me and then he proceeded to start to close the gates on me. ... At that stage, when he was starting to close the gates, the van was coming to a stop. You couldn't really go any further, because by that stage the gates had been closed.'** The gunman then ran across the front of his van before appearing at the passenger side, pointing a gun at him and demanding that he stop the van. He said he had then got out of the van, and was able to see McWilliams shooting into the van. After the shooting, when the killers had returned to the INLA side of the block via the roof, he made his way to the vehicular gates and discovered that they were not properly locked, and he was able to open them and walk out of the forecourt.
- 14.58 Those manually closing gates would presuppose that an escape was being attempted and would probably not for that reason have facilitated the exit from the forecourt of a van. Having considered all of the relevant evidence and submissions we are certain that no criticism should attach to any of the prison officers involved in closing the gates.

The Hole in the Catwalk Fence

- 14.59 Billy Wright's killers gained access to the roof of H6 through a hole cut in the catwalk fence, measuring approximately 24 in × 27 in. This is likely to have been cut some time prior to the morning of the shooting, with the cut section then held in place by shoelaces. The fence had been cut using bolt-cutters with improvised handles made from the metal legs of a chair; a chair with missing legs was subsequently found by the police in B wing. It is not known when the hole was cut, or when the fence had last been checked. McWilliams claimed during his interview with BBC *Newsnight* that the fence had been cut on Christmas night. The yard watchtowers were not manned at night after about 8.00 pm, and thus may have been unmanned at the time when the fence was cut if, as McWilliams claimed, this was done at night. The Inquiry has also been told that lighting in that part of the yard was poor. Prison Officers' Association (POA) Branch Secretary, Jim Duffy, told the inquiry: **'The problem was that the area of the turnstile was pitch-black at night. It could not even be seen from the watchtowers.'** An officer in the A/B tower is unlikely to have seen the damage to the fence even during the hours of daylight: his line of sight was obscured by the weldmesh fences. Ironically, security enhancements such as the erection of additional fencing adjacent to the ablutions area in C/D wings would have made the view of this area even more obscure. Although there were several static cameras situated within the exercise yard, none had coverage of the turnstile area.
- 14.60 A police officer who attended the scene after the shooting found two piles of chairs beside the hole, possibly placed there to prevent its discovery. Several officers recalled that it was not unusual to see chairs in the yard; prisoners could take them out of the block through the turnstile. An officer posted to the A/B yard watchtower would have been able to see the stack of chairs. The H6 A/B tower appears to have been first manned at 8.20 am on the day of the shooting; as discussed above, by that time the INLA turnstile may already have been unlocked. Officer Hill could not specifically recall seeing the chairs but said it had not been unusual to see chairs in the yard.
- 14.61 This raises the question of what, if any, checks were made to the fence and the yards before the INLA were allowed outside on the morning of the shooting. The Phase Night Guard SO's journal entry for 26 December records, at 10.05 pm, **'commenced check of all yards in phase. All clear and secured by shooting bolts.'** The next entry is at 10.30 pm, **'returned to gym'**, by which time the check (of three blocks, 12 yards in total) was presumably complete. However, the officer who made the entry, John Wallace, gave evidence that the keys carried by the Night Guard SO did not enable him to enter the yards and that he was not **'anywhere near the exercise yards'**. Corrugated iron around

the external yard fence prevented any patrol from seeing into the yards from outside. Officer Wallace thought the information that the yards were clear and secure might instead have been relayed to him by the BCR, which in turn raises the question of how the BCR knew. The Inquiry has not heard from any witness who acknowledges having checked the yards, either that night or the following morning, nor does the H6 PO/SO's journal record any check of the yards or fences. One of the A/B wing officers acknowledged that no check had been carried out on the morning of Billy Wright's murder.

- 14.62 The yards were supposed to be checked when the yard grille was being locked or unlocked, but, as we have established in Chapter 7 of this Report, since June 1997 there had been a dispute between management and the POA about a new procedure for locking the yards at 10.00 pm, with the POA issuing an instruction to staff not to enter the yards at 10.00 pm on the grounds of health and safety. That dispute was not resolved until March 1998. The Inquiry has been told that as a result the yard grilles were left unlocked and neither the yards nor the fences were checked. This was confirmed by the Security Governor, the POA Branch Secretary Jim Duffy and Prison Officers Flanagan and Hanna. No witness has acknowledged locking the INLA yard grille on 26 December or unlocking it the following morning. If the yard grille was indeed left unlocked at night, there would clearly be no need for an officer to enter the yard the following morning to unlock it, and that opportunity to check the yard and fence during the hours of daylight would not have arisen.
- 14.63 Accordingly we find the following proved on the balance of probabilities. Some time before the murder a hole had been cut in the catwalk fence of A wing, the piece cut being held in position by shoelaces. It was not clearly established when the hole was cut: it may have been a few days before. The fact that this had been done was concealed by placing chairs alongside the fence. It was, however, not unusual to have chairs in that location, so there was no reason for anyone in the A and B wings watchtower to comment on their presence. There is no evidence that any prison officer entered the yard on 26 or 27 December 1997. Catwalk fences were not routinely checked from June 1997 until March 1998. The official records concerning the checking or clearing of yards were unreliable and misleading. The circumstances outlined above, as with those pertaining to the tunnel, serve as eloquent reminders of the parlous state of control and security at HMP Maze. We agree with Mr Justice Cory who concluded: **'In light of the lack of control it cannot come as a surprise that the hole in the fence was cut, tied in place with shoelaces and concealed with chairs by the prisoners without arousing any suspicions at all.'**

- 14.64 The Northern Ireland Prison Service (NIPS) has said in its closing submissions firstly that, because the fence could be cut quickly and the resulting hole well hidden, the lack of checks was largely irrelevant and, secondly, that the INLA could simply have climbed the fence as an alternative. So far as the first point is concerned, if the dispute regarding the yards had been resolved, prisoners would have been locked into their wings at night by means of the outer grille, which would have been unlocked every morning. There would have been no opportunity for prisoners to cut a hole at night and their only alternative would have been to cut the hole on the morning of the murder – an altogether riskier proposition in daylight and with an officer present in the tower. With regard to the second point, once a hole was cut, it was much easier for the INLA to climb onto the roof and launch their attack on Billy Wright rather than attempting to climb an 18-foot fence and jumping onto the roof. There is no evidence that such a feat was ever attempted previously.
- 14.65 There can be no doubt that the existence of the hole that had been cut in the fence facilitated Billy Wright's murder.

The Watchtowers

- 14.66 To cope with staff shortages the prison operated a Diminishing Task Line (DTL) of posts that could be dropped by the Management Information Deployment and Attendance of Staff (MIDAS) office, the officers then being re-deployed elsewhere in the prison. Also known as the Activity Monitoring Information Systems office or duty office, the MIDAS office was responsible for the detailing of staff throughout the prison. The DTL had been agreed with the POA. In practice, if the DTL was exhausted and there were still staff shortages, the MIDAS office referred the matter to the Governor in charge for his decision. At weekends this would have been the Duty Governor. According to the documentation seen by the Inquiry, at the time of Billy Wright's murder the yard watchtowers were not on the DTL. The Inquiry has heard evidence of a notice displayed by the POA in the 'tally lodge', through which all staff would pass on entering or leaving the prison, advising its members that no yard towers were to be stood down and that any attempt to do so should be referred to the POA.
- 14.67 Some witnesses to the Inquiry have suggested that there was a rule prohibiting one or other of the H6 yard towers from being dropped. The POA's position is that there was no special rule: the H6 towers were not on the DTL so should never have been dropped. Jim Duffy, the Branch Secretary, was clear: **'No yard towers were to be dropped from any block. ... The H6 towers were the same as all other blocks, as far as I was concerned. They were to be manned at all times.'** Another POA representative explained that this rule was **'written in tablets of stone'**, although he seemed to qualify this by saying that the

dropping of the H6 towers was **'particularly taboo'**. Several witnesses, including officers who worked in H6, said they could not recall the towers ever being stood down, or that they had been stood down only infrequently. For example, officers Flanagan and Gallagher both said it was only rarely that the towers were stood down in H6. There are indeed very few references in the PO's journal to the dropping of yard towers. However, it seems clear that towers were dropped from time to time. The closing submission by the POA states, **'... it is clear that towers, including H6 towers were stood down ("dropped") on various occasions.'** The NIPS has produced documentation appearing to show that in 1997 the H6 towers were frequently dropped. This is understood to have been based on MIDAS records. In some instances the schedules may be incomplete:

- Schedule entitled 'Observation Towers not manned in H6', covering the period 3 April 1997 to 15 January 1998, shows 13 days on which both the A/B and C/D towers were dropped (although not necessarily for the same period of time), 35 days on which the C/D tower alone was dropped and two days when the A/B tower alone was dropped. The schedule appears to show numerous occasions on which towers were dropped for three hours, which may correspond with the association period; on other occasions the towers appear to have been dropped for the whole day. Several witnesses gave evidence that standing down the H6 C/D tower presented less of a security risk than dropping the A/B tower, because coverage of C/D could be provided by another tower.
- Schedule 'Posts not manned in H Block 6', covering the period 3 April to 31 December 1997, shows 125 days on which towers were dropped: these were spread throughout the week, with no indication that towers were dropped more frequently on Saturdays.
- Schedule 'Observation Towers not manned in all blocks', covering the period 3 April 1997 to 21 January 1998, shows 146 occasions when towers were dropped in H6, 39 occasions when they were dropped in H1, 6 occasions when they were dropped in H4 and 18 when they were dropped in H5. This suggests that, far from there being a particular prohibition on dropping H6 towers, towers were dropped far more frequently in H6 than in other blocks. The reason for this is unknown.

14.68 Both Don McCallum, the MIDAS office PO, and John Blundell, a POA representative, gave evidence that the H blocks would sometimes drop towers of their own accord (**'on the fly'**). PO McCallum said that sometimes he would receive misleading information from blocks and would be unaware that posts had already been dropped. In particular, towers could be dropped at a local level without him knowing. He gave as an example of this the dropping of an H6 tower on 27 December, saying the MIDAS office had been unaware of this. Officer

Blundell said that it was not unusual for towers to be stood down on the fly, and that when this happened neither the POA nor the MIDAS office was informed. A PO might decide that it was more important to have an officer in the block than in a tower, as one tower could cover another. This was put to Arthur Gallagher and Brian Molloy, both SOs who were on duty in H6 on the day of Billy Wright's murder. Both denied that they personally had dropped towers, while leaving open the question of whether other block managers did so. If the MIDAS office was not informed, it can be inferred that the dropping of towers on the fly would not be included on the NIPS schedules.

14.69 The primary function of the tower officer was to observe prisoners in the exercise yards. There remains a degree of uncertainty over the means of communication available to the tower officer. Mr Brian Barlow suggested that the tower officer had radio communication with the ECR, but Raymond Hill said he did not, and that his only means of communication was via intercom to the BCR. He could also press an alarm, which sounded in the block and the ECR.

14.70 On 12 November 1997 Governing Governor Martin Mogg met with the Board of Visitors (BoV). The Minutes show that his report included reference to the towers:

'Three new high mast cameras have now been put in place and are operational. These give views across H1 and H2, H3, 4 and 5, and H6, 7 and 8. This coverage linked to that from repositioning the exercise yard cameras means that yard towers are no longer necessary. They will in future only be manned in [sic] an occasional basis. All these systems are designed to give the earliest warning of prisoners attempting to get onto roofs. Yard fences are also to be reinforced to prevent access to the roofs.'

14.71 The Inquiry has heard conflicting evidence about whether cameras could have been used to perform the role of the officers in the watchtowers. In any event, as will be seen, the high mast camera covering H6 was faulty at the time of Billy Wright's murder. The Inquiry has seen no other evidence of a decision prior to Billy Wright's murder to man the yard towers on an 'occasional basis' only. The position after the event is different, as can be seen in the circular issued in January 1998 by Deputy Governor Ken Crompton:

'It is apparent that the current agreed diminishing tasklines for Saturday may be insufficient given the extremely high levels of staff sickness.

In addition to the agreed diminishing tasks other posts will probably have to be stood down on the day.

Dependent upon the situation at the time the (14) staff assigned to yard towers should be stood down and the second patrol officer in each visiting room should be stood down (8).

This together with the agreed diminishing taskline should cover the current shortages.'

- 14.72 On the morning of 27 December 1997 Officer Raymond Hill was posted to the watchtower overlooking the H6 A and B exercise yards. He told the Inquiry that he had been quite happy with this posting as it meant he had no prisoner contact; it was preferable to being cross-deployed to visits. He had started work at around 8.20 am. He estimated that after checking in with the block PO's office and drawing the keys it took approximately five minutes to walk from the circle of H6 to the tower, depending on the 'traffic' in the circle area, where the system of electronic locks ensured that only one grille could be opened at a time. The route took him out of the block through the circle, hall guard and Hennessy grilles, via the forecourt to the block gate and then along the line of the perimeter fence of A yard to the tower. Arriving in the tower he tested the alarm and found it was working.
- 14.73 Officer Hill said that at around 8.50 am he was contacted via intercom by Officer Flanagan in the BCR: **'Raymond, you've to come down. The PO would like to see you.'** Officer Hill told the Inquiry that he had not been told why he was to come down. He found the instruction peculiar as he had been expecting to spend all day in the tower, and furthermore he was familiar with the POA's notice in the tally lodge. He was slightly annoyed, and wanted to 'debate' the matter with the block PO. However, on returning to the main gate he was told by an officer there, **'It's all right, Raymond. You have to go back up again. He has changed his mind.'** He then returned to his post in the tower.
- 14.74 Officer Hill said that at about 9.30 am he received a further message from Officer Flanagan telling him to come down, and that he was going to visits. He told the Inquiry that he was annoyed by this, because it was contrary to the 'agreement' with the POA and he was being sent to visits. Rather than reporting to visits he therefore returned to the block PO's office. On his way there he spoke to Brian Thompson, the hall guard officer, telling him what had happened. Officer Hill explained to the Inquiry that he was strongly opposed to the dropping of any post, and several witnesses recall seeing him complaining to SO Gallagher about the decision to stand him down that morning. Mr Gallagher described how he came across Mr Hill who said he was not happy with the decision, but Mr Gallagher explained the situation to him; Mr Molloy saw Mr Hill at the door **'very irate'** about why he had been stood down. Mr Molloy said Officer Hill **'complained that the tower shouldn't be down because it was a security post and ... it**

was more important for him to stay in the tower than go to Visits’; Aidan Flanagan said he was aware before the murder of block gossip about Mr Hill complaining; and Brian Thompson saw Mr Hill arguing with Mr Gallagher.

- 14.75 In the PO’s office Officer Hill telephoned the POA representative John Blundell and told him he had been stood down and was being re-deployed to visits. Officer Blundell told him to ‘sit tight’ and that he would ‘get it sorted’. Officer Hill said he was then told by SO Gallagher that he had won the argument and was to return to the tower. In a statement made the day after the murder, he said he had been given this instruction at around 9.50 am. He returned to the tower, approximately five minutes’ walk away. As he reached the top of the tower he heard gunfire. He opened the sliding window to see what was going on, and saw a prisoner on the roof of A wing. He immediately activated the alarm. He also contacted the BCR by intercom to tell them what he had heard and seen. There were now three prisoners on the roof and he recognised them as McWilliams, Kenneway and Glennon. He saw them jump down into the catwalk, pass through a hole in the fence and enter the block via the turnstile. He had not previously noticed the hole in the fence. As will be seen, the BCR journal records that Billy Wright and Green left the block at 9.59 am. The ECR telephone log records the alarm sounding in H6 at 10.00 am.
- 14.76 The standing down of the watchtower is one of the more controversial issues surrounding the events of 27 December 1997. It is of primary relevance to the timescale within which the murder took place. A reconstruction by the Security Department showed that from the Hennessy grille closing behind Billy Wright to his killers stopping the van would have taken no more than 30 to 45 seconds. Had Officer Hill been at his post and looking out of the window into the yards when the killers breached the fence and took to the roof, he would have seen them and would have sounded the alarm. What effect this might have had is considered later, but first we must examine the sequence of events that led to the AB tower being unoccupied at the critical time.
- 14.77 There were frequently shortages of staff in visits, particularly on Saturdays. The POA had complained about this to Alan Shannon, the Chief Executive of the NIPS, on numerous occasions. For example, as early as 1995 Finlay Spratt had written the following:
- ‘I am concerned about the lack of staff available on Saturdays in the Maze Prison to allow the station to run within the agreed manning levels. On Saturday 17th June 1995 there was a shortfall of approximately 60 staff to run visits. To accommodate this management dropped posts throughout the establishment. This placed the safety of staff employed in these locations in jeopardy.’**

14.78 James Murphy, the visits PO, recalled that there ought to have been more than 90 BGOs on duty in visits every day, **'but we were always short'**. He told the Inquiry that he had complained to various governors **'but nobody seemed to take any notice'**. Visits were segregated, with separate rooms for republican, UVF and UDA visits; officers were needed to staff the rooms, escort prisoners to and from their blocks (visits runners), check visitors in, control movement, allocate prisoners to particular rooms, and staff the separate legal visits area. When it is recalled that these figures do not include search staff (provided by the Standby Search Team), the visitors' car park (a separate group of staff) or the separate LVF visits block, it is clear that visits were a very significant drain on resources. William McKee, a Governor IV, was the head of Inmate Services. He recalled how the problem tended to be worse on Saturdays:

'Staff were entitled to have alternate weekends off; the visits group would therefore have been split into two, with approximately half the group on duty at a time. ... It so happened that the sickness absences were not evenly divided between the two halves of the group. There were therefore "good weekends" and "bad weekends" for sick leave, depending on which half of the group was on duty. In addition there would be people who would telephone in sick on the day.'

14.79 Mr McKee told the Inquiry that nothing had been done to address the problem of **'bad weekends'** since he took up post in 1996. He described the problem thus: **'it was like trying to wrap a parcel with a piece of paper and the piece of paper was too short. No matter what way you tried, you still wouldn't cover it.'** Deputy Governor Crompton and Security Governor Steve Davis both expressed similar views of staff shortages at weekends.

14.80 Visits were, however, of particular importance to prisoners. Mr Davis outlined the difficulties regularly faced by HMP Maze management in dealing with prisoner visits at HMP Maze.

'If you were short of staff you could not go to one faction and say "You are not getting your visits today", because of the impact this would have had on the Blocks and the staff. It would mean that sickness absence would increase because staff would be under pressure; there would be a risk of direct action against staff, and suddenly you would be in a situation where all visits had to be cancelled. It had become a massive problem.'

14.81 Governor McKee, who for a time had responsibility for visits, took a similar view:

'In the Maze the three most important things to the prisoners were the visits, the food and letters. If any one of those three were out of sync and didn't meet what the prisoners expected, you know, the prisoners got high very quickly. Their intimidation of staff got high and also all sorts of other problems. They would sit on at visits, etc, etc, which disrupted the smooth running of the jail. We found, by focusing on those three particular areas and trying to meet the prisoners' expectations in them all, it actually meant the jail did run fairly smoothly.'

14.82 The smooth running of visits was therefore seen as vital in maintaining good order in the prison. The visits group was heavily dependent on the cross-deployment of staff from elsewhere in the prison, particularly for the provision of visits runners, with each H block required to send a number of its officers. The Inquiry has heard evidence that, for some officers, visits was an unpopular posting. It entailed direct contact with prisoners and their visitors. Staff were supposed to patrol the visits rooms but, because of intimidation, they did not do so. Prisoners would remain beyond the intended finishing time and staff had difficulty in getting away. PO Murphy contrasted this situation with other posts where staff often left early or made **'arrangements'** with other officers, a common practice, he said, in the blocks. PO McCallum made a similar observation, explaining that **'... visits would definitely have been regarded as the post you didn't really want to go to.'** Nor would block managers wish to lose their staff to visits. PO Murphy recalled that on many mornings he had had arguments with block POs who were supposed to send him officers but who had kept them back to cover shortfalls in their own blocks. The Inquiry has heard that, in order to cope with shortfalls of staff in visits, watchtowers including yard towers were regularly dropped and the officers re-deployed to visits. The staffing difficulties encountered in visits on Saturday 27 December 1997, and the solution adopted to deal with them, were therefore not unusual.

14.83 PO Murphy told the Inquiry that the staff shortages on the morning of 27 December 1997 were amongst the worst he had ever seen. By around 8.30 am he realised there was an acute shortage of visits runners: there were only two runners to escort prisoners (from seven H blocks) to and from perhaps a hundred visits in the morning, with the same again in the afternoon. He considered that this could not be done without closing a visits room and re-deploying its staff, which would have created its own difficulties and which he had never had to do before. He told the Inquiry that the shortfall was in the high teens. He had already dropped patrol posts in anticipation of a likely shortfall that day. After he had telephoned all the H blocks to chase up missing officers without success, he turned to PO McCallum in the MIDAS office.

- 14.84 Peter Murray, a BGO in the MIDAS office, gave a similar account of the staffing difficulties in visits that morning, recalling that visits had been 18 officers short, a number he described as **'unusually high'**. He described how the MIDAS office had responded by standing down posts on the DTL, re-deploying these officers to visits. An ECR log confirms the standing down of one of these posts, the T4 watchtower, at 9.06 am. Officer Murray said that even when this was done visits was still eight officers short. Officer Murray's evidence was that by now it was 9.00 am: he remembered looking at the clock and thinking that visits ought to be open by this time. At this point, he said, PO McCallum was upstairs seeing Governor McKee, who was the Duty Governor in charge of the prison that day.
- 14.85 The Inquiry has heard conflicting accounts of what happened next. In particular, witnesses are at odds as to the timing of key events.
- 14.86 Governor McKee told the Inquiry that he came on duty around 9.00 am. He worked from the office he usually occupied as head of Inmate Services, which was on the top floor of the Administration Block. The MIDAS office was on the ground floor. Acting Governor V Brian Barlow and Governor V Joseph Helm were also on duty.
- 14.87 Governor McKee told the Inquiry that before Christmas he had been briefed by the Deputy Governor, Ken Crompton:
- 'Ken had said that ... it was going to be a bad weekend staff-wise. He said, as usual, "Manage the best you can, but if you are short of staff, stand down the towers with the exception of H Block 6. If the POA have a problem with it, get them to contact me".'**
- 14.88 Governor Crompton was unable to recall briefing him, although he confirmed that the Duty Governor would be briefed about the anticipated staffing position by the Governor, Deputy or third-in-charge: he had a vague recollection that there had been **'... a point about not standing down a tower in H6'** because of that block's proximity to the administrative area.
- 14.89 Governor McKee said he had been waiting for a visit from PO McCallum to advise him of the staffing position and, if necessary, to seek his instructions on how to deal with it. PO McCallum duly arrived and told him, **'Governor, that's the prison up and running but we are eight staff short on visits.'** In evidence PO McCallum agreed that he had said something to that effect.
- 14.90 Governor McKee thought that this conversation had taken place around 9.15 am. However, the import of PO McCallum's and Officer Murray's evidence is that it was rather earlier. Officer Murray said that PO McCallum had gone to see Governor McKee by 9.00 am, and PO McCallum's evidence was that he had had his second

conversation with Governor McKee at 9.15 am, only when it became apparent that the POA were objecting to the dropping of towers. Governor McKee also told the Inquiry that Brian Barlow was present at the time. Both Governor Barlow and PO McCallum deny this.

- 14.91 According to his Inquiry statement Governor McKee told PO McCallum: **‘Stand down the towers, Don, but leave H6.’** This is vehemently disputed by PO McCallum, who gave evidence that Governor McKee told him to **‘close all the yard towers and send the staff to visits’**, without the exception of H6.
- 14.92 It should be noted that PO McCallum’s evidence appears inconsistent with what he told the police shortly after the murder: **‘Governor McKee then told me to close both H6 yard towers and to send both men over to visits.’** In evidence PO McCallum explained that he had said this in response to a specific enquiry about H6. However, Governor McKee gave evidence that he too had heard PO McCallum say this, the day after the murder. It seems unlikely that PO McCallum would have misinterpreted the instruction in this way. Dropping only the H6 towers would have produced just two officers for visits, leaving a shortfall of six. It may be significant that the first call made by PO McCallum was to H6, although his evidence was that that was just a matter of chance. It will also be recalled that the NIPS schedules appear to show numerous occasions on which only the H6 towers were stood down.
- 14.93 On receiving Governor McKee’s instructions, PO McCallum returned to the MIDAS office and began to close the yard towers. He said **‘... the first one was H6, because that was next on the list or whatever. I was in touch with them. As soon as that happened the POA jumped up and down, straightaway more or less.’** Officer Murray recalled PO McCallum returning from Governor McKee’s office after a matter of minutes and telling him to stand down **‘all the block towers’**. Officer Murray was sure that his instruction was to stand down all towers, which would have freed plenty of officers to cover shortages in visits and elsewhere in the prison. In visits, PO Murphy recalled receiving a call from PO McCallum advising that he would receive another seven officers. Murphy thought that this conversation had taken place at 8.45–8.50 am. However, it is likely to have been later than that, as PO Murphy’s evidence was that PO McCallum called him *after* speaking to Governor McKee. Officer Murray also recalled PO McCallum calling PO Murphy after speaking to Governor McKee. PO McCallum told him which blocks the officers were coming from, to enable PO Murphy to chase them up if they did not appear, and specified that two were from H6. Officer Murphy retorted that he would **‘muddle through’** that day but the problem would have to be sorted out.

14.94 PO McCallum told the Inquiry that he then called H6 and spoke to SO Gallagher. On being told that the two yard towers were to be stood down, SO Gallagher responded that one of them was already down. PO McCallum said he told him to stand down the other one and send the officer to visits. PO McCallum told the Inquiry that he had not known that one of the H6 towers was already down, and that he had not authorised this; in other words, a tower had been dropped **'on the fly'**. Officer Murray thought that he had made the initial call to SO Gallagher. Like McCallum, Murray thought Gallagher had told him that only one tower was manned as the other had already been dropped. He passed this information on to PO McCallum, who was unhappy because he had not known that a tower had been dropped. Officer Murray said this exchange took place not long after 9.00 am.

14.95 A reference to standing down H6 towers that morning is found in the block PO's journal:

'08.45 C&D Tower, no light. Reported to E.C.R. for Works.

08.50 From Amis Office, drop C&D Tower. E.C.R. and S.I.C. informed.'

14.96 There is no reference in this journal to the standing down of Officer Hill in the AB tower. Nor is there any reference to the dropping of H6 towers in the ECR journals (although the telephone log does note the faulty light in C/D tower, at 8.49 am) or the Security Department's daily journal. There appears to have been no connection between the C/D tower's faulty light and the decision to stand it down. In evidence, SO Gallagher denied standing down a tower without the permission of the MIDAS office. He was sure that the C/D tower had been dropped on the instructions of the MIDAS office, possibly on the suggestion of local management in H6, and the officer may have been required to cover a shortage of staff between grilles inside the block. He said the A/B tower was still manned at that time. He did not know why the MIDAS office would subsequently instruct him to drop both towers, because they knew that one tower had already been dropped.

14.97 The Inquiry has heard that there was indeed a shortage of staff in the C/D leg of H6 that day although, as will be seen, the C/D tower officer (Douglas Southall) was not in fact re-deployed to this task. SO Gallagher's evidence is unclear, as he also said that he and SO Molloy thought it important that the dropping of the C/D tower should be entered into the journal, **'because the towers should not have been dropped'**. Given that the dropping of towers is rarely mentioned in the H6 PO's journal, one possibility – denied by SO Gallagher – is that the entry was made only when controversy arose over the standing down of the A/B tower, to cover

the backs of H6 staff for standing down a tower 'on the fly'. SO Molloy said that he had not been involved in any decisions about standing down the towers. He did not know if SO Gallagher had consulted the MIDAS office before dropping the C/D tower, but could not envisage SO Gallagher standing it down without authority. He said he had made the entry in the journal when SO Gallagher told him that the tower was to be dropped; he had made no entry about the dropping of the A/B tower as he had not been told it was to be dropped and was writing only what SO Gallagher told him to write. He said he had conducted 'tours' in the circle so may have been out of the office at the relevant time. The times attributed by the journal to various events do not appear to be exact: SO Molloy said that the times were approximate, but he had made the entries as the events occurred; SO Gallagher said it was possible entries were made later if they were busy or an incident occurred. It will be recalled, however, that the timing of the PO's journal entry for the faulty tower light broadly accords with that of the entry in the ECR's journal, where timings do appear to have been more precise.

14.98 The officer posted to the C/D tower, Douglas Southall, told the Inquiry:

'At 9.15 am, I got a message on the intercom but cannot remember who it was that spoke to me. I was told I was being re-detailed to be the relief man in the circle area of H6. I then walked straight back to the circle. I reported to the SO's Office. I cannot remember who I spoke to. It was either Arthur Gallagher or Brian Molloy. I relieved the circle man who was Officer Murtagh. I relieved him for about twenty minutes then he came back. Then I just hung around because the SO, I cannot remember exactly which one, told me I should have an early dinner. ... I would have left the Block for lunch about 10.30 am, as it took a good while to walk the full distance. I have been asked why I did not return to the Tower after Officer Murtagh had been relieved and had returned to his post. My impression was that I was just to relieve anyone else that needed temporary relief but in the meantime I remained in the circle area of H6 until it would be time to leave for an early lunch at 11.00 am.'

Notably, then, Officer Southall was not re-deployed to visits.

14.99 PO McCallum told the Inquiry that there was **'no way'** he would have stood down any post to provide a relief officer. Why the C/D tower was dropped is thus unexplained. It is not clear, for example, why rather than waiting around Officer Southall was not sent back to the tower. The roof of A wing would have been visible from C/D tower, and had there been an officer in that tower he might have seen the prisoners on the roof. However, any activation of the alarm would have

been too late to prevent the shooting as Billy Wright would have been beyond the Hennessy grille at this time. In any event, Southall would have been in no better a position to activate the alarm than those officers situated at the gate. Accordingly, Southall's standing down can best be described as a red herring.

- 14.100 In evidence Officer Hill was certain that he had been stood down on two occasions. Officer Flanagan thought he had conveyed the instruction only once but conceded he could be wrong and that an instruction to stand down the tower could only have come via the BCR. Similarly, SO Gallagher gave evidence of standing him down only once. That was also the understanding of SO Molloy. If Officer Hill was indeed stood down for the first time at 8.50 am, it has so far not been established why, or on whose authority. Governor McKee's evidence was that he did not come on duty until 9.00 am. Governor Helm, the 'early' Governor, had been on duty since about 7.30 am, but he denied dropping any towers, explaining that he had had no authority to do so. However, it is noted that Officer Hill's timing coincides exactly with the journal entry for the standing down of the C/D tower: Officer Hill had not seen this document prior to giving evidence. One possibility is that both towers were stood down together prior to Governor McKee's meeting with PO McCallum. Officer Hill told the Inquiry that whenever he received a communication from the BCR, it was his practice to check the time on his watch. This has to be kept in mind when assessing his evidence about being stood down again at 9.30 am, where his timing is significantly later than that suggested by some other witnesses. It should also be noted that INLA prisoners in A wing would have been able to see the tower officers passing through the forecourt as they went to and from the towers. It is not known whether this assisted the INLA in the execution of their plan.
- 14.101 SO Gallagher told the Inquiry that he protested on being instructed to drop the A/B tower because, in his experience, the A/B tower had not been stood down before and doing so presented an obvious security risk. He said he was told to **'leave it with'** the person to whom he was speaking. He had then received a further call ordering him to send the tower officer to visits. He duly communicated the order to the BCR. Here too the evidence remains unclear. Officer Flanagan thought that Officer Danks took the call from the PO's office and then told him to **'Stand the towers down'** which Officer Flanagan did, communicating the order to both towers. He thought he had stood down both towers at the same time and could not account for the journal entry showing the standing down of the C/D tower at 8.50 am. He did not know the time at which he conveyed the instruction to the towers as no record was kept by the BCR. One possibility is that he was referring to the earlier standing down of towers at 8.50 am.

14.102 John Blundell said that at approximately 9.30 am he received a call from Officer Hill, who explained that he had been called down from the tower twice and had now been told to go to visits. Officer Blundell was at the tally lodge, some distance away from the Administration Block. He told the Inquiry that he went to the MIDAS office where he asked Officer Murray if he had stood down the A/B tower. Officer Murray said that he had, on Governor McKee's instructions, and Officer Blundell went upstairs to see Governor McKee. This was confirmed by Officer Murray.

14.103 A second discussion then took place in Governor McKee's office. There are conflicting accounts of who was present and what was said. According to Governor McKee, only he and Officer Blundell were there.

'John Blundell came bursting into the office. ... He was shouting and roaring and he said, "You can't stand down H6." ... I said "John, the tower at H6 wasn't supposed to be stood down, and if it is stood down, get the man back in his post right away", and he said "Right, Governor". That just seemed to settle him and he left the office and closed the door.'

He thought this took place at around 9.25–9.30 am.

14.104 Officer Blundell told the Inquiry that, on entering Governor McKee's office, he found Governor McKee, Governor Barlow, Governor Helm and PO McCallum having a discussion. He asked Governor McKee whether he had stood down the A/B tower. Governor McKee said that he had, for visits. Officer Blundell protested that the towers were not on the DTL and should not be stood down. When Governor McKee did not respond, Officer Blundell threatened to get the rest of the POA and shut the prison down. He then went downstairs and telephoned the POA Branch Chairman Desmond Waterworth at home, who told him that if the tower was not re-manned by the time Officer Blundell returned to the tally lodge, he would come in and **'sort this place out'**. When Officer Blundell returned to the tally lodge he was told by his PO that a serious incident had occurred in H6. Officer Waterworth has given evidence that at around 9.30 am he was telephoned by Officer Blundell and told that the Duty Governor had stood down the towers in H6 and sent the staff to visits. Their conversation must have taken place later than that, if Officer Blundell was not contacted by Officer Hill until 9.30 am (and, indeed, if Officer Blundell did not return to the tally lodge until after 10.00 am).

14.105 PO McCallum's recollection was that very shortly after the instruction had been given to stand down the tower, Officer Blundell telephoned asking why the towers were being stood down and advising that he had instructed the staff not to go to visits but to stay in the block. PO McCallum returned to Governor

McKee's office. This was at around 9.15 am. Officer Blundell appeared and it was obvious that he was not having any towers stood down. PO McCallum said he could not remember exactly what Governor McKee's response had been, but that Governor McKee did say that he had not stood down H6 towers. This had caused PO McCallum on his return to the MIDAS office to remark that Governor McKee was telling lies. **'I can't really remember the exact words, but I certainly remember coming back down into my office and saying that, "He's telling porkies up there."'** This was because it was his clear recollection that Governor McKee had told him to stand down all the towers. This account was confirmed by Mr Murray.

'Minutes after that PO McCallum returned to the MIDAS office and said "He's making up porkies," which I remember were the exact words he used. He said Governor McKee claimed that he had not mentioned closing the H6 towers. PO McCallum was annoyed, to put it mildly. I asked him who was up with Governor McKee and he said either "Barlow" or "Mr Barlow". I replied "The bastards." I said that because I thought it was a bit underhand to issue an order then back off from it. Almost immediately after that John Blundell came in. PO McCallum said to him "He's making up porkies."'

14.106 PO McCallum told the Inquiry that he went straight back to his office and told SO Gallagher to reinstate the towers. This was at approximately 9.30 am. His evidence was confirmed by Officer Murray, who agreed that the matter had been resolved by 9.30 am; he recalled looking at the clock.

14.107 Brian Barlow said that he first became involved at around 9.25 am when he received a call from an irate Officer Blundell informing him that the H6 A/B tower had been stood down and that there were no towers manned in H6. He said that in response he went straight to Governor McKee's office where he met Officer Blundell. Governor Helm and PO McCallum were already there.

'I told Mr McKee that he should not have stood both towers down, that there was an agreement between the POA and the Governor that one tower had to ... remain manned. Mr McKee then turned round and said to the PO from the AMIS office, "I told you to stand the towers down, all the towers down with the exception of one in H6".'

PO McCallum had then gone to telephone H6 to have the tower reinstated. This had been done at 9.35–9.40 am.

14.108 Governor Helm recalled only overhearing an argument between Governor McKee and a POA representative about the dropping of H6 towers.

- 14.109 It is difficult to establish a clear picture of events from the many differing accounts that have been provided. Matters of timing remain unresolved. If the order to reinstate the towers was indeed given at around 9.30 am, why did Officer Hill not return to the tower until 10.00 am? The evidence of John Blundell and Brian Barlow suggests that the order was not given until some time after that. Is Officer Hill correct in his recollection that it was not until 9.50 am that he was told to return to the tower?
- 14.110 In any event, we must ask ourselves whether it would have made any difference had the A/B tower been manned. When an alarm was activated only the BCR and the officer who activated it would know the precise location. Block staff and the ECR would know only that an alarm had been activated somewhere within that block. The standard response was that the area would lock down and the IRF would go to the area to assess the situation. Until the alarm was cleared or a response decided upon, the area remained sealed to prisoner movement. The IRF was deployed by the ECR.
- 14.111 It is important to note that the lock-down did not occur instantaneously on the activation of an alarm. Ronald Murray was the SO on duty in the ECR on 27 December 1997. He explained the normal procedure:

‘first of all, having been told where the alarm was, he [an ECR officer] would have brought up the cameras particular to that particular block. He then had three grilles to observe. If the grilles were locked, he would seal them with an electronic – I think it was a key he turned. If they were not locked ... it was a judgment call then on his part as to whether to lock them, two locked and maybe one open, or wait a second or two until the staff in the block had secured them before he took over.’

This happened automatically, without recourse to the BCR, with whom the ECR would nevertheless have been in communication. Grilles that were in the open position would be locked in that position, and could not be closed. By that time the IRF would already be on their way. Some grilles, including the Hennessy grille, did not have electronic locks. So too the block gate was locked only manually, not electronically. It appears that on receiving word that all movement was stopped the officers on the block gate were to lock it, or keep it locked.

- 14.112 Some time after the shooting Governor Davis staged a reconstruction and produced a brief report. He assumed that not until the Hennessy grille had closed behind Billy Wright were McWilliams, Kenneway and Glennon given the signal to ‘go’ by a prisoner acting as lookout. The rationale for this assumption is that, had they moved any earlier, Billy Wright might still have been inside the block

when the alarm was raised and would not then have been allowed out into the forecourt. The INLA themselves, in articles appearing in *The Starry Plough*, have said the signal was not given until Billy Wright had entered the van, presumably for the same reason. Governor Davis concluded that it would have been to the killers' advantage for the yard tower to be manned, as this would have caused the alarm to be raised earlier, before they accessed the roof. Although we do not attach much weight to the untested account of McWilliams and others associated with his organisation, he later said during an interview with *Newsnight* that it had been part of their plan that the tower would be manned. Had this been done, he claimed, the tower officer would have sounded the alarm as soon as he saw the fence being breached, causing the gates to be locked leaving Billy Wright inside the stationary van in the forecourt, a sitting target. However, the evidence led before the Inquiry does not reveal whether those on the INLA side knew that the tower was unmanned when the three were given the signal to go.

- 14.113 That the tower was unmanned meant the alarm was not activated until after the shooting. Indeed, by the time the killers jumped from the roof the van had started to move towards the gate and had to be brought to a halt by McWilliams. Governor Davis's report estimates that it would have taken the gate officer a further 45 seconds to one minute to open the inner gates, let the van into the airlock and close the gates, at which point Billy Wright would have been safe. This estimate is much longer than that given by a report commissioned by David Wright.
- 14.114 This latter report was not tested in the Inquiry chamber. Nonetheless it is evidence that we will take into account. The report suggests it would take four and a half seconds for the van to travel from its resting position to the airlock and a further 10 to 15 seconds for the gate officer to open the gates, allow the van in and close the gates again. On this hypothesis – that Billy Wright was no more than 10 to 15 seconds from a place of safety – the report indicates that manning the tower would have made a difference. The tower officer could have communicated with the main gate by intercom as soon as he saw prisoners breaching the fence; the gate officer would have realised Billy Wright was the target and would have let the van into the airlock. However this appears not to take into account a number of factors, including: the gate officer's description of the **'big, heavy'** gates that took some time to open; the likelihood that the van would have to slow down or stop while the gates were being opened; the fact that the tower officer's communication would have been with the BCR rather than the gate officer; the effect that fear or panic might have had on the officers' reactions (see Officer Seaward's account of how he closed the gates incorrectly and thus left them unlocked). Crucially, it ignores the fact that the gate officer would know on

hearing the alarm that all movement must stop, and that he should therefore not open the gates, particularly as he may well have concluded that the INLA prisoners were trying to escape. In evidence Officer Seaward confirmed that he would have reacted to an alarm by shutting the gate. One must also take into account that the officers had no idea what was occurring. Several have said that what they saw could have been part of an escape attempt or a hostage incident.

- 14.115 The author of this report also considered that Billy Wright, hearing the alarm, might have left the van and made his own way back to the block. This is speculation. Alarms were a not infrequent occurrence, so Billy Wright might not have reacted in that way, and he would have had no reason to think the alarm had anything to do with him. In any event, once he was through the Hennessy grille and the wooden doors behind it, he could have proceeded no further into the block: the next grille had an electronic lock that would have been overridden by the ECR, so could not have been opened. Reaching through the Hennessy grille, an assailant could have pushed open the unlocked wooden doors and shot Billy Wright in the hall guard. It has also been suggested in evidence that, had Billy Wright heard the alarm, he could have exited the van into the forecourt and would have presented a more difficult target for McWilliams. However, one would have thought that, there being no assistance available to Billy Wright in the forecourt, three violent men armed with two firearms would have had little difficulty in carrying out the killing.
- 14.116 We can see no reason why the report submitted on David Wright's behalf should be preferred to that prepared by Steve Davis. The consulting engineers' findings did not proceed from any reconstruction such as that carried out on Governor Davis's instructions. As we have already said, once the alarms sounded, all gates and grilles would immediately have been closed, either electronically or manually. Those manually closing gates would presuppose that an escape was being attempted and for that reason would probably not have facilitated the exit from the forecourt of a van. In our view the scenario of Billy Wright leaving the van before the murderers reached him, and running free in the forecourt, is neither realistic nor tenable.
- 14.117 In his report, Mr Justice Cory conceded that he could not resolve the conflict in the evidence in this area. As the evidence has emerged in the last 12 years, so that conflict has grown and it has not been possible for this Inquiry to resolve the matter finally. We agree with Narey that **'the confusion over the manning of the tower is, to say the least, regrettable'** and that there was a lack of clarity as to what posts could be dropped to cover shortfalls at weekends.

14.118 We have given careful consideration to the submissions of the various represented parties. We find that there is no evidence of any conspiratorial activity in this area of the Inquiry. One matter that worried Mr Justice Cory, which is also of concern to us, is the fact that rules and agreements, such as the DTL, appear to have been broken. This Chapter, then, is yet another harsh reminder of the two regimes operating at HMP Maze: the regime on paper and the grim reality of the regime in practice.

14.119 We have also examined thoroughly the evidence about the standing down of towers in order to provide prison personnel for visits. We find it established that Officer Hill was summoned down from the A/B watchtower twice before 10.00 am on the morning of 27 December 1997. It is not clear when Mr Hill was instructed on the second occasion to resume his position in the tower, but we incline to the view that the instruction was given at around 9.50 am, as he said it was, and that he lost no time in resuming his position in the tower. It was only when he reached that position that he was alerted by the sound of gunfire and saw the three INLA prisoners, McWilliams, Kenneway and Glennon, coming back over the roof of A wing in front of him. On behalf of the Wright family the question was posed, what was Raymond Hill **'up to'** prior to the murder taking place? We are in no doubt that he was not **'up to'** anything.

14.120 Another question which we have to consider is whether the constant presence of Prison Officer Hill in the watchtower would have made any difference to what actually happened in the forecourt of H6. The aim of the INLA was to have Billy Wright inside the visits van before any alarm was sounded. They relied upon the alarm being responded to by the closure both of the gates back into the circle and of the block gates into the forecourt. Those involved in the manual closing of gates would not readily know the reason for the sounding of the alarm. A lookout placed in A wing no doubt advised the three murderers when it was appropriate for them to make their move past the turnstile and through the hole in the catwalk fence. Whether they would then have been spotted by whoever manned the A and B watchtower is moot, because the line of sight was obstructed. Almost certainly they would have been seen climbing up onto the roof. So if Mr Hill had at that point been in position within the watchtower (which he was not) he would have sounded the alarm. As it happened, however, the alarm was probably first sounded by Officer Cardwell at the block gate, followed by Thompson from within the block when he heard that Billy Wright had been shot, and lastly by Prison Officer Hill when, from the watchtower, he saw the three murderers coming back across the roof. It must be remembered that the response to the sounding of an alarm was the closing of all the gates, both electronically and manually. If Mr Hill had sounded his alarm first on seeing the three murderers climbing onto the roof of A wing, the gates would probably have been closed more promptly than they

were. The three murderers would probably have reached the van in the same time as they did, although the van itself might not have got so close to the block gates if the driver had responded to the alarm. There cannot, however, be much in this. It lies in the difference between the men being seen ascending the roof and their being seen descending into the forecourt which led to Officer Cardwell operating the alarm at the block gate. According at least to McWilliams it suited the INLA's plan that the A and B watchtower was manned. As previously stated, the evidence does not reveal whether those on the INLA side knew that the tower was unmanned when the three were given the signal to go.

The Faulty Camera

14.121 During 1997 a number of high mast pan, tilt, zoom (PTZ) cameras (sometimes referred to as 'overview' cameras) were installed at HMP Maze. This was a pilot scheme by the Research and Development department at NIPS Headquarters (HQ) to determine whether they were an effective way of giving greater coverage of the H block roofs in particular. The cameras ran on a pre-programmed patrol but could also be controlled manually by joystick if the operator wished to focus on a particular area. They were operated by the ECR, to where their images were relayed. They were not relayed to the BCRs, which therefore did not have a view of the roofs. One of the high mast cameras was located in Phase 3 and provided a view of the rooftops of the blocks there, including H6. It also provided a view of groups of prisoners moving to the gymnasium.

14.122 Several witnesses have recalled problems with the high mast cameras. According to Brian Barlow,

'The problem with the high mast cameras was their unreliability. They broke down on numerous occasions. I cannot remember exactly how often they broke down but this would be recorded in the maintenance log kept by Prison Estates Management (PEM). They had not yet been commissioned because they kept breaking down.'

Furthermore, on 17 November Steve Davis wrote to Operations Division pointing out that the high mast cameras, although excellent during the day, performed poorly at night, when there was difficulty identifying any movement in the yards. Governor Davis explained to the Inquiry that the high mast cameras were positioned above the light source: to use them to see movement in the yards at night, it was necessary to focus in and adjust the camera, interfering with its set patrol, as otherwise there would be glare as the camera passed through the light source. Rectifying this problem, he said, would have been a significant and costly undertaking that would have entailed changing the whole lighting system at HMP Maze.

14.123 Images of the H6 roof were not being monitored constantly by the ECR. The Inquiry heard that there was only one monitor for four high mast cameras. George Patient, a prison officer in the ECR, explained:

'There was something like 53 monitors, most of them sequential. It's very, very difficult to watch all of them at one time. The particular monitor for the four cameras was quite a large TV screen, but it would only go through segments. So there were six sequences per camera, you would only see one picture every 24th sequence.'

Moving through its patrol, a camera would focus on a particular point for around ten seconds before moving on.

14.124 This limited coverage can be contrasted with Martin Mogg's report to the BoV in November (referred to at 14.70) in which the high mast cameras are referred to as a possible replacement for the towers.

14.125 The ECR journal for 22 December 1997 records that during that day **'Phase III overview camera lost picture'**. It was six days before the camera was repaired, and it was therefore still out of action at the time of Billy Wright's murder.

14.126 The journal entry shows that when the fault was discovered it was reported by the ECR to Paul Davidson in PEM. He told the Inquiry that he in turn had passed the information on by telephone to the Department of Environment's Construction Services, who, he said, were responsible for carrying out the project and managing the contractor who had carried out the installation. He had not followed up his call to Construction Services as he considered that responsibility had been handed over to them. No one had come back to him to complain that the camera was still not working, as he had then gone on Christmas leave.

14.127 According to Mr Davidson all camera repairs were considered urgent, and there was a maintenance contract between PEM and a maintenance contractor that generally had a maximum of four hours' response time. Responsibility for repair of cameras covered by the maintenance contract fell to PEM. Mr Davidson said however that because this particular camera was part of a 'project', it was up to the contractor who had installed it to carry out repairs. There appears to have been no fixed time period for such repairs. Mr Davis said that the fact that a camera was not working would not necessarily have been reported to the Security Department: only if it was not going to be repaired, or if the repair was going to take weeks or months, would such a report have been made.

14.128 Witnesses have also placed emphasis on the time of year. According to Brian Loftus, who worked in the ECR:

'The camera itself was linked to a computer. I had tried to reboot the computer. It didn't work. It was obviously a mechanical fault rather than anything to do with the computer. Plus the fact that the actual camera itself had to be hoisted down off a pole. You actually had to physically drop the pole with the camera on it down. All this work was undertaken after Christmas. It was over the Christmas period. So the actual engineering company itself had taken their holidays.'

So, too, George Patient told the Inquiry that because that was Christmas week, there was no priority on getting the camera repaired, because it had not been commissioned. Mr Davidson recalled that contractors generally finished work on 23 December for a week or two.

14.129 The hole in the fence may have been cut during the period when the camera was out of order. Whether or not a functioning high mast camera would have provided a view of the turnstile area would have depended on the camera operator deciding to focus on that area. Furthermore, his view of the turnstile would have been through a number of weldmesh fences. The poor performance of the cameras during the hours of darkness has already been noted. There were also static cameras in the yards themselves, but they did not cover the turnstile area. Steve Davis told the Inquiry that he did not think any of the yard cameras covered the part of the fence that was cut by Billy Wright's killers.

14.130 On the morning of 27 December Prison Officer Patient was operating cameras in the ECR. At around 10.00 am an alarm registered an emergency at the entrance gates to H6. Because the Phase 3 camera was faulty, Prison Officer Patient brought another PTZ camera from the outside perimeter round to the rooftop of H6. However, he said, by that time the incident in H6 appeared to be over. Had the Phase 3 camera been working, he said, it would have been a matter of chance whether it picked up Billy Wright's killers on the roof as it moved through its patrol, although it would also have been possible for the camera operator to interrupt its patrol and focus on an area of interest. All the ECR could then have done in response to seeing the incident would have been to sound the alarm, resulting in a lock-down.

14.131 We have had regard to Judge Cory's comments on the faulty camera. He was right to point out that, although cameras were becoming increasingly significant in security terms, and had a particular importance in H6, there were problems with the operation of the high mast cameras. It is also regrettable that the camera was not repaired for six days. That said, having heard in some detail about the

limitations of these cameras, we question their significance with regard to the murder itself. We note that submissions on behalf of the Wright family suggest, **'the inquiry may conclude that the issues relating to the high mast camera did not of itself [sic] play a fundamental role in the death of Billy Wright.'**

14.132 The high mast camera which covered H6 ceased to operate on 22 December 1997 and was not operative at the time of Billy Wright's murder. It was six days before it was repaired. The question, however, is, What would it have shown had it been operative at the material time? We are impressed by the evidence of Prison Officer Patient who was operating cameras in the ECR at the time of Billy Wright's murder. He maintained that, had the camera been operating, it was a matter of chance whether it picked up the murderers crossing the roof. Even if it had and the alarm had been sounded, the events, in our opinion, would probably have unfolded thereafter no differently from the way in which they actually happened. There is no evidence that those who planned the murder knew that the relevant high mast camera was not working.

The Firearms

14.133 Former Detective Chief Inspector Noel Nicholl told the Inquiry that the Royal Ulster Constabulary (RUC) found no evidence to show how the firearms had entered the prison. The Inquiry has however heard evidence on a variety of possible methods of introduction: a female visitor, rogue prison officers and the hollowed-out sole of a returning prisoner's shoe, to name but three. The killers have consistently declined to say how the firearms were brought in.

14.134 Colin Murphy, a forensic expert, suggested that the weapons could indeed have been secreted in the sole of a shoe and if so hidden might not have been detected by an archway metal detector. In Chapter 7 of this Report we discussed the deficiencies in search procedures at HMP Maze. Although improvements in security would have made certain methods of introduction into the prison more difficult, we cannot say they would have made it impossible. The best equipment was only as effective as the officers working it and, as a result, the systems in place could never be infallible, particularly in an establishment with demoralised and conditioned prison officers struggling to exert authority over determined and ingenious paramilitaries.

14.135 Ultimately, the issue remains clouded in speculation. The Inquiry heard that a **'torpedo-shaped package wrapped in cling-film'**, large enough to have held concealed gun parts yet small enough to have been placed in the rectum, was found in the cell occupied by McWilliams. On the balance of probabilities, we have concluded that this item was used to smuggle in either gun parts or ammunition. However, beyond this, there is insufficient credible or reliable evidence to enable us to conclude when, by what means or by whom the object reached the cell.

14.136 Similarly, the NIPS was unable to establish how the firearms were taken into HMP Maghaberry for the 'hostage incident' in April 1997. It is therefore all the more remarkable that the two gunmen were transferred to a block in HMP Maze where prison officers exercised much less control and which they were to share with a faction to which they were diametrically and bitterly opposed. On behalf of the Wright family, Counsel submitted that the introduction of the guns represented an **'unforgivable breakdown of security on the part of the prison'** and that the failure to implement a proper system of searching was **'completely unacceptable'**. The Panel consider that these submissions are well founded.

The Policy File

14.137 Former Detective Chief Inspector Noel Nicholl initially led the police inquiry into the murder. His immediate line manager, Detective Superintendent John Short, arrived later on 27 December. Mr Nicholl confirmed that the investigation was a HOLMES-based inquiry and that all witness statements, actions and correspondence would be placed on a HOLMES database. He said that he had opened the policy file some days later. That policy file was, essentially, the investigating officer's guideline to the reasons for deciding on particular lines of inquiry and why, for example, various leads were or were not followed. Minutes of meetings with other agencies, such as SB, would not be recorded in the policy book but links or questions for them might have been. The policy entries had not been entered onto the HOLMES file in this case. The reason for this was that Mr Nicholl was 'playing catch-up'. The policy book had not been started immediately, and because he had other matters to attend to it took some time for that policy book to be brought up to date. Mr Nicholl agreed that this was not a satisfactory state of affairs but by virtue of his workload it was simply a matter of fact at the time. The contents of the Policy File should have been entered onto the HOLMES database, and Mr Nicholl accepted full responsibility for the fact that this had not been done. The task could not be delegated as the policy book was under his control.

14.138 With regard to the whereabouts of the policy file, Mr Nicholl stated that some time after the file had been completed he had been asked for it by Detective Superintendent Short. Mr Nicholl further stated that on receipt of the policy file he took it with him; but as Mr Short was not in his office at the time, he left it on his desk. That was the last time he had seen it.

14.139 Mr Nicholl stated that the policy book had been started by him and on completion of the investigation he left the policy book on Mr Short's desk for transmission to the Coroner's Inquest.

- 14.140 Mr Short was questioned at some length about the existence of the policy file. In late 1997 and early 1998 he would have been dealing with six or seven murders. Consequently, his Deputy Senior Investigating Officer would take day-to-day charge of any case but would keep him informed of developments. He agreed that the policy file was an important document as it recorded the progress of every investigation. He thought there had been about three books in the Billy Wright investigation and at that time it had not been the policy to have the books retained on the HOLMES inquiry system. He said that the policy book had a yellow cover and a black spine, and that it extended up to 30 pages. Entries included any policy decisions made by the Senior Investigating Officer or his deputy; a record of the direction of further inquiries; the background to the inquiry; a list of the inquiry team members; staffing levels and so forth. The book would have been signed by Mr Short or the Deputy Senior Investigating Officer. The 'point' of the policy book was that it would give anyone who came in to conduct a review of the case an idea of the thought processes of the Senior Investigating Officer. It would also include contacts or details of strategic pointers from SB.
- 14.141 With regard to the present whereabouts of the policy books, Mr Short said that he believed they would have been retained with the investigative papers. He had been asked by members of the Cory team about the policy books and the policy decisions they contained. It would not be unusual for Mr Nicholl to bring the policy books to him as he would have to ensure that all entries had been countersigned and he might decide to review the entries in any event. He confirmed that he had had possession of the books as he recalled signing them, but he could not remember when this was. He believed that they would have been handed **'back into the HOLMES system'**. It was suggested to Mr Short that the list produced by the Police Service of Northern Ireland (PSNI) of what the Cory team had retained in 2002 did not mention the policy file. Mr Short said that he found it difficult to understand how he could have been interviewed by the Cory team about policy decisions if that team had not had the policy file. His recollection was that the Cory team had the policy books in front of them when they interviewed him.
- 14.142 Mr Short was told that the Inquiry was in possession of a police form listing the documents that had been sent to the Cory team. This included albums of photographs, cassettes, maps and so forth. With regard to the policy file, the list contained the following entry: **'D1 is the SIO's policy file. This has not been retained as this document is not within the HOLMES system.'** Mr Short responded that he could not comment on whether the Cory team had been sent the policy file or not but that this supported what he had previously said, namely that the policy file was not recorded in the HOLMES system but rather was a document held by the Senior Investigating Officers and kept with the papers.

- 14.143 Mr Short was adamant from his own recollection that the Cory team must have had the policy file as they would not have been able to interview him without it. When asked why he had made no mention in his statement of the yellow books having been produced to him during the course of the Cory team's interview, he said that the statement was only made up of responses to questions put to him, and as the issue had not been raised in the course of the statement being taken, it was not apparent to him that it was a matter that needed to be addressed. In any event, he said there was nothing secret or mysterious within the policy book and there would be no reason to hide it.
- 14.144 Following the completion of the evidence, there has been correspondence between the Inquiry and the PSNI regarding any requirement to enter the policy file onto the HOLMES database. It would appear from documents provided by the PSNI that the force directive instructing that the policy file be copied onto HOLMES came into operation on 31 December 1997. It was suggested to the PSNI that such an instruction could have applied to existing investigations. When pressed further on the matter the PSNI stated that, with regard to two other investigations from around the same date, a policy file had been entered in one case but not the other. We find it surprising that, in a case of such significance as the murder of Billy Wright, the policy file was not entered on the HOLMES database.
- 14.145 Insofar as the hard copy policy files are concerned, the Panel find, on the balance of probabilities, that the policy books held by the PSNI were destroyed.
- 14.146 The Inquiry is left in the wholly unsatisfactory position of having neither an electronic nor a hard copy of the policy file. It is clear from the evidence of both the Senior Investigating Officers that any discussion with, or guidance from, SB would have been included within these policy files. Despite the absence of the policy files, as this is a matter of obvious interest to the Inquiry, we now turn to consider the oral evidence led in this regard.

Special Branch Involvement in the Murder Inquiry

- 14.147 When asked about the extent of SB involvement in the murder inquiry, Mr Nicholl stated that his first involvement with SB had been at a meeting on the day following the murder. He could not be certain of the rank of the SB officer present but believed he was either a constable or a sergeant. This officer had played no part in the investigation but was there simply to advise the police on any history or information that SB might have on the INLA prisoners.
- 14.148 Mr Nicholl was pressed on the matter of SB involvement by Counsel for the Wright family. Mr Nicholl confirmed that SB would have attended morning meetings and would have had full access to de-briefings and to the incident room. He confirmed

that SB had primacy within the police with regard to intelligence and he thought that SB had knowledge of and information on matters that were not passed to the Criminal Investigation Department (CID), with good reason. Mr Nicholl said that he was unaware of the existence of intelligence suggesting that the gun had been smuggled into HMP Maghaberry for the purpose of killing Billy Wright or that there was intelligence that the INLA intended to kill Billy Wright at the first opportunity when he transferred to HMP Maze.

- 14.149 It was suggested to him that there were areas of this investigation that were off limits because of SB sensitivities. Mr Nicholl disagreed, stating that the investigation was theirs (the CID's) and they would ask SB for information when required. He conceded however that all arrests had to be sanctioned by SB as there were clear protocols in place for arresting certain people and this could therefore have placed the arrest of some individuals 'off limits' to CID. Anything significant found by members of his team would be referred to SB. He had not seen the scrap of paper with Duncan McLaughlan's telephone number found in an INLA cell which had been passed to SB, although he had been aware of its discovery.
- 14.150 With regard to the possible existence of any information or intelligence pointing towards the commission of the murder, Mr Nicholl confirmed that he or Mr Short would have spoken to SB. This would not necessarily have made its way onto the policy file but it would have been put onto the HOLMES system as an action sheet. He concluded this section of his evidence by stating that he would have required written confirmation from SB as to whether they did or did not have intelligence. Mr Nicholl was not aware of the existence of agents or meetings prior to the murder. He had not heard of Operation JAW. The only information he had received about threats against Billy Wright had come from prison officers and there had been nothing from SB. He had received no product to suggest that there had been any technical surveillance of people or equipment within the prison.
- 14.151 In answer to questions from the Panel, Mr Nicholl confirmed that whereas following the hostage incident SB had provided information to the police, the same cooperation was not forthcoming following the murder of Billy Wright. It was possible that information might have existed which was not passed on.
- 14.152 As was previously indicated, Mr Short confirmed that he might well have directed investigations based on SB guidance. This guidance would be in the form of responses from SB which would be retained in a safe. No copies would be made and when the investigation was closed the documents would be put in a sealed envelope and placed within the inquiry papers. Mr Short confirmed that he had contacted SB in this case in order to establish whether there was any information

that might assist inquiries. This was normal policy. He could not recall at what level within SB he would have made these inquiries but there would have been an officer attached to facilitate inquiries with SB and all enquiries would have gone through that officer.

14.153 Mr Short said that he did not recall making further direct inquiries with SB as there was nothing he recalled that was of a sensitive nature. All his inquiries would have been through this SB coordinator. In all his years as a Senior Investigating Officer he had never made inquiries with the Security Service, but had there been any intelligence pertinent to this investigation he would have expected that to have been passed to him via SB. He was shown a variety of intelligence documents by Counsel for the family but remained adamant that he had not been privy to the intelligence contained therein. He had not heard of Operation JAW and had not received any information regarding meetings of INLA operatives in December 1997.

14.154 The Panel note that the CID investigating officers were unaware of some key intelligence which was available to SB, some of it before the murder took place and some summarised in the Security Service document SS01-0358, which related to alleged meetings in December 1997, but which was disseminated to the RUC only in January 1998. There were also earlier intelligence reports which resulted from Operation JAW, and these too were not provided to the CID. While considerations of source sensitivity were of utmost importance, the Panel conclude that SB failed in its duty of sharing intelligence in their possession with their CID colleagues who were conducting the investigation into the murder, and whose enquiries were limited unnecessarily by their ignorance of the SB intelligence. RUC SB is therefore criticised for its lack of openness and cooperation in the murder investigation (see 5.92–5.94) and for not carrying out an intelligence review.

15

Intelligence (Billy Wright and the Irish National Liberation Army)

- 15.1 This Chapter deals with intelligence relating to Billy Wright and the Irish National Liberation Army (INLA) from October 1996 until January 1998 and in particular detail with the threat of April 1997.

The October 1996 Threat from the Irish National Liberation Army

- 15.2 In October 1996 it was reported by the Army that the INLA intended to murder Billy Wright in the near future, on account of his membership of the Ulster Volunteer Force (UVF). The intelligence received also included a threat against the Rev William McCrea, Democratic Unionist Party MP for mid-Ulster from 1983 to 1997.
- 15.3 Witness EA (Principal Army Intelligence Officer) explained that this report originated from Headquarters Joint Support Group (JSG). Asked by Counsel for the Wright family how this threat information would have been handled by Army intelligence, Witness EA explained that the information was quite sensitive at the time in terms of its content and origin hence its document security level of 13, which meant that it was at the highest or most restricted dissemination level within the Army. He told the Inquiry that this sort of intelligence would have been reported on receipt immediately to both the police and to Army Headquarters Northern Ireland (HQ NI), before the document, the Military Intelligence Source Report (MISR), was produced. He explained that given that the police had the lead for all intelligence and threat-to-life responsibilities, it would have been discussed at local level; for example, if it came from Belfast Region, the JSG unit responsible would have discussed it with the local Royal Ulster Constabulary (RUC) Special Branch (SB) Source Unit. At the same time it would have been discussed with G2 and senior officers within HQ NI. He told the Inquiry that police would have taken the lead in actioning this sort of intelligence, by which he meant informing the individuals that there was intelligence relating to a threat to their lives, and then taking any appropriate subsequent action. The only time the Army would have taken a greater role would have been if the target of the threat was a serving Army soldier or officer. The responsibility for subsequent action would have been with the police.

- 15.4 Witness EA confirmed that the RUC SB had access to level 13 on MACER; that the Head of the Source Unit would have known about it; and that he would have expected the Regional Head of Special Branch (RHSB) to be aware of it. Asked by Counsel for the Wright family whether there was any means by which the action taken would be reported back to Army Intelligence, Witness EA told the Inquiry that that would depend on the particular circumstances. The fact that these two individuals, Billy Wright and Mr McCrea, would have been targeted by republicans was of no surprise, and he would have suspected that there would be quite a few reports over a period of time of this nature from the Army, the Security Service and the RUC SB intelligence-gathering operations. Witness EA told the Inquiry that he did not think SB was under an obligation formally to report back. He told the Inquiry that the police were obliged to inform individuals and to deal appropriately with such a threat and were well prepared to do it. He confirmed that the formal way of disseminating this document was through the MACER system, which recorded who had accessed the document, when and where.
- 15.5 Security Service witness DO2 acknowledged that this information was around the intelligence community shortly after the end of the INLA feud, and the reorganisation of the group under new leadership in September/October 1996.
- 15.6 Witness DB accepted that in October 1996 Billy Wright and Mr McCrea were high-profile targets, that their profile would have been heightened by the events at Drumcree in July of that year, and that this information represented a clear threat to their lives. He agreed that he would have expected this information to have been brought to the attention of the RHSB in the regions where these individuals resided and of the Chief Superintendent Intelligence at the RUC Headquarters (HQ). He was unable to say what action he would have expected to be taken in respect of this information, because there may have been particular elements of which he was not aware at the time. However, based on what was in front of him, he would have expected that there would have been a discussion of the intelligence and a decision taken about the best way to take action in the light of it. He agreed that, as a minimum, the Force Order (see 5.78) ought to have been complied with. He told the Inquiry that if officers in E3 had access to the information at or about the time it was received, he would have expected them to have ascertained whether the intelligence had been passed on in terms of the Force Order. He was informed that the Inquiry had not been provided with any documentation showing that the threat was passed to Billy Wright in terms of the Force Order. Witness DB had no further comment to make, accepting that there was a failure to comply with the Force Order but that he did not know the wider picture.

- 15.7 Witness ZCV was a Detective Constable based in Portadown SB office. He was shown the MISR dated October 1996, and confirmed that he was in Portadown SB at that time. He could not recall ever being asked to process this threat against Billy Wright during his time at Portadown, and stated that Mr McCrea would certainly have been informed through the Sub-Divisional Commander in the area in which he resided and via that SB office. He was not sure whether the intelligence about Mr McCrea would necessarily have come to Portadown, but as Billy Wright was residing in Portadown at that time, a threat of that nature would have gone to the SB office in Portadown, then to the uniformed side, and then he would have expected Billy Wright to have been informed. Witness ZCV also agreed with Counsel for the Wright family that a record of the person being told of a threat would have been maintained by the police. There is no record in the Portadown log of the threat having been passed on to Billy Wright in terms of Force Order 60/91 (see 5.78), and Mr McCrea told the Inquiry that he did not receive any warning from the RUC SB in relation to this threat.
- 15.8 Former Assistant Chief Constable (ACC) Sam Kinkaid, who had headed up an internal review within the Police Service of Northern Ireland (PSNI) to consider documentation produced to the Inquiry, was asked whether he had, as part of his review, looked at this report. He told the Inquiry that he had only seen this document the week before he gave evidence and that he had made enquiries in relation to the information, in particular how it came into the system and what action was taken on receipt of the document. Mr Kinkaid told the Inquiry that a number of SB officers would have had permission to access this sort of document, and that this would normally occur at a local level where SB were virtually co-located with the Army. He confirmed that the extract produced to the Inquiry represented only a small part of the total information reported and that action was taken on receipt of the information to check the validity of some of the intelligence. In relation to the information affecting Mr McCrea and Billy Wright, the Inquiry was told that the documents disclosed that the officers checked the reliability of the various pieces of information which made up this reporting, and in addition some of the officers had previous knowledge of the origin of the information. He confirmed that these steps involved seeking collateral support from a number of other areas of coverage. He also confirmed that there was no record of any action being taken on the basis of the Force Order as a result of this document entering the system.
- 15.9 When he was asked whether he had any view as to the validity or justification for that action or inaction on the part of those who dealt with this issue, Mr Kinkaid told the Inquiry that clearly there were situations in which, on receipt of intelligence, the information had to be looked at in the light of what other

intelligence existed at the time. His reading of this particular case was that the officers concerned carried out an assessment of the intelligence, including its reliability and their knowledge of what existed at the time in relation to Mr McCrea, and that it was decided not to deal with it as a threat.

- 15.10 By a letter dated 24 February 2009, the PSNI acknowledge that Army Intelligence Reports entered on the CAISTER database at level 13 were accessible to a limited number of SB officers in 1997. They confirmed that the Source Unit North Region and the E3 Desks had access to all of the Source Reporting, and not merely to the threat information. It was accessed by Witness FG among others. The PSNI have provided the Inquiry with a tasking instruction from the Detective Sergeant on the E3 Dissident Desk requesting that police sources confirm the veracity of a piece of the non-threat information that was supplied by the Army. The handlers of the police sources reported that the non-threat information was unreliable. The PSNI seek to rely on the evidence of Mr Kinkaid on this matter, and in particular they assert that the source was not considered reliable and for that reason they found that the non-threat information was unsubstantiated. The PSNI have been unable to produce any documentation recording the decision not to inform either Billy Wright or Mr McCrea, or explaining their reasons for failing to take any action.

Conclusion

- 15.11 The Panel accept that the intelligence may have been checked by the RUC for reliability, and that this may have been a sufficient reason for not actioning the threat. But the inability of the PSNI to produce any evidence to substantiate this claim, and to justify the course of action, leaves us distinctly doubtful about it. It would in any case have been wise, as a precautionary move, to alert the two potential victims to the alleged threat.

The January 1997 Threat

- 15.12 At the beginning of 1997 it was reported that Billy Wright might be the subject of a close-quarter assassination by the Provisional Irish Republican Army (PIRA). Witness DB was shown a document which emanated from the Security Service dated 6 January 1997, and he told the Inquiry that this was a document which he might have seen at the time, although he could not recall it. He told the Inquiry that he would have expected there to be some documentation explaining what was done with the information. When informed that the Inquiry had seen no such documentation, he responded by saying that without knowing the context and the discussions that took place surrounding this piece of intelligence between the providers and the receivers, he could only speculate as to the reasons for there being no documentation. He accepted that if the Force Order had been complied with, there would have been an entry in an occurrence log or a threat log for the Region in which Billy Wright resided at the time.

15.13 Witness AH was shown the same document, and agreed that this, together with the information about the threat in October 1996, showed that there was intelligence in the system indicating a republican threat, either from the INLA or from the PIRA, to Billy Wright's life before Witness AH became aware of the threat from the INLA to the life of Billy Wright in April 1997. He explained that this would have been relevant as context for the threat information which he received in April. He did not think that anybody would have been surprised at that stage that there might be people who wished ill upon Billy Wright. Despite the report indicating that Billy Wright was warned, the Inquiry has not been provided with any RUC documentation to prove that this was the case.

Conclusion

15.14 Force Order 60/91 required the potential victim of a threat to be informed, and action taken should have been recorded, in particular in the threat log. In the light of previous threats which had been communicated, it was particularly important that every new threat be treated seriously and handled correctly. If, as the report referred to in 15.12 indicates, Billy Wright was informed, the Panel are critical of the RUC for their failure properly to record their actions and complete the threat log.

The April 1997 Threat

15.15 The Security Service received information from a source in April 1997 to the effect that Billy Wright would be killed by the INLA if he were to be moved to HMP Maze, and particularly H Block 6 in HMP Maze. Inquiry document SS01-0218 is a summary of the Security Service Intelligence documents relating to that threat information. The Inquiry spent much time examining and analysing this particular threat. The matter has already been referred to at Chapter 4 (4.17 to 4.20), but is dealt with here in greater detail, reflecting the time and attention devoted to it in the course of oral hearings. The examination revolved around a number of specific questions about the threat, and each is dealt with in turn, setting out first the evidence before the Inquiry, then the submissions by parties, primarily Counsel for the Wright family and Counsel for the PSNI, and finally in each case, where appropriate, the conclusion reached by the Panel.

1. What was the source and content of the information, and was it a tactical or strategic matter?
2. What was the documentation?
3. Was there verbal contact between E3 and the Agent Handler?
4. What happened about the required form of words?
5. Did RUC SB receive the Northern Ireland Intelligence Report (NIIR) of 24 April?

6. What happened to the information contained in SS01-0218? How was the Intelligence Report (INTREP) (PS01-0205) created and stored?
7. What discussion of the threat information, if any, took place at senior management level?
8. What action, if any, should have been taken in response to the threat information, and which agency had the responsibility to action the threat information?
9. Which department of SB had the responsibility to action the threat information?
10. Ought there to have been a continual review of intelligence received, and were there missed opportunities?
11. What possible explanations are there for the failure to take any action?
12. Should the Minister have been informed? Was he in fact informed?
13. Whose responsibility was it to inform the Minister?

Q1. What was the Source and Content of the Information, and Was it a Tactical or Strategic Matter?

The Source

- 15.16 The Security Service handler, Witness AH, told the Inquiry that his recollection was that the information was received on 21 April.
- 15.17 The Inquiry heard evidence that Witness AH's relationship with the source had endured for a number of years. The source produced material across a range of subject areas, a lot of which related to the nature of the INLA/Irish Republican Socialist Party (IRSP). His source reported on a substantial number of individuals within the organisation. Witness AH believed the source was reporting faithfully what the source had been told; he had no reason to believe that the source was not telling him the truth on this occasion. The public statements issued by the IRSP to some degree provided collateral for the information from the source.
- 15.18 Witness AH could not recall ever getting any feedback from the RUC suggesting that information from his source could not be relied upon. If he had, he would have recorded it. He believed the source was motivated to assist and produced intelligence that was to the best of the source's knowledge. He was never advised by the RUC of any reason why the threat information in relation to Billy Wright might have had no credence, with the exception of the discussion about the incident in HMP Maghaberry. Witness AH confirmed that in terms of customer feedback, it was never suggested to him that there was any contradictory, or more reliable or more credible, information in relation to this specific threat. As far as he was concerned, he presumed that the information had been dealt with as the RUC saw fit.

The Information

- 15.19 Paragraph 1 of SS01-0218 stated that on 21 April 1997 the following was reported to the Security Service: **'INLA prisoners at the MAZE Prison were very strongly opposed to the proposed transfer of Billy Wright and members of the LVF to H Block 6, where they would be co-located with the INLA prisoners; the INLA intended to kill Billy Wright at the first opportunity if he were to be transferred to H Block 6 at the Maze'**. The document went on to give details of a possible method of attack. Witness AH accepted that whatever anyone thought of the practicalities of such an attack, it was a declaration of intent and was also consistent with the general republican attitude towards Billy Wright. It was generally accepted by the PSNI witnesses who gave evidence that at that time Billy Wright was a high-profile target and that the information contained in this paragraph represented a clear threat to life. As far as Witness AH was concerned the threats in October 1996 and January 1997 gave some context to the information that he received from his source in April 1997.
- 15.20 Paragraph 2 of SS01-0218 indicated that the Security Service Agent Handler's comment at that time was that it did not seem likely that the Prison Authorities would choose to mix the Loyalist Volunteer Force (LVF) and the INLA in the same block. In evidence to the Inquiry, Witness AH explained that he had no direct personal knowledge that this was what was proposed by the Northern Ireland Prison Service (NIPS) at the time, but he expressed the view stated because the LVF and the INLA were two groups of prisoners who were strongly opposed to each other. He acknowledged that he did not understand the prison set-up in HMP Maze; what sharing the same block meant in physical terms in any great detail; and that he did not have any understanding as to what co-location in the same block meant.
- 15.21 SS01-0218 went on to include the information that on 21 April (the day that Witness AH received the information) Willie Gallagher, a spokesman for the IRSP, issued a press statement setting out the INLA's opposition to the proposed move, maintaining that any attempt to force extreme loyalists onto a republican socialist block at any stage would be a recipe for confrontation, and that to do so in the run-up to the marching season would be an act of sheer madness. Witness AH acknowledged that this was also a strong comment. He told the Inquiry that there was a very substantial overlap between the IRSP and the INLA. It was also recorded that the INLA would resist any attempt to force LVF prisoners onto the block and there was a call on the NIPS to pull back from the proposal, indicating that there might be confrontation in the community if that were to happen. Witness AH told the Inquiry that this indicated a potential for tension. Witness AH was also asked to look at SS01-0230 which was an article from *The Irish News*, dated 26 April

(the day after Billy Wright was moved). The same prison spokesman for the IRSP stated that the transfer of Billy Wright to an INLA block was a serious error of judgement and that the Prison Authorities must be prepared to accept whatever chain of events inside and outside Long Kesh (HMP Maze) they had set in motion. In terms of assessing a source's reliability or credibility, Witness AH would have placed some credence on public statements like these. He put more significance on the fact that his source was reporting this information in SS01-0218 due to its timing. He accepted that it was possible to interpret the IRSP statement as collateral for the information he received, though he was not sure that he would have made such a connection at the time.

- 15.22 The second to last paragraph of SS01-0218 dealt with the distribution of the information, which was passed by the Security Service Agent Handler orally to RUC E3A on 21 April, and sent by the Security Service Agent Handler by telex to the Desk Officer (DO2) in the Assessments Group (AsGp) on 22 April, with a request to issue it to RUC E3A in writing. It goes on to state that on 24 April DO2 did pass the information, by means of a NIIR, to a number of addressees in the RUC, namely: Chief Superintendent Intelligence, Superintendent E3 and Deputy, the E3 Republican Desk, Superintendent E9 for E9A and E9D Desk Officers, DI E3E, the Regional Head of Special Branch (Belfast), and Superintendents (as appropriate), and to the staff representative of the Director and Co-ordinator of Intelligence based at RUC HQ (DCI Rep Knock).
- 15.23 Witness DO2 (who worked in the AsGp on republican paramilitary organisations) told the Inquiry that she believed that the Service had a standard distribution when NIIRs went to the RUC and that they would always be sent to the same people. She confirmed that she would have chosen one of the standard lists of addressees which were appropriate given the content of the reporting. Witness DO2 accepted in response to Counsel for the PSNI that all the information relayed to her by Witness AH needed to be considered, and decisions made about who might benefit from having that information. Witness DO2 explained that, as Desk Officer, she would prepare a NIIR based on the intelligence and then Witness DO3 or another group leader would check it. She was unable to say whether that happened in relation to the NIIR of 24 April, but that it was probably the case that someone else would have contributed to the decision that this particular NIIR was tactical and not strategic intelligence. Witness DO3, the team leader, told the Inquiry that her role was to quality assure the NIIRs before they were issued, and that this would have included checking the distribution list. Witness DO3 could not recall quality assuring the NIIR of 24 April. In terms of the dissemination of the intelligence, once the NIIR had been issued to its recipients her job was done unless she got a specific request for further information. She told the Inquiry that it never occurred to her that there were any shortcomings in her department.

15.24 Asked by Counsel for the PSNI whether he would, with the benefit of his experience, have categorised the information as operational or strategic if he had received it, Mr Christopher Albiston (Head of Intelligence at the RUC SB HQ in April 1997, subsequently head of the Intelligence Management Group (IMG)) told the Inquiry that he thought there were a lot of things that he would gather from it, at both the operational and the strategic level, and that he thought that the information would be regarded as being on a slightly higher level than tactical intelligence and would be of interest to senior government Ministers. On the other hand, Witness DO2 gave evidence that this information did not qualify as strategic reporting. It was tactical threat intelligence. She confirmed that at the time she did not see this as having any strategic dimension. She accepted that she was aware that there was an issue for the Minister about the transfer of Billy Wright from one prison to another, and that whether there was a strategic dimension to the intelligence was a matter on which opinions could reasonably differ. She told the Inquiry that a number of factors entered into that judgement. However, she accepted that with hindsight the INLA threat had strategic implications, but qualified this by stating that at the time she did not think so.

Submissions

15.25 In closing submissions, the distinction between the strategic or tactical nature of the intelligence contained in the NIIR was further examined. Counsel for the Wright family pointed out that DCI Rep Knock had stated that the NIIR had no policy implications, and that therefore the Security Service were justified in restricting the circulation to the RUC. Counsel for the family claimed that it was not the role of an intelligence operative to decide what may or may not affect policy; such a decision was properly for the Minister. When challenged, DCI Rep Knock had back-tracked, saying that the reporting was not necessarily without policy implications, but that it was primarily to do with threat reporting. In his closing submission, Counsel for the Wright family emphasised the fact that all the evidence pointed to the reliability of the source who provided the intelligence summed up in SS01-0218, and that the PSNI had not challenged this view. In Counsel's opinion, the agent had been established to be a source whose warnings not only should have been disseminated into the respective intelligence systems, but should not have gone unheeded by any state agency.

Conclusion

15.26 The Panel accept that there was a strategic dimension to the threat warning, and that it should have reached both the Minister (see below) and the NIPS.

Q2. What was the Documentation?

15.27 The Security Service information was contained in three documents: a contact note dated 21 April 1997; a telex dated 22 April 1997; and a NIIR dated 24 April 1997.

The Telex

- 15.28 Witness AH confirmed that the threat information was recorded by him in a contact note and on a telex. The telex was then converted into a NIIR. He explained that the telex was equivalent to a Source Report but for onward transmission. He told the Inquiry that he had seen the telex document and that the reference in SS01-0218 to 'telex' was in fact the telex that he had prepared. He explained that the Service provided two different types of product: an internal document, which was a Source Report; and an external one, which was a telex or which formed the basis for a NIIR. He emphasised that they were not the only two ways they had of communicating intelligence. On the second occasion he gave evidence he was challenged by Counsel for the Wright family as to the absence of a Source Report. He explained that Source Reports were generally used for internal Service consumption. The AsGp and external agencies were regarded as outside that system and therefore the Service used a different process to communicate information to those persons at that time. On the first occasion on which he gave evidence Witness AH said his recollection was that the technology had developed to the point where the Service could send the AsGp identical Source Reports to those which they were sending elsewhere. He told the Inquiry that in the period 1996–98 there would have been Source Reports that were distributed electronically.
- 15.29 On the second occasion on which he gave evidence he gave a different account. He told the Inquiry that the Service was unable to send Source Reports at that time because the technology did not exist, but he qualified this by saying he might be wrong about this. He explained that there was a time of transition and very soon after this they were in a position to send Source Reports direct to the RUC. In re-examination, Inquiry Counsel put to Witness AH that he had seen a number of Source Reports received by the RUC SB from him that he had sent in May 1997. He was asked whether it was possible that he was mistaken when he said that it was later in 1997 that the system changed. Witness AH told the Inquiry that he would have needed somebody else to say precisely when the system changed. All he knew was that the system was in the process of evolution at that point. There might have been a technical reason which made it easier to send this intelligence by a different path. The key point he stressed was that the paths all ended up in the same place, whether they telephoned, sent a telex or sent a Source Report.
- 15.30 The nature of the document that was telexed to the AsGp was explored with Witness DO2, the recipient of that document. She initially confirmed in response

to Counsel for the Wright family that the document that had been telexed to her was a Source Report, having been shown the format of such a report. Asked whether Source Reports had been used for some time prior to April 1997, Witness DO2 told the Inquiry that she expected so. She confirmed that during the time that she had been in the job she would have received information that she was to pass on by way of a NIIR in the form of a Source Report. Witness DO2 said that she thought that it would have been a Source Report that she would have sent but she could not be sure. This issue was then taken up by Counsel for the Security Service. Witness DO2 confirmed that the Source Report and the telex were one and the same thing in terms of content. Whatever the document was that she received from the Agent Handler and in whatever precise form or format it arrived, it contained the information that she thought of as a Source Report. Witness DO2 denied the suggestion that the documents underpinning SS01-0218 were not genuine. She confirmed that the telex dated 22 April 1997 and the NIIR were prepared at the time they were said to have been prepared.

- 15.31 DCI Rep Knock also gave evidence on this issue. He told the Inquiry that if the intelligence related to a threat it could be in the form of a Source Report sent directly to the RUC or it could be a telephone call to the relevant RUC desks. He confirmed, on being questioned by Counsel for the PSNI, that a telex was a Source Report and that it was a method by which the Security Service's Agent Handlers disseminated material to a range of customers including the RUC and not just the AsGp. He explained that if a handler had urgent threat information and he required to convey that in writing to the RUC he could have conveyed it through his office, or used the Security Service Communications Centre which enabled the information to go directly to the RUC Communications Centre, or communicated it verbally by telephone. He accepted that the most direct way of communicating the information in writing would be by a telex.

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- 15.32 The Inquiry heard evidence that the routing of a threat assessment through the AsGp was highly unusual. However, on the rare occasions that it did occur, Witness HAG told the Inquiry that he had no recollection of it not being picked up, acknowledged and acted on by the RUC. He also stressed that Agent Handlers who were not confident that the RUC would have dealt with a piece of information quickly and effectively would have asked for it to be recorded in a NIIR and sent only to the RUC so that they had some form of insurance to show it had been sent. This issue was further explored with Witness HAG in questioning; he was referred to SS01-0220, a NIIR that had been intimated to the NIPS, and SS01-0218 which had not. Witness HAG sought to draw a distinction between the information in the two documents. He explained that SS01-0220 was general

information about a threat to prison officers. It was not a specific threat about an individual as was SS01-0218. He told the Inquiry that had that information been **'Prison officers X, Y and Z are going to be attacked by the UVF'**, the proper route for SS01-0220 would have been through the RUC to the Prison Authorities. He explained that his reading of SS01-0218 was that the Agent Handler wanted an insurance policy, for want of a better way of describing it.

- 15.33 Witness AH did not consider this to be a fair reading of the situation. He told the Inquiry that the primary reason why that intelligence would have been issued was that the Service disseminated intelligence in a written format. It was in order to ensure that there was no ambiguity about where the information came from, what the nature of the information was and to give people a guide as to how they might choose to handle it. Having provided that information orally to the RUC, he told the Inquiry that he would have passed it on in written form to ensure that if he or others had further discussions about it there was no potential for 'chinese whispers' to take place. In his view there was a certain irony in that he was being asked whether it was to cover his back. He told the Inquiry that he would describe it in a completely different way. He explained that there was an accountability mechanism to ensure that the information he provided had gone to the right people for later disclosure in all kinds of scenarios, including this one. It was not about covering his back. It was about ensuring that the Service was accountable for the work they did. He was asked to explain what he meant by 'chinese whispers'. Witness AH agreed that was the situation in which if it was not written down, the subject matter could be passed from one person to another and gradually become more garbled.
- 15.34 DCI Rep Knock agreed that it was unusual to have a NIIR relating to threat intelligence, as a NIIR was normally the primary means of disseminating strategic intelligence. The only other situation that he could think of when threat intelligence would be disseminated in the form of a NIIR was if it related to a particular operation where the information included a specific threat which the RUC analysts would want to understand and absorb, but would also be of interest to strategic readers. He could not remember any other occasion when a single individual threat was passed on as a NIIR as opposed to a threat of a bombing campaign or something more generic. In response to questions from Counsel for the PSNI, DCI Rep Knock told the Inquiry that it would be unusual for threat information to go directly into a NIIR and then be intimated to the customer, but not if it had been communicated verbally by telephone in the first instance. He did not think it unusual for Witness AH to communicate the threat intelligence in the first instance verbally to the RUC, because they were the experts and they would be able to say whether they thought the reporting was credible or not. If the RUC

thought it was credible and wanted to disseminate it further, then there would be a discussion between the customer and the producer of the intelligence about what that form of words for further dissemination should be. There is no evidence that a conversation about a form of words ever took place (see 15.53–15.58 below).

- 15.35 Witness DO2 confirmed from her recollection and her review of the documents that the telex was sent by a Security Service Agent Handler to her in the AsGp on 22 April with a request to issue it to the RUC E3A in writing; that the telex contained a note to the effect that she had passed it in writing to the RUC E3A on that date; and that it was passed to the RUC by means of a NIIR on 24 April.
- 15.36 It was suggested to Witness DO2 that the layperson might think that if this was considered to be a real and immediate threat to life, it might have been dealt with more quickly. She told the Inquiry that as a matter of fact it had been dealt with. It had already been phoned through to the police. All that she was being asked to do was create a record of the intelligence in writing. It was not issued as an immediate NIIR because it had already been issued verbally, and she did not regard the NIIR she was creating and distributing as part of the process which would spur the RUC into action. She told the Inquiry that her understanding was that that process had already been started, even completed. She confirmed that she never received any feedback, either verbal or written, to suggest that the contents of the NIIR were being disregarded by any of the addressees, or by anyone within her organisation.
- 15.37 DCI Rep Knock told the Inquiry that the term 'routine' implied that the intelligence had already been intimated because it had been phoned through. A recipient who had already been alerted by a phone call would be expecting it, so that there would be complete clarity about what was being said. Its routine nature did not mean that it did not need to be read and understood, and he stressed that the designation did not devalue the contents of the document. It would still require the same attention as something which had been marked as having the highest priority. He told the Inquiry that whether it had been actioned or not was another issue, but it recorded that the information was somewhere within the system.

Q3. Was there Verbal Contact Between E3 and the Agent Handler?

The Agent Handler's Account of his Contact with E3A

- 15.38 Witness AH explained that the nature of the information itself determined whether contact was with HQ or the Region. If it was tactical information which might need a police response, that would generally have gone to the Region. If it was something which went to build a broader intelligence picture it would have

gone to HQ, as that was the clearing house for all intelligence. He had no direct link to the NIPS. As far as threats were concerned it depended on the nature of the threat and the urgency, but the Service would certainly talk either to the Region or to E3 about it. Having passed information orally, Witness AH could not recall a set of circumstances in which they did not follow up a conversation about a threat with a written document of some form.

- 15.39 Witness AH accepted that there was a degree of urgency with the dissemination of the threat information, but explained that he would have balanced this against the fact that it seemed unlikely that the prisoner transfer would actually take place at the time. He subsequently proved to be incorrect on that matter. He wrote a contact note to record the contents of the conversation he had with the agent on 21 April 1997. On this occasion he wrote the contact note and then wrote the intelligence in a report contrary to what was the norm. The only reason he suggested for doing things differently would have been that he knew by 22 April that the information was in the possession of the RUC and this took some of the urgency out of it. Witness AH was clear from the documents that he had told E3A of the agent's reporting of the threat to Billy Wright. He thought that the original had an annotation which confirmed that he had passed it verbally to E3A. He sent a copy of the report in a telex to Witness DO2 in the AsGp on 22 April, along with the IRSP press release of 21 April, with a request for her to issue the report in writing to the RUC. He confirmed he had seen the NIIR that was issued on 24 April 1997.
- 15.40 Witness AH accepted that it was possible in this case that he did subsequently discuss with E3A how this information was to be formulated but he could not recall. Asked whether that was usual practice, he told the Inquiry that it would depend very much on how E3 felt about intelligence the Security Service were providing. When he got the raw intelligence, being mindful of source sensitivity and security, he would have had to determine in what form he was going to pass it on, but explained that in relation to the threat this was a decision for E3. He had a conversation with E3 and he asked for that intelligence to be delivered to E3, and that was what they did. He was asked what he would have said on the telephone to the officer in E3A. He told the Inquiry that he would have said **'Here's a heads-up that we have got this information. Do you want us to issue it to you?'** They would have said, **'Yes, please'**, and he would have said, **'Okay. I will get it issued to you ... as a NIIR'**. They would have said, **'Thank you very much'**, and that was the sequence of events that followed.
- 15.41 Witness AH confirmed to Counsel for the PSNI that he did not remember his conversation, either with the agent or with the RUC, and he could not be sure with whom he spoke in the RUC. It was not his evidence that he spoke to Witness

FG at that time. He explained that before passing on the information he would normally discuss how the information was to be managed, unless it was obvious from the intelligence that it was widely known, or if they had already determined what could be done with it. He could not recall a discussion with anyone else in the Service or with anyone in E3A as to how the information could be passed on. He did not know whether he did or did not have a conversation as to how the information was to be managed. He accepted that ordinarily he would have spoken to someone in E3A indicating that this intelligence had come in and discussing how it might be passed on in order to provide intelligence to the customers and appropriate security for the source. He explained that in this case he had provided intelligence to E3A verbally, and at the time at which he provided that to them, he may or may not have discussed what the RUC were going to do with it. In response to questions from Counsel for the Wright family on the second occasion he gave evidence, Witness AH confirmed that the conversation he had was with a person whose identity he did not recall, but he thought it was one of two individuals whom he had already named. He confirmed that there was no record of the conversation.

- 15.42 Witness AH told the Inquiry that there were two people in E3A with whom he dealt in relation to this source. Witness FG was the person with whom he had most contact, and when Witness FG was absent he dealt with another E3A Desk Officer of lower rank. He also had contact with other senior officers including the Detective Chief Inspector in E3A, Witness ZCQ, and occasionally Witness ZBE, the head of E3. He stated that he could just have picked up the telephone to speak to these officers and, with the exception of Witness ZBE, he communicated with them quite regularly. He recognised the person named as Head of IMG, but did not recall having contact with that person. In the Regions, his contact would have been at or above detective inspector level. He thought he would be in telephone contact with E3A 40 or 50 times a year.
- 15.43 His frequency of contact with Witness FG depended on what the agent was reporting. He knew Witness FG's number. Witness FG was somebody he would just pick up the phone to and have a conversation with. He confirmed that his contacts with Witness FG were almost always about this particular source. Witness FG explained that it was not normal for the Desk Officers to have direct contact with Agent Handlers from the Security Service. He accepted that he may have spoken to Witness AH at that time but that he could not remember the conversation. Witness AH told the Inquiry that he would be surprised if Witness FG had asserted in a statement to the Inquiry that he did not have any direct contact with someone such as him, because in fact they spoke and saw each other quite regularly. In response to questions from Counsel for the Wright family,

Witness AH was quite clear that he spoke to Witness FG and that he met him on a number of occasions. Witness AH rejected any suggestion that he had no contact with Witness FG and that the contact with the agent and the processing of the information as set out in SS01-0218 did not happen.

- 15.44 This evidence appears to be fairly straightforward and uncontroversial, but various witnesses questioned the reliability of Witness AH's account. Witness ZCQ, who was the Detective Chief Inspector in E3A at the time, told the Inquiry that it would generally have been the Detective Inspector of the North Desk, who was Witness FG, who would have received a telephone call from AH. Witness ZCQ told the Inquiry that he himself did not speak to Witness AH at that time; that he was not aware of any of his staff having spoken to Witness AH; and that he was not informed of the contents of that telephone call by any of the Desk Officers at or about that time. In any event, Witness ZCQ told the Inquiry that he could not be sure if he was there in April 1997 when the information in SS01-0218 came in, because in April it would have been his custom to take some leave.
- 15.45 Witness ZCQ stated that if he had heard that a telephone call had been made, the first thing he would have asked was, **'Where is the piece of paper, and when is it coming?'** He explained that they had experienced problems in the past with ambiguities in telephone messages, so he would have wanted something in writing. A note of telephone calls would have been made by whoever took the call, but he would also ask the caller to support what he was saying in writing as soon as possible. If action was required on the intelligence it would have been taken – they would not have sat waiting for the document to arrive. He accepted that the information in SS01-0218 was the sort of information that would have required action to be taken straight away as a matter of urgency, and that that was something which HQ could have done. Asked if he would have been aware of his officers having spoken to agent handlers, Witness ZCQ told the Inquiry that it was an uncommon occurrence. He conceded that it may have occasionally happened, but he did not think it was happening on a regular basis. He was told that Witness AH had given evidence to the effect that his contact with E3 would have amounted to at least 50 times a year. Witness ZCQ told the Inquiry that this seemed a lot to him and that it did not sound right.
- 15.46 Mr Albiston told the Inquiry that in his experience such a communication of itself was highly exceptional, and other witnesses expressed a similar view. In response to questions from Counsel for the PSNI, Witness DB told the Inquiry that as an inspector in E3A in 1994 any contact that he would have had with a handler from the Security Service would have been pretty irregular. He confirmed that it was not the norm to pass intelligence that way. He told the Inquiry that if a Service handler was conveying information to E3A in that manner it would be usual for

that person to identify himself or herself. He had not come across an officer not identifying himself or herself. He was asked what he would have done if on 21 April 1997 he had received a telephone call and the information which was set out in the summary had been conveyed to him. He told the Inquiry that he would have recorded the conversation and asked the caller if he could have those details in writing on a message form. If he was going to take any steps to disseminate that information or to react to that information, he would have agreed a form of words with that person. He agreed that it would have been irregular for the conversation to end without some agreement about a form of words; if Witness AH had rung, then it would have been natural for E3A to speak directly to Witness AH again. Witness DB explained that if Witness AH had not identified himself, E3A could have gone through the Service or directly to the agent handling section.

- 15.47 Witness ZBH (Chief Inspector in E3 in 1997) expressed surprise at the method by which the April threat was handled, because the Desk Officer would have been aware of the system and would have known what the procedure was. Witness ZBH told the Inquiry that the Desk Officer was a very competent, professional police officer who knew exactly what the systems were. Witness ZBH did not rule out the possibility that personal contact would occur, because personal relationships were just that; people may well have known each other and rung each other, but he ruled out the suggestion that a handler, no matter who he was attached to, would ring E3 directly to pass intelligence formally. That was not the route; it was unusual for a Service handler to telephone E3A. The traditional route would have been for the handler to telephone the Source Unit in the Region affected, because it was the Region that had the responsibility for taking action on the intelligence, and the first port of call for all intelligence coming in was the Source Unit.
- 15.48 It was put to Witness AH, by Counsel for the Wright family, that a number of police officers of varying ranks from former chief constables to former assistant chief constables, serving assistant chief constables and detective chief superintendents had given evidence that the information which purportedly was sent to them by means of the NIIR was not received and that there was no record of the conversation which he had purportedly had with Witness FG. Witness AH was referred to the evidence of Witness DG which was to the effect that his contact was usually with opposite numbers in source running and that he was surprised that the call was to HQ rather than the appropriate Region. Witness AH held to his evidence, that he made the telephone call, that the Security Service contact with the RUC was primarily through E3, and that it was to somebody in E3 to whom he spoke. He explained that this was not the first time he had sent information about a threat in Northern Ireland to E3.

- 15.49 Witness AH told the Inquiry that he worked assiduously, within the timeframes available to him, to develop positive relationships with all his customers. He explained that he interacted with the two individuals he had mentioned on a number of occasions, both in relation to this information and in relation to other information provided by this agent over probably 18 months.

Closing Submissions on this Issue

- 15.50 In closing submissions, Counsel for the Wright family concentrated initially on examining the evidence of Witness FG, and the changes in what he claimed to be able to remember. He first denied that he had any memory of himself or his Desk having any direct contact with agent handlers, or that he could remember Witness AH. But he subsequently agreed that he and a colleague were in contact with Witness AH when necessary (as Witness AH himself claimed), and that he, Witness FG, was the principal point of contact with Witness AH on fewer than 50 occasions a year. So Counsel concluded that, despite the sceptical comments of a number of the PSNI witnesses, Witness AH was a truthful witness and his testimony was to be believed. In his report former ACC Kinkaid said **‘My inquiries with retired personnel would indicate that the Security Service probably would have phoned the relevant desk in E3 to discuss this type of message in advance of any paper document.’** Mr Kinkaid did go on to acknowledge that no record of a telephone call has been recovered. Counsel for the Wright family also pointed out that Witness AH was not challenged by the PSNI on either occasion when he gave evidence.
- 15.51 Counsel for the PSNI in his closing submission made two significant concessions: first, that it was highly likely that Witness AH did telephone the threat warning to E3A; and second, that there was no real issue about the reliability of the information he was transmitting. Counsel also said that Witness AH knew that no action could be taken by the RUC on the intelligence unless there was agreement about a form of words, and that the threat was non-specific.

Conclusions

- 15.52 The Panel are surprised by the last point made by Counsel for the PSNI, which seems to fly in the face of the extremely precise and specific wording of SS01-0218 and ignores the fact that Witness AH asserted that it was for SB to come back to him to agree a form of words; i.e. the initiative rested with the RUC and Witness AH could not be blamed for their failure. The Panel agree with the conclusions drawn by Counsel for the Wright family, and are critical of the RUC for not following up the telephone message by communicating with Witness AH in order to agree a form of words. The Panel conclude that the evidence of Witness AH is to be believed, and that he did act in the way he described in telephoning E3 with the information.

Q4. What Happened about the Required Form of Words?

- 15.53 The Inquiry heard evidence that before taking any steps to disseminate the threat information, it would be normal practice for the RUC to agree with the originator of the information the form of words to be used or the limits to dissemination. It was put to Witness DG that the evidence indicated that there was no such agreement about the form of words. Witness DG agreed that from his knowledge of SB procedures, there was no way in which the information could then have been disseminated without agreement in relation to the form of words.
- 15.54 Witness AH told the Inquiry that he asked for it to be issued so that the information could be taken account of and acted upon. He accepted that the sensitivity of the source would have played a part in determining how the information was disseminated. He explained that the Service would generally try to draft the intelligence in such a way that it would provide some protection, and then discuss with customers what they proposed to do with it. If the Service was not happy with the form of words going out as it was originally provided, they would provide something more generic for action by the customer. Initially the information was very source-sensitive. Asked whether the factors of source sensitivity and the unlikelihood of the factions being co-located together would have been weighty reasons in favour of not actioning the matter, Witness AH told the Inquiry that it was ultimately for the RUC to make a decision whether they wished to take action on the basis of that reporting. Had they wished to, he would have needed to discuss those sensitivity issues. Witness AH could not recollect any discussion about whether action was going to be taken or not.
- 15.55 Witness DO2, under questioning by Counsel for the Wright family, told the Inquiry that agreement between the Agent Handler and the RUC as to a form of words would have taken place prior to the information coming to her. Counsel for the PSNI put it to Witness DO2 that the normal procedure would have been for the RUC to have contacted the Desk Officer in the AsGp as the first port of call, because she had received the intelligence. Witness DO2 told the Inquiry that this was not her recollection, though there were occasions when this happened. Counsel suggested to her that the import of Witness AH's evidence was that he thought she was going to deal with the form of words in writing, whereas she thought Witness AH had dealt with it already. Witness DO2 told the Inquiry that he and she clearly had different recollections. She said that had she known that Witness AH had not discussed the form of words for actioning on this threat, she would probably have made sure that there was a form of words. She explained that she would have done that by asking Witness AH to contact the RUC.

- 15.56 Asked what form of words might have been agreed were there to have been dissemination of this intelligence, Witness AH told the Inquiry that notwithstanding the sensitivity of the source, he would have pushed to say in that situation, **'Hang on. We need to do more with this. We need to give the authorities in the prison, for example, at least a nod as to what they should be looking for in terms of capability.'** He explained that in his view dissemination of a piece of paper saying **'INLA want to hurt the LVF'** would have been a waste of time.
- 15.57 Witness AH confirmed that he would have been involved in such a discussion regarding a form of words. As far as he could recollect no such discussion took place. There was no record of one on file.

Conclusion

- 15.58 The difference of recollection between Witness AH and DO2 cannot be resolved. A form of words did appear in the documents which lie behind SS01-0218, in the NIIR of 24 April, but it is not possible with any certainty to ascertain who wrote those words or to apportion blame for any irregularity in the processing of the intelligence. The responsibility was however with RUC SB as stated above in 15.52.

Q5. Did the Royal Ulster Constabulary Special Branch Receive the Northern Ireland Intelligence Report of 24 April?

The Procedure for the Distribution of Northern Ireland Intelligence Reports in 1997

- 15.59 The Inquiry heard varying accounts from both the PSNI and the Security Service witnesses on the procedure for the distribution of NIIRs within SB in 1997.
- 15.60 DCI Rep Knock, whose office was responsible for the distribution of the NIIRs, told the Inquiry that his office would have received the NIIR; that he personally would have seen it; and that his staff would have distributed copies to the RUC addressees in accordance with normal arrangements. He was confident that the NIIR of 24 April was distributed to the RUC SB. In response to Counsel for the Wright family, he was unable to give an assurance that the 24 April NIIR was delivered to all the RUC addressees as he could not remember the specifics of the NIIR, but told the Inquiry that in the whole time he was at Knock he was never aware of a NIIR not getting to a recipient, which was why he was confident that NIIRs, and this one, would have been delivered to the recipients. He explained that the system worked well; that his staff were all very reliable; and that he would have been extremely surprised if the NIIR had not been delivered to all the recipients. He told the Inquiry that it was highly unlikely that this NIIR never came to his office and was never circulated to these addressees and never reached any RUC building for circulation.

- 15.61 DCI Rep Knock told the Inquiry that he could not be sure that the DCI was in Northern Ireland at that time when this NIIR was generated, but that he would normally try to see as many NIIRs as he possibly could. He accepted that Witness DO2, who, he thought, actually drafted the document, Witness DO3 and Witness HAG would in all probability have seen the NIIR, but that the distribution did not include the Security Minister or indeed anyone in the Northern Ireland Office (NIO).
- 15.62 Witness AO, who was the administrative officer based in DCI Rep's office at Knock and the person who physically distributed the NIIRs to SB, told the Inquiry that she received NIIRs throughout the day from the AsGp by secure fax. Upon receipt, she recorded the details of them in a hard copy book. She confirmed that the book that included the Inquiry's period of interest had been destroyed, as a consequence of which there was no documentary evidence of the receipt of the NIIR of 24 April 1997 at her office. She could not recollect the NIIR of 24 April but confirmed that it was a routine NIIR and that it would have arrived with them 'pretty instantaneously'. When asked if it could have arrived on 25 April she told the Inquiry that it would depend on what time of day it was faxed to her office. As it was a routine NIIR she might have put it aside for copying and distribution in due course with a batch of other routine NIIRs, but she confirmed that she would have copied and distributed the NIIRs she received that day. DCI Rep Knock told the Inquiry that if a NIIR was marked 'immediate' it would have been walked round the RUC addressees immediately, and if it was marked 'routine', his staff might wait until two or three NIIRs had been received and then a batch of NIIRs would be walked around the RUC addressees. As the 24 April NIIR was marked 'routine' he presumed that it was not walked around immediately.
- 15.63 Witness AO photocopied each NIIR on pink paper for the requisite number of addressees. The copies were then placed in either green or pink cardboard folders. She distributed these at least twice a day by walking them around SB to the relevant addressees. Immediate NIIRs were highlighted and placed on top of routine NIIRs inside the folders. Witness AO explained that she put all the copies destined for one department in one folder. As she photocopied the NIIRs she would have highlighted with a pen the recipients. She would have made sure that all the copies for that person or desk were put in that folder. As she went round – and she did the same route every day – she would check inside to make sure that it was the correct folder for that person or desk. She distributed the NIIRs to the desks rather than individual officers, and she did this by handing the folder to someone in the office rather than leaving it on a desk. In the event that the office was locked she would have taken it back and delivered it later that day. She told the Inquiry that if the addressee was absent she would have handed the folder to the post room for delivery to that person.

- 15.64 The only record that Witness AO made would have been the number of copy NIIRs in each folder. She did not record to whom they had been distributed or how many copies were in circulation. Witness AO accepted that there was no system in place to record that the addressee actually received a NIIR; that the NIIRs that had been distributed were returned to the Service; or the number of copies that had been made of the original NIIR. She had no recollection of a card system for the receipt of NIIRs.
- 15.65 Witness AO told the Inquiry that there was no time limit given to addressees for return of the NIIRs. They were returned to her office by the RUC. Some of those were returned with an RUC SB internal distribution list still attached to them recording who had read the document. She explained that the list contained the names of the SB officers by rank. Those officers who had seen the document would have scored out their name and initialled the list. She told the Inquiry that the original copy NIIR was retained, although she could not remember for how long, and that the surplus copies were shredded. The NIIRs were returned to her office, but she accepted that she did not in fact know whether they got them all back.
- 15.66 A number of PSNI witnesses provided their recollections of how NIIRs were distributed at that time, and although there were some variations in the evidence of different officers, their memories generally supported the arrangements which had been described by Witness AO.
- 15.67 By letter dated 5 March 2009 the Security Service detailed the procedure for the distribution of hard copy NIIRs to the RUC addressees. It provided as follows:

‘As indicated by the PSNI Officers who have given evidence to the Inquiry, NIIRs were issued on a “read and return” basis. They were delivered by Assessments Group staff to DCI Rep Knock staff and photocopied so that each addressee received their own copy of a particular NIIR. The NIIRs were circulated in pink folders. Once the addressee had read the NIIR it was collected by DCI Rep Knock staff. DCI Rep Knock staff would keep a record of all the NIIRs they had distributed in a log book. Unfortunately these records were destroyed within an unspecified period due to a lack of space within the DCI Rep Knock offices.’

The Northern Ireland Intelligence Report of 24 April 1997

- 15.68 Witness AO told the Inquiry that six copies of the NIIR of 24 April would have been distributed to the addressees in SB HQ. She indicated that if on the front cover of the NIIR it was addressed to Chief Superintendent Intelligence, Superintendent E3 and Deputy, they would have been given separate copies. The Republican Desk

would also have had its own copy. E9D would definitely have had their own copy, because they were in a different enclosed room. If it had said on the front 'Supt E9 for E9A' it would have gone to Supt E9, and he would have looked at the NIIRs and then passed them on to E9A. DI E3E would also have received a separate copy. She told the Inquiry that the DCI Rep Knock would have received a copy, although she could not remember whether she would have copied it separately for him or whether he would have just read the copy they retained. She had no recollection of distributing the NIIR to Special Branch Registry given that the distribution list did not include the Registry. She explained that she would have put the NIIRs for any of the Regional posts in a separate envelope addressed to them, and taken it to the post room for distribution. Witness AO rejected the suggestion that the NIIR of 24 April was not distributed to the RUC addressees. She told the Inquiry that she would have copied it to all the people that it was addressed to and delivered it. The following paragraphs consider in turn the addressees as they appear on the distribution list in SS01-0218, and their comments on whether each did or did not receive the NIIR of 24 April.

(a) Chief Superintendent Intelligence and Superintendent E3 and Deputy

15.69 Mr Albiston expected that he would have received the NIIR even if it did not come directly to his desk given that on the face of the document he was one of the addressees of the NIIR. He could have been 'Supt E3' or conceivably both 'Ch Supt Int' and 'Supt E3', depending on staff availability at the time. As Superintendent E3 or Chief Superintendent E3, either he would have seen it placed in his in-tray or it would have been handed to him by one of his detective inspectors. That was the normal system. He could not recall this NIIR being delivered to him personally by the Security Service. If he had been at his desk and the document had been circulated it should have come to him. Mr Albiston told the Inquiry that the volume of threats was significant, and that as the superintendent in charge he would not have expected to have been made aware of every threat that was dealt with. Most threats were dealt with at lower levels. There were routine procedures to be followed and his staff knew pretty well what they were. He would not have expected a threat to be brought to his attention unless there was some exceptional reason for doing so. He accepted that the personality of the subject or the severity of the threat could be such a reason. In relation to imminent threats the Force Order specified the procedure for notifying the local uniformed branch commander. If it was an immediate threat, it would have to be dealt with at Regional level and the information would come to E3 in due course, because HQ had a record of all the threats that came to the attention of the RUC. Witness ZBS, the Head of Special Branch (HSB) in 1997, denied being told about the threat information at that time.

(b) E3 Republican Desk and DI E3E

15.70 Witness ZCQ accepted that as the Detective Chief Inspector in charge of E3A, he was the Superintendent E3's deputy at the time. The other relevant addressee as far as Witness ZCQ was concerned was the E3 Republican Desk. Witness ZCQ confirmed that he was in charge of that Desk at the time and told the Inquiry that he had no recollection of seeing the NIIR of 24 April. It was hard to remember one specific item given the volume of the material that he was dealing with at that stage. He was reading, or supposed to read, a lot of the documentation that was going to all three Desks as well as documents coming from a lot of other agencies. Witness ZCQ reiterated that he was not aware of the threat information at that time, and that while he was one of the people who would have been an addressee on a customer list, he did not receive a document which contained that information.

15.71 Witness FG told the Inquiry that it would have been the Detective Chief Inspector and the Detective Inspectors who would have dealt with this NIIR. He confirmed that he did not see this NIIR; that he was not aware of any action sheet having been created informing Billy Wright of this threat; and that in terms of the protocol Billy Wright should have been informed.

(c) Superintendent E9 for E9A and E9D Desk Officers

15.72 Witness ZBT accepted that the addressee, Superintendent E9 at that time, would have been himself. He had no recollection of seeing this NIIR in April 1997. He stressed that he was not denying that it may have crossed his desk or that he saw it, but he had no recollection of seeing it. Asked what the reason was for providing this information to him, as Superintendent E9, for the purposes of E9A and E9D Desk Officers, Witness ZBT explained that E9A and E9D were producing intelligence from sources and to be able to do that in the most efficient way, they had to be aware of everything that was going on around them in the terrorist world. Witness ZBV, who was an inspector in E9A at the time, confirmed that he was familiar with NIIRs but that he had no recollection of this NIIR. Counsel for the Wright family referred him to paragraph 7 of his statement where he stated: **'The probability is that I did see it but cannot remember that.'** He confirmed that this was his evidence to the Inquiry. He told the Inquiry that the information contained in the NIIR was the sort of information that would have been discussed either formally or informally in E9 if it involved their targets, but as this clearly did not, they probably would not have been interested in it.

(d) Regional Head of Special Branch and Superintendents (as Appropriate)

15.73 Witness ZBQ agreed that one of the addressees for the April NIIR was the RHSB and at the time in question he held that post. He told the Inquiry that

'Superintendents' would have been a reference in the context of this NIIR to B Division. He did not receive this intelligence. He was quite sure that if he had received it, he would have remembered it. Despite being challenged on this matter the Witness held firm to the belief that he had not received this information, and there would therefore be no record of an action on it. He was confident that if the intelligence had been brought to his attention on or about 24 April 1997, he would have remembered it even to **'this day'**. Witness DG, who was his deputy at that time, told the Inquiry that he did not receive the NIIR and had no recollection of seeing the NIIR at that time.

Submissions

15.74 In closing submission Counsel for the PSNI acknowledged that he was not in a position to dispute that the NIIR was dispatched and circulated, despite the fact that no PSNI witness could remember seeing it, and some denied receiving it. Counsel expressed a sense of embarrassment about this, but maintained that it was only after 24 April that the RUC could be held to blame for inaction. Counsel for the Security Service drew attention to the regularity and reliability of the system which existed for the distribution of NIIRs, and believed that there was no evidence which could lead anyone to suppose that the system did not work on this occasion; the evidence of Witness AO must be believed.

Conclusion

15.75 The Panel find themselves in agreement with the point of view expressed by Counsel for the Security Service, and their opinion is supported by the existence of evidence that the content of the NIIR did find its way into the SB Information Technology system in the form of an INTREP as is described in the following paragraphs. Therefore, the Panel conclude that the RUC SB did receive the NIIR of 24 April.

Q6. What Happened to the Information Contained in SS01-0218? How was the Intelligence Report (PS01-0205) Created and Stored?

15.76 There is no dispute that the contents of the NIIR were entered onto the RUC intelligence database, CAISTER, in May 1997 in the form of an INTREP. The procedure for entering the information onto the database, the terms of the INTREP itself and the purpose for doing so were explored at length in evidence principally with the PSNI witnesses.

15.77 DCI Rep Knock told the Inquiry that the NIIRs were eventually returned to his office, but at some stage before they were returned to him the information was entered onto the RUC's intelligence database. This evidence was unchallenged and was to some extent corroborated by the evidence of Witness ZCQ, who told the

Inquiry that if he received a NIIR, when he was finished with it, it would be filed in the appropriate personal file(s) as happened with all documents. Witness AO told the Inquiry that she had no knowledge of the process whereby NIIRs were sorted for scanning by the RUC SB onto their database. She confirmed that her office did not have a scanner or access to the CAISTER database. DCI Rep Knock rejected any suggestion of chicanery on the part of the Security Service, and pointed out to the Inquiry that if the NIIR **'got on the RUC system, it has been disseminated properly through to the RUC'**.

- 15.78 The Inquiry heard evidence from Witness DBA who was a Database Administrator in 1997. He agreed that the Service NIIRs were both distributed in hard copy format to the addressees on the distribution list and scanned onto a floppy disk format in slow time so the information could be entered onto CAISTER for research purposes. He was responsible for loading the information from the floppy disks onto CAISTER during the period when Database Administrator. He was the sole occupant of the post.

Procedure for Inputting NIIRs onto CAISTER

- 15.79 There is a letter dated 18 April 1996 headed 'Scanning documents onto CAISTER' addressed to the Detective Chief Inspector E3D from the Detective Sergeant in E3D, attached to which is a further document which detailed the procedure for doing so. It provided that NIIRs and attachments were to be scanned on the computer provided for this purpose located in the registry post room. The scanned documents were then saved to a floppy disk, and only the floppy disks provided were to be used for this purpose. Witness DBA's role was to export the information from the floppy disk onto CAISTER, and thereafter return the disks to registry. He was unable to assist the Inquiry as to what happened before and after his involvement in the process.
- 15.80 The Inquiry has seen an extract from a notebook maintained by the registry post room in relation to the disks containing the NIIRs. This receipt book was kept by the registry post room and normally came to Witness DBA when he received the disk from them. Registry staff would have noted the date they gave the disk to Witness DBA. Once he had completed the task of inputting the information from the disk onto CAISTER, the files on the disk were deleted. The floppy disks were then returned to the registry post room against receipt.

Dissemination of INTREPs

- 15.81 The documents that Witness DBA created were INTREPs and these were sent to the appropriate addressee. Witness DBA explained that **'sent to appropriate addressee'** was a default mailing list for the dissemination of the document.

Individuals were put into groups and these groups would automatically receive readership of the document once it was released onto the system. In questioning by Counsel for the PSNI, he confirmed that notwithstanding the terms of the guidance, all the system did was permit readership rights. It did not generate any publication of the document to any individual. It would have sent a generic notification to say that a document was on the system. He emphasised that CAISTER was essentially an historic storage database and people would not be looking for live intelligence documents. They used it primarily for research, whereas the PRISM intelligence database was used for live-time intelligence. Witness DBA was shown a document which was a list of default users. He confirmed that a number of additional default users had been added since 1997 including the Public Inquiry teams, the historic Desk Officer teams, the joint project teams and their supervisors. He confirmed that if these groups were removed, the Inquiry would have the default mailing list that would have existed in 1997. He explained that a number of Regional Source Units also had access to the information. Depending on the particular individual they would have either read-and-copy access or read-only access. The read-and-copy access was a printing facility. The Desk Officers in HQ had read-and-copy access whereas the Regional Source Units had read-only access.

The Processing as an Intelligence Report of the Northern Ireland Intelligence Report of 24 April 1997

15.82 The extract from the post room notebook included the following entry: **'RED DISK 4 RUC ONLY 27-5-97'**. Witness DBA confirmed that this disk would have been received by him on 27 May and returned to the post room on 29 May 1997. He could not say if the red disk included the NIIR of 24 April 1997 notwithstanding the fact that he had earlier given evidence that it was his understanding that it did. He explained that once the NIIR became an INTREP it was available to all level 19 users, but that access was restricted to the front page of the document. What they could not see, however, was the text of the document. The text of that document was restricted to the people on the default mailing list.

The Format and Content of the Intelligence Report

15.83 Witness DBA was shown the INTREP that contained details of the NIIR dated 24 April 1997 relating to the INLA threat against Billy Wright. He explained the various entries on the INTREP for the Inquiry. 'Data Security Level (DSL)' determined those categories of persons who could access the information. 'Grade/Reliability – E5' was a computer-generated grading. Witness DBA explained that the NIIR was a document that had been exported onto the database. CAISTER used an evaluation system to indicate grade and reliability. The NIIR did not use the

same grading system, but was instead marked **'regular and reliable'**. Witness DBA explained that when the system did not recognise that entry, it automatically by default put in E5. It was a means by which he could enter someone else's information onto CAISTER. He emphasised that this did not reflect a re-grading of the intelligence by SB; it was an automated process. It was not within the remit of SB to apply a grading to the intelligence belonging to another agency.

When did Special Branch First Retrieve the INTREP?

- 15.84 The question then arose as to when SB first retrieved the INTREP. The Inquiry was informed that it was first accessed in 1999. Witness DBA explained that the system would not necessarily reveal the identity of the person who accessed the INTREP at that time, as its auditing capability would have needed to be enormous to record every single search. CAISTER had limited auditing capability in terms of what people were looking at. It could identify the person who printed off a document, but not those persons who merely looked at it in 1999. He explained that the system could audit the printing of documents but not their retrieval. It was the printing that left the fingerprint of the person.
- 15.85 Witness ZCQ confirmed that the INTREP was something to which he could have had access, and occasionally he may have looked at INTREPs. He accepted that SB officers had access to CAISTER but was unable to offer any explanation as to why nothing was done in response to information which was available to SB officers after the date in May when the INTREP was entered onto the system. Witness FG confirmed that there was no reason why he could not have accessed the INTREP on CAISTER but that he had no recollection of having seen it. Asked whether he would have seen this document when carrying out a search of MACER in relation to the INLA, its leadership or its members between May and December 1997, he accepted that if the document had been entered on to the database he could have seen it, but that it would have depended on the terms of the search. If the document referred to the Chief of Staff of the INLA or Kevin McAlorum and he was carrying out a search for one of those individuals, then one of the documents he would have retrieved was likely to have been the INTREP.

Submissions

- 15.86 In his closing submission Counsel for the Wright family pointed out that the PSNI had not disclosed the existence of the INTREP until challenged by the Inquiry, who had received it from the Security Service, and maintained that this failure on the part of the PSNI must cast doubt on the credibility of their claim to be fully committed to engagement with the Inquiry. There was, said Counsel, in any case no doubt about the fact that the INTREP was available to SB between the end of May and the date of the murder on 27 December, and there was no evidence that

anyone had read it, or attempted to relate the intelligence it contained to other relevant information in their possession.

- 15.87 Counsel for the PSNI defended the way in which the information was stored and linked.

Conclusion

- 15.88 Just as the Alpass Report noted concern regarding the lack of analysis of intelligence, the Panel are not impressed by the defence offered by the PSNI. The NIIR of 24 April was incorporated in the INTREP which was entered onto the RUC database, and was available to SB from the end of May 1997. The information was indeed stored, but it was not analysed or linked to other related intelligence, and the Panel are critical of PSNI for the inadequate processes in place in 1997.

Q7. What Discussion of the Threat Information, if any, took place at Senior Management Level?

Headquarters

- 15.89 Witness DE confirmed, in response to Counsel for the Wright family, that he had a distant memory of the threat to Billy Wright from the INLA based not only on his recollection but also on a review of the intelligence. He accepted that he was aware that there was a threat against Billy Wright from the INLA from knowledge of what was going on within E3A and E3B; that it was possible that he saw material in relation to the INLA threat against Billy Wright; and that he was aware of a threat to Billy Wright some time before he was moved from HMP Maghaberry to HMP Maze. This evidence was unchallenged.
- 15.90 Witness FG told the Inquiry that he did not recall having any discussion with the head of the IMG about this intelligence or having passed on the information or having prepared any threat assessment in relation to this information. He could not remember the head of the IMG having instructed such an assessment in relation to this threat. Witness FG confirmed that at that time, the view within E3 was that it would have been unwise, bearing in mind the number of threats to Billy Wright, to co-locate the LVF with the INLA. He told the Inquiry that this view would have been expressed either in the weekly assessments prepared by his desk for the head of the IMG or in an IMG Intelligence Report, and that any intelligence regarding threats should have been brought to the attention of the head of the IMG at the morning meeting at least by 25 April 1997. He told the Inquiry that the decision as to what action should be taken would have been made by the head of the IMG or in his absence the senior manager at that morning meeting, if it had not already been taken before then. Witness FG confirmed that he had never seen this information and was never instructed to process it. It should be

noted that Witness FG's use of the term '**the IMG**' was anachronistic, since that name came into use only after the Warner recommendations were implemented in about September 1997. At the time of the April threat, Christopher Albiston was Detective Chief Superintendent (DCS) (intelligence) overseeing E3 and E9. He subsequently became head of the IMG.

- 15.91 Mr Albiston told the Inquiry that if this information was in the system, then he would be surprised if it had not been brought to his attention but that he could no longer recall what his state of knowledge was some 12 years on. He agreed that in his signed statement he had stated that he had a vague recollection of the matters discussed in the summary, that he had a recollection that there was an INLA feud, and that there were concerns that were in the public domain after the murder of Billy Wright, but it was very difficult to tell at what stage he connected one thing with another. He told the Inquiry that it had been put to him that a NIIR of that type would be likely to be brought to his attention and that he was an addressee, and he accepted that. He said that he thought he was probably aware of this information, and accepted that if he received the NIIR he must have been aware of what was in it.
- 15.92 Mr Albiston told the Inquiry that he did not recall any discussion with colleagues. It was put to him that this was information involving the leader of a paramilitary organisation not on ceasefire and involved an issue with another paramilitary organisation on the other side of the fence also not on ceasefire. Mr Albiston told the Inquiry that he did not dispute that he may have discussed it, but he did not recall specific discussions with specific people. This was a very busy time in a very busy office and there were lots of things that had gone on over the previous 35 years. Many people would have dealt with some things that were quite significant and quite major, yet not have a clear recollection of them. That did not surprise him at all. It was put to Mr Albiston that this related not to a lesser terrorist, but to the notorious leader of a terrorist grouping, and it was suggested to Mr Albiston that this was something he would have remembered at that time. Mr Albiston told the Inquiry that without wishing to diminish the late Mr Wright's status, he had to say no.
- 15.93 Witness ZCQ told the Inquiry that he would have expected the information in this NIIR to be discussed at the meeting with the Chief Superintendent E3 but did not know whether it had been discussed. He confirmed that E3A had its own internal meeting and that such information would have been discussed at such a meeting, but as far as he was aware, that information was not discussed. Witness ZCQ explained that everybody who worked in RUC HQ at that time would have been aware of Billy Wright's profile; that there were republicans who would have liked to murder him and that he would have been under a constant and continuing threat.

Witness ZCQ was referred to paragraph 58 of the witness statement of Mr Albiston, who was the Chief Superintendent E3 at the time, where he stated that:

'I think I probably was aware generally of this information [SS01-0218] and that would be because someone had decided to draw it to my attention due to the status of Billy Wright.'

Witness ZCQ told the Inquiry that this disclosed that someone briefed or told Mr Albiston about the information. It was put to Witness ZCQ that this had most likely been done by either someone from the E3A Desk, the superintendent at E3 or possibly himself. Witness ZCQ told the Inquiry that he did not believe that he had done it, but that he would have expected that if something like that had been received by E3, it would have been brought to the attention of the superintendent.

- 15.94 Witness ZBT told the Inquiry that if the NIIR had crossed his desk, it would have been interesting, but it would not have been his remit to take any action on it whatsoever. He could not recall having any informal discussion with senior managers at the time in relation to this information. Witness ZBV corroborated this evidence by telling the Inquiry that the threat information was not discussed informally within E9A as they would have been too busy discussing their own operations.

The Region

- 15.95 Witness DB confirmed that the divisional superintendents would have attended the morning meeting with the regional head. He did not believe that this threat information was brought to his attention at the time. He did not remember either himself or another detective inspector being directed to task agents to collect information regarding a possible plot against Billy Wright by the INLA while he was in HMP Maze. Witness ZBH told the Inquiry that this information was not discussed at a morning meeting with the RHSB that Witness ZBH attended at the time. Witness ZBH was not aware of it being discussed at any informal meeting that Witness ZBH had attended with the regional managers at that time.

Q8. What Action, if any, Should have been Taken in Response to the Threat Information, and Which Agency had the Responsibility to Action the Threat Information?

- 15.96 The Inquiry heard evidence on many occasions that the organisation which had primacy to deal with threats would have been the RUC. This was not disputed, and the Security Service maintained throughout that its obligations were met if the threat information was passed to the RUC SB. The Service contended that it was the RUC who had the wider knowledge as to whether the threat information

against Billy Wright was credible, and who were able to aggregate the intelligence from this source with intelligence from other sources. The Service did not know, when passing the intelligence to the RUC, whether the RUC had already received a version of it from another source and might be taking action on it. There were good reasons for obtaining RUC corroboration before providing a broader distribution for the information. In this case the Service had no means of assessing the intelligence other than by reference to the RUC's wider knowledge. It was not normally the case for the DCI and AsGp to pass tactical intelligence in NIIR form to a wide policy audience. Normally, the Service received very little of it, and the RUC, for understandable reasons, did not make available tactical intelligence about their emerging policing operations in a terrorist context. So, from the Service's point of view, this was a planned terrorist attack for which the RUC had prime responsibility to take any necessary action in respect of the threat to life, including potentially informing the prospective victim.

- 15.97 Judging not with hindsight but with material available at the time, the Service, in the opinion of Witness DCI2, did what it should have done in order to protect Billy Wright's interest. The Service made two approaches to the RUC, one by the agent's case officer and one in the form of a NIIR to provide the RUC with the relevant intelligence. The immediate response of the Desk Officer, and the case officer, having received the intelligence, was to alert the RUC, on the basis that they were in the best position to take executive action, which might have been with the relevant Prison Authorities.
- 15.98 This course of action was corroborated by Witness DCI1 who told the Inquiry that the Desk Officer and, presumably, supervisors in AsGp made a judgement that delivering this intelligence to the RUC was sufficient to get it into the system so that the necessary action could be taken in relation to the threat. Witness DCI1 rejected the suggestion that if the threat information did not reach the NIPS it was suggestive of some deliberate intention to withhold it.
- 15.99 Witness DO2 confirmed that the protocol was for the RUC to action the threat. She agreed that it was the RUC's job to see that the people who were threatened were told. She also agreed that other departments or agencies might have an interest in threat intelligence, for example because the threat intelligence might have had implications for order, safety and security in prisons or in the community in general, and in those cases the AsGp might be involved in informing those concerned about threats. She accepted that the Service could have a role in the case of threat intelligence that deserved a readership wider than just the individuals who were threatened. It was the RUC who had the capability of distributing that threat in its broader context to the prison or to the Minister. She sought to differentiate the position in relation to SS01-0218 from the NIIR at

SS01-0220, which related to intelligence concerning attacks on prison officers. She explained that the information underpinning the latter NIIR came from the RUC. In that regard, there was no need to check further if the RUC valued the intelligence because they clearly did. Witness DC12 also confirmed that the source of the information in SS01-0220 was the RUC. He told the Inquiry that it could reasonably be inferred that the RUC would have actioned that intelligence before providing the Service with this summary of the intelligence for onward passage to the Policy Directorate of the NIO and to the Minister.

- 15.100 Witness HAG gave evidence that the RUC were the only organisation that could take executive action in relation to threat information and in the circumstances it was the responsibility of the RUC to inform the Prison Service if a threat related to a prisoner.
- 15.101 On the other hand, Witness ZBS, the HSB in 1997, gave evidence that he would have expected those who supplied the intelligence, i.e. the Security Service, to have notified the Prison Authorities as well as the RUC. Witness ZBS explained that he thought that those who owned the intelligence would perhaps also have passed on the security aspect of the intelligence to prison security. He accepted that this would not have been in compliance with the Force Order, which was an RUC Force Order. He also agreed that such a course of action would not have absolved SB from passing information through the RUC channels to Region so that Region could action it as well, which was the Force Order requirement.
- 15.102 Sir Ronnie Flanagan, the Chief Constable at the time, told the Inquiry that if proper practice had been followed, and a debate had been going on in the NIO as to whether or not Billy Wright was to be transferred, he would have expected the NIO and the Prison Authorities to have been informed of the threat. He told the Inquiry that he would have been **'amazed'** if the originators of the intelligence, at the same time as informing the RUC, had not also informed their colleagues in the NIO. If the RUC had received the information, he would have expected them to assess it and produce a report, and it would certainly have gone back to the NIO with the intention of the Prison Authorities being informed. He would have expected an audit trail of such an assessment and conclusion. In particular, if after a totally legitimate and very rigorous assessment a conscious decision had been made that no action was required, he would have expected that to be documented and the people involved to have been informed of the decision. Had there been such a discussion, he did not think he would have been informed, particularly if an assessment had been made and the conclusion was that no action was to be taken. In response to Counsel for the Wright family, Sir Ronnie told the Inquiry that the information was very specific and so he would have expected appropriate bodies to have been informed. He confirmed that as Chief

Constable he absolutely and categorically did not take any decision that no action was to be taken about the threat information nor was he asked to authorise any such decision.

Q9. Which Department of Special Branch had the Responsibility to Action the Threat Information?

15.103 Witness ZBV told the Inquiry that knowing the way that the organisation operated, he would have imagined Superintendent E3, Chief Superintendent Intelligence, Deputy E3 and the appropriate Desk Officer, which would be the Republican Desk and the Loyalist Desk, should have dealt with the threat information. In fact, the only people who really had no interest in it would have been E9A. Witness ZBT told the Inquiry that he would have thought that E3, who did that sort of thing routinely, ought to have reacted to this information. He explained that the NIPS would have been informed, and they would have dealt specifically with the threat to Billy Wright.

15.104 Witness ZCQ accepted that the failure to warn Billy Wright and those responsible for looking after him could never be justified. There was a Force Order in existence, so if there was a threat to kill Billy Wright, it should have been passed on. Witness ZCQ also accepted that if no other course of action was agreed and the threat was not notified, the failure to do so was an omission. He also accepted that any omission in relation to the notification of this threat, even though it happened several months earlier, possibly facilitated the death of Billy Wright. Witness ZCQ had absolutely no idea why the threat information was not intimated to Billy Wright and the NIPS. The only assumption he could make was that someone in the prison was spoken to and had already known about it. Witness ZCQ told the Inquiry that if it had been his decision he would still have told Billy Wright about it. The whole point of the Force Order was that it provided a template, and as soon as a threat came in, people knew exactly how to deal with it. Any threat received by Special Branch should have been dealt with in accordance with the Force Order.

15.105 It was put to Mr Albiston that the failure to pass on this information demonstrated a lack of consideration or care for the life of Billy Wright. He explained that the function of the RUC, including the RUC SB, and indeed of all the security forces, was to preserve life, and that they did that irrespective of the identity of the person whose life was at risk, and that there were numerous examples which could be found within their archives and records of people for whom they might have no great love but who were warned about threats to them, and for whom extensive measures of protection were taken; many of them are alive today – some of them perhaps contributing to the new order of life which exists in Northern

Ireland – only because the RUC SB took great risks in gathering intelligence and in processing and administering it correctly.

- 15.106 Witness ZBS agreed that the nature of the intelligence was such that it was mandatory to action it by intimating it to the NIPS unless the owner of the intelligence dictated or agreed a different course of action. He accepted that if the information had been received and was not dealt with in an alternative way by agreement with or at the request of the Service, the failure to action it by intimating it represented an omission by SB, in that it was a failure to act to the expected standards. He accepted that this omission might have facilitated the death of Billy Wright. He agreed that this happened on his watch, although he had told the Inquiry that it was never brought to his attention. He told the Inquiry that he found it very difficult to imagine that SB received that threat and did not action it. He agreed that if a decision had been made that the system should not be put into action, by agreement with the Service, he would have expected there to be a documentary record. He was asked if he would have expected that to be in writing and to have been preserved. He told the Inquiry that a lot of the communication between the AsGp and the RUC HQ would have been verbal. He supposed ideally, especially in the present circumstances, that something written down would have explained the matter a lot more clearly, but a lot of agreement and a lot of discussion was not written down and was dealt with in an oral manner.
- 15.107 Witness DG also agreed that if it was the case that no other course of action was agreed and the threat was not notified, the failure to notify the threat to the NIPS, the divisional commander and Billy Wright was an omission. It was put to Witness DG that any omission in relation to notification of this threat, albeit that it happened several months earlier, arguably facilitated the death. Witness DG told the Inquiry that if the action that he had envisaged had taken place, he would have assumed that the move would not have taken place, the opportunity would therefore have been denied and, as a consequence, the incident would not have happened. He confirmed that this was a real possibility in his mind.
- 15.108 Mr Albiston told the Inquiry that he would certainly have expected that in view of the nature of the threat, the NIPS should have been informed. This was also accepted by a number of other PSNI witnesses. Witness DB told the Inquiry that it ought to have been communicated to the Prison Authorities to make the decision, taking into account the sensitivity of the intelligence. Witness ZBT told the Inquiry that E3 was a very efficient organisation that had evolved over many years' dealing with this type of information, and to be told that they did not inform the NIPS surprised him. Witness ZBQ confirmed that had he received the NIIR, he would have spoken to the HSB at HQ about it. He told the Inquiry that given

the nature of the intelligence it would no doubt have had political connotations, if nothing else, and he would have been speaking to the HSB to ascertain two things: whether he wished them to convey it as a normal threat and if so, what form of words might have been used; and whether someone had already passed the information at a higher level to the NIPS. He told the Inquiry that if it had been left to him, it would have been dealt with as a threat under the Force Order Regulations, which was the way normal threats were dealt with, but he would have seen this one as being one that would have required a form of words for source protection and he would have been asking what form of words would be needed. Former ACC Sam Kinkaid told the Inquiry that assuming the NIIR was circulated as described in the summary SS01-0218, his view was that it should have led to two things: a discussion with the senior people in the NIO about the issue of Billy Wright's safety in the prison, and some sort of specific information being passed to the prison governor.

- 15.109 Evidence was also heard in relation to this issue from a number of the Security Service witnesses. Witness DCI1 told the Inquiry that the threat information was clearly relevant to the decision about where to locate Billy Wright in HMP Maze and that it ought to have reached someone at some point in the NIPS. He told the Inquiry that he could not envisage a situation in which information of this nature within the Service records would not be disseminated by way of a NIIR to the Chief Executive of the NIPS. Witness DCI2 on the other hand told the Inquiry that the Service had very few dealings with the NIPS and that they were not generally on the distribution list for NIIRs, despite being shown one NIIR whose distribution list had included a number of the NIPS addressees. Witness DCI2 accepted that the NIPS had an interest in knowing about threats to Billy Wright within the prison, threats of disorder by prisoners, threats to prison staff or threats generally outside the prison. It was, however, the Service's position that it was the responsibility of the RUC to inform the NIPS if a threat related to a prisoner.

Submissions

- 15.110 Counsel for the PSNI in his closing submission reflected on what action could or should have been taken by the RUC on receipt of the intelligence contained in SS01-0218. There would have been contact between E3A and the Agent Handler in order to agree a form of words that could be used in wider dissemination, almost certainly involving some sanitisation of the alleged likely method of attack in order to ensure source protection. The intelligence would probably then have been shared with Witness FA (SB Prison Liaison Officer (PLO) at HMP Maze), but it was not clear precisely what use Witness FA could have made of it. The most appropriate immediate action would have been to contact AsGp, to find out the position regarding the possible move of Billy Wright to HMP Maze, and to arrange

for the NIPS and the Minister to be aware of the threat. Counsel pointed out that the Minister and his advisers had indicated that knowledge of a threat would not necessarily have stopped the transfer, but he concluded that if someone in SB had read the NIIR of 24 April, it was highly improbable that no action would have been taken.

Conclusions

15.111 The Panel accept the evidence of Witness ZBV that the Special Branch department which should have taken action in response to the threat information was E3. The course of action they should have taken was to pass the threat information to the Region, where Force Order 60/91 would have been implemented. This would have involved passing the information to the uniformed Branch, and they would in turn have notified the Prison Authorities at HMP Maze and Billy Wright himself. The Panel are critical of SB for not initiating this necessary chain of events.

Q10. Ought There to have been a Continual Review of Intelligence Received, and Were There Missed Opportunities?

15.112 Mr Albiston was asked by the Inquiry Chairman whether if the threat information had been received, it would have been kept under review following its receipt. He told the Inquiry that it would be nice to have a computer system in which the intelligence could be entered and, should further intelligence be entered at a later date which said Billy Wright had been moved, the system retrieved the earlier intelligence and made one think about it. It was put to him that the move took place only four days later. Mr Albiston told the Inquiry that he did not know enough about the intelligence database, but that it depended on human ability, memory and so on. In that regard, Witness DB agreed that that the appraisal of incoming intelligence was conducted by SB on a real-time basis, mainly through daily meetings and briefings chaired by the Regional Head and his senior managers in the Regions and by the DCS (Intelligence) and his managers at HQ. He accepted that the overriding objective of that appraisal, particularly at regional level, was to spot material in the previous day's intelligence that could have immediate operational implications and to act on it, and that this would have included threats. He also accepted that memory was relied on heavily to connect different pieces of intelligence over a period of time. Any intelligence not acted on at that time would have become historical information.

15.113 It was suggested to Witness DB that in failing to act on the intelligence received in relation to the threat to Billy Wright at that time, SB missed opportunities to develop the intelligence in order to ascertain the intentions of the INLA in relation to Billy Wright and the plan to kill him. Witness DB told the Inquiry that it appeared to be the case that there were missed opportunities, but without

knowing the bigger picture he could not say that for sure. Witness ZBT accepted that if the Prison Authorities were not informed, that would have prevented them from carrying out their duty of care towards Billy Wright. He was referred to the INTREP and the section **'SOURCE DESCRIPTION'** which read **'REGULAR AND RELIABLE'** and accepted that this indicated that the source of this information was a good source. Witness ZCQ accepted that if the threat had been notified it was entirely possible that it might have prevented the co-location of Billy Wright and the other LVF prisoners with the INLA in H6. Given that the Prison Authorities were not notified of this information, he also accepted that they were deprived of the opportunity of carrying out their duty of care and their obligations towards Billy Wright.

Submissions

- 15.114 On the matter of the failure of the intelligence to reach either the Minister or the NIPS, Counsel for the Wright family made much in his closing submission of what he claimed to have been collusion on the part of the Security Service in withholding information from the NIPS and the Prisons Minister. Counsel remained entirely unconvinced by the reasons put forward by the Service witnesses, and pointed to the numerous occasions on which the intelligence could have been shared: the Prisons Minister had been in correspondence with his officials about where Billy Wright should be located in the prison estate, and Witness HAG had been copied into that correspondence; members of the AsGp and the RUC SB representatives attended Prison Liaison Group (PLG) meetings. Counsel submitted that the more opportunities that were missed to ensure that the Minister received this intelligence, the more there was the impression of an intentional failure on the part of the Service. It would have been a simple matter to include the Minister and the NIPS in the circulation list for the NIIR. Counsel for the Service, in responding to these charges, emphasised that the key overriding element in the threat reporting was to the life of Billy Wright, and that was a matter for the RUC, who might well have been in possession of related intelligence which would have enabled them to make an informed judgement about what should happen to the information.
- 15.115 Counsel for the Wright family referred to the evidence of former ACC Kinkaid, to the effect that if the warning was not passed on it must have been on the basis that it was not reliable, and that there should have been good reasons for that decision and those reasons should have been documented. He confirmed (and this was corroborated by Witness AH) that there were no records in either the police or the Service files to show that there were good countervailing reasons for the decision to take no action. Counsel submitted that Witness AH gave evidence that he did not come to any agreement that the intelligence was to be disregarded and not passed on.

Conclusion

15.116 The Panel accept the limitations acknowledged by SB witnesses about the fact that the RUC did not review intelligence or make the best use of the opportunities which presented themselves to relate one piece of information to another. This appears to have been largely due to the lack of analytical capacity within SB, which has been dealt with in Chapter 5, particularly in relation to the findings of the Warner Report. The RUC in 1997 clearly lacked the capacity to analyse information and it was this structural weakness which led to the missed opportunities and the failure to undertake an ongoing review of intelligence as it came in over a longer period than the day-to-day basis on which it appears to have been done. The Panel believe that this was an unacceptable state of affairs, granted the enormous problems faced by the RUC in 1997 and the benefits that a proper analytical capacity would have achieved.

Q11. What Possible Explanations are there for the Failure to Take Any Action?

15.117 Witness ZCQ told the Inquiry that he was disappointed that of all of the people notified of the threat, numbering seven or eight, none was able to ensure that Billy Wright was informed. He told the Inquiry that it was difficult for him to come up with an explanation for that failure, though he could assure the Inquiry that there was no plot. Witness ZCQ told the Inquiry that it should have been passed on and accepted that there was a failure. He ultimately accepted that it was a **'monumental'** failure. The following paragraphs look briefly at those suggestions which were made by various witnesses to account for the failure to act on the intelligence.

(a) Pressure of Work

15.118 It was Counsel for the Wright family who in particular put forward the theory that SB was overwhelmed by the sheer volume of intelligence to be processed, citing the evidence of Superintendent Roy McComb, of Witness ZBV and Witness ZBH, all of whom offered some statistics to indicate the volume of work which had to be undertaken in 1997.

(b) Systemic Failure on the Part of Special Branch

15.119 A possible explanation for non-action explored with a number of witnesses was that there was a systemic failure on the part of SB. Witness ZCQ told the Inquiry that there was a failure, but it was not a planned failure. He explained that one of the difficulties was that when there was a group of this many people as the addressees for the NIIR, assumptions could be made that someone else had dealt with the matter, especially when people were extremely busy and were dealing with other threats and other issues. There was no plot to have Billy Wright

murdered that he was aware of or was part of. Witness ZBV was unaware that no one else had conceded receipt of this document among the addressees. He accepted that if it were the case that no one else received this documentation, that would mean that the delivery system must have failed abysmally, if it was triggered at all. He was unable to proffer a reason for the system failure. He agreed that he had never come across a situation in which it had been asserted by the Security Service that they supplied a document in the form of a NIIR which no one within the RUC ever saw or claimed to have seen. Mr Albiston accepted that it was possible that the information came to the RUC and the RUC did not take appropriate steps, if that is what happened. Mr Kinkaid's assessment was that he read the failure to notify Billy Wright and the prison as a systemic failure.

(c) A Deliberate Decision on the Part of Special Branch Not to Pass on the Information

15.120 This theory was put to Witness ZCQ, who denied that a decision was taken by senior managers in SB in April 1997 not to pass on this threat information to Billy Wright and to the NIPS. There were no discussions that he was aware of or was involved in that decided to withhold that information. Counsel for the Wright family put it to him that he personally and deliberately chose not to act on it. Witness ZCQ told the Inquiry that he was not aware of any plot and had no personal involvement in denying this intelligence to those who needed to have it. It was then put to him that his answers were part of a corporate denial on the part of the RUC SB in respect of having received this information. Witness ZCQ rejected this suggestion. Mr Albiston told the Inquiry that he could not conceive of it being true that the RUC received this information, and deliberately did nothing about it.

(d) The Security Service Never Sent the Northern Ireland Intelligence Report

15.121 Another possible explanation for non-action explored in evidence by Counsel for the Wright family was that the Service never sent the NIIR, and that it was a fabrication on the part of the Service to assert that the police received it. Witness ZBH agreed that it was possible, but acknowledged that the NIIR was actually on the database in the form of an INTREP, which suggested that by May the police had received it or received the contents of it. Mr Kinkaid told the Inquiry that if it was the case that the NIIR was a fiction, he could not honestly explain it to the Inquiry. There was no logic in sending it out in May and putting it on as an INTREP.

(e) The Information in the INTREP was Entered onto the System by the Security Service

15.122 It was also suggested by Counsel for the Wright family that the information in the INTREP was entered on to the police database by the Service. He put this to Witness ZCQ, who told the Inquiry that the Service certainly would have had

access to the computer system, but he was not sure what the procedures were for them inputting documents onto it. He thought that their access to the system was a search facility to enable them to look at SB records.

(f) A Decision was Taken to Deal with it by Different Means

15.123 A number of witnesses proffered this as an explanation for non-action in response to the threat information. The Inquiry has seen no evidence to substantiate such an idea. Evidence heard by the Inquiry in that regard amounted at best to mere speculation.

15.124 Witness DB said that he believed the information could have been dealt with by persons other than the RUC, and Witness DG also proffered this as an explanation for non-action. He was asked if he could think of any reason or justification for not actioning this threat. He told the Inquiry that the only justification he could think of was that there had been an agreed course of action which would have involved informing the Prison Authorities of the threat, so that the move to H Block 6 would not have taken place and the threat would thereby have been negated.

15.125 A theoretical possibility was put to Witness DG that for source sensitivity reasons, the Service would have wished no action to be taken, but he told the Inquiry that it was a clear policy with both the military and the Service that if they produced intelligence which amounted to a threat, then there was an obligation to take action in relation to that threat. If SB had been bypassed entirely, and the Service or the DCI had gone to the NIPS in relation to this information, then action would not have been needed by SB but they would have had to be told that normal action was not in fact required. Witness DG said that if such an arrangement had been made, there should have been a documentary record of it.

15.126 Witness ZBS put forward a speculative theory that the Service might have discussed the matter directly with the Minister on the basis that the intelligence was now seen as strategic. But ZBS had no knowledge of threat information being sent to the Minister which did not make its way to the RUC. If the information had been sent to the addressees listed and a decision then made to change the normal process for dealing with the threat, there would have had to be some recorded communication to support that action.

15.127 When Sir Ronnie Flanagan was asked to confirm that if the information was known to the police he would have expected some action taken, he said that what he read was very specific, and so he would have expected appropriate bodies to have been informed. He said that as chief constable, he absolutely and categorically did not take any decision that no action was to be taken about the information, nor was he asked to authorise any such decision. Mr Kinkaid was referred to his report where he had said that in his time as ACC Crime

Operations, he was aware that the Service staff attached to the DCI's office did give briefings to Ministers. The RUC was not always aware of such action. He told the inquiry that he would be amazed if someone in the AsGp who received the threat information did not go to the Security Branch of the NIO and say, **'Here's something relevant about a senior paramilitary who's inside a prison.'** He would have been very surprised if there was not a conversation about that, bearing in mind his knowledge of other conversations that would have taken place where material was briefed from an AsGp directly to the NIO.

15.128 Mr Kinkaid told the Inquiry that he was aware of conversations taking place off the record between senior Security Service and RUC members of staff, at ACC or chief superintendent level, and his belief was that if a specific agreement arose out of such conversations, the Service would have kept a record of it.

(g) The Information was not Reliable

15.129 Mr Albiston told the Inquiry that the only legitimate reason, under the provisions of the Force Order, for not taking action would be that the intelligence was for some reason regarded as not reliable. It was put to him that in an earlier answer he had said that if the intelligence was credible, and concerned a threat to life, action of some kind would have to be taken and he agreed.

Submission

15.130 As far as the unreliable evidence theory was concerned, Counsel for the Wright family showed that this defence was not advanced by any of the statements of the PSNI witnesses, and none challenged the Service's assessment that the intelligence was **'regular and reliable'**. The PSNI had offered no excuse for the failure on the part of the RUC, and in Counsel's opinion an adverse inference should be drawn against them.

(h) There was a Shared Understanding that the Information Would Not, In Fact, Be Actioned

15.131 This possible explanation arose out of a line of questioning pursued by Leading Counsel to the Inquiry with Witness AH on the second occasion that he gave evidence. It was put to Witness AH that there were elements of the story which were consistent with a shared understanding at the time, that the intelligence was possibly not appropriate for dissemination. First, there was no Source Report. Second, the intelligence was not issued in writing by the AsGp until 24 April 1997, the inference being that it was not urgent. Witness AH told the Inquiry that it was disseminated immediately to the RUC on 21 April, the day he received it and within 24 hours in writing to AsGp. He did not proffer any comment on why it was issued as a routine as opposed to an immediate NIIR other than to say

that it was a matter for others and not him. He told the Inquiry that he did not regard it as immediate threat-to-life intelligence, because there was nothing in the reporting which indicated a timescale for the attack and there was nothing at the time to indicate that Billy Wright was even imminently to be transferred between the two prisons.

15.132 It was for AsGp to decide who else should see this information. Having already provided that information orally to E3A, the Service then provided its intelligence in written form, thereby closing a loop to ensure that E3 was in possession of information in verbal form from him which was backed up by a written report. Witness AH confirmed that he was not suggesting that no one outside the RUC should see this. He told the Inquiry that it would not have been his decision. This particular argument was not pursued in submissions, and no further comment is required.

(i) The Threat Information was Redundant by 28 April

15.133 This possible explanation also arose out of a line of questioning pursued by Leading Counsel to the Inquiry with Witness AH on the second occasion that he gave evidence. It was put to Witness AH that by 28 April one would have assumed that the threat information was not going to be actioned given that the specific risk had been overtaken by events. Witness AH told the Inquiry that he was not sure that he would have regarded the threat as still relevant by that stage because the issue of the tensions around Billy Wright's move, possible or otherwise, were by then a matter of public record, and his assumption would have been that the authorities in Northern Ireland would have ensured that any move would be managed securely. As such, his intelligence effectively became redundant. He accepted that even before the NIIR was issued on 24 April, the threat intelligence he had received had been overtaken by events. He told the Inquiry that the INLA and the IRSP had made it clear, in public, on 21 April, that they were very unhappy and that there might be possible ramifications and that was his understanding from the newspaper articles.

15.134 Witness AH was asked at what point a specific threat was rendered redundant by knowledge of a general threat. Witness AH accepted that the threat information was different from the proposition that the INLA were deeply dissatisfied or hostile to a move by Billy Wright to H Block 6. It was put to Witness AH that the threat to kill him, were that to happen, made it far more significant information than a general notion of deep dissatisfaction on the part of the INLA. Witness AH told the Inquiry that he was not sure that he could agree or disagree with that suggestion as he did not have all the strategic intelligence about the INLA's attitude towards the LVF. Further questioning on this occasion made it clear that Witness AH knew

too little about what was happening at HMP Maze for him to be able to answer questions with any confidence, and it would have been a decision for the RUC as the competent authority in Northern Ireland whether or not to pass on this intelligence to the Prison Authorities.

Conclusions

15.135 The Panel have considered the various suggestions (a–i) set out in the preceding paragraphs, and reached the following conclusions. Pressure of work was at times very considerable, not least for SB, but few witnesses referred to this as a reason for irregularities or failures in practice, and the Panel do not believe that it was a significant factor in relation to the intelligence in SS01-0218. They note the acknowledgement by Mr Kinkaid that there was a systemic failure in dealing with this intelligence, and conclude that this failure did contribute to the chain of events which culminated in the death of Billy Wright; this was negligent rather than intentional. The Panel do not believe that there was a deliberate decision on the part of SB not to pass on the information; they do not believe that the Security Service failed to send the NIIR, and they reject the suggestion that the Security Service themselves entered the information contained in the INTREP on the SB computer system. The Panel have considered the speculative theories about the possibility that a decision was taken to deal with the intelligence by means other than the normal channels, and are not convinced by any of the theories. They believe that the information in SS01-0218 was reliable, and accept the Security Service's formal assessment of it. They do not accept the suggestion that the threat information was redundant by the 28 April; the move of Billy Wright to HMP Maze had taken place by then, but he remained under threat from the INLA and that was heightened as long as the two factions were co-located in H6. If this threat intelligence had been known by the NIPS and taken seriously, steps could have been taken to avoid co-location, and/or to accommodate the eventual murderers elsewhere than in the same block as Billy Wright. The Panel therefore conclude that, whatever the reason for it, the failure to communicate the intelligence in SS01-0218 was a wrongful omission which facilitated the death of Billy Wright, in a way that was negligent rather than intentional.

Q12. Should the Minister have been Informed? Was He In Fact Informed?

The Policy Implications of SS01-0218

15.136 DCI Rep Knock stated in relation to the NIIR that the policy issues depended on the RUC's view and action. He set out his view that the threat contained in it differed from that set out in SS01-0220, which related to the UVF threats to prison officers. This latter threat had, in his view, very clear policy implications, whereas the 24 April NIIR was primarily concerned with a threat to an individual. It was put to him

that his conclusion was not tenable for the following reasons: the NIIR contained material not just about the threat to Billy Wright, but about threats of disorder in the prison and outside the prison; the issue of Billy Wright's transfer to HMP Maze had already been referred to the Security Minister at the beginning of April; the issue was apparently one of such sensitivity and, indeed, was so finely balanced apparently that the Minister had had the matter under consideration for the best part of a month at the date that the NIIR was issued; during that period he had changed his mind about it, and he would change his mind again; and the Security Minister himself told the Inquiry that he would have expected to be informed of the matters in the NIIR. DCI Rep Knock told the Inquiry that he was not aware of these matters when he made this statement, or indeed at the material time.

15.137 When questioned by Counsel for the PSNI, Witness DO3 confirmed that it was part of the AsGp's tasks to advise Witness HAG about aspects of intelligence coming in which had an impact upon policy. Witness DO3 told the Inquiry that while most report NIIRs were sent to the Security Minister's office, she was unable to say why this particular NIIR did not reach him, because she did not remember the NIIR or the content of the underlying documents. She accepted that there was, if not a rule, at least a settled practice that report NIIRs would go to the Security Minister unless there was a case for not sending them to him. Leading Counsel to the Inquiry sought Witness DO3's opinion on the justification, if any, for omitting the Minister and the NIO from the distribution list. He suggested that the NIIR contained not just information about a threat to the personal safety of Billy Wright, but also information about a threat of disorder in the prison and outside the prison gates; that the issue of Billy Wright's transfer to HMP Maze had been referred up to the Security Minister at least three weeks before the date of the NIIR; that the issue was one which the Security Minister, who personally made the decision, felt was one of such difficulty that having originally made a decision to transfer, he then made a decision to suspend the transfer before coming back to agreeing the transfer after a period of more than three weeks; and that the Minister had told the Inquiry that he would have expected to be informed of the matters in the NIIR of 24 April. Witness DO3 indicated that had she been aware of these facts at the time, the NIIR probably ought to have been passed to the Minister, but she could only speculate as to why it was not.

15.138 DCI2 accepted that the threat information was something that the Minister responsible and the NIPS would have had an interest in knowing. He also agreed that the Minister was relying on intelligence to inform his decision as to whether or not Billy Wright should be transferred to HMP Maze. DCI Rep Knock gave evidence that the RUC was the lead intelligence organisation. It had the responsibility for deciding whether a piece of intelligence was credible, and to

whom it should be disseminated. If the RUC had believed that that intelligence was credible they would have had the responsibility to notify whichever government organisations might be concerned with the information.

Did the Minister In Fact Receive the Threat Information?

15.139 Sir John Wheeler, then Minister for Northern Ireland Security, gave evidence to the effect that on 22 April 1997 NIPS Chief Executive Mr Alan Shannon had advised him that the NIPS were planning to move Billy Wright to HMP Maze on 24 April. On the same day Sir John put a stop to the transfer, stating that he had studied **‘security intelligence information’**. He was unable at this distance in time to advise the Inquiry what that information was. He was then referred to SS01-0220 and SS01-0224, which were NIIRs sent by the Security Service to Sir John Wheeler advising him that the UVF intended to carry out attacks on prison officers if the Billy Wright transfer took place. He told the Inquiry that he could not say that this was the intelligence that caused him to change his mind on the transfer. He told the Inquiry that he had no recollection of having seen the threat information contained in SS01-0218. He told the Inquiry that he would have expected this information to have been put in the hands of the appropriate officials in the NIO.

15.140 Both Counsel for the Wright family and Counsel for the PSNI made a great deal of this issue, and their submissions are summarised in detail, reflecting the importance which both parties attached to the question of whether or not the Minister was aware of the April intelligence about the INLA threat, which, they believed, would have had a considerable influence on his final decision.

Submissions by Counsel for the Wright Family

15.141 Counsel for the Wright family submitted that on the intelligence briefing issue the following timeline had to be considered:

- 1 April 1997 – Sir John Wheeler agreed to Billy Wright’s transfer to HMP Maze.
- 11 April 1997 – Witness HAG corresponded with the NIO official Stephen Leach about transfer of Billy Wright.
- 11 April 1997 – Sir Patrick Mayhew, the Secretary of State for Northern Ireland (SOSNI), directed that the Billy Wright transfer was not to take place without reference to him and Sir John Wheeler.
- 21 April 1997 – Witness AH was told by his agent of the INLA intention to murder Billy Wright if he were transferred to H6.
- 22 April 1997 – A telex containing the threat information was sent by Witness AH to Witness DO2 in AsGp.
- 22 April 1997 – Sir John Wheeler wrote to Alan Shannon in a letter marked

“DESK IMMEDIATE”: - “Since the Minister’s early agreement to the transfer of Wright a number of factors have emerged. The Minister has studied security intelligence information and has become aware of the risks ... Sir John has come to the conclusion that Wright should not be transferred to HMP Maze; and wishes you to explore again what the options are should the decision be ultimately made to retain Wright and his followers at HMP Maghaberry.”

- 24 April 1997 – the threat information obtained on 21 April 1997 was issued as a NIIR to a number of RUC addressees but not to the Minister.
- 25 April 1997 – the Minister, Sir John Wheeler, sanctioned Billy Wright’s transfer to HMP Maze.

15.142 Accordingly, Counsel submitted, four days after the state received information of the INLA’s intention to murder Billy Wright in HMP Maze, the state at its highest level in Northern Ireland decided to transfer him to that prison and co-locate him in an H block with INLA prisoners. This was an extraordinary decision at best and one that cries out for an answer.

15.143 Decisions which were central to the Inquiry’s consideration included the following:

- the transfer of Billy Wright to HMP Maze per se;
- the transfer of Billy Wright to HMP Maze in face of the threat;
- co-locating him with the INLA; and
- transferring the INLA prisoners involved in the hostage-taking situation in HMP Maghaberry to the same H block as Billy Wright.

Evidence given to the Inquiry revealed the nature of the working relationship between the Security Service and the Security Minister. The key groups and individuals on the Service’s side were the AsGp, Witness HAG and the DCI. It was to the AsGp that the intelligence on the threat to Billy Wright’s life was sent on 22 April 1997. A number of officers were involved in drafting and checking the NIIR which was based upon that information. They were DO2 and DO3. Their supervisor or line manager was Witness HAG.

15.144 Counsel for the Wright family then explored Sir John’s evidence on this matter and concluded that Sir John’s evidence was crystal clear – the threat information was not passed to him even though he, as Prisons Minister, had to make the final decision as to where to locate Billy Wright. Counsel contended that there were two issues pertinent to the handling of intelligence with a political aspect such as this information. There was downward dissemination to the RUC, who should warn the individual of the threat to his life, but there was also upward

dissemination from the Security Service to the Minister. SS01-0220, which referred to the UVF's intention to attack prison officers, was RUC information. It was sent to the AsGp by the RUC. The AsGp then created a NIIR and passed that on to the Minister. That would support the contention that the RUC, when passing written information to the Security Service for upwards dissemination to the Minister, did not have a direct channel of communication with the Minister's Office but went through the AsGp. This also supports the Service's position that it was for the RUC to clear the information and decide what further dissemination there should be. Counsel submitted that it placed the burden firmly upon the Security Service as being responsible for properly briefing the Minister. In this instance the information was actually collected by the Service.

Submissions by Counsel from the Police Service of Northern Ireland

- 15.145 Counsel for the PSNI also addressed this question at some length, and put forward a counter-argument to the effect that the Minister in fact did receive the threat information, but with the passage of time he had forgotten.
- 15.146 Counsel submitted that the Panel were entitled to consider the high degree of likelihood that the gist of the information received by Witness AH from his source on 21 April did in fact find its way to the Minister via some of his advisers. Likewise it was likely that this knowledge was something which contributed to the decision not to move Billy Wright to HMP Maze as articulated in the letter of 22 April 1997. The fact that the PSNI were unable to demonstrate any hard copy or electronic audit trail was not a decisive reason for rejecting this possibility. It might not have been conveyed explicitly. How the information was received would not necessarily have been identified by those who passed it to the Minister. Such an opportunity for communication would have been in line with standard operating practice within the intelligence world and the departments of government with whom there were established contacts.
- 15.147 There was the opportunity of daily open oral contact between Witness HAG, DCI and the advisers. Not every communication between these various post holders was required to be in writing; indeed, it would be incredible if all discussions and deliberations on this difficult issue were exclusively in written format.
- 15.148 It was not difficult to excuse witnesses for not recalling specific or chance discussions or telephone calls about this issue which could very well have included the data that '**... there is intelligence that INLA intend to kill Wright at the first opportunity if he is moved to HMP Maze.**' Would this really have come as any surprise to the Minister or any of his advisers in considering the transfer proposal?

15.149 Counsel went on to point out that the Minister was faced with a difficult decision that had been referred to him by his officials. If he acceded to the move, which appeared to be the favoured plan of the NIPS, then he might appear to be offering inappropriate concessions to Billy Wright and his LVF supporters. This would have caused annoyance to the republican paramilitaries, possibly leading to the targeting of prison warders, and discontent with the Anglo-Irish Secretariat. If he took no action then he was still left with the problem of Billy Wright being housed in the inappropriate Punishment and Segregation Unit (PSU) at HMP Maghaberry. The PSNI suggested that it would obviously tip the balance of his judgement if someone among his advisers informed him that that in addition to the well-known widespread opposition from the INLA, there was a putative plan to murder Billy Wright if he were to be moved to HMP Maze.

15.150 Counsel for the PSNI submitted that the availability to the Minister and his officials of information on the April threat was an area of uncertainty where there was an absence of specific evidence. It was nevertheless possible to make a finding about the probabilities, and he set out the following sequence of events.

(a) Witness AH telephoned the information through to someone in E3A. He thought that co-location of Billy Wright and the LVF with the INLA was unlikely. The person to whom he spoke thought it unlikely, and the agreement was that he would send the information on in writing. For reasons of source sensitivity he did not send it by way of Source Report, but instead he published it to AsGp.

(b) It arrived with AsGp on 22 April 1997. The threat was contingent and could be broken up into a number of constituent parts:

- The INLA did not like the idea of moving Billy Wright or his group;
- The INLA did not like the idea of co-location; and
- The INLA's dislike and opposition was such that a source reported an INLA plan to kill him at the first opportunity and alluded to the availability of the syringe as a method of assassination in HMP Maze.

(c) It is not necessary to discuss whether this was tactical information or strategic information: AsGp and Witness HAG must have known of the Minister's dilemma, which had been under consideration for some time. The Billy Wright transfer and the issue of co-location would have been within their sphere of knowledge.

(d) The Inquiry had been made aware of some of the formal methods of transferring intelligence between Witness AH and the AsGp. There was an impression of an open office with an exchange of views. It was not likely that those dealing with loyalist and republican terrorists were operating without some contact with each other. To make the assessment process efficient,

there must have been debate and discussion, and Witness HAG certainly had the opportunity of hearing about AH's information. Additionally Senior Desk Officers would have kept him briefed.

(e) Witness HAG was able to make contact with the Minister, John Steele, Brian White and others.

The most likely explanation for the decision not to transfer Billy Wright was that those advising the Minister informed him of the specific risk that if Billy Wright were moved, there was a plan by the INLA to murder him. The way to prevent such a contingent threat blossoming into an opportunity was to stop the plan to transfer Billy Wright, but the evidence suggested that the Minister did not have a vast range of options. If he left Billy Wright in the PSU there would be at least protest, and possibly a carefully timed hunger strike. The Minister would also be taking into account the pressing reasons for the request to move Billy Wright to HMP Maze which were being put forward by his advisers and some political representatives. If the substance of the threat had indeed been specifically drawn to the attention of the Minister then he would have been required to weigh it in the balance. If further information had been sought from the NIPS, then it seemed highly likely that the Minister would have been told of the explicit methods which were available to segregate obviously hostile prisoner groups, and the transfer to HMP Maze would therefore not have been prevented by specific knowledge of the information contained in the NIIR.

15.151 In final oral submissions, Counsel for the PSNI was closely questioned about what seemed to be absent from the PSNI speculation, i.e. any recognition of the evidence of Sir John Wheeler when he appeared to be surprised by the content of SS01-0218. Counsel was asked whether he was rejecting the evidence on that point or whether he was saying that Sir John was pretending to be surprised. Counsel repeated that it was highly likely that the gist of the information received by Witness AH from his source did, in fact, find its way to the Minister. Counsel acknowledged that Sir John Wheeler had stated, **'I didn't get that information. I am surprised to see that information'**, but he held to the point that it was not unreasonable to suggest that, after so many years in relation to this troubled transaction, Sir John did know, but had forgotten.

Conclusions

15.152 The Panel conclude that there is no evidence to show that the Minister was informed of the content of SS01-0218, and believe that Sir John Wheeler was truthful in his recollection of not having seen the intelligence. His statement that he would have expected to have been told about it was convincing. Further conclusions about the responsibility for informing the Minister follow at the end of the next section (see 15.185).

Q13. Whose Responsibility was it to Inform the Minister?

- 15.153 The Inquiry heard evidence from a number of witnesses on this issue, some of whom told the Inquiry that the responsibility lay with the RUC, whereas others suggested that Witness HAG was in a position to have informed, and should have informed, the Minister.
- 15.154 The AsGp was responsible for providing the Minister with background information in order to inform decisions which had the potential to impact upon the Peace Process. The AsGp staff or the Head of the AsGp (Witness HAG) would make the decision as to what intelligence the Minister received. DCI1 could not recall intelligence information ever being passed to the Minister orally because the AsGp were not collectors of intelligence. DCI1 stressed that to report new intelligence to Ministers outside the NIIR system would not have been appropriate. He explained that it would have been very easy to have heard a piece of what he might call 'hot' intelligence and to have passed it to the SOSNI, if he had had a routine meeting. However, given that it would have gone to only one of a number of customers it would have caused confusion, because one customer would be talking about intelligence which had not been communicated to other customers. Accordingly, they were very rigorous about using the NIIR system to deliver intelligence. He told the Inquiry that tactical intelligence would be likely to fall below the appropriate level of attention for the SOSNI and the NIO but if it were, for instance, something about a new threat or responsibility for a terrorist incident that had taken place, then that might have needed to be shared with the Minister. It would depend on the particular nature of the intelligence.
- 15.155 DCI1 accepted that the Security Service would have been aware from 21 April onwards that there was a threat to kill Billy Wright if he was transferred to HMP Maze. He accepted that despite the Service having knowledge of the threat, the intelligence was not passed to either the Minister or the SOSNI. He told the Inquiry that it was for the RUC to tell the prisoner and deal with the threat. Counsel for the Wright family suggested to him that there ought to have been sufficient analysis and correlation of the information to ensure that the Minister and the SOSNI were advised of the threat to Billy Wright. DCI1 told the Inquiry that with hindsight that might well be so, but he had no direct responsibility for the issues relating to the transfer of Billy Wright and he was not an action addressee for the prison transfer discussions. It was clear to him that the gap between the discussions about the move of Billy Wright and the threat intelligence would have been addressed if people in the NIO like the Chief Executive of the NIPS had been recipients of the threat, and that could have been achieved by a different distribution list for the NIIR which would have brought together clearly those who were concerned with Billy Wright's location in the prison estate and those who had access to the intelligence.

- 15.156 DCI1 accepted that the system could have worked better, but he explained that the circumstances here were unusual in that there were policy decisions being made which depended upon reporting about a specific threat. The mismatch here arose between a policy discussion about an area which was outside the normal remit of the Service, i.e. prison transfer activity, and very detailed intelligence relating to one individual, and maybe it was the mismatch between those two that led to them not being married up. He accepted that there still existed opportunities for this marrying up to take place after 25 April. He accepted that there was no upward dissemination to the Minister or the SOSNI, and for this he could give no explanation. He did however accept that it would have been his responsibility to bring information of this kind to the Minister's attention.
- 15.157 Counsel for the PSNI referred DCI1 to a document emanating from Sir John Wheeler's private secretary which disclosed that the Minister had studied '**security intelligence**'. DCI1 told the Inquiry that his assumption was that the intelligence the Minister had studied came from the Service and that the information in SS01-0220 was the security information to which the private secretary was referring. He accepted that if the information passed on 21 April was indicating a threat involving both the INLA and Billy Wright's organisation, he would have expected that a request coming in on 22 April which generated this NIIR would be something which would have caused a trigger or an alarm bell to ring in the AsGp, so that the two pieces of information might be linked. He accepted, looking back, that it would have been better if the threat information had been relayed upwards and not dealt with solely as a threat.
- 15.158 Witness DO3 agreed that on the basis of what she now knew, it was clearly an omission that this document was not sent to the Security Minister. She told the Inquiry that the exclusion of the Minister from the distribution list in relation to this NIIR was not, to the best of her knowledge, intentional. She agreed that from the Minister's perspective he did need to know about the contents of the NIIR and that he was not told. Witness DO3 agreed with Counsel for the PSNI that it would have been possible for the Minister to have had the opportunity to know about it from Witness HAG. She confirmed that she was aware of the monthly intelligence meetings. She knew that those meetings were held, attended by a representative of the Minister and Witness HAG or his representative. She assumed that part of the purpose of the monthly intelligence meetings held at the NIPS HQ was to assess ongoing intelligence in relation to the operation of prisons but she was never involved in those meetings. She confirmed that the information in the 24 April NIIR would have been available to the DCI1 and to Witness HAG. She assumed that if they had attended that meeting, then they would have had at least the opportunity of sharing that information.

15.159 Witness HAG accepted that he would at the time have seen a copy of a letter from the Minister's office dated 22 April 1997, which indicated that the Minister had agreed, prior to this document being prepared, to the transfer of Billy Wright; that this document now revoked that previous decision; and that one of the factors he took into account in coming to this decision was security intelligence. Witness HAG was unable to say what this intelligence was. Witness HAG accepted that as of 21 and 22 April his department was in possession of the knowledge of the threat to Billy Wright contained in SS01-0218. It was suggested to him that this threat information was the security intelligence referred to in paragraph 2 of the letter. Witness HAG told the Inquiry that he had no way of knowing that to be the case, that not all the information personally flowed through him; that Desk Officers and assistant Desk Officers were trained and competent in what they did; and that they had the authority to prepare reports and to issue those reports of their own volition. In the vast majority of cases he would have seen the reports only at the point at which they were issued.

15.160 It was put to Witness HAG that a member of the AsGp who gave evidence to the Nelson Inquiry had claimed that every report that he produced was to a greater or lesser degree reviewed and edited or sub-edited by his supervisor, and also seen and similarly looked at by the head of the AsGp. Witness HAG did not accept that to be the position. Witness HAG told the Inquiry that he had no recollection of seeing the NIIR that formed the basis of SS01-0218, but he accepted that he probably did see it. He told the Inquiry that there should be a monthly NIIR from around that time that would give the Service's assessment of the INLA and its intentions, but he did not know whether it would have alluded to the specific threat or not. He was referred to the monthly NIIR for April 1997, and confirmed that there was no reference to the INLA threat against Billy Wright. Asked why this information had not been reported even in anodyne terms, Witness HAG explained that the monthly NIIRs did not normally include intelligence about specific threats against individuals. Counsel for the Wright family put it to him that it was either a failure or a deliberate decision on the part of his office to withhold that information from circulation. Witness HAG rejected the suggestion.

15.161 Witness HAG was asked whether in April 1997 he made any enquiries as to what information the Minister received that caused him to change his mind. Witness HAG told the Inquiry that the Minister received the same flow of intelligence reports in the form of NIIRs that the Inquiry had available to it. He also met with the Chief Constable and other RUC officers. He took part in security policy meetings at which the Chief Constable would have given an intelligence briefing. He had a range of sources of information available to him. Witness HAG told the Inquiry that he could not put his hand on his heart and say today that he knew

absolutely what security intelligence information the Minister had studied. Witness HAG accepted that he knew that the Minister had changed his mind over the Billy Wright transfer, and that there was an INLA threat to kill Billy Wright if he was transferred. Counsel for the Wright family asked him whether he ever took any steps to marry up these two things and bring them to the Minister's attention. Witness HAG told the Inquiry that he would have met Sir John Wheeler fairly regularly and given him an oral briefing on the current intelligence picture. His recollection was that there would have been discussion about Billy Wright and in those discussions there may or may not have been a suggestion about what would happen if Billy Wright were moved to HMP Maze. He confirmed that there were no minutes of those discussions. He confirmed that he had no recollection of whether in the regular meetings with Sir John Wheeler the threat information was reported explicitly to him.

15.162 Witness HAG was asked by Counsel for the Wright family why, following Billy Wright's murder, he did not relate that event to the threat warning of which he should have been aware. He said that it did not cross his mind, defending himself by reference to the principle that AsGp was not responsible for dealing with threats to life. Responding to Counsel for the Security Service, Witness HAG said it was not his function, once a decision had been made by a Minister, to challenge that decision.

15.163 Witness HAG rejected the suggestion by Counsel for the Wright family that he knew in advance of the intention of the INLA to kill Billy Wright. It was also suggested to him that he was the person who, having that knowledge, failed to do anything about it and failed to draw it to the attention of the decision makers, and that in fact he was, because of this failure, sending Billy Wright to a place where a death threat existed against him. Witness HAG told the Inquiry that he did not send Billy Wright anywhere. It was a decision by the NIPS. He told the Inquiry that he did his job professionally and decently. The information that became available was properly and professionally given by the Agent Handler to the RUC, which was the agency charged with dealing with threat information against individuals.

15.164 In response to questions from Counsel for the Security Service, Witness HAG told the Inquiry that the suggestion that he withheld information was preposterous, and it would not have served the interests of the organisation in any way. Deliberately to withhold such information would have been damaging and would have broken trust and confidence in the organisation. On further questioning, Witness HAG did not accept that the exclusion of the Minister from the distribution list for the April NIIR was an omission. (In this he differed from the opinion expressed by DO3, Team Leader on the Republican Desk in AsGp.) He did not contest what the

Minister had said in evidence (that he would have found it valuable to know about this information at the time), but added that the AsGp had regular meetings with the Minister at which they discussed the intelligence picture with him. It was put to him that it was a failure in the duty of reasonable care to omit the Minister from the distribution of the NIIR and that it was a failure on the part of the AsGp. Witness HAG rejected the suggestion. His reading of what happened was that the appropriate action was taken: the intelligence was given to the RUC both orally and in writing. It was his belief that it was given in writing as an insurance policy to guard against any claim that it was not given to them.

Submissions by Counsel for the Wright Family

15.165 In his submissions, Counsel for the Wright family delivered a detailed and sustained critique of the role of the Security Service in failing to ensure that the threat intelligence reached those who needed to know it. He submitted that the importance of this question centred on the fact that as the threat intelligence was received, the NIO Security Minister, Sir John Wheeler, was wrestling with the problem of where to locate Billy Wright within the NIPS estate. He submitted that while there can be no doubt that the RUC had primacy in the anti-terrorism battle, it was the Service who had responsibility for briefing the NIO Ministers and officials as well as the Cabinet Office in London, as confirmed by the Security Minister's private secretary. Sir John Wheeler himself stated, **'If I wanted advice on intelligence matters I would go to the Director and Controller [sic] of Intelligence (DCI).'** This was, Counsel submitted, supported by the terms of reference for the DCI which at paragraph 1 stated **'The Director & Co-ordinator of Intelligence Northern Ireland (DCI) is responsible to the Secretary of State for Northern Ireland (SOSNI) as his principal advisor on intelligence matters.'** He submitted that AsGp existed to collect intelligence from the police, the Army and the Service, and then brief Ministers by way of NIIRs. It was not the function of the police or the Army to brief the Minister. Counsel also relied upon a Security Service internal minute which made reference to one of AsGp's periodic intelligence briefings for Sir John Wheeler, and the DCI's evidence in the course of which he stated, **'The staff who came under my command were responsible for providing intelligence to customers both in Northern Ireland, to Ministers, to officials and to customers in London.'**

15.166 Counsel submitted that there could be no doubt that it was the Service's responsibility to brief the Minister. It was, he contended, also notable that at no time during the course of the Inquiry had the Service challenged the RUC witnesses, including former ACC Kinkaid, by suggesting that it was the RUC's duty to brief Ministers. Indeed, when former RUC Chief Constable, Sir Ronnie Flanagan, gave evidence, no questions were asked of him by the Service, let alone any allegation

put to him that he might have told the Minister of this threat or that it was his duty to do so. The duty to brief the Minister was that of the Security Service.

- 15.167 Counsel submitted that virtually all intelligence was sent to the Minister in documentary form and mostly by way of NIIR. He relied upon the evidence of Sir John Wheeler in that regard. He noted that Sir John Wheeler's office was not included on the distribution list for the NIIR that underpinned SS01-0218. He posed the question: is it possible that the intelligence information was imparted to Sir John Wheeler orally?
- 15.168 He submitted that there appeared to be two individuals in the Service who had direct access to the Minister and could have provided such a briefing – the DCI and the head of the AsGp (Witness HAG). DCI1 confirmed that the channel of intelligence with the SOSNI and the NIO was the NIIRs. He further stated that to have reported new intelligence to Ministers outside the NIIR system would not have been appropriate, thus appearing to rule out the possibility of intelligence being passed verbally by him or other Security Service staff to Ministers.
- 15.169 Counsel for the Wright family was critical of DCI1, who had said that he could recall only one particular meeting with Sir John Wheeler; when asked what the security intelligence information was that Sir John Wheeler had read that led him temporarily to halt the transfer of Billy Wright, DCI1 said that he did not know. Counsel was dismissive of what he described as DCI1's weak speculation that it was possible that the Chief Constable could have briefed the Security Minister directly and thus bypassed the Service. He could offer no concrete evidence of that ever having happened. It was firmly rejected by the then Chief Constable Sir Ronnie Flanagan, and it was never suggested by Sir John Wheeler at any time that he would have received briefings directly from the Chief Constable on intelligence matters. Counsel for the Wright family submitted that it was clear that the Service was not just the principal conduit but the only conduit for intelligence briefings of the Minister.
- 15.170 Counsel for the family further submitted that there was one person within the Security Service who was in a position to marry up the two strands of documentation, as that person was involved in the discussions regarding the transfer of Billy Wright to HMP Maze, had access to the Minister and was aware of the threat intelligence as the NIIR was, in fact, generated by the group led by him. That individual was Witness HAG. Had this information been in the possession of the Minister, it could well have resulted in a different decision about the transfer of Billy Wright, or the conditions in which he was to be kept. In short, the murder might not have occurred. For this omission Counsel submitted that the Security Service should be the subject of criticism.

- 15.171 Failures on the part of the police did not excuse the Service's own failure properly to brief government ministers, or absolve them from the blame for keeping them in the dark as far as this intelligence was concerned.
- 15.172 Counsel for the family submitted that at the heart of this matter was Witness HAG. He was the Head of the Service's AsGp. His unit was the channel through which all the important intelligence in Northern Ireland flowed. It received intelligence on both loyalist and republican factions from the RUC, the Army and the Service's own Agent Handlers; it issued NIIRs based on received intelligence; it was responsible for briefing Ministers in both Belfast and London; and it provided assessment on the activities of terrorist organisations and a range of other topics.
- 15.173 Counsel submitted that it was worth recalling that when Witness HAG first gave evidence to the Inquiry nowhere in his statement did he volunteer that he had direct and personal involvement in some of the most important intelligence issues facing the Billy Wright Inquiry. It was only nine months after he gave evidence that it emerged unexpectedly through the testimony of Alan Shannon, the then Chief Executive of the NIPS, that in September 1997, Witness HAG had accompanied two RUC officers to a meeting with Mr Shannon to discuss the possibility of mounting a technical eavesdropping operation against Billy Wright in HMP Maze. He submitted that a review of his role revealed that he was a central character in the events being examined by the Billy Wright Inquiry. Counsel suggested that the DCI was effectively making the case that Desk Officers would not have been aware of the Minister's dilemma and thus the pressing need to bring this intelligence to his attention, while the NIO officials would not have been aware of the threat information as they were debating the transfer. However, Witness HAG, he submitted, was the one person about whom this could not be said, as he uniquely was in possession of both strands of information. Witness HAG was on the distribution list for two separate NIO/NIPS documents in April 1997 discussing the transfer of Billy Wright so he could not plead ignorance of these Ministerial discussions on the transfer issue. Yet, there was no evidence before the Inquiry that he advised the Minister, despite the fact that it is clear that Witness HAG was one of the few Service officers with direct access to the Minister.
- 15.174 Counsel for the Wright family asserted that Witness HAG was an unconvincing witness who failed to provide full disclosure to the Inquiry and withheld information before it. He had access to all NIIRs, but during the course of his evidence gave a number of differing answers before finally conceding in retrospect that he did see all NIIRs. His second statement makes it clear that he had seen the intelligence, but, despite having given a statement and evidence in January 2008 and a second statement in January 2009, he made no mention at any time of having communicated this information to the Minister. The Service would have

been aware from the appearance of DC11 in early March 2008 that the question of whether or not the Minister was briefed about the SS01-0218 intelligence was of considerable significance to this Inquiry. Only when challenged at this Inquiry about the glaring personal failure on his part to inform the Minister of this threat did he suggest vaguely that he might have told the Minister of this intelligence, but could produce no documentary evidence to confirm that to be the case. He was very tentative in this suggestion, and his claim that he may have informed the Minister was not supported by any of his colleagues in their evidence, and was effectively refuted strongly by Sir John Wheeler, who was adamant that the intelligence had never been conveyed to him. Indeed, the claim by Witness HAG that he may have verbally briefed the Minister about this intelligence cuts across the strict briefing procedures laid down and referred to by Witness DC11 in his statement, who said that the Service made sure that all intelligence sent to the Minister was sent to him in the NIIR format and that the Service avoided oral briefings of intelligence, except in extreme emergency, and the Minister could not recall any such emergency ever having occurred in his five-year tenure.

- 15.175 Counsel for the Wright family submitted that the actions of Witness HAG amounted to collusion, as defined by Judge Peter Cory in his report, in failing to warn the Minister of a real and imminent danger and taking steps to prevent that danger. Further, equally concerning to the family was that Witness HAG met the Chief Executive of the NIPS on at least two occasions after receiving this intelligence. When asked why he did not tell Mr Shannon, all he could say was that it was not his responsibility. Counsel for the Wright family submitted that by his conduct and own words he abdicated that responsibility when it came to the life of Billy Wright. The Wright family believed that Witness HAG had behaved irresponsibly, and for someone in such a senior position to have acted in the way he did defied all logic, when coupled with his less than candid evidence to the Inquiry. The family believed that what he had done amounted to collusive conduct and he should be the subject of criticism.
- 15.176 In Counsel for the family's submission, a series of implausible explanations had been advanced, none of which bore close scrutiny for the reasons given. In particular, Witness HAG should be the subject of criticism for failing to ensure the Minister and the NIPS Chief Executive were advised of the threat intelligence in SS01-0218 that was known to him and which he knew they needed to know. The family of Billy Wright endorsed Judge Cory's sentiments but, having heard the evidence and explanations for this failure to warn both the Minister and the NIPS, would go further and say it was proof of a collusive act by the Security Service.

Submissions by Counsel for the Security Service

- 15.177 At the Oral Hearings, Counsel for the Security Service submitted that in communicating the threat in the way that they did, without communicating directly with the Minister, the Service discharged their duty. He further submitted that although it had not been prayed in aid by any witness, it just might be fair to have in mind the relevant sections of the Security Service Act 1989. Section 2 identifies the function of the Service and limits its powers to acquire and disclose information to the extent necessary for the proper discharge of its statutory function of protecting national security. He submitted that there was evidence before the Inquiry, and he invited the Inquiry so to find that, whatever the duties of confidentiality or secrecy falling on the Service, if and whenever there was a threat to life, a means was found to communicate that threat, even if it had to be of necessity in a sanitised form. Threats to an individual were tactical material that would be provided to a customer for that customer's use, and it was for that customer to discharge any duty arising out of the intelligence.
- 15.178 Counsel for the Security Service recalled that Sir John Wheeler told the Inquiry that he would have liked to know about the information or the intelligence contained in this NIIR. In that regard, Counsel noted the evidence of DC12, who told the Inquiry that the judgement was made, which he endorsed at the time, that the immediate requirement was that we pass the threat-to-life issue to the RUC to take action. It would then have been for the RUC to alert the Prison Authorities and policy departments in the NIO as required. Witness DC12 added some further weight to the case for issuing the NIIR to the RUC only when he told the Inquiry that for the reasons he suggested earlier – and there were some additional ones to do with the sensitivity of the source – it was important, from the Service's point of view, to understand from the RUC, who had the wider knowledge, whether this reporting was credible, and for intelligence from this source to be aggregated with intelligence from other sources.
- 15.179 Counsel pointed out that Witness HAG had confirmed, in response to questions from Counsel for the Wright family, that it would not have been the place of AsGp staff to issue threat intelligence to the Minister. Counsel for the Service noted that Witness AH provided further clarification as to the decision to pass the intelligence only to the RUC when he said, **'We worked under a lot of pressure to deliver material very quickly, and it was most of the time you hoped you delivered material to the obvious location it needed to be, and then trusted to the fact that the system in place at the other end would redirect it if it needed to go to additional places.'** When asked whether the Service had any 'residual responsibility' to act on threat intelligence, other than passing it to the police, Witness AH responded: **'I am not sure we would have had the**

capacity to carry out – to conduct further sort of actions on the basis of threats. ... when the RUC said they would do something, we had to take that at face value.'

- 15.180 Counsel for the Service submitted that during the evidence presented to the Inquiry, efforts were made to draw inferences from the fact that two NIIRs reporting on the UVF's intention to attack prison officers had been copied to the NIO, whereas the intelligence regarding a threat to the life of Billy Wright had not. This supposed difference was simply a reflection of the significant difference between each piece of intelligence in terms of the origin of the intelligence. In the case of the two NIIRs referring to prison officers, the intelligence originated from the RUC, not the Security Service. This determined how the intelligence should be dealt with. He referred to the evidence of DC12, who told the Inquiry that the assumption the Service would have made was that the RUC would have actioned that intelligence before providing the Service with this summary of the intelligence for onward passage into the Policy Directorate of the NIO and to the Minister.
- 15.181 Counsel submitted that the usual and appropriate procedures were adopted, namely first and immediate warning by telephone, with NIIR distribution thereafter. Although the distribution list for the NIIR could have been wider and there was, of course, the possibility of direct communication to the Minister or others in the NIO, the system in operation reflected the primacy of the RUC in intelligence matters.
- 15.182 Counsel said that there should be no criticism of Witness HAG or of any others in the Service for the fact that the intelligence contained in SS01-0218 was not disseminated by the Service directly to the Minister and/or the NIO.
- 15.183 Counsel submitted that on all the evidence it was clearly tactical intelligence and, just like other tactical intelligence, might, after the event, have been seen to have a significance different from how it was first evaluated. Just as with other intelligence – or any information – hindsight might make the recipient or transmitter say he or she could have acted differently. What mattered here was whether there was any error in handling the intelligence without going against the normal rules, creating the risk of generating false collateral and communicating directly with people other than the RUC. There was no such error. There was no ground for criticism of Witness HAG.
- 15.184 Counsel submitted that the duties of the Service were completely fulfilled on this occasion by their delivering the material as quickly as they could to the body that had responsibility for dealing with it and following it up. It would have been not only contrary to practice, but, indeed, dangerous for them to have gone behind the RUC and said, for example, to the Minister, '**... we think this is a**

particularly important piece of intelligence and we are rather worried the RUC may not act on it.' Not only was that corrosive of any relationship when there were direct and appropriate channels of communication, but there was the risk of false collateral. Of course, in a sense it was collateral for which assessors of intelligence were looking. They received one piece of information. They had to set it against others. Why, on this occasion, did the Service, having presented the information through a telephone call and a NIIR, conclude that it had no further duty? It came to that conclusion because the RUC may have had other material to counter the intelligence; you had to trust a person charged with a duty. So to have done other than they did, as the witnesses have asserted, would have been improper or, to put it positively, they discharged their duty completely by doing what they did.

Conclusion

15.185 The Panel reject the charge of collusion made by Counsel for the Wright family. They accept that the primary responsibility in regard to the April threat to the life of Billy Wright lay with the RUC to whom it was conveyed in a NIIR by the Security Service. They acknowledge that the points made by Counsel for the Security Service are technically correct. Nevertheless, this was a most unusual case and this intelligence information was available to senior Security Service officers, such as DCI1 and HAG the head of AsGp, who had a readily available means of communication with the Minister. Since they knew that he was considering a decision about Billy Wright's transfer, it is most unfortunate that neither Security Service officer sought to communicate this most important intelligence information to the Minister by means of a copy NIIR or by any other means, to ensure that he would be in possession of it, and could insist on it being taken into consideration by SB, along with all other relevant intelligence, in their assessment of the advice which he received.

Did Special Branch have Access to Other Intelligence in Respect of Threats to Billy Wright in April 1997?

15.186 Towards the end of the oral hearings, evidence was heard in closed session from a number of SB witnesses, all of whom were ciphered, and who included SB Agent Handlers. They gave some evidence that there was knowledge of a threat by the INLA to Billy Wright, independent of, and apparently unrelated to, the Security Service Source Reporting which lay behind SS01-0218. The evidence of those who commented on the intelligence did not agree in terms of what precisely the threat meant, and what should have been done with it. The general impression given was that there was no specific threat to kill Billy Wright; Witness ZCU, for example, one of the Agent Handlers, was quite certain that at no time

before the murder was he aware of any intelligence indicating a specific threat to Billy Wright's life. Some witnesses believed that the Prison Authorities were already aware of a threat from the INLA, and therefore no further notification was necessary; and there was disagreement over the matter of whether, if further notification was needed, it should have been to the Prison Authorities at the NIPS HQ or via the sub-divisional commander to HMP Maze itself. The Panel conclude that there was confusion, disagreement and uncertainty within SB, and that there was no successful attempt to relate the threat at SS01-0218 to other intelligence in the possession of SB at the time.

The June 1997 Threat

- 15.187 On 23 June 1997 SB E3 was made aware by the Garda Siochana of an incident which had taken place on 1 June, when Gardai were carrying out vehicle checks at Carrickaneena Cross, north of Dundalk. They were using a clipboard on which certain information was filed, including a list of the UVF suspects and vehicles. When the checkpoint exercise was completed, the clipboard was inadvertently left on the roof of the patrol car, and the car was driven off before it was retrieved. Billy Wright's name was among those on the file, and the Garda therefore informed SB that this information might have made its way into the hands of republican paramilitaries. The report produced to the Inquiry records that E3 prepared an action sheet which it passed to Portadown SB, instructing it to comply with Force Order 60/91. Billy Wright was in HMP Maze at the time, and HMP Maze did not fall within Portadown sub-division; it was in fact within Lisburn sub-division. Enquiries have confirmed that Lisburn sub-division did not deal with this matter in relation to the four persons named on the list who were in prison, although Portadown SB did notify the four other individuals who were resident at the Portadown addresses on the list.
- 15.188 Witness ZCV, a Detective Constable in the Portadown SB office at the time, confirmed that he was familiar with the terms of the Force Order 60/91, and told the Inquiry that the only document he would have seen would have been the action sheet, and that he would not have seen the information that formed the basis of that sheet. He acknowledged that his name was on the action sheet, but could not remember dealing with it. As far as he was concerned the passing of the information by his office to Portadown police station was all that he was required to do in terms of the action sheet. He could not remember if Billy Wright was in prison at the time. He did not pass the information to his colleagues at the Lisburn SB office for onward transmission to Billy Wright and the other named persons who were in prison. His office had no part in the decision about the dissemination of that intelligence. If Billy Wright was in prison at the time, E3B would have been aware of that, and would have disseminated that intelligence to the PLO in Lisburn

SB, as it was this person who dealt with HMP Maze. He assumed that an action sheet such as the one he received would have emanated from Belfast Regional Source Unit. Witness ZCV was not able to say whether SB took any steps to ensure that Billy Wright was informed of this threat.

15.189 Mr Gary Henderson, who was the Section Sergeant attached to Portadown police station at the time, gave evidence regarding his role in relation to that action sheet. Once the information was received at the local office, the identities and addresses of the persons subject to threat would be checked, and notification would be given to them. Mr Henderson confirmed that there was a threats book at Portadown police station at the time. He told the Inquiry that he was not aware that Billy Wright was one of the people included in the list, as he had no access to the action sheet. He was referred to the Chief Inspector's journal, containing an entry for 29 June 1997, which provided *inter alia* that **'at 3:45 pm advise inspector to inform x 4 loyalist re threats'**. He accepted that it would appear that so far as Portadown Division was concerned, the information contained in the action sheet was to go to the four named individuals. He told the Inquiry that he would have gone with the Duty Inspector to notify the individuals who were the subject of the threat, but he did not intimate the threat information to the Prison Authorities in relation to those individuals who were in prison at the time, including Billy Wright. He explained that the Lisburn sub-division would have been responsible for doing that.

15.190 Mr Stanley Clements, who was the Superintendent Sub-Divisional Commander responsible for Lisburn at the time, had no recollection of any threats having been passed to his office for intimation to serving prisoners. His understanding was that any such threats would have been channelled through the SB liaison officer directly to the governor or deputy governor, who would deal with the threat. He also confirmed that he had no recollection of any request being received by his sub-division regarding a threat to Billy Wright while he was a prisoner in either HMP Maghaberry or HMP Maze. Witness FA, who was the SB Liaison Officer at the time, had no recollection of reporting this matter to the Prison Authorities, and the NIPS confirmed that this threat information was not passed on to them.

15.191 Witness DB accepted that compliance with the Force Order dictated that this threat information ought to have been provided to his SB office in Lisburn, but he could not recall this having been done at the time. Mr Albiston told the Inquiry that he could not explain why the threat in June 1997 to Billy Wright appeared not to have been communicated to him, or any steps taken to ensure that he was made aware of it, or the Prison Authorities informed about it. He said that he had no knowledge of the letter from the Garda, its contents, or of any action that was taken as a result of this. Witness DE could not remember anything on the

Billy Wright file maintained at HQ indicating that in June of 1997 Billy Wright was subject to an additional death threat from republican sources.

Submissions by Counsel for the Wright Family

15.192 Counsel for the Wright family submitted that the RUC would argue that there was nothing sinister in their failure to act on the intelligence in their possession, but that they had not offered a single explanation for their failure to act. In the absence of an explanation and of the circumstances of the case, the family submitted that the police's actions must be regarded in a more sinister light when the number of failings by them was considered:

- the intelligence was not passed on to the NIPS;
- the intelligence was not passed by SB to the RUC Commander in Lisburn for his attention and action;
- a police message warning was not given to Billy Wright; and
- the intelligence was not passed on to the NIPS during any of the five PLG meetings the RUC SB subsequently attended with senior prison officials.

15.193 All this breached the RUC's own Force Order 60/91 on the handling of threat intelligence. The RUC might claim that this was an oversight, but this was simply not true as there was a history of failing to advise Billy Wright of threats to his life.

15.194 In October 1996 the Army passed intelligence to the RUC that the INLA intended to murder Billy Wright and Mr McCrea. No documentation was ever produced to the Inquiry to show that Billy Wright was warned of this murder plot. Former ACC Kinkaid was questioned on this document and confirmed that while the intelligence was carefully assessed, the threat warning was not actioned, after consideration of the source of the intelligence. Counsel for the Wright family linked the failure to take any action on the June 1997 threat with two previous failures in October 1996 and April 1997. This meant that on three separate occasions in an eight-month period the RUC did not pass intelligence in their possession of a threat to Billy Wright on to him or to those charged with his safe custody. To paraphrase Oscar Wilde, to fail to pass on one threat is unfortunate, to fail to pass on two is careless, but to fail to pass on three can only be regarded as wilful.

Submissions by Counsel for the Police Service of Northern Ireland

15.195 Counsel for the PSNI embarked on an extended discussion of the precise meaning of the words used in the Inquiry, of what options were open to the RUC, and what risks each course of action might entail. He agreed that as a matter of common morality there was an imperative that any threat to the life of a subject warranted action on the part of the individual who received such information. In practical

terms, before there was a decision or planned action, the information must first be considered and assessed.

- 15.196 Counsel emphasised the importance of source protection and the unique nature of the relationship between a source – who was likely to be operating at great risk to her or his life – and the handler, who had a unique role and responsibility to manage the information in such a manner as to afford the source the maximum amount of protection against detection, while assessing the need to take action on the product where there was the possibility of a threat. The PSNI asserted that the evidence as a whole suggested that the code of conduct included the application of the principle that source protection was a matter of primary importance; and for the protection of the agent, the information could not be disseminated beyond the handler without prior agreement as to a form of words or method of management. The handler or the source unit/controller might want to seek collateral support, but must be attentive to exposing the agent to increased risk; and depending upon a balance between the nature of the ‘threat’ information and the risks for the agent, some method of dissemination or disruption might be considered as an alternative to simple transmission of the information.
- 15.197 Counsel used the opportunity of submissions to refer to the evidence, critical of the RUC practice, given by Mr Vince McFadden of the Stevens Enquiry. Counsel asserted that the Billy Wright Inquiry should not attach any weight to Mr McFadden’s testimony as evidence of an endemic policy of neglecting to pass on threat information. This was for a number of reasons, including the fact that Mr McFadden and his staff did not examine any material in relation to the period 1995 to 1998; he was not tasked to provide an expert view on matters referred to in the Inquiry’s List of Issues. Counsel claimed that his accuracy and reliability must be in doubt given his role in communicating wholly imperfect information to the Inquiry Legal Team following the meeting with ACC Alistair Finlay, given the circumstances in which he, Lord Stevens and Mr Graham Taylor eventually produced belated statements, and the manner in which his evidence included substantial qualifications of the contents of his witness statement while he was giving evidence to the Inquiry.
- 15.198 Counsel suggested that Mr McFadden’s testimony sought to link disparate specified events with which he was familiar, with matters in relation to which he confessed almost total ignorance. His testimony was available for study but it was nothing more than unreliable bad character evidence, which he offered against unidentified individuals of whose conduct he knew nothing. The PSNI invited the Panel to discount the evidence from Mr McFadden as falling outside the Billy Wright Inquiry Terms of Reference.

- 15.199 Counsel for the PSNI concluded that planned procedures for the processing of threats were not always followed to the letter; in those cases which had been identified, explanations had been offered. He referred to the three incidents in October 1996, April 1997 and June 1997. In passing he noted that SB notified Billy Wright of a threat in January 1997 (although he could produce no documentation to vouch for this) and a document prepared by the Inquiry contained a list of other threats and the action taken by the RUC.
- 15.200 In relation to events surrounding SS01-0368, which was the generalised threat to Mr McCrea and Billy Wright of October 1996, Counsel for the PSNI agreed that the original information came to SB from the Army to a regional SB source unit. It had a limited circulation; it was referred to E3A; it was considered. Handlers were tasked to find out from their sources whether or not there was collateral support and their return reports did not support the original information. The ‘threat’ was directed against two persons already known to be targets; in the case of Billy Wright he had multiple enemies who had issued positive threats. The original information did not contribute any additional knowledge about time, location or method, and it amounted to little more than a reaffirmation of intended policy. It was difficult to see the benefit to Mr McCrea, who had 24 hour close police protection, or Billy Wright in telling them that there were still hostile persons and groups who wished to murder them.
- 15.201 In all of these intelligence matters Counsel urged the Panel to be mindful of the security background in which these events were unfolding and the context in which paramilitary organisations carried out their campaigns. It was widely believed in intelligence circles that paramilitaries frequently published selected information to individual persons with a view to assessing the response of the security forces and thereby operating as a detection system on the security of their own intelligence systems.
- 15.202 In the case of the June 1997 threat the availability of Billy Wright’s name and address was exposed to possible exploitation by reason of an RUC document being lost by the Garda Síochána. There was no evidence that the document was anything other than lost. In particular there was no evidence that it had fallen into the hands of paramilitaries hostile to any of the persons on the list. There was a possibility that this had happened, and accordingly when E3 were notified – and this was the method of dealing with the security forces in Ireland – a decision was made to refer the names of the individuals to the relevant sub-divisional commander. Eight persons were identified on the lost document. The sub-divisional commander did take action in respect of those four who at that time were not in lawful custody. There is no evidence to indicate that any of the four individuals in prison was notified. This may have been an administrative error

in June of 1997, but the PSNI would offer the proposition that most people would have considered that prisoners in lawful custody would have been safe from attack by paramilitaries.

15.203 In his final oral submission, Counsel for the PSNI invited the Panel to dismiss any connection between these incidents for the reasons set out in the PSNI written submissions. Attempts had been made to support the conspiracy theory by exploiting the evidence of Mr McFadden for the Stevens Enquiry as an indicator of an endemic attitude on the part of SB, but Counsel claimed that such evidence would not be admitted as in any way causative or probative in relation to any such conspiracy.

Conclusion

15.204 Criticisms have already been made of the RUC's handling of the threats of October 1996 and April 1997. The same criticism applies to the threat of June 1997, despite the arguments put forward by Counsel for the PSNI that the document was simply lost, that there was no evidence that it had fallen into the hands of paramilitaries hostile to people whose names appeared on the list, and therefore no blame should attach to the PSNI. The Panel point out that it was the RUC who themselves decided that the loss of the document constituted a threat, and the fact that they did pass on the threat warning to the four persons who were at liberty is a clear indication that they believed it needed to be taken seriously. Their obligation extended equally to the four persons named on the list who were at the time in custody, and the RUC deserve equal criticism for having failed to ensure that the warning was passed on both to the prison authorities and to those who were in their charge. Force Order 60/91 was mandatory in every case, and the Panel in particular point to the evidence of Witness AH, who explained that the existence of threat information in the intelligence system always provided the context in which each new piece of information had to be assessed. The Panel agree with evidence presented by Witness AH and therefore reject the contention of Counsel for the PSNI that there was no link between the various threats. The Panel also criticise the failure to pass on threat information to the NIPS, thus depriving the prison service of an opportunity to seek to exercise its duty of care against the background of that intelligence. They are critical, too, of the absence, if the reasons put forward by Counsel for the PSNI are to be taken seriously, of any record of a considered decision not to notify the NIPS. They therefore conclude that the handling by the RUC of the various threats, individually and cumulatively, constituted wrongful acts or omissions between October 1996 and June 1997 which facilitated the death of Billy Wright.

Intelligence After April 1997 and Prior to the Murder of Billy Wright

15.205 The Inquiry has heard evidence and seen documentation indicating that throughout 1997 the priority intelligence requirements in respect of the INLA were to try to ascertain the INLA's intentions and aspirations, to keep track of its activities in relation to acts of terrorism in Northern Ireland, and to evaluate the extent of any PIRA influence or restraint over its activities. The evidence is not set out in detail but some salient points are summarised.

Summary of the May to November Entries, with Reference to Operation JAW

Operation JAW

15.206 In May 1997 the Tasking and Co-ordinating Groups (TCG) Belfast Region began to deploy directed surveillance under Operation JAW to monitor the movements and associations of the leading INLA members in Belfast involved in terrorist activities. Operation JAW was a conventional surveillance operation designed to build up 'pattern of life' pictures of the key members of the INLA. Witness ZCA, who was an Inspector in Belfast TCG at the time, explained that Operation JAW was primarily intelligence-driven, but that human resources could be deployed if the surveillance teams were under-employed. He accepted that when the TCG received a lot of intelligence about INLA members in Belfast, Operation JAW would have been deployed in response to that intelligence. Before May 1997, the last occasion when Operation JAW was deployed was in October 1996. Witness ZCA was unable to say why Operation JAW was reactivated at this time and why it had lain dormant for months. He proffered an explanation to the effect that it could have been as a result of other priorities or intelligence received.

15.207 In July, intelligence indicated that the INLA were collating information about loyalist paramilitaries. It was also reported that members of the INLA and the PIRA had been cooperating on the ground during the post-Drumcree disturbances, and INLA members had been involved in a number of shooting and grenade attacks against the security forces. Witness DB told the Inquiry that such cooperation was not a frequent occurrence, but only arose when their aims coincided. During that month the INLA issued a statement to the effect that if any more loyalist marches were forced through nationalist communities, they would move from their position of **'defence and retaliation'**. Witness DB explained that by **'defence and retaliation'** the INLA meant that if anything was directed against the nationalist community, they would take on the role of defender, and this statement implied that loyalist marches through nationalist areas would constitute sufficient provocation to justify an aggressive reaction.

- 15.208 In August 1997, the LVF rioted in HMP Maze and destroyed their cell block, affecting the INLA inmates in the process. Following the LVF riot the INLA issued a statement on 13 August 1997 calling for segregation of the INLA and LVF prisoners at HMP Maze. A meeting of the IRSP/INLA leadership took place on 30 August 1997. Reporting of that meeting indicated that the LVF prisoners were a matter of concern for the INLA prisoners. It was also reported that the INLA would adopt a **'defence and retaliation'** policy, and, while they did not have many resources, they were not without teeth. The RUC SB continued to deploy directed surveillance under Operation JAW in August 1997.
- 15.209 By early September the INLA were concerned about leaks within their organisation and the matter was being investigated by the INLA. Witness DB confirmed that as Head of the Support Unit he would have been aware of this development. He agreed that this would have made senior INLA members more cautious in discussing the INLA's intentions in relation to any operations they might have had in the pipeline, and any future planning. During September, the INLA attempted to attack RUC stations with grenades but the attacks were unsuccessful because the grenades failed. There was also information that the INLA were continuing proactively to target the security forces. It was reported that any INLA ceasefire would not have any effect, and that the INLA believed that to get the IRSP noticed it would have to carry out a large attack either in Northern Ireland or on the mainland.
- 15.210 It is not easy to understand the thinking behind this apparent theory that the INLA had to carry out a spectacular act of violence in order to persuade the UK Government to include the IRSP in the Peace Process talks. By September 1997 the talks were well under way, and on 9 September the PIRA had signed up to the Mitchell Principles, including the first Principle which laid down that all parties to the negotiations must commit themselves to democratic and exclusively peaceful means of resolving political issues. At different stages in the talks, participants were excluded for breaches of this Principle, so it was a curious argument to suggest that the IRSP might be admitted to the talks if the INLA committed a spectacular act of violence. Presumably the expectation was that the IRSP's profile would be raised by the action of the INLA, which could then make a public declaration of ceasefire, and hope that the IRSP would obtain representation in the talks, as a very junior partner to the PIRA.
- 15.211 During September meetings took place between representatives of the INLA and the PIRA. It was reported that the INLA/IRSP representatives had issued a warning to Sinn Fein/PIRA that the INLA could not tolerate the 'steady drip' of LVF attacks against nationalist targets in Northern Ireland, and one more attack would be sufficient to induce a retaliation from the INLA. But it was also reported

that month that the INLA agreed to a request by the PIRA to suspend all military operations until the PIRA saw how the talks progressed.

15.212 Intelligence also indicated that senior INLA members met with a senior PIRA member. Witness DB told the Inquiry that if this intelligence was accurate it was a significant meeting, as it involved the two senior members of the INLA and a senior member of the PIRA. He gave evidence that he would have expected this intelligence to have been discussed at a morning meeting with the RHSB, and if SB had received this piece of intelligence, then the next step would have been to try to obtain some corroboration for it from other sources. He expressed surprise, given the significance that he attached to the meeting, that there appeared to be no intelligence relating to such a meeting. He was also informed that there was reporting after the murder of Billy Wright to the effect that approval for the plan to kill Billy Wright was obtained from the PIRA some months prior to the actual operation being carried out. Witness DB told the Inquiry that this was the sort of meeting at which he would have expected such a discussion to have taken place. It was also during September that the INLA hierarchy began to hold meetings at Belfast Address 1 and continued to do so throughout the remainder of 1997.

15.213 The RUC SB continued to deploy directed surveillance under Operation JAW in September 1997 and, in particular, of the movements and associates of the INLA Chief of Staff (COS) and 2ic INLA. The TCG that month received specific information regarding INLA capabilities and directed surveillance was deployed to ascertain 2ic INLA's associates and any possible target. There was further directed surveillance in relation to two meetings, one of which was to take place at Belfast Address 3. One sub-operation arose out of Operation JAW at the time. Intelligence indicated that the INLA had an operation planned for Belfast, and directed surveillance was approved to monitor the movements of the individual involved with a view to arresting him.

15.214 During October 1997 the INLA issued a statement in which it stated that it was committed to a **'no first strike policy'**, but reserved the right to **'defence and retaliation against State and Loyalist forces'**. This view of a **'no first strike policy'** appeared to contradict other reporting which indicated that the INLA were actively identifying targets. It was also reported that INLA had an operation planned which would have had a big impact had it gone ahead. This was consistent with other reporting that the INLA believed they had the capacity to carry out a large scale attack. Witness DB confirmed that these reports reflected the impact that the INLA sought to achieve by carrying out a large attack as opposed to indiscriminate attacks on individuals.

- 15.215 The RUC SB continued to deploy directed surveillance under Operation JAW in October 1997, and in particular to monitor the movements of COS INLA and 2ic INLA. Intelligence indicated that the INLA was still planning an operation on an unknown target and the surveillance team were tasked to identify the target. Two sub-operations arose out of Operation JAW during this month. At about this time there were indications from within HMP Maze that the INLA intended taking action in H6, as has been set out in Chapter 13.
- 15.216 In November 1997 it was noted that the INLA appeared to have settled on a **'no first strike policy'**, but intelligence suggested that this only applied to loyalist paramilitaries. It was reported that the INLA did not intend to carry out any military operations in the near future and that a ceasefire was on the cards. Information was also obtained which suggested that all operations were put on hold until after the INLA Convention on 6 December at which an INLA ceasefire was to be discussed. There was, however, contradictory reporting to the effect that the INLA had an operation planned against the security forces, and a suggestion that the INLA wanted an operation successfully carried out prior to their Ard Fheis. In the run-up to the Ard Fheis, it was reported that not all INLA members supported the calling of a ceasefire. It was also reported that COS INLA was calling on an almost weekly basis at the home of a senior PIRA member and that they would sit on the doorstep and have lengthy conversations. This was considered strange as they had not been friendly in the past.
- 15.217 At that time it was reported that the feeling within the INLA was that they could not sustain a campaign with their limited resources in terms of equipment and manpower. The INLA were concerned about security force operations against them as they believed that surveillance was focused on them because of the PIRA ceasefire. Witness DB told the Inquiry that this reporting would not have been brought to the attention of the RHSB at the time because he knew that it was wrong. He explained that the reporting suggested that all their covert resources were being deployed against the INLA. That was not the case. SB was also carrying out operations against all the other paramilitary organisations in Northern Ireland at the time.

Intelligence During December 1997

- 15.218 On 5 December, the day before the IRSP Ard Fheis, the LVF killed Gerry Devlin, a catholic associated with the Gaelic Athletic Association (GAA) in Glengormley. That murder was seen by the INLA as an attempt to intimidate them. The Ard Fheis held in Dublin on the 6 December 1997 did not lead to the calling of a ceasefire and it appears that the murder of Gerry Devlin swung the view of the members. It was reported that an increase in LVF activity would be matched by the

INLA, and that the military interests on the Ard Chomhairle would be represented by a limited number of people. Witness DB accepted that the fact that the military interests were limited may have reflected the organisation's concern regarding the existence of a possible informer, and the belief that the undercover police were working against them because of the PIRA ceasefire. He explained, however, that it might also have indicated just an intention to limit the knowledge of who was involved in actual terrorism to the political side of the organisation.

15.219 The Army intelligence summary for the period 9 to 16 December 1997 reported sightings of 2ic INLA and COS INLA, but otherwise there had been no INLA activity over the reporting period. Their assessment was that the INLA would not carry out an attack in the week to come. Witness DB told the Inquiry that he could not recall whether this reflected SB's assessment at the time.

15.220 On 15 December 1997, seven members of the INLA met at Belfast Address 2. They included COS INLA, INLA Officer/Operations Team 2, INLA Operations Team 3, INLA Member 7, INLA Member 2 and two others. Witness DB told the Inquiry that while he had no recollection of having seen this information in December 1997, it was not necessarily the sort of information that he would have briefed the RHSB about at that time. He also did not regard the meeting of such individuals as important. These individuals met on a regular basis, and he would not necessarily have attributed any particular significance to this meeting, primarily because of their concerns about SB technical capabilities. If the INLA were going to have an operational meeting, they would do it at an address which they believed was unknown to SB. In response to questions from the Counsel for the Wright family, Witness DB told the Inquiry that he imagined that this intelligence, if it was passed on, was passed either to the TCG Belfast or to Belfast West SB, or possibly both. He did not know when this information had been reported. Mr Albiston did not remember this intelligence being reported to SB at the time, or it being discussed as part of the post-murder assessment.

15.221 In response to questions from Counsel for the Wright family, Witness DG explained some of the considerations that would be taken into account in assessing the significance of this piece of intelligence. He told the Inquiry that he would need to know who made the report, where the report came from, and the circumstances in which it came about, and where the meeting was taking place. He explained that these individuals were not only colleagues in arms, but they were usually friends as well. If this was a meeting that took place in the local club or pub, or in one of their homes or somewhere that could be watched from a security force base it would have been of lesser significance. He explained that there would have been a lot of contextual aspects in relation to this piece of intelligence and how it was received. SB would have been looking for some corroborating intelligence.

- 15.222 As regards the attendees, Witness AH told the Inquiry that some of those at the meeting could have been part of an executive Army Council, but that apart from the COS INLA he could not say whether the others who attended were part of the Council. He accepted that if there was an executive decision to murder Billy Wright, it was likely that some, if not indeed all, of the members of the executive Army Council would have had to be involved. Mr Kinkaid's evidence was consistent. He told the Inquiry that the people at this meeting would not have been involved in the decision to kill Billy Wright. He agreed with the Chairman that these people were in a different category from those referred to in paragraphs 2–5 of SS01-0358.
- 15.223 On 16 December a senior INLA member, who was a member of the Ard Chomhairle, paid a visit to HMP Maze where he saw a PIRA member and OC INLA H6. The Army assessed this visit as one which was perhaps to liaise with the INLA prisoners. Witness DB told the Inquiry that it was not necessarily significant that the senior INLA member actually met prisoners from two different factions. He explained that it depended on the context. There were many reasons why that would have taken place. There could have been a dispute between organisations, or it could have been about cooperation. He also told the Inquiry that he may well have mentioned this to the RHSB, given the persons involved. The Army also reported that later on the same day a meeting took place between INLA members, including the senior INLA member referred to above, possibly 2ic INLA and a particular PIRA member. Army intelligence assessed that this meeting was '**... a very interesting grouping and if the sighting of 2 IC INLA is correct, then it clearly indicates a high level INLA meeting.**' They noted that the purpose of the PIRA member being present was unknown, and that it was their only recorded sighting of him with one of the INLA members.
- 15.224 Witness DB told the Inquiry that he did not agree with the Intelligence Officer's assessment. He explained that some other intelligence was needed to be able to make that judgement. To make that judgement from a sighting was unhelpful, because these people were meeting day in and day out, sometimes three, four or five times a day. It was impossible to draw anything of significance from that sighting. Witness ZBQ said they would have expected their homes to be watched, and that the INLA had a somewhat inflated opinion of themselves, and were always of the view that either they were under surveillance or their houses were being bugged. So it was highly unlikely that they would come together to plan something within the environment of one of their own homes.
- 15.225 The Inquiry considers it strange that there was no SB intelligence in respect of these meetings, given the amount of intelligence SB obtained between May and December 1997 on the INLA. The indications from the Inquiry's work were that SB

could be reasonably confident of obtaining intelligence on INLA activities in this period. Following these meetings the Army continued to record sightings of the INLA hierarchy.

- 15.226 Around mid-December 1997 it was reported to SB that the INLA were targeting members of the LVF and that they had difficulty identifying LVF members. The Inquiry has not seen evidence of further tasking following receipt of this information. More importantly, this source did not report again until after the murder of Billy Wright. Given the nature of the information, the fact that it was the LVF who caused the death of Gerry Devlin, and the other information regarding INLA's capability to carry out an attack, the Inquiry would have expected to see some tasking in response to this reporting. It would appear that following the death of Billy Wright it became a priority to obtain more intelligence. Witness DB told the Inquiry that he probably would have briefed the regional head about this intelligence but that it really depended on the context. He told the Inquiry that he would have expected a retasking to obtain either a target list or the identity of these possible targets. Witness ZCP, who was an Agent Handler in 1997, told the Belfast Region Source Unit that the INLA were targeting members of the LVF and that the attacks would be carried out in revenge for the killing of the GAA member in Glengormley. Witness ZCP was confident that all the information available was obtained, and that if more had been discovered about who the LVF targets were, this would have resulted in further reporting. There was no reporting at any time before 27 December 1997 that there was a plot to kill Billy Wright. This evidence was corroborated by Witness ZCS who was a supervising officer for Agent Handlers in 1997.
- 15.227 There were no reported sightings on 24–26 December 1997. On 27 December 1997 Billy Wright was killed in HMP Maze by the INLA. Given the paramilitary nature of the prisoners' regime in HMP Maze, and from intelligence received by the RUC at that time, it can be inferred that the operation must have been known to the OC of INLA in H6 and other senior INLA prisoners. Equally the nature of paramilitary groups in Northern Ireland in 1997 was such that it can reasonably be inferred that the operation was ordered, orchestrated or sanctioned by those in charge of military matters in the INLA/IRSP.
- 15.228 The RUC SB continued to deploy directed surveillance under Operation JAW at the beginning of December 1997 in relation to the movements and associates of senior INLA members. Intelligence appeared to indicate that the INLA was still planning an operation and the surveillance team were tasked to identify the target. The minutes of the SB liaison meetings for 3 December, 10 December and 17 December 1997 refer to various Operation JAW sub-operations, but no mention is made of the main operation itself. Operation JAW was not deployed

from 3 December 1997 until 8 January 1998, despite the information that was available regarding the INLA's capability and the fact that there was targeting of LVF members in response to the Devlin murder.

Assessment of the Post-April Threat Intelligence Position

15.229 The PSNI witnesses who gave evidence to the Inquiry were generally of the view that there was some coverage of the INLA but that that they would have invariably liked more coverage. Witness DB accepted that reporting up to the beginning of September 1997 generally indicated that the INLA strove to improve its military capability; that SB had some coverage of the INLA at that time; and that this coverage included reporting on the INLA operations, the INLA weapons, and on the main players in the INLA at that time. He assessed the extent of that coverage as medium, because if it was said to be good, SB would have been in a position to know all the personalities and would have been able to stop whatever they intended to do. SB clearly were not in that position. They knew the personalities, but they did not have that advance intelligence which enabled proactive operations on all occasions.

15.230 Witness DB accepted that in the period from September to the end of December 1997 reporting generally indicated that the INLA continued to target both security force personnel and others; that SB coverage of the INLA included reporting on the INLA operations, weapons and the main players of the INLA; that SB had a regular and reliable flow of intelligence from its sources; that reporting enabled SB to have some advance notice of some INLA operations; and that Operation JAW over the period assisted SB in disrupting the INLA operations. Witness DB rejected the suggestion that given the level of reporting and directed surveillance, it was surprising there was no hint of the plan to kill Billy Wright. There were security concerns about informants. Something of this nature would be kept to a very tight circle of knowledge. He rejected the suggestion that the reduction in directed surveillance under Operation JAW and the failure to ascertain the nature and extent of discussions that had taken place at meetings in December indicated a motive of not interfering with the plan to kill Billy Wright.

The 'Intelligence Gap'

15.231 It was suggested in the Billy Wright Inquiry Position Paper that there was a gap in intelligence reporting from SB sources and a cessation of Operation JAW surveillance in December 1997. Witness ZBQ told the Inquiry that he was not aware there was a gap but that if there was one, he could not explain it. Witness DG, the Deputy RHSB in 1997, told the Inquiry that during the festive period the amount of intelligence that could be collected from a surveillance point of view reduced dramatically. In relation to meetings with agents it tended to be

a holiday period when people would not be involved in their normal routine or weekly events. So there did tend to be a downturn in intelligence over the run-up to Christmas and the immediate aftermath simply because of the operating conditions. Witness ZCA told the Inquiry that he would have expected there to be surveillance only if there was specific intelligence for specific jobs. He explained that December of any year, in surveillance terms, was extremely busy for other reasons, namely criminal activity. So the TCG priorities would have moved on to a different level. It was suggested to him that the reduction in directed surveillance under Operation JAW indicated a motive of not interfering with the plan to kill Billy Wright. He rejected such a suggestion. It was suggested to him by Counsel for the family that the TCG, either because of other priorities or because of a deliberate decision, were no longer on the ground carrying out surveillance in the INLA areas and on the INLA targets between 3 December 1997 and January 1998. Witness ZCA denied that that was the case, and explained that the TCG deployed as intelligence dictated.

15.232 Mr Kinkaid told the Inquiry that in carrying out his review he also had regard to whether there was any substance in the suggestion of an intelligence gap. He told the Inquiry that there was coverage, but it did not cover them against every eventuality or every crime that was being planned by the organisations concerned. Mr Kinkaid accepted in response to questions from Counsel for the Wright family that at or about the beginning of December 1997, there was intelligence in the system to **'point the finger'** towards the INLA, including the murder by the LVF of Mr Devlin. It was suggested to him that the Inquiry would therefore have reasonably expected there to have been some SB attention being paid to the INLA in the month of December. Mr Kinkaid reassured the Inquiry that the other operations for which resources were used were significant and he agreed with Counsel for the PSNI that it was his evidence that the gap in Operation JAW in December 1997 was no more significant than prior gaps in Operation JAW. It was not the case that SB turned off the spotlight on the INLA and republican terrorists in December 1997.

15.233 By letter dated 11 June 2009, the PSNI pointed out that reporting against the INLA in December 1997 was in fact higher than in either 1996 or 1998 (in December 1996 there were 63 reports; in December 1997 there were 121 reports and in 1998 there were 97 reports). The PSNI explained, as they did in the oral evidence presented to the Inquiry, that the TCG surveillance operations were primarily intelligence-driven. They accepted that from time to time surveillance teams were non-operational, and sought to provide for the Inquiry possible explanations for such inactivity. These included the fact that no team could deploy without dedicated uniform support in the form of the Headquarters Mobile Support Unit

(HMSU). The HMSU had limited resources and were required to work a duty rota covering early, late and night duties, and while there was considerable overtime deployment there was also a limitation as to what personnel could physically tolerate. Deployment of teams was prioritised, and the lifestyle operations gave way to all other priorities such as arrest operations or operations designed to thwart attacks by either gun or bomb. Any operation requiring deployment of personnel on overtime certainly had to be justified and therefore had to be of high priority. A lifestyle operation would not have met the criteria necessary to justify the cancellation of rest periods of teams who were already heavily deployed in the normal course of their duties.

15.234 A further factor was that as the Christmas period approached there was also an increased demand for annual leave, as it was necessary to maintain a certain amount of cover over the entire holiday period. Annual leave was taken by many, and as it was not possible for all staff to be off during the 'recognised' Christmas and New Year holiday period, staff made use of annual leave entitlements throughout the December period, thereby reducing resources. The dedicated Army units also had to be provided with Christmas leave, and this meant them leaving Northern Ireland and returning to their families. There would have been a reduced operational capability throughout the Christmas and New Year period, and prioritisation of other duties would reduce Operation JAW activity. The Christmas period presented additional difficulties in that the increased amount of civilian social activity within Belfast city centre, and indeed the entire community, made it more difficult for covert operations to take place.

15.235 The Inquiry also sought the views of the Army commander in charge of the dedicated Army units in 1997 and he agreed with the views expressed by the PSNI in their letter to the Inquiry dated 11 June 2009. He confirmed that there was a reduced Army surveillance capability because soldiers were granted leave during either the Christmas or New Year periods.

Submissions by Counsel for the Wright Family

15.236 In his submission, Counsel for the Wright family approached the issue of the alleged intelligence gap by focusing on the absence of a TCG log for the operation which he submitted would have confirmed what actually happened on Operation JAW at the material time. He observed that the PSNI had not produced a running log, and had placed evidence before the Inquiry that a running log did not come into existence until 22 May 1998, which was in direct contrast to the evidence the Inquiry had heard and the documentation that it had seen. The Inquiry has seen details of a comparable operation run by SB over the same period that had a running log which had been stored at DSL 250 on the PRISM system. The evidence

of Witness ZCA, an Inspector attached to the TCG in 1997, was supportive of the existence of an Operation JAW log in 1997. Counsel submitted therefore that an Operation JAW log existed in 1997, and that the contents of the Operation JAW log would have given details in relation to what was happening in the course of the Operation. He observed that there were no documents produced by the PSNI in relation to Operation JAW for the period 3 December 1997 to 8 January 1998, quoting paragraph 5.52 of the Inquiry Position Paper which stated: **'... from all PSNI sources, between 8 December 1997 and the middle of January 1998 not one intelligence document giving information on the actions, intentions, associations and movements of senior INLA personnel or weapons has been recovered.'** ACC Finlay accepted that there were no such documents. He contrasted this with the expectations of Witness DB, who told the Inquiry that he would have expected there to be some intelligence reports.

15.237 Counsel submitted that it was highly unusual that the PSNI were not engaged in obtaining intelligence information against the INLA. There was no question of the INLA winding down for Christmas, but rather there was a flurry of activity, there were heightened tensions after the murder of Gerry Devlin, there had been a decision taken by the INLA not to declare the expected ceasefire, and there was an expectation that the INLA would do something to avenge the death of Gerry Devlin. He submitted that one did not have to use hindsight to come to the conclusion that there were enough significant matters taking place relating to the INLA which would have merited seeking to obtain intelligence material and continuing with Operation JAW. There was nothing that had been provided that had explicitly shown why the Operation JAW log remained dormant from 3 December 1997 until January 1998.

Submissions by Counsel for the Police Service of Northern Ireland

15.238 In his closing submission, Counsel for the PSNI maintained that the suggestion that the INLA spotlight was switched off or that there was some sort of 'intelligence gap' between December 1997 and January 1998 was simply mistaken. He asserted that this suggestion appeared to have originated in some early investigations by Inquiry Counsel. He explained that since that time the position of the PSNI had been clarified by the Kinkaid Report, the examination of the UNIPLEX side of PRISM and the evidence of a number of witnesses whose interviews were not completed until after 17 September 2007. He relied upon the evidence of Witness ZCQ, who told the Inquiry that a number of quite pressing and appropriate considerations might dictate when and how often a particular operation would be current or running. He submitted that an examination of the entirety of the intelligence record of Operation JAW and the other operations which were run did not support either the contention that the spotlight was

switched off the INLA, or that SB – for whatever reason – were suffering from some intelligence gap in the period December 1997 to January 1998. He submitted that the vitally important point was that the intelligence product for the period was available and had been inspected by the Inquiry.

15.239 Counsel noted that attempts had been made to suggest that quite apart from the work of the TCG, there might have been other clandestine operations being run in the territory of some Regions, and in particular Belfast. He submitted that no secret operations could have been run without the TCG's knowledge. There was no evidence that such operations were contemplated or run. It would not have been operationally sensible for anyone in SB to consider running some clandestine surveillance operation with necessarily armed personnel in what might conveniently be designated as hostile territory. The danger of 'blue on blue' incident or other risk to life was too great for there not to have been absolute control by the TCG. To operate without the knowledge, approval and coordination of the TCG, who might very well be running some other operation in the same theatre at the same time, would represent an irresponsible and unreasonable risk to all SB personnel, not to mention all collateral civilians. He relied on the evidence in that regard given by Witness DG and Witness ZCA.

Conclusions

15.240 The Panel do not accept the suggestion by Counsel for the PSNI that the Inquiry had sight of all the intelligence product. The Inquiry has not had sight of the TCG log for Operation JAW. On the other hand the Inquiry has had sight of the SB liaison minutes which do not disclose any Operation JAW activity in December 1997, with the exception of the beginning of that month.

15.241 The Panel remain unconvinced by the PSNI case and concerned about the failure to discover or disclose a running log of Operation JAW. They recognise the force of the argument put forward by Counsel for the Wright family that events taking place during December 1997 should have resulted in redoubled efforts to maintain surveillance of the INLA.

The Decision Taken by the INLA to Murder Billy Wright

15.242 This matter has been very fully covered in the submissions, running to 25 pages, made on behalf of the Wright family which the Panel have carefully considered. Those submissions open with a Summary by the Billy Wright Inquiry of Security Service and MoD Information Relating to the Murder of Billy Wright (SS01-0358). The information in the Summary refers to the time when the decision was taken to murder Billy Wright in prison, and also by whom it was taken. It must also be borne in mind in this context that the Panel have seen the documentary material from which the Summary is taken.

- 15.243 The Summary says information was received in January 1998 that the decision to murder Billy Wright in prison was taken **'in the middle of December 1997'** by an INLA Ard Chomhairle at which the INLA Chief of Staff was present. The murder was to be carried out using **'a gun that was probably in the prison by that time'**. The reason for the decision was to avenge the murder of Gerry Devlin of the GAA which had been committed immediately prior to the IRSP Ard Fheis on 6 December 1997 which was interpreted by IRSP/INLA as being timed to intimidate its members. The decision was considered by the leadership to be consistent with a policy of **'defence and retaliation'**. Part of the INLA plan was to attack Billy Wright when he was separated from other LVF members and was accessible to the INLA prisoners, and when the watchtowers were unmanned. There was no information as to how any guns had been smuggled into HMP Maze. If the information is correct, it would appear that the decision was reached some time between 6 December 1997 and the middle of December 1997.
- 15.244 As stated in 15.223, on 16 December 1997 a senior INLA member, who was a member of the Ard Chomhairle, visited the OC INLA in H6 at HMP Maze. It might reasonably be inferred that the purpose of his visit was to relay the decision of the Ard Chomhairle to have Billy Wright murdered. If that and the information in the Summary are correct, the decision was reached in the middle of December 1997 and at any rate by 16 December 1997.
- 15.245 In the evening of 15 December 1997 the same senior INLA member was present at a meeting at Belfast Address 2 of members of the INLA. These individuals were identified by the positions they held in the INLA, except for two who are not identified in any way. The fact that these two were not identified may be explained in a number of ways. We do not agree, for the reasons we will give shortly, with the submission on behalf of the Wright family that that in itself raises a suspicion regarding their status.
- 15.246 In his Report former ACC Kinkaid stated that the visit to OC INLA at H6 of HMP Maze on 16 December 1997 (see 15.244) supported his view that the senior INLA member was one of those present at the meeting at which the decision to murder Billy Wright was taken. In his evidence, however, he retracted the view that it was taken at the meeting referred to in paragraph 1 of the Summary, and the reason he did so was because of the composition of the two meetings referred to in paragraphs 1 and 2 of the Summary.
- 15.247 In answer to questions from the Chairman, former ACC Kinkaid said that he would have worded the Report differently if, in 2007, he had seen paragraphs 2 to 5 of the Summary because he believed that the description of the meeting in paragraph 2 of SS01-0358 was different from the description of the meeting in

paragraph 1. The type of people who were described as going to the latter were **'foot soldiers'** who could not have taken such a decision. Those referred to in paragraph 2 would have had the authority to take the decision. They were the **'top brass'**. He based that opinion upon his own professional police knowledge. That opinion was supported in the main by ACC Finlay who said of the meeting referred to in paragraph 1, that it was not an Ard Chomhairle meeting.

- 15.248 This evidence was criticised in the Wright family submissions (at page 209) because it appeared to be based upon **'the assessment of PSNI Officers of the nature of the personalities in attendance and not on hard evidence that the decision to kill Billy Wright was not discussed'**. For our part, we do not see why it should not be based on such an assessment given in evidence, especially since it came, in our opinion, from two witnesses whom the Inquiry found to be entirely credible. We also note that in the Wright family submissions (at page 198) it is said: **'Mr Kinkaid came forward as a straightforward, honest witness.'**
- 15.249 The evidence does not, however, solely rest upon these two ACCs as PSNI officers. Witness AH, who was a member of the Security Service, said that, apart from COS INLA, those attending the meeting referred to in paragraph 1 were unlikely to have been part of any Ard Chomhairle, given their designations. The other members of the Ard Chomhairle were not in attendance. The Inquiry must proceed only on the evidence it has received and found to be acceptable, not on evidence it has not heard.
- 15.250 In the submissions for the Wright family it is said in two places that the meeting described in paragraph 2 was also held on 15 December 1997, under reference to former ACC Kinkaid's evidence. Neither citation supports what is asserted. Indeed, one looks in vain at the whole of former ACC Kinkaid's evidence for any statement by him that the Ard Chomhairle meeting was held on 15 December 1997. All that can be said is that the decision to murder Billy Wright was taken at a meeting held in the middle of December 1997 and referred to in paragraph 2 of the Summary.
- 15.251 What, if anything, may be set against this? We turn now to consider the evidence of Lord Stevens, DCS Vince McFadden and Detective Chief Inspector Graham Taylor in relation to the information they received from ACC Finlay and how that information was conveyed to the Inquiry team. They all met informally in Mr Finlay's office in Belfast on 2 October 2007 when there was discussion about a number of matters, including the Billy Wright Inquiry. According to Mr McFadden, the meeting was informed by Mr Finlay that the Inquiry was about to be given additional new material that included material in relation to two informants and a warning that was given in relation to a threat to the life of Billy Wright. Mr McFadden thought that this was significant information but, as Mr Finlay later

said, he did not recall the use of adjectives like **'significant'** or **'substantial'** but if they were used they were capable of relative interpretation. Mr Finlay also said that they would have been in relation only to the PSNI finding the April NIIR (referred to in the Summary scanned at SS01-0218) and the details of the meeting described at paragraph 1 of the Summary scanned at SS01-0358. Mr Finlay did not say to the meeting that the PSNI had received information that in December 1997 SB knew Billy Wright was to be killed and did nothing about it, and he was emphatic in saying the PSNI had not withheld any information from the Inquiry.

15.252 On the following day, 3 October 2007, members of the Inquiry team visited Mr McFadden and Mr Taylor at the Stevens Enquiry office in London. Notes were taken at that meeting from which it is clear that the Billy Wright Inquiry team were given information in relation to the meeting at which the decision to murder Billy Wright was taken, though this information did not refer to any dates. On 25 October 2007 Messrs McFadden and Taylor visited the Billy Wright Inquiry offices in Edinburgh. First they met the Inquiry team and in the afternoon they met the Inquiry Panel. By that time the Report prepared by former ACC Kinkaid had been provided to the Billy Wright Inquiry.

15.253 At the outset of the meeting with the Inquiry team, Senior Counsel to the Inquiry addressed Messrs McFadden and Taylor thus according to the Note of the Meeting:

'On basis of conversation you (Stevens) had with PSNI (AF) you told us that [BLANK] at meeting on 15/12 and that RUC SB knew BW was to be killed & did nothing about it. We have now received KINKAID report. It is completely at odds with what you told us. Fundamental issue.'

It has, however, to be said that neither Mr McFadden nor Mr Taylor ever mentioned that particular date or indeed any date in the discussions which they had with the Billy Wright Inquiry team in the course of 2007.

15.254 We agree that the date was a fundamental issue which illustrates the problem with this evidence. Former ACC Kinkaid who, according to ACC Finlay, was acting on his own in compiling the Report, had been instructed by the Chief Constable, Sir Hugh Orde, to carry out a thorough investigation in order to satisfy the Inquiry that the PSNI had produced all the material information and documentation in their possession, about which, until Mr Kinkaid had reported and had given his evidence, the Inquiry were more sceptical.

15.255 Mr Kinkaid was the source for the information Mr Finlay had and, in turn, Mr Finlay was the source for the information which the Stevens team acquired. In this area at least, the Stevens team had no original information, only what was derived from Mr Finlay. Now that all the evidence has been heard, it is clear that, at least on the part of Messrs McFadden and Taylor, there was a misunderstanding as to the information they received from ACC Finlay on 2 October 2007. If that is properly understood, no doubt can be cast on the assertion in the Summary at SS01-0358 that the decision to murder Billy Wright may well have been taken at the meeting referred to in paragraph 2 of SS01-0358 but that that information was received and disseminated to RUC SB only in January 1998 after the murder.

15.256 As is stated at the outset of this section the Panel have considered carefully the lengthy submissions made on behalf of the Wright family with regard to the decision by the INLA to murder Billy Wright. The submissions contain much that can properly be regarded as speculation or supposition. It is understandable that this is so because some of the material with which they had to deal was redacted or the subject of a prepared Summary. The Panel have, however, had the benefit of sight of entirely unredacted material upon the basis of which the views expressed above are founded. In these circumstances the submissions on behalf of the Wright family are not accepted.

Intelligence Following the Murder of Billy Wright

15.257 In January 1998, it was reported to the RUC that the murder of Billy Wright had been planned and authorised for the hit given by a senior INLA member. The INLA did not regard this as a break of the ceasefire; they believed they had killed a war criminal who had organised the killing of Catholics. The minute of the SB liaison meeting for 14 January 1998 recorded that the INLA were reported to be **'very happy'** with the murder of Billy Wright in HMP Maze by members of the INLA. The police obtained information that Christopher McWilliams had made a call on a mobile phone a few days before the murder in which he had stated that Billy Wright was going to be killed in the prison. The recipient thought he was joking. Asked whether SB had any intelligence in their system prior to the killing of Billy Wright regarding this information, Witness DB told the Inquiry that he did not believe so. Other police reporting indicated that only two senior INLA members outside the prison knew of the attack; that no details were known about how the guns were smuggled in but that a named INLA member was not involved; and that the INLA were extremely happy at having succeeded in murdering such a high-profile paramilitary. One of the two senior INLA members who were reported to have known of the attack was the same person who had been said to have planned and authorised the hit. Witness DB accepted that this reporting indicated that the operation to kill Billy Wright was limited to a small number of individuals.

- 15.258 Witness DG also confirmed that, if true, this could be consistent with the decision making being kept fairly tight. He told the Inquiry that it was certainly true that any organisation embarking on a sensitive operation would wish to restrict knowledge of it to a very limited number of people. Further reporting indicated that a named INLA member had been aware that something was to happen in the prison but did not know that Billy Wright was to be shot; that a senior INLA member in H6 would have had full knowledge of the operation and would have cleared it; that the weapons had probably been brought in during a Christmas visit/party, and that inmates may have had help from a **'screw'**. Witness DB accepted that this reporting appeared to suggest that members of the organisation would have known that something was going to happen, but not necessarily the exact plan.
- 15.259 The evidence of the PSNI witnesses was that this information summarised in SS01-0358 could not be found in any repositories held by them or in any electronic format. Mr Kinkaid told the Inquiry that his team had not found confirmation of a NIIR having been circulated, or that an INTREP had been created. Sir Ronnie Flanagan told the Inquiry that he was not made aware of any of this information in January 1998 or at any time thereafter. He had no knowledge of the information being received and disseminated to the RUC SB in January 1998, or what further dissemination was carried out. Asked if he would have expected to have been told of this information, he told the Inquiry that usually the very important aspect of intelligence in relation to a murder was to bring to justice those who had carried out the murder. In this case, the people were identified, arrested and brought to justice, so it would not necessarily have been brought to his attention. The murderers were already in custody and in a position to be brought to justice.
- 15.260 Neither Witness DH, the Acting HSB at the time, nor Mr Christopher Albiston could recall this information having been disseminated to them. Mr Albiston told the Inquiry that if it had been received by SB in January 1998, it would have been assessed, collated and put into an appropriate form for the information of the Criminal Investigation Department (CID) investigating officers. Witness ZBH, who was the Detective Chief Inspector in charge of E3A at the time, could not remember having seen this information in January 1998, or in the months that immediately followed. Witness ZBH accepted that the information contained in the document was very specific, but did not find the information 'startling', as SB would quite often have received intelligence post-event about what had been discussed and where it had been discussed.
- 15.261 A NIIR containing information summarised in SS01-0358 was distributed to a large number of addressees in January 1998. The Ministry of Defence have confirmed

that they received a copy of the NIIR. The Inquiry Panel conclude that it was distributed in the manner described by Witness AO to the SB addressees. The fact that an INTREP was not created is of no moment, given that it was a matter for SB to decide which NIIRs, if any, were to be scanned onto their database.

15.262 A further Security Service NIIR of 9 March 1998 contained an assessment of where the INLA were heading after the murder of Billy Wright and the revenge killings that followed that. The report was written on the basis of information obtained from a variety of sources including the Service, the RUC and the Army. Paragraph 10 of the report dealt with the political thinking of the IRSP. It recorded that the group's continuing desire for engagement appeared to reflect more a desire not to be seen to be left out rather than a real wish to participate in a political settlement. More importantly, it was recorded that:

'At the INLA leadership meeting at which the murder of WRIGHT was approved, no consideration was given to the likely repercussions in relation to the IRSP's political aspirations.'

15.263 Witness DO2 told the Inquiry that this information was most likely to have come from the RUC. She accepted that it carried the inference that someone, at some stage before the report was written or before it was drafted, had information about a meeting at which a decision to kill Billy Wright was taken or approved. She accepted that it could have been information that was obtained either before or after the murder of Billy Wright on 27 December 1997, and that it was possible that it indicated that someone in the security intelligence agencies had information before this date as to what took place at the meeting at which the decision to kill Billy Wright was approved.

Was the Plot Sanctioned by the PIRA?

15.264 The Security Service assessment in January 1998 was that the PIRA had no knowledge of, nor did they sanction, the murder of Billy Wright, contrary to the preponderance of intelligence reporting on the murder of Billy Wright which appeared to indicate that the PIRA had knowledge of the operation and had sanctioned it. Other reporting indicated that the PIRA were not involved. Witness DB told the Inquiry that he personally did not believe that the PIRA sanctioned the operation. He believed that it was an INLA operation through and through. Witness DB told the Inquiry that if it had been a PIRA operation, SB coverage was such that in all probability they would have learned of that involvement at some stage. Witness ZBH's view in 1997 was that the PIRA had neither been involved in nor sanctioned the murder of Billy Wright. He thought that the operation to kill Billy Wright would not have required the sanction of the PIRA, even though such a killing had the repercussions that it did, although he did not consider that the

repercussions were relevant. It was put to Witness ZBH that it was an important time for the PIRA and Sinn Fein in the whole political process, and therefore any killing such as the murder of Billy Wright would have repercussions, as indeed it did. Witness ZBH was asked whether that was not something that would be important, and whether it did not affect the PIRA or political strategy. The witness told the Inquiry that that would only be the case if the PIRA controlled the INLA. Witness ZBH did not believe that the PIRA did control them, and certainly did not believe that the INLA asked for permission to kill Billy Wright. Witness ZBH accepted that some members of the PIRA may have known about it, but that did not necessarily mean that they sanctioned it, nor did it mean that the PIRA leadership knew about it. Such knowledge could have been limited to individual PIRA members. The Panel conclude that it is not possible to be certain whether or not the PIRA had prior knowledge of the plan to murder Billy Wright, or whether if they did have such knowledge, the murder was sanctioned by them.

Intelligence Review

15.265 The Inquiry were surprised to discover that no review of intelligence and/or assessment was made following Billy Wright's death. Former RUC Chief Constable Sir Hugh Annesley told the Inquiry that he would have expected an intelligence review. Asked if the IMG had any procedure for reviewing facts that came to light after a serious incident with a view to improving its procedures in the future, Mr Albiston conceded that that was probably not true in the formal structured way which he thought was being suggested. The RUC tried to learn lessons from their experiences. Asked whether there was a desire within SB, following the murder, to ascertain if there had been any intelligence in the system which, if developed, might have disclosed the plot to kill Billy Wright, Witness ZBH told the Inquiry that it was not normal procedure to search for intelligence that was in the system that might have indicated in advance the plan to kill Billy Wright. Any intelligence which had been received beforehand would be passed to the CID, and unless there was specific intelligence no assessment was carried out by SB in relation to the murder of Billy Wright. Witness ZBQ explained that in relation to the Billy Wright murder any intelligence that could be passed over to the CID would be given to them, to help them with their investigation. Asked if there would have been a written report, Witness ZBQ told the Inquiry that it would not necessarily have been a written report, but certainly the information would have been passed over verbally to them.

15.266 Witness DG thought that after the murder there would have been an immediate intelligence requirement to find out about such matters as who was involved and how the gun got into the prison, so agents would have been tasked accordingly. He also thought this would have happened within days of the murder. The

Source Unit would have looked at its list of the INLA personalities, considering such matters as whether anyone had disappeared or there had been any strange sightings. A whole range of questions would arise automatically without the need for any direction as such. He was not specifically aware of this having happened but would be very surprised to find out that it did not happen. Witness DG told the Inquiry that he would have expected that sort of review to have occurred both at HQ and in the Region. At the start of the investigation by the CID, an SB officer would have been assigned to the CID and then that SB officer would have carried out enquiries to support their investigation. That would all have been part of that review and effort to produce intelligence as to what took place, and how and when it took place.

15.267 The paragraphs above give an account of what SB witnesses believed should have happened following the murder. The reality was very different, as the account at the end of Chapter 14 has shown.

Foreknowledge of the Plot to Kill Billy Wright

15.268 The Inquiry heard no evidence to substantiate the allegation that SB or any other intelligence agency was involved in the plot to kill Billy Wright or that SB or any other intelligence agency was in possession of information about the murder plot before the event; or that there had been an attempt to cover up acts or omissions by state agencies which facilitated the death of Billy Wright. As an experienced SB officer and looking at the information available in 1997, Witness DB agreed that he did not consider that there was anything to suggest that opportunities were missed or steps could have been taken which would have disclosed in any way the plot to kill Billy Wright.

15.269 Counsel for the PSNI submitted that it seemed to be the case that not later than June 2007 the Inquiry team were investigating two propositions and these propositions were linked: first, that there was a meeting of the INLA persons outside the prison who authorised the murder of Billy Wright at some time in December of 1997; second, that information from the meeting at which the decision to attempt to kill Billy Wright was taken entered the intelligence system and was disseminated amongst agencies in Northern Ireland. The stance which was adopted by the Inquiry team was not outlined to the PSNI until September of 2007. The basis upon which the theory was put forward was not outlined to the PSNI, and the evidence referred to in the Position Paper was not addressed to the PSNI, but the basis of this line of investigation seemed to involve three particular items. They seemed to be, first, the alleged announcement by 2ic INLA H6 when leaving the meeting with Governors Ken Crompton and Martin Mogg; second, the information which is contained in SS01-0358; and then the subsequently unattributed comment in the NIIR which is SS01-0344 of March 1998.

- 15.270 Counsel submitted that the Inquiry Panel were required to consider what had been described as issues of controversy and uncertainty, but went on to suggest that this was not so much an issue of uncertainty as an area of false controversy. There was no uncertainty, because the PSNI position had been made abundantly clear in the evidence of ACC Finlay and former ACC Kinkaid. The possibility that there was an approval meeting, and the possibility that there was some prior knowledge of the murder of Billy Wright and the possibility that that entered the intelligence system had been postulated by the Inquiry. It had been investigated and it had been shown to be an unproductive and negative line of investigation. The evidence of ACC Finlay was absolutely clear, and was supported by the evidence of ACC Kincaid, who had provided a report for the benefit of the Panel and who had given evidence before the Panel.
- 15.271 Counsel for the PSNI emphasised that there was no knowledge of guns in the prison in April; there was no knowledge of guns in the prison in December; there was no knowledge of any approval meeting in December; there was no knowledge of any plot to kill Billy Wright; and there was no knowledge of any intelligence which entered the system which was ignored, suppressed or not dealt with. The PSNI had not seen any evidence which was probative of these points, and had done their very best to investigate extensively the theory which was put forward. The evidence which was before the Panel established conclusively that such speculation was ill-informed and was nothing more than a presumptive theory. There was nothing before the event which indicated that the PSNI or the Security Service or the Army or anyone else had any knowledge of what was discussed at the meeting referred to in SS01-0358, or, indeed, if that meeting approved the murder, as was suggested by SS01-0358. Counsel submitted that there was no causal connection between the events from October 1996 to June 1997 and the murder of Billy Wright. They were free-standing. It could not seriously be suggested that there had been a long-term plan to suppress information in order to ensure that Billy Wright was exposed to the maximum amount of hazard. That was part of the conspiracy theory. There was no state involvement, no involvement on the part of the RUC or any of its members or any of the security forces in any plot to murder Billy Wright.
- 15.272 Counsel for the Security Service noted that Counsel for the Inquiry did not articulate the details of any such alleged 'plot' and there was nothing at this stage for the Service to comment on. The Service did, however, observe that what are known as 'conspiracy theories' were the more easily created when contemporaneous documentation was missing. So far as the Service was concerned, their documentary evidence was largely intact, and there was no conceivable reason to give credence to any such fanciful plot, for which there could be no sensible reason and from which there could be no probable or even possible benefit.

Conclusion

15.273 The Panel conclude that there was no foreknowledge on the part of SB, the Security Service or the Army of the plot to murder Billy Wright, but they share the concern expressed by the Service about the lack of documentation which it would have been reasonable to expect to be in the possession of the PSNI. It is not possible to say with any certainty how many individuals were party to the plan to kill Billy Wright or precisely when, where and at what meeting the decision was made. But these uncertainties do not diminish the criticisms which are directed elsewhere in the Report at the working of the NIPS and of the RUC in 1997.

16

Summary of Conclusions and Recommendations

- 16.1 This Chapter sets out a summary of the Inquiry Panel's main conclusions from Chapters 1 to 15 of the Report, together with some recommendations in respect of the Northern Ireland Prison Service (NIPS).
- 16.2 It is also important to emphasise here the great difficulty this Inquiry has faced because it was not able to hear evidence from certain key witnesses. In some instances the witnesses were deceased, for example Mr Martin Mogg, the Governor of HMP Maze at the time of Billy Wright's murder, and the Security Governor at HMP Maze in early 1997. In other instances, they were so unwell that they were unable to give evidence, for example Mr Johnston Baxter, the Governor of HMP Maze at the time of Billy Wright's transfer in April 1997. The Head of the Royal Ulster Constabulary (RUC) Intelligence Management Group in 1997 was also too unwell to give evidence and sadly he died in 2009, after the Inquiry had completed its hearings. The Inquiry was also hampered as it became clear at an early stage that certain documents held by both the NIPS and the Police Service of Northern Ireland (PSNI) had been destroyed. It is impossible to judge whether the lack of this evidence has had any material effect on the overall findings of the Panel.

Collusion

- 16.3 As the Inquiry Panel have recorded in Chapter 1 Mr Justice Cory was appointed in 2002 to investigate allegations of collusion by members of the security forces in the context of a number of deaths including those of Patrick Finucane, Robert Hamill, Rosemary Nelson and Billy Wright. When he reported to the Secretary of State for Northern Ireland (SOSNI) in October 2003 Mr Justice Cory entitled his report into the murder of Billy Wright the '**Cory Collusion Inquiry Report**'. In the report he set out his definition of collusion which he said was defined '**in a wide sense**' (see 1.22). We have already explained why we have not adopted his definition and why we have not acceded to the submissions in this regard which were made by Counsel for Mr David Wright and the family (see 1.33 and 1.34). We have also drawn attention to the absence of the word 'collusion' in our Terms

of Reference while expressing our view that these Terms would amply cover the situations referred to in the Wright family's submissions without having to resort to the words 'collusion' or 'collusive' (see 1.34).

- 16.4 It would however be entirely correct to say that throughout our consideration of the evidence led at the Inquiry and in light of the submissions which were made in respect of it, we had at the forefront of our minds our understanding of collusion and the possibility that individuals within state agencies behaved collusively or committed collusive acts which could be said to have facilitated Billy Wright's death. As may be seen in the preceding Chapters of this Report, we have been critical of certain individuals and institutions or state agencies, some of whose actions did, in our opinion, facilitate his death. We were not, however, persuaded that in any instance there was evidence of collusive acts or collusive conduct. It must at the same time be understood that, unlike Judge Cory who was able to report having considered only documentary evidence, we heard wide-ranging evidence some of which encompassed the documents he had before him.
- 16.5 We reach our conclusion with regard to collusive acts or collusive conduct, which is set out above, fully conscious that Lord Stevens and his Enquiry team and the Police Ombudsman for Northern Ireland in her Operation Ballast Report each found collusive conduct in their respective areas of inquiry on the part of members of the RUC. We, however, must proceed on the evidence we heard and have weighed – not on their experience which was different.

The Northern Ireland Prison Service

- 16.6 In fulfilling its Terms of Reference, the Inquiry heard a considerable amount of evidence about the organisation of the NIPS, including its establishment as a Next Steps Agency in 1995. It also heard in detail about the genesis and development of HMP Maze, its place in the recent history of Northern Ireland and how by 1997 it was the only prison in Northern Ireland which held prisoners segregated according to their factional affiliations. It also heard evidence about the expected form of management in high security prisons in other parts of the UK in 1997, which was contrasted with the form of management of HMP Maze. The Panel have not commented on these matters in general terms. Instead we have restricted ourselves to consideration of them only insofar as we are required to do by our Terms of Reference.
- 16.7 The NIPS in general and HMP Maze in particular were inextricably linked with the Troubles of Northern Ireland in the final three decades of the 20th century. Twenty-nine members of staff were murdered; many more suffered physical and mental injury. There was pressure, which at times was unbearable, not only on staff themselves but also on their families, many of whom had to move home because of threats made against them. As Northern Ireland moved gradually

towards a Peace Agreement in the 1990s, HMP Maze became an ever more crucial element in the process. Wider political considerations affected the management of the prison. It was clear to the Inquiry Panel that many of those who gave evidence to the Inquiry were very committed to their work and were frustrated by the limitations which were placed on the way they had to operate. Before going on to comment on organisational and individual weaknesses, the Panel would wish to acknowledge all of these organisational and personal pressures and the valiant way in which many staff responded.

Document Recovery

- 16.8 The work of the Inquiry was considerably delayed in its early days by the failure of the NIPS to deliver crucial documentary evidence. This was of such concern to the Panel that we felt it necessary to hold six days of hearings in late 2006 specifically relating to this matter. In the final event we are satisfied that the NIPS supplied the available documentary evidence which allowed the Inquiry to fulfil its Terms of Reference.
- 16.9 With the exception of Mr Douglas Bain, former Director of Services, none of the witnesses from the NIPS who gave evidence and had a role in the retention or destruction of records from 1997 to 2006 appeared to be aware of the terms of any policies prior to 2003. If these witnesses are to be believed, this would indicate a systemic failure of communication on the part of the NIPS, their employers (6.148).
- 16.10 The Inquiry did not obtain the security files relating to prisoners in HMP Maze. This was because the files had been destroyed. The NIPS has apologised unreservedly for this destruction which took place on two separate occasions. This matter is dealt with in detail in Chapter 6 of this Report where we make specific criticisms (6.296–6.317).

Recommendation

- 16.11 **Given what we discovered about the destruction of prisoners' files, many of which would have been important historical records, we recommend that the SOSNI should satisfy himself whether any other prison records have been destroyed and whether proper retention processes are now observed in the NIPS.**

Prisoner Classification

- 16.12 The Panel conclude that the failure to operate a proper system of prisoner classification in HMP Maze made it very difficult to exercise appropriate supervision of those prisoners who required the highest level of staff supervision. Specifically, we criticise the failure to classify Christopher McWilliams and John Kenneway as top risk prisoners after they held a prison officer hostage at gunpoint in April 1997

and to give them the close supervision to which top risk prisoners should have been subjected. We conclude that this was a wrongful omission on the part of the NIPS which facilitated the murder of Billy Wright (7.296).

Single-Storey Flat Roofs and Access to Exercise Yards

16.13 The Panel criticise the failure on the part of the NIPS to strengthen the roof defences in H Block 6 in 1997 and we conclude that this constituted a wrongful omission on the part of the NIPS which facilitated the death of Billy Wright (7.300).

16.14 We also criticise the NIPS and the Prison Governor for failing to ensure that the exercise yards in H Block 6 were secured and checked each night and we conclude that this was a wrongful omission on their part which facilitated the death of Billy Wright (7.302).

Staff Supervision and 24 Hour Unlock

16.15 The Inquiry heard a considerable amount of evidence about the fact that from 1994 prisoners in HMP Maze were never locked in their cells and had the free run of their wing or wings. Had the Irish National Liberation Army (INLA) prisoners been locked in their cells at night, it might not have been so easy to find an opportunity to cut the yard fence in advance of 27 December 1997. We include this in the consideration in 7.302 and 7.303.

The Difference between Policy and Practice

16.16 The regulations under which HMP Maze was officially managed were largely incapable of being applied and this fact contributed to the disillusionment and frustration felt by prison officers. The Panel criticise the NIPS for not providing staff at HMP Maze with clear operational instructions that took account of what they were able to do, and not to do, in daily practice. We conclude that this constituted a wrongful omission on the part of the NIPS which facilitated the death of Billy Wright (7.307).

The Northern Ireland Prison Service and HMP Maze in 1997

16.17 The Panel conclude that the changes introduced to the structure of the Directorate of Operational Management in 1997 and in particular the decision, which ultimately was made by Alan Shannon with Ministerial knowledge, to appoint Martin Mogg to the additional and onerous role of Governor of HMP Maze while retaining his responsibilities as Director of Operational Management severely weakened the operational capability of the directorate. We criticise the NIPS and its Chief Executive for this decision (8.124).

16.18 We conclude that there was a serious failure on the part of the NIPS and its Chief Executive to deal with recognised management problems in HMP Maze in 1997. We further conclude that wrongful acts or omissions facilitated indirectly the murder of Billy Wright (8.132).

16.19 The Panel criticise the NIPS management for not being much more vigorous in implementing the recommendations of the Steele Report of April 1997 following the discovery of the tunnel from H Block 7. The failure to implement many of the recommendations in the report by 27 December 1997 was a wrongful omission which facilitated the murder of Billy Wright (8.143).

Recommendation

16.20 **Many of the problems of HMP Maze in 1997 arose from the fact that by then it was the sole prison in Northern Ireland holding the most dangerous terrorist prisoners. We are aware that HMP Maghaberry is currently the sole maximum security prison in Northern Ireland. We recommend that the SOSNI and those with recently devolved authority should satisfy themselves that any relevant lessons from HMP Maze have been learned for HMP Maghaberry.**

Recommendation

16.21 **We have identified a series of failures in the management of the NIPS in 1997. What we learned about the current management of the NIPS in the course of the Inquiry, for example during the document recovery hearings, left us wondering how much has changed in the succeeding years. Bearing in mind that the Independent Commission on Policing for Northern Ireland led to the transformation of the RUC into the PSNI, we recommend that the SOSNI and those with recently devolved authority should consider whether a similar process might pave the way for radical change in the way that the NIPS is managed and, among other matters, how its industrial relations are conducted.**

The Transfer of Billy Wright to H6

16.22 The Panel criticise the NIPS for failing to seek a risk assessment from the RUC about republican threats to Billy Wright before his transfer to H Block 6 and we conclude that this failure was a wrongful omission which indirectly facilitated his eventual murder (9.164).

16.23 The Inquiry was not given evidence of any consideration about the need for any alteration to the staffing complement nor to the duties of staff in H Block 6 following the co-location of the Loyalist Volunteer Force (LVF) and the INLA. As with other blocks, improved security both inside and outside H6 was to be introduced as part of the refurbishment programme; but H6 was not given priority in this programme. Uniquely in HMP Maze the vans to take prisoners from H6 to visits came directly up to the Hennessy grilles. Paradoxically, as is described in detail in Chapter 14, this arrangement played a significant part in the murder

of Billy Wright. Arrangements to ensure that prisoners from opposing factions did not come into contact with each other in the circle area of the block were introduced only after there had been confrontations between prisoners. In short, no risk assessment was undertaken. The Panel criticise the NIPS for the failure to undertake a risk assessment on these matters before or when the two factions were accommodated together in H Block 6 and we conclude that this was a wrongful omission which indirectly facilitated the murder of Billy Wright (9.173).

- 16.24 The Panel conclude that the decision to allocate Billy Wright and the LVF faction to H Block 6 in April 1997 alongside the INLA prisoners was a wrongful act that directly facilitated the murder of Billy Wright (9.174).

The HMP Maghaberry Hostage Taking Incident

- 16.25 On the basis of the evidence, the Panel do not conclude that the hostage taking incident in HMP Maghaberry on 28 April 1997 was an attempt to carry out an attack on Billy Wright.

Transfer of McWilliams and Kenneway to HMP Maze

- 16.26 The Panel share the mystification expressed by Sir Richard Tilt at the extraordinary speed with which McWilliams and Kenneway were transferred from HMP Maghaberry to H Block 6 in HMP Maze after the hostage incident in April 1997. The decision to move them was made by Martin Mogg, and the Panel conclude that this was a wrongful act (11.36).
- 16.27 By October 1997 the NIPS had information, whether true or not, which suggested that Billy Wright might have been the intended target of the hostage incident in HMP Maghaberry in April 1997. The Panel heard no evidence that this information informed subsequent operational decisions. If that was the case the Panel conclude that this was a wrongful omission on the part of the NIPS which indirectly facilitated the death of Billy Wright (11.24).

The August Riot and the Return of LVF to H6

- 16.28 In August 1997 the LVF, after rioting in H Block 6, were moved to H2. They were returned to H6 on 1 October. The Panel criticise the fact that this decision was taken without a full risk assessment of its implications. We conclude that failures in this regard were omissions by the NIPS which directly facilitated the death of Billy Wright (12.67).

The International Committee of the Red Cross

- 16.29 In November 1997 representatives of the International Committee of the Red Cross visited HMP Maze. Following this visit they reported to the Chief Executive of NIPS that H6 was **'a powder-keg'**. The Panel conclude that this was important

new information which was not properly considered by the NIPS. The Panel conclude that the fact this information was not passed immediately to the Minister was a wrongful omission on the part of the NIPS (13.121–13.125).

The Day of the Murder

- 16.30 Both the Cory Report and the Narey Report were critical of a number of occurrences on 27 December 1997. These are listed at paragraph 14.4 of this Report. After extensive consideration the Panel conclude that none of these occurrences facilitated the murder of Billy Wright, with two exceptions.
- 16.31 As was the practice, Billy Wright was called by name for his visit. The Panel do not draw any sinister conclusion from this fact but conclude that it did assist his murderers (14.41).
- 16.32 The cutting of the hole in the fence alongside A Wing prior to 27 December undoubtedly facilitated the murder of Billy Wright. This was achieved as a result of the failure to ensure that the exercise yards were secured and checked each night and we have noted this as a criticism in paragraph 16.14 above.

The Royal Ulster Constabulary

- 16.33 The RUC faced appalling difficulties during the years of the Troubles in Northern Ireland. To serve in the police force was to be exposed to a degree of danger and stress which was unimaginable in other parts of the UK, and we wish to pay tribute to the courage and dedication of the vast majority who served in the RUC during those years of paramilitary violence. Such violence imposed very great demands on the police throughout Northern Ireland, and amounted to *de facto* civil war in many of the most bitterly contested areas, such as West Belfast, Londonderry and South Armagh. The RUC was a very large force by UK standards; Counsel for the PSNI told the Inquiry that in 1997 its numbers were about 14,000, which in relation to the population of Northern Ireland represented about three times as many police as were in post *pro rata* in the rest of the UK. As is dealt with in Chapter 5 this is partly explained by the fact that the role of the RUC was wider than that of police forces elsewhere in the UK, in that it had the lead role in intelligence and security work, a responsibility which in other places rested with the Security Service. This additional responsibility represented a huge burden for Special Branch (SB) in particular. It also needs to be recognised that the RUC had to recruit a disproportionately large number of people from within the relatively small population of Northern Ireland, and in this it differed markedly from the Security Service and the Army, whose pool of potential talent was vastly greater, and whose members' families were not exposed to the same level of threat suffered by the families of RUC members. This is the context in which the

contribution of the PSNI to the work of the Inquiry has to be considered, and it must always be borne in mind when considering the many criticisms of the RUC and the PSNI which are enumerated below.

Document Recovery and Document Disposal

16.34 It was the PSNI which presented the greatest difficulty for the Inquiry because of its slowness in responding to repeated requests for information, its reluctance to disclose all that was relevant, and its inability to provide much of the material which the Inquiry needed to see and consider. It was, as has been pointed out in Chapter 6, only the PSNI which knew what information existed and in what format, and in delaying or withholding the delivery of material cost the Inquiry several months' delay in its work during the latter part of 2007. It gradually became clear to the Inquiry that the failings of the PSNI were not simply wilful; much of the information which the Inquiry needed to know no longer exists because of the shortcomings of the RUC and PSNI in record keeping, and in the destruction of records which are known to have been retained at least until the year 2000. This matter has been covered in detail in Chapters 5 and 6, and the experience of the Inquiry accords with that of the Stevens team and the Police Ombudsman. The first criticism to be levelled against the PSNI is therefore concerned with the lack of adequate and effective systems for information management, dissemination and retention with the added element in certain cases of a suspicion that this amounted to deliberate malpractice which involved the destruction of audit trails and the concealment of evidence (6.109). An example of a record that the Inquiry did not receive is the RUC policy file (14.146).

Computerisation

16.35 A second issue concerns the process of computerisation within the RUC. The transition from hard-copy records to some form of IT is one which every organisation has had to tackle in the past 20 years or so, and it inevitably presents major problems. The technology is one which is rapidly evolving, and the new culture is one which many people have found difficult to embrace. The process of transition is one which demands clear decision making, painstaking explanation to all involved, rigorous training in the new methods and an intelligent understanding of what can and what cannot be achieved by adopting the new technology. It could reasonably be expected that the transition would have been carefully evaluated, and decisions about it would have been very clearly communicated to all who needed to know. The Inquiry remains puzzled and frustrated that details of such an important move appear not to have been retained by the PSNI (5.42).

Analysis of Intelligence

16.36 The Inquiry heard that there was a high degree of devolution within SB to the all important Regions, the reason for this being that the sheer amount of intelligence work which needed to be undertaken was such that it could not have been handled by one Headquarters (HQ) department. This arrangement clearly placed considerable burdens in terms of the assessment and analysis of intelligence on each SB Region. The Warner Report of 1996–97 recommended the secondment to SB of Security Service officers with the necessary skills. This recommendation was implemented in 1997 as far as RUC HQ was concerned, but critically, although Warner recommended that such officers should also be seconded to the Regions, that further step was not taken. The RUC in 1997 clearly lacked the capacity to analyse information which led to missed opportunities. This was an unacceptable state of affairs (15.115).

Special Branch and the Criminal Investigation Department

16.37 The Inquiry was concerned almost exclusively with the SB department of the RUC, apart from the matter of the investigation which was held into the murder of Billy Wright, which was naturally carried out by the Criminal Investigation Department (CID). But that episode was revealing in that it showed how little cooperation appeared to exist between SB and the CID, reflecting a culture of secrecy and confidentiality which was endemic, and this was corroborated by much other evidence heard by the Inquiry. In some ways this was understandable, on the basis that the principle of 'need to know' was vitally important in order to ensure source protection in an environment in which agents were a necessary source of intelligence but provided such intelligence often at great risk to their own safety. The Inquiry has always been mindful of this dilemma, and many witnesses emphasised it to us. But the Inquiry is nevertheless left with the impression that communication, even when highly desirable and even necessary for the carrying out of police work, was not always as effective as it should have been (5.94).

UNIPLEX, JAW and DESMAID

16.38 The PSNI failed to disclose to the Inquiry the existence of the UNIPLEX document storage system until very late in the Inquiry's proceedings, which caused the Inquiry considerable frustration (6.101). The Inquiry became aware only by chance of the existence of Operation JAW against the INLA, and the PSNI was able to produce neither the Tasking and Co-ordinating Group log for the Operation, either in hard copy or electronic format, nor any details of the intelligence product or information about the tasking and re-tasking of agents. Unlike the Ministry of Defence (MOD), the RUC appear to have failed to continue the surveillance of the INLA into the month of December 1997. Operation DESMAID, which was apparently to be concerned with the possible influence of Billy Wright

on the Peace Process, did not take place; but the Security Service evidence showed that there must have been RUC documentation concerning the planned operation. None was made available to the Inquiry and the total absence of RUC documentation on the operation is unsatisfactory (6.110).

Handling of Threat Information

16.39 Apart from the failure of the RUC to take any action over the critical threat of April 1997, there was other evidence of failure to pass on threats to Billy Wright, or to make the case convincingly that no action should be taken. SB did not acknowledge or document the January Northern Ireland Intelligence Report (NIIR) following the murder of Billy Wright, and the Inquiry heard evidence that there was confusion, uncertainty and disagreement about the correct procedure when other threat information, apart from that of April 1997, was received by SB. The April 1997 threat has been dealt with in great detail in Chapter 15, and the Panel's conclusion is that the RUC's failure to communicate the intelligence in SS01-0218 was a wrongful omission which facilitated the death of Billy Wright in a way that was negligent rather than intentional.

List of Agents

16.40 The PSNI was unable to provide the Inquiry with a master list of agents, despite contradictory oral evidence heard by the Inquiry (6.114); nor did the PSNI retain any record of payments made to agents, which would have been helpful to the Inquiry.

The Pen Picture of Billy Wright

16.41 The PSNI produced the pen picture of Billy Wright very late in the day, despite confirming in January 2006 that all relevant documentation had been handed over. The pen picture contained a valuable synopsis of intelligence from a number of documents, and its earlier production would have assisted the Inquiry.

Other Government and State Agencies

The Northern Ireland Office

16.42 Until April 1995 the NIPS was part of the Northern Ireland Office (NIO). After that date it became a Next Steps Agency. In principle this meant that the NIPS was directly responsible for the operational management of the prison service, while responsibility for strategic policy relating to prisons remained with the NIO. The Inquiry heard evidence which suggested that the concept of an operational agency at one step removed from the Minister was not appropriate for the NIPS at the time because it operated in such a highly political environment. Earlier in this chapter we refer to the political environment within which the NIPS was required to operate.

16.43 While allowing for the Next Steps Agency arrangements, the SOSNI retained parliamentary accountability for the NIPS, and the NIO exercised oversight of prisons on his behalf. The Panel note, for example, that, on the instruction of the SOSNI, the Prisons Minister was informed about and approved the transfer of Billy Wright to HMP Maze. This was but one example of how a matter which was on the face of it purely operational also had political implications. The Inquiry heard evidence of several other examples of this overlap between operational and policy matters in relation to, for example, 24 hour unlock of prisoners and withdrawal of staff from the wings

The Ministry of Defence

16.44 In respect of the MOD, as stated at paragraph 6.42 in respect of the disclosure of the NIIR of January 1998, it is not an appropriate response to a notice served under the Inquiries Act 2005 to rely on the fact that another person or body has supplied a document to the Inquiry.

The Security Service

16.45 The Inquiry heard a considerable amount of evidence in relation to information received by the Security Service in April 1997 about a potential threat to the life of Billy Wright from the INLA were he to be transferred to HMP Maze. The Inquiry considered at length whether the Security Service should have passed this information to the Minister. The Panel reject the charge of collusion made by the Wright family against the Security Service. With regard to the passing of the information about the April 1997 threat to the Minister, the Panel conclude that it is most unfortunate that Security Service officers did not communicate this information to the Minister when he was considering the transfer of Billy Wright to HMP Maze in April 1997 (see 15.184).

Final Considerations

16.46 We acknowledge that it has taken us more than five years to fulfil our remit. There are various reasons for the elapse of this length of time. The subject matter we had to consider was on any view complex. The interests involved were several and important. There was a very large amount of documentary evidence which had to be recovered, recorded and considered. As we have already reported, difficulty was experienced in recovering some of these documents. We discovered that a large number of documents had been destroyed before the start of our Inquiry. That, too, has been commented on in our Report. It is now impossible to judge how important these documents were, so we cannot say that we were positively disadvantaged by their loss. Also, some key witnesses were not available to give evidence. Perhaps the principal loss to the Inquiry as a witness was Martin Mogg who died in June 2005. The loss of his evidence is one which the Inquiry has had

to endure. While he is criticised in this Report for some of his decisions we have tried our best to be fair to him in the conclusions we have reached, being fully aware that he was not available to respond to those criticisms.

- 16.47 We hope that the public who will receive this report understand that, whatever the cost and however long drawn out this Inquiry has been, it was concerned with an extremely important matter: the death by shooting of a young man who was in the protective custody of the State. To our regret no explanation emerged in the evidence as to how the two firearms were introduced into the prison and put into the hands of his INLA murderers.

Appendices

- A Key Events of 1997
- B Northern Ireland Prison Service Schedule of Documents
- C Participants of the Inquiry and their Representatives
- D Diagrammatic Explanations of the Structure of Special Branch both pre-Warner and post-Warner
- E A Photograph of HMP Maze, a Plan of H Block 6 and a Selection of Photographs of H Block 6
- F HMP Maze Organisational Structure – October 1997
- G A Plan of the Entrance to Foyle House

A

Key Events of 1997

Key Events of 1997

JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
<p>15th: Billy Wright committed to prison</p> <p>16th: Billy Wright placed on Rule 32 at HMP Maghaberry</p>		<p>7th: Billy Wright convicted and sentenced</p>	<p>25th: Billy Wright transferred to HMP Maze</p> <p>28th: Hostage incident, HMP Maghaberry</p> <p>28th: Governor McLaughlin meets IRSP</p>	<p>1st: McWilliams and Kenneway transferred to HMP Maze</p> <p>29th: McWilliams looking at fences</p>		<p>1st: Meeting POA Minister</p> <p>7th: The LVF and the INLA swap wings</p> <p>11th: The LVF refuse to come in from the yard</p>	<p>13th: LVF riot</p> <p>13th: Mr Steve Davis becomes Security Governor, HMP Maze</p>	<p>10th: BOV raise concerns about the co-location of the LVF and the INLA</p> <p>10th: SCS submitted regarding concerns that prisoners in H6 may gain access to the roof</p> <p>11th: Mr James Duffy raises concerns regarding possibility of INLA access to the roofs</p> <p>23rd: Mr Steve Davis writes SCS regarding concerns if the LVF return to H6</p> <p>24th: INLA petitions</p> <p>25th: NIACRO raises concerns</p> <p>29th: The INLA threaten 'spectacular'</p> <p>30th: Mr Johnston Baxter retires as Governor I of HMP Maze</p>	<p>1st: The LVF return to H6C</p> <p>1st: Mr Martin Mogg commences as Governor I of HMP Maze</p> <p>3rd: The INLA send out instruments</p> <p>4th: Kenneway looking at towers, fences</p> <p>6th: Mr Steve Davis reports strange/unusual INLA behaviour</p> <p>7th: Mr Martin Mogg meets the INLA</p> <p>10th: Visit by IRSP delegation</p> <p>13th: Mr Kenneth Crompton becomes Deputy Governor of HMP Maze</p> <p>24th: H6 staff meeting Governors</p>	<p>11th-13th: Visit to HMP Maze by ICRC</p> <p>14th: ICRC raise concerns</p> <p>21st: Existence of no first strike agreement recorded in November 1997 MIAR</p> <p>27th: The LVF given use of H6D</p>	<p>10th: Mr Liam Averill (PIRA/HIGH) escapes from HMP Maze</p> <p>13th: Bullets found in mail</p> <p>21st: Existence of no first strike agreement recorded in November 1997</p> <p>15th: INLA warning of NIO embarrassment</p> <p>18th: Governors Martin Mogg and Kenneth Crompton visit H6</p> <p>27th: Billy Wright shot dead</p>

B

Northern Ireland Prison Service Schedule of Documents

This is the SCHEDULE attached to and referred to in the Notice for Production of Documents served upon you in terms of section 21 of The Inquiries Act 2005 and dated 23rd November 2005.

Layout of HMP Maze

1. All plans, drawings, sketches, photographs and other similar documents showing, or tending to show, as at December 1997:–
 - (a) the layout of HMP Maze;
 - (b) the location of access and egress points in HMP Maze, both vehicular and pedestrian;
 - (c) the location and layout of H Block 6 within HMP Maze; and
 - (d) the location of the Reception Area and of the Visiting Areas within HMP Maze in relation to H Block 6.

H Blocks

2. All plans, drawings, sketches, photographs and other similar documents showing, or tending to show, as at December 1997:–
 - (a) the number of cells contained within each H Block;
 - (b) the internal layout of the accommodation in H Block 6 including:–
 - (i) the means of passage from one part of the said Block to another;
 - (ii) the number of cells in the said Block;
 - (iii) the location of the recreation, ablutions and dining areas; and
 - (iv) the location of the Control Room, Officers' working and rest areas within the said Block; and
 - (c) the external layout of the secure area around H Block 6 including:–
 - (i) the means of access to and egress from the said area, with the number and nature of gates and pedestrian entries; and
 - (ii) the means of access to and egress from H Block 6 to the forecourt, the exercise yards and to the "sterile" areas within the said secure area.

3. All plans, drawings, sketches, photographs or other similar documents showing, or tending to show, as at December 1997:–
 - (a) the construction, including dimensions, of the roofs of H Block 6 and the means of access to the said roofs;
 - (b) the construction, including dimensions and materials, of the fences surrounding the exercise yards, the sterile areas and all other secure areas around the said H Block; and
 - (c) the construction, including the means of operation, of the turnstile grilles leading from H Block 6 to the said exercise yards.

4. All plans, drawings, sketches, photographs and other similar documents showing, or tending to show, as at December 1997:–
 - (a) the number and location of prison watch towers at HMP Maze;
 - (b) the height of said towers;
 - (c) the angle of view from said towers; and, in particular,
 - (d) the details sought in (a) to (c) hereof with respect to the prison watchtowers at H Block 6.

5. All plans, drawings, sketches, photographs and other similar documents showing, or tending to show:–
 - (a) the number and location of army watch towers at HMP Maze as at December 1997;
 - (b) the height of said towers;
 - (c) the angle of view from said towers; and
 - (d) the nature and extent of any modifications to said towers made between the 1st January 1995 and the 31st December 1998.

Layout of HMP Maghaberry

6. All maps, plans, drawings, photographs and other similar documents showing, or tending to show, the general layout of HMP Maghaberry and the respective locations of Foyle House, Bann House, Erne House, the Prisoner Safety Unit and the hospital.

Communication and Alarm Systems

7. All Operation Manuals, Instruction Manuals, Electrical Manuals, Maintenance Manuals or other similar documents showing, or tending to show, as at December 1997:–
 - (a) the communication systems at HMP Maze:–
 - (i) within the H Blocks and, in particular, H Block 6;

- (ii) between the Prison watch towers and the H Blocks;
 - (iii) between the said H Blocks and watchtowers and the Emergency Control Room; and
 - (iv) between Prison Staff within the prison; and
- (b) the alarm and automatic electronic shutdown systems within the Prison.

Cameras

8. All maps, plans, drawings, sketches, photographs, contract documents or other similar documents showing, or tending to show:–
- (a) the number and locations of all external cameras at HMP Maze and, in particular, the number and location of the external cameras at H Block 6 as at December 1997;
 - (b) the number and location of the external cameras covering the exercise yards of the H Blocks and, in particular, H Block 6, as at December 1997;
 - (c) any recommendations made between January 1995 and December 1997 to increase or decrease the number of external cameras, or to modify or vary the nature and use of the said cameras at HMP Maze; and
 - (d) the extent to which any such recommendations had been implemented as at December 1997.
9. All Reports, Memoranda, Minutes of Meetings, Logs, Intelligence Assessments, Intelligence Reports, Staff Communication Sheets and other similar documents between January 1996 and December 1997 showing, or tending to show:–
- (a) the nature and extent of any concerns expressed by the Governors, the prison officers and/or the Prison Officers Association (POA) in relation to the external cameras at HMP Maze in the said period and, in particular, in respect of the cameras for H Block 6;
 - (b) the nature and extent of any defects found in relation to the external cameras in said period and, in particular, in relation to the external cameras at H Block 6;
 - (c) the nature and extent of any concerns expressed by the Governors, the prison officers and the POA in relation to the internal cameras at HMP Maze, and, in particular, the internal cameras in H Block 6.

Maintenance and Refurbishment

10. All Inspection, Repair and Maintenance Schedules, Contract documents, Work Instructions or Orders, Work Schedules, Minutes of Meeting, Logs, Lists, Reports, Memoranda and other similar documents showing, or tending to show:–

- (a) the programme for construction, maintenance, repair or refurbishment work, internal or external, to the H Blocks in the period between 1 January 1995 and 30 December 1998;
 - (b) the nature and detail of the work carried out; and
 - (c) the dates during which said work was carried out.
- 11. All Contracts, Work Orders or Instructions, Work Schedules and other similar documents showing, or tending to show, the names of contractors or others engaged to carry out construction, inspection, maintenance, repair or refurbishment work at HMP Maze between the period January 1995 to December 1998 and the work instructed.
- 12. All Inspection, Repair and Maintenance Schedules, Contract documents, Work Instructions or Orders, Work Schedules, Minutes of Meeting, Logs, Lists, Reports, Memoranda and other similar documents relating to the period between January 1995 and 31st December 1998 showing, or tending to show, the dates, nature and extent of the inspections and work, including modification works, carried out at HMP Maze in respect of:
 - (a) the roofs of the H Blocks;
 - (b) the security fences surrounding the exercise yards and sterile areas within the said H Blocks;
 - (c) the internal and external cameras pertaining to H Block 6, including in particular the PTZ cameras there; and
 - (d) the turnstile grilles giving access to the exercise yards at H Block 6.
- 13. All Reports, Written Communications, Memoranda, Notes, Minutes of Meetings, Staff Communication Sheets, Intelligence Assessments, Intelligence Reports and other similar documents between January 1995 and December 1998 showing, or tending to show:–
 - (a) the means used to prevent access to the rooftops of the H Blocks and without prejudice to the generality of the foregoing the rooftops of H Block 6;
 - (b) the nature and extent of any concerns expressed by:–
 - (i) the Governors;
 - (ii) the prison officers; and
 - (iii) the POAin relation to rooftop security at HMP Maze in the period between 1 January 1995 and 31 December 1997 and, without prejudice to the generality of the foregoing, rooftop security at H Block 6;

- (c) any recommendations made to improve rooftop security; and
- (d) the extent to which, if at all, any such recommendations were implemented.

Operational Management

- 14. All Official Reports, Departmental Reports and Northern Ireland Prison service (NIPS) Internal Reports of Inspections and Reviews of Management and Operations within HMP Maze between January 1989 and December 1998 including, without prejudice to that generality:–
 - (a) The Hennessy Report;
 - (b) The Colville Report;
 - (c) The Steele Report;
 - (d) The Narey Report;
 - (e) The Reports by Her Majesty's Chief Inspector of Prisons;
 - (f) The Larmont Report;
 - (g) The Report of the House of Commons Northern Ireland Affairs Committee on the Prison Service in Northern Ireland;
 - (h) The Crompton Report;
 - (i) The Blelloch Report;
 - (j) The Ferrers Report;
 - (k) The Steele Review;
 - (l) Annual or bi-annual Inspection Reports;
 - (m) Establishment Contract Quarterly Reviews;
 - (n) The Control and Security Working Party for the HMP Maze Report; and
 - (o) The NIPS Review 1997.

- 15. All Annual and other Reports, Directories, Establishment Contracts, Organisational Charts, Reviews, Lists and other similar documents showing, or tending to show:–
 - (a) the organisational or management structure and governance of NIPS HQ from January 1996 to April 1998 together with the names and/ or designations of the personnel in post during that time;
 - (b) the relationship of NIPS with Ministers and Senior Officials in the Northern Ireland Office (NIO); and
 - (c) the organisational or management structure and governance of HMP Maze and HMP Maghaberry.

- 16. All Annual Reports, Corporate Plans and Business Plans for NIPS from January 1995 to December 1999.

17. All Accounts, Minutes of Meetings, Memoranda, Reviews, Annual or other Reports, Staff Framework Agreements or other Agreements with the POA or other similar documents showing, or tending to show:–
 - (a) the budget allocated to the operation of HMP Maze for the period from January 1995 to April 1998, and the amounts of money expended in that period;
 - (b) the number of staff employed in NIPS HQ and HMP Maze for the said period between January 1995 and December 1998;
 - (c) the ratio of Governors I to IV to other staff engaged in the said Prison between January 1995 and December 1998; and
 - (d) the rate of sickness or absenteeism for Prison Officers in HMP Maze between the said dates.

18. All Operations Manuals, Procedural Manuals, Security Manuals, Emergency Control Procedure Manuals, Written Procedures, Directions, Prison Rules, Standing Orders, Governors’ Orders, Instructions, Minutes of Meetings involving Governors, Notices, Staff Framework Agreements, Governors’ or Prison Officers’ Journals, Logs, Reports, Books, Diaries, Reports, Memoranda or other similar documents relating to the operation and administration of HMP Maze between January 1996 and April 1998, including, without prejudice to the generality of the foregoing:
 - (a) Minutes of Meetings between NIPS HQ and the HMP Maze Committee;
 - (b) Minutes of Meetings between the Chief Executive of NIPS and the HMP Maze Management Committee;
 - (c) Minutes of Meetings of Senior Governors, including Tactical Meetings;
 - (d) Minutes of Meetings of the Maze Regime Committee;
 - (e) Minutes of Joint intelligence Meetings between the Governor of the Maze Prison and representatives of the Royal Ulster Constabulary (RUC), and/or the Army;
 - (f) Minutes of Meetings of the Works Project Committee;
 - (g) Minutes of Meetings of the Control and Security Working Party for HMP Maze;
 - (h) the “Diminishing Task Lines Agreement”; and
 - (i) Minutes of Block Meetings for H Block 6.

19. All Minutes of Meetings held between January 1997 and April 1998 with:–
 - (a) the Board of Visitors for HMP Maze;
 - (b) the Board of Visitors for HMP Maghaberry;
 - (c) NIACRO;

- (d) the POA;
 - (e) the Red Cross; and
 - (f) other voluntary agencies.
20. All Procedure Manuals, Directions, Instructions, Orders, Protocols, Circulars, Working Documents, Minutes of Meetings, Memoranda, Notes, Journal Entries and other similar documents showing, or tending to show:–
- (a) the system and procedures for the allocation, classification and assessment of remand and convicted prisoners to prisons in Northern Ireland between January 1995 and April 1998;
 - (b) the criteria applied in the allocation, classification and assessment process;
 - (c) the system and procedures for placement of remand and convicted prisoners in the HMP Maze;
 - (d) the system and procedures for the transfer of convicted prisoners from the HMP Maze to other prisons in Northern Ireland and for the transfer of prisoners from other Prisons in Northern Ireland to the HMP Maze; and
 - (e) the system and procedures for the transfer of convicted prisoners from prisons in other parts of the United Kingdom to HMP Maze.
21. All Directions, Instructions, Memoranda, Minutes of Meetings, Petitions, Pro-formas, Orders, Letters or other similar documents showing, or tending to show:–
- (a) the assessment, classification and allocation process, including the reasons for the decisions:–
 - (i) to remand, commit and hold Billy Wright in HMP Maghaberry between January and 25th April 1997;
 - (ii) to transfer him from HMP Maghaberry to HMP Maze on 26th April 1997; and
 - (b) the assessment and allocation process, and the reasons for the decisions:–
 - (i) to commit and hold each of Christopher McWilliams and John Kennaway in HMP Maghaberry until May 1997; and
 - (ii) to transfer them thereafter to the HMP Maze.
22. All Operating or Procedure Manuals, Written Instructions or Agreements, Orders Directions, Notices Minutes of Meeting or Memoranda or other similar documents showing, or tending to show, as at December 1997:–
- (a) the numbers of prison staff normally deployed within the H Blocks and their designations;
 - (b) the normal prisoner to staff ratios at HMP Maze within the H Blocks;

- (c) the normal deployment of staff within the Block;
 - (d) the number of staff detailed to stand guard at the entrances and exits to said H Blocks and in said prison watch towers; and
 - (e) the staff rotas or rosters for H Block 6 between 1st September 1997 and 27th December 1997.
23. All Operating and Procedure Manuals, Written Procedures, Orders, Instructions, Directions or other similar documents showing or tending to show the procedures in force at HMP Maze and HMP Maghaberry between January 1997 and December 1997 for searching of:–
- (a) the wings of the H Blocks in HMP Maze;
 - (b) the cells in the H Blocks in HMP Maze;
 - (c) the houses and cells in HMP Maghaberry;
 - (d) the prisoners housed in the said prisons:–
 - (i) when within their cells or wings;
 - (ii) when moving between Blocks or houses;
 - (iii) when being taken to the prison hospital;
 - (iv) when being taken to and from visits; and
 - (v) when leaving for and returning from home leave;
 - (e) Prison Staff coming on and going off shift;
 - (f) visitors for prisoners;
 - (g) contractors and others having business within the prison; and
 - (h) deliveries to the prison including prisoner parcels.
24. All Official Statistics for the period between January 1990 and December 1998, showing, or tending to show:–
- (a) the number of occasions in which weapons have been unlawfully introduced to or found in Prison Establishments in the UK;
 - (b) the number of occasions on which firearms have been so introduced or found;
 - (c) the number of occasions on which weapons, including firearms, have been found in or unlawfully introduced into Northern Ireland Prisons; and
 - (d) the number of occasions on which firearms have been so found or introduced.
25. All Reviews, Inspections, Reports, and other similar documents relative to Security Reviews in respect of HMP Maze carried out by the RUC between 1st January 1995 and 30th April 1998 including in particular:–
- (a) the RUC Review of Prison Searching Procedures; and

- (b) the RUC Review into HMP Maze Security Procedures.
26. The Report into the escape of 6 Prisoners from the Special Security Unit at Whitemoor Prison on 9/09/1994 (the "Woodcock" Report).
27. All Procedure Manuals, Orders, Instructions, Rules, Protocols, Circulars, Notices or other similar documents showing, or tending to show, the system for visits in operation at HMP Maghaberry and HMP Maze between January 1997 and December 1997.
28. All Books, Journals, Logs, Diaries, Visitor Lists, Visitor Permits and other similar documents relating to:–
- (a) all visits to Billy Wright in HMP Maze between 26th April 1997 and 27th December 1997;
 - (b) all visits in HMP Maze to members of the INLA housed in H Block 6 between 1st September 1997 and 27th December 1997;
 - (c) all visits to each of Christopher McWilliams, John Glennon and John Kennaway in HMP Maze between 1st September 1997 and 27th December 1997;
 - (d) all visits to each of Christopher McWilliams and John Kennaway in HMP Maghaberry between 1st January 1997 and 2nd May 1997; and
 - (e) all visits to each of Christopher McWilliams, John Kennaway and John Glennon in HMP Maghaberry between the 27 December 1997 and 30th April 1998.
29. All Minutes of Meetings, Memoranda, Correspondence, Briefing and other Notes, Journal entries, Diary entries, Reports, Reviews, and other similar documents showing, or tending to show, the date of the decision and the reasons for the decision:–
- (a) to operate a segregation regime at HMP Maze;
 - (b) to allow freedom of association afforded to prisoners in the prison;
 - (c) to permit self regulation by prisoners of the wings of the H Blocks at HMP Maze;
 - (d) to remove prison officers from the exercise yards of the H Blocks at HMP Maze; and
 - (e) to remove prison officers from the wings of the H Blocks at HMP Maze.
30. All Letters, Faxes, other Correspondence, Reports, Memoranda, Notes of telephone calls, Minutes of Meetings, Staff Communication Sheets and other similar documents showing, or tending to show, for the period between January 1995 and December 1998 the nature and extent of any concerns expressed by the

prison officers or other prison staff; the POA and the Prison Governors' Association (PGA) in relation to:–

- (a) staffing levels at HMP Maze, overtime payments, additional emergency hours (referred to as AEH's), target staff levels, or deployment of staff;
 - (b) threats to, intimidation of, and other conditioning of prison officers by prisoners at HMP Maze or by persons outside the prison;
 - (c) the security of Prison Officers;
 - (d) staff to prisoner ratios;
 - (e) the dropping of posts or redundancies; and
 - (f) Management responses to the aforesaid concerns.
31. All Reports, Log Books, Journals, Staff Communication Sheets, Incident Reports, Memoranda, Notes, Minutes of Meetings, Intelligence Assessments, Intelligence Files, Intelligence Reports and other similar documents showing, or tending to show:–
- (a) the occasions between 1 January 1995 and 31 December 1998 when prison officers were redeployed from the watch towers at HMP Maze to other posts and, without prejudice to the generality of the foregoing, at H Block 6;
 - (b) the identity of the persons who issued those orders;
 - (c) the reasons for issuing those orders;
 - (d) the manning levels of the watch towers at HMP Maze and, in particular, H Block 6;
 - (e) the order to stand down the watch tower guard overlooking A and B wings of H Block 6 on 27 December 1997;
 - (f) the identity of the person who issued that order; and
 - (g) the reasons for issuing that order.

Intelligence Information

32. All Security Manuals, Operations Manuals, Protocols, Assessment Reports, Orders, Working Instructions, Directions, Circulars, Memoranda, Minutes, Notices or other similar documents relating to the collection, collation, analysis, assessment and evaluation of intelligence information at HMP Maze and HMP Maghaberry between January 1996 and April 1998, showing or tending to show:–
- (a) the organisational or management structure and governance of the Prison Security Departments at HMP Maze and HMP Maghaberry, and the role and function of said Prisons Security Departments;

- (b) the number, names and status of the personnel in post in said Prison Security Departments, the dates during which they were in post, and the positions held;
 - (c) all of the means (written, verbal or electronic) and from within or from outwith the said prisons, by which intelligence information in relation to matters arising within the said prisons was collected, including the use of informants and agents, reporting from within and outwith the prisons, the use of prison staff, observation techniques, searching, liaison with other security agencies and the system for the interception or monitoring of telephone communications;
 - (d) the means by which the said intelligence was recorded, collated, assessed, evaluated, disseminated and acted upon during that period;
 - (e) the role and function of the Prison Information Unit (now Security Analysis) and the names and designations of the persons working within said unit for the said period;
 - (f) the role and function of the Prison Intelligence Liaison Officer at HMP Maze and the name or names of the persons who held said post during the said period; and
 - (g) the relationship between the Prison Intelligence Liaison Officers at HMP Maze and HMP Maghaberry and NIPS HQ, including the Prisoner Intelligence Unit and the Prisons' Security Departments.
33. All Prison Monthly Intelligence Assessment Reports, the Minutes of the Prison Liaison Group Meetings, Minutes of the Meetings of the Task and Co-ordinating Group and the Local Security Committee for HMP Maze Prison and for HMP Maghaberry, Minutes of Meetings between the Governor of HMP Maze and 'Officers Commanding' (OCs) in the H Blocks, and Minutes of the Prisons' Security Committee Meetings (including any Combined Security Meetings) for the period from 1st January 1997 to April 1998.
34. All Security Intelligence Reports (SIRs), Incident Reports, and Staff Communication Sheets from:–
- (a) HMP Maze for the period 1st January 1997 to 30th April 1998;
 - (b) HMP Maghaberry for the period between 1st March 1997 and May 1997;
 - (c) NIPS HQ for the period between 1st January 1997 to 30th April 1998; and
 - (d) all Consolidated Incident Reports and SIRs for HMP Maze for the period between 1st January 1997 and 30th April 1998 and for HMP Maghaberry for the period between 1st January 1997 and 1st May 1997.

35. All Memoranda, Protocols, Procedure Manuals, Orders, Instructions, Directions and other similar documents showing, or tending to show, the relationship between the aforesaid Security Departments at HMP Maze and HMP Maghaberry and:–
- (a) NIPS HQ;
 - (b) Army Intelligence;
 - (c) the Director and Co-ordinator of Intelligence;
 - (d) the RUC, and, in particular, Special Branch;
 - (e) the Security Service;
 - (f) the FCO and its agencies including the Secret Intelligence Services; and
 - (g) the Director of Policing and Security in the NIO,
- and, without prejudice to that generality:–
- (a) the Memorandum of Understanding on the Dissemination of Intelligence entered into between NIPS and the RUC/the Police Service Northern Ireland in 2000;
 - (b) all correspondence, notes of meetings, memoranda, consultation documents, discussion papers and other similar documents preparatory to the forming of said Memorandum of Understanding; and
 - (c) the Memorandum of Understanding on Dissemination of Intelligence Information Agreement between the Association of Chief Police Officers and Her Majesty's Inspector of Prisons for England and Wales.
36. All Intelligence Reports, Assessments, Briefings, or other similar documents from NIPS, RUC Special Branch, Army Intelligence, the Security Service, the Secret Intelligence Services or any other security agencies:–
- (a) made available to and/or taken into consideration by the NIO Prisons Minister, Sir John Wheeler, relative to the decision to transfer Billy Wright to HMP Maze in April 1997; and
 - (b) made available or taken into consideration by the decision makers in respect of the decisions to transfer each of Christopher McWilliams and John Kennaway from HMP Maghaberry to HMP Maze in May 1997.
37. All Security Intelligence Reports, Incident Reports, Intelligence Assessments, Staff Communication Sheets, Staff Reports, Journals, Logs, Diary entries, Notebooks or Notes, Security Risk Assessment or Reports, Written Statements, Source Reports, Contact Notes or other similar documents from HMP Maghaberry, HMP Maze, or Prisons HQ, including all Daily Situation Reports, Weekly Intelligence Reports, Minutes of the PIU or other similar documents produced between January 1996 and the present date relative to the safety and security of Billy Wright and, without

prejudice to the foregoing generality, any such information disclosing, or tending to disclose:—

- (a) any warning(s) or threat(s) to the safety and security of Billy Wright from the Provisional Irish Republican Army (PIRA) between January 1997 and December 1997, the nature and details of said warning(s) or threat(s) and the date or dates when said warning(s) or threat(s) was/were issued;
 - (b) any warning(s) or threat(s) in relation to the safety and security of Billy Wright by the Ulster Defence Association (UDA), the Ulster Volunteer Force (UVF), or the Combined Loyalist Military Command, the nature and details of said warning(s) or threat(s) and the date or dates on which said warning(s) or threat(s) was/were issued;
 - (c) any warning(s) or threat(s) in relation to the safety and security of Billy Wright or to members of the Loyalist Volunteer Force (LVF) from any member of the Irish National Liberation Army (INLA), the nature and details of said warning(s) or threat(s), and the date or dates on which any such warning(s) or threat(s) was/were made;
 - (d) any discussion, comment or consideration by members of the INLA in respect of:—
 - (i) the proposed transfer of Billy Wright and members of the LVF to H block 6 in April 1997;
 - (ii) the decision to house Billy Wright and members of the LVF in H Block 6 of HMP Maze; and
 - (iii) the decision to return Billy Wright and members of the LVF to H Block 6 in October 1997;
 - (e) any attempt(s) to injure Billy Wright by anyone thought, or considered, to be associated with the PIRA, the INLA, the UVF, the UDA or the LVF; the nature and details of any such attempts, and the date or dates thereof;
 - (f) any information indicating possible impending disruptive activity in H Block 6 by members of the INLA between 1st April 1997 and 31st December 1997; and
 - (g) any information or assessment indicating possible disruptive activity by any paramilitary group in HMP Maze or HMP Maghaberry between 1st January 1997 and 31st December 1997.
38. All Prison or Prisoner Security Files, Intelligence Files, Logs, Journals, Intelligence Reports or Documents, or other similar documents containing information as to a prisoner's risk category, affiliation, known associates, tendencies to violence or staff subversion, disruption or use of weapons and similar conduct in respect of:
- (a) Billy Wright (A5970);

- (b) [REDACTED]
- (c) Christopher Michael McWilliams (A687);
- (d) John Martin Kennaway (A2542);
- (e) John Glennon (A8296);
- (f) [REDACTED]
- (g) [REDACTED]
- (h) [REDACTED]
- (i) [REDACTED]
- (j) [REDACTED]
- (k) [REDACTED]
- (l) [REDACTED]
- (m) [REDACTED]
- (n) [REDACTED]
- (o) [REDACTED]
- (p) [REDACTED]
- (q) [REDACTED]
- (r) [REDACTED]
- (s) [REDACTED]
- (t) [REDACTED]
- (u) [REDACTED]
- (v) [REDACTED]
- (w) [REDACTED]
- (x) [REDACTED]
- (y) [REDACTED] and [REDACTED]
- (z) [REDACTED]

39. All Reports, Minutes of Meetings, Journals, Logs, Incident Sheets, Intelligence Reports or Assessments relating to:–
- (a) the taking hostage of a Prison Officer at HMP Maghaberry on 27th April 1997 by members of the INLA;
 - (b) the attempted escape by members of PIRA from HMP Maze in March 1997 by tunneling;
 - (c) the riot by the UVF in H Block 3 in HMP Maze in March 1997;
 - (d) the escape of prisoner Liam Averill from HMP Maze in December 1997; and
 - (e) the murder of Billy Wright in HMP Maze on 27th December 1997.
40. All Reports, Files, Minutes, Journals, Logs, Lists, Schedules and other similar documents showing, or tending to show:–

- (a) the number of prisoners accommodated within HMP Maze between 1 January and 31 December 1997, and their affiliation;
 - (b) the number of admissions to and transfers from HMP Maze during said period, the names of the said prisoners, their affiliation and the dates of their admission or transfer;
 - (c) the number and identity of the H Blocks:–
 - (i) that were unoccupied during the period between 1 January and 30 April 1998;
 - (ii) the times for which said Blocks were unoccupied; and
 - (iii) the reasons for non occupation; and
 - (d) the number and identity of the H Blocks which housed two or more opposing paramilitary factions from 1 January 1995 to 31 December 1998, the designations of the respective factions and the periods during which they occupied the same H Block.
41. All Reports, Memoranda, Notes of telephone calls, Minutes of Meetings, Logs, Lists, Intelligence Reports, Intelligence Assessments, Staff Communication Sheets and other similar documents showing, or tending to show:–
- (a) the command structure of the PIRA, the INLA, the UDA, the UVF; and the LVF prisoners in the H Blocks in the period between 1 January and 31 December 1997;
 - (b) the name of OCs and other senior 'officers' of the PIRA, the INLA, the UDA, the UVF and the LVF prisoners in HMP Maze in the period between 1 January and 31 December 1997; and
 - (c) the names of all INLA and LVF prisoners housed in H Block 6 during that period.
42. All Risk Assessments carried out at the HMP Maze between 1st January 1990 and April 1998 relating to the safety and security of prisoners, the safety of staff, the reduction of risks from factional groupings of prisoners and free association of prisoners, the avoidance of confrontation between opposing factions, the procedures for the transportation of prisoners to visits, the housing of opposing factions in the same H Block, the control of wings and the control of inter-block movement of prisoners.
43. All Security Audits carried out at HMP Maze between 1st January 1996 and April 1998 including, without prejudice to that generality, any auditing or monitoring of searching procedures, visiting procedures, inter block movement and other freedom of association of prisoners.

44. All Circulars, Notices, Policy documents, Orders, Instructions, Written Directions or Decisions or other similar documents for the period between 1st January 1996 and the present date and relating to the destruction, disposal or retention of documentation relating to the management and administration of HMP Maze and HMP Maghaberry, including documents relating to staff matters or to prisoners.
45. All Circulars, Notices, Policy Documents, Record Management Protocols or Guidance issued by or on behalf of NIPS HQ to HMP Maze or HMP Maghaberry between 1st January 1996 and the present date showing or tending to show the policy, guidance, rules or decision criteria relating to the retention, destruction or disposal of official documents.
46. Without prejudice to the foregoing calls, any HMP Maze files entitled or relating to:–
 - (a) BDS Review of Operational Management Division;
 - (b) Board of Visitors;
 - (c) Contact with Lisburn Security Services;
 - (d) Decommissioning of HMP Maze;
 - (e) Establishment Contracts for 95/96 to 99/2000;
 - (f) Finance and Devolved Budgets;
 - (g) Flexible Working for Prison Grades;
 - (h) General Correspondence with HQ;
 - (i) Governor/POA Meetings;
 - (j) Job Descriptions;
 - (k) Management Organisation Structures;
 - (l) Meetings with Prisoner's OCs;
 - (m) POA Meetings with the Governor(s);
 - (n) Prisoner Movement between Blocks;
 - (o) Prison Service Review;
 - (p) Quarterly Monitoring Reports;
 - (q) Refurbishment of Blocks;
 - (r) Regimes Monitoring;
 - (s) Senior Management Team Meetings;
 - (t) Steele Report Implementation;
 - (u) Strategic Review of the NIO;
 - (v) NIPS Corporate Plans;
 - (w) HQ Instructions to Governors;
 - (x) HQ Priority Notices to Staff;

- (y) HQ Advice to Governors;
 - (z) Civil Service Circulars;
 - (aa) NIPS Staff Reduction Programme;
 - (bb) Visits Searching;
 - (cc) Notices to Prisoners/Visitors;
 - (dd) NIACRO;
 - (ee) the PGA;
 - (ff) Governors Duty Sheets;
 - (gg) Staff: Sickness and Sick Absence;
 - (hh) Official Documentation: Rules regarding the disposal, retention and disclosure of documents;
 - (ii) Audits;
 - (jj) POA General Correspondence;
 - (kk) Staff Redundancy Programme; and
 - (ll) Reports Internal and External.
47. Failing originals, drafts, copies or duplicates of any of the above and, to the extent that any of the said documents are stored in electronic or digital media format, durable and readable copies of the same.



Participants in the Inquiry and their Representatives

Counsel to the Inquiry

Mr Derek Batchelor QC (to June 2008)

Mr Angus Stewart QC (from June 2008)

Mr Murdo MacLeod QC

Dr Eugene Creally

Instructed by Mr Henry Palin, Solicitor to the Inquiry

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Northern Ireland Office (NIO)
and individual staff*

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Mr Charles Bourne
Mr Paul Greatorex
Ms Beatrice Collier

Instructed by:
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*Until April 2007 Mr Paul Maguire QC represented the NIPS, instructed by Mr Ken Boyd, Crown Solicitor's Office

Individual Prison staff

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Mr John-Paul Waite
Mr Russell Fortt

Instructed by:
Mr Ken Boyd
Ms Caroline Martin
Crown Solicitor's Office
Belfast

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Police Service of Northern Ireland (PSNI) and individual staff	Mr Alva Brangam QC Mr Mike Dunn Mr Andrew Brown Mr Mike Humphreys Instructed by: Mr Ernie Waterworth McCartan Turkington Breen Solicitors
*Until June 2007 Mr David Mercier, Chief Legal Adviser to the PSNI represented the PSNI	
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David Wright and the Wright family*	Mr Alan Kane QC Mr Rory Donaghy Instructed by: Mr John McAtamney John McAtamney & Co Solicitors
*Until January 2007 Mr Seamus Treacy QC (now Mr Justice Treacy) represented David Wright and the family	
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Mr Michael Potter
Mr Brian McKee

Instructed by:
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Mr Kieran Connolly
S C Connolly Solicitors

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Lord Stevens
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Rt Hon Peter Robinson MP MLA
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Mr John McBurney
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Mr David Dunlop
Mr John O'Connor

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Mr David French
Mr Lloyd McKeag
Mr Peter Lynch
Reid Black & Co
Solicitors

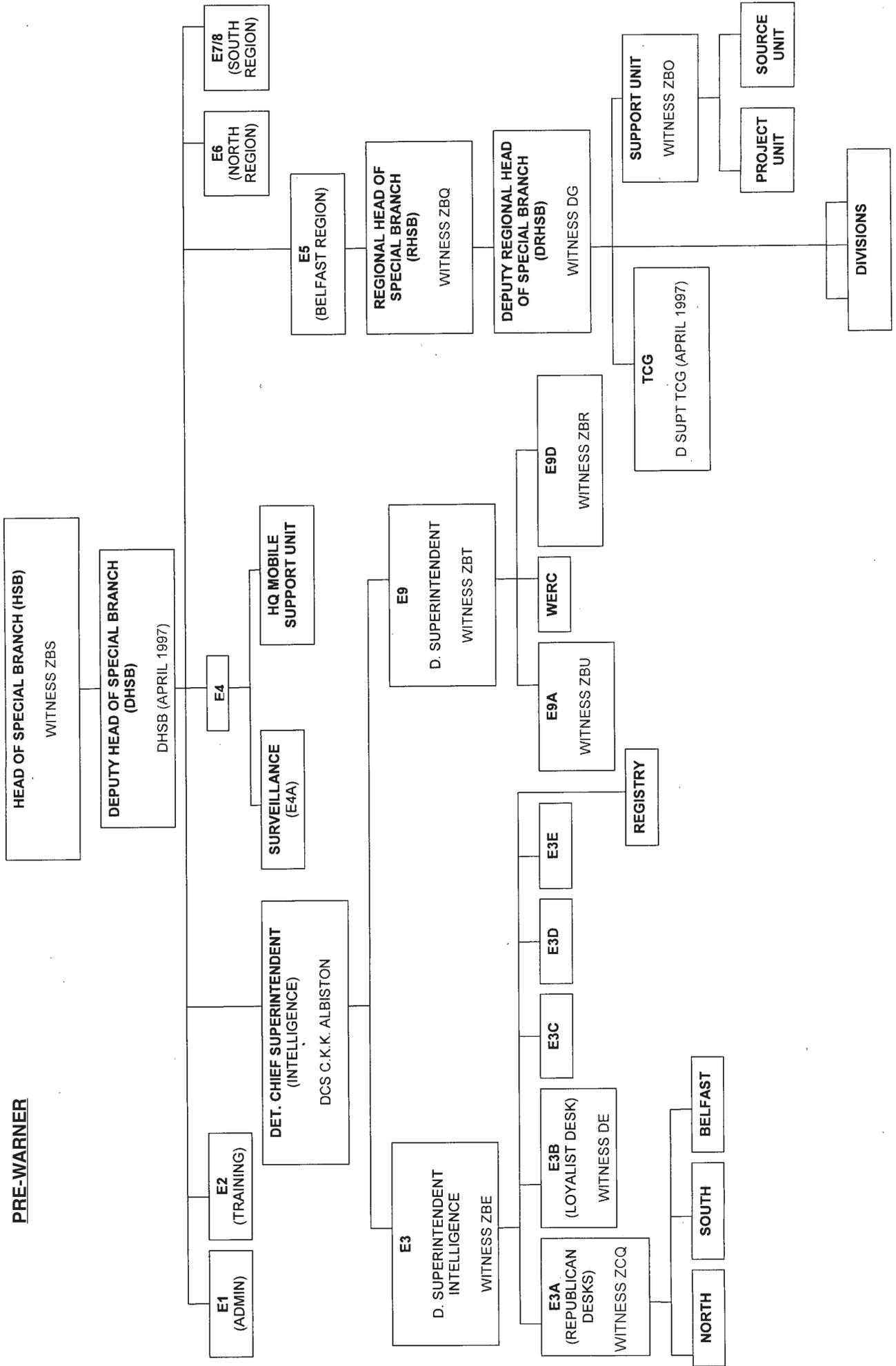
Mr Jean Paul Waite
Mr Russell Fortt

Instructed by:
Mr Giles Seal
Mr Stephen Cave
Ministry of Defence

D

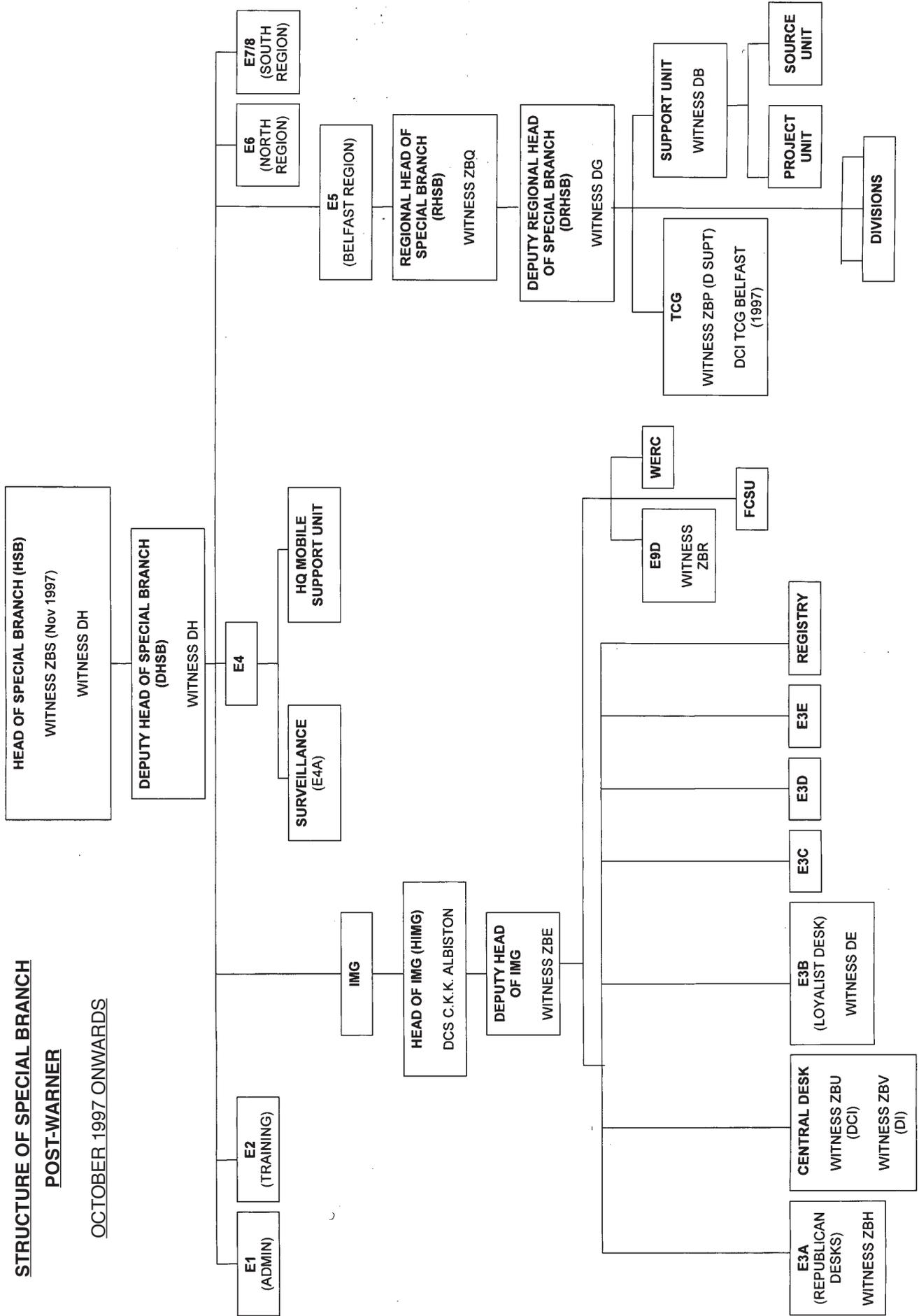
Diagrammatic Explanations of the Structure of Special Branch both pre-Warner and post-Warner

STRUCTURE OF SPECIAL BRANCH
PRE-WARNER



**STRUCTURE OF SPECIAL BRANCH
POST-WARNER**

OCTOBER 1997 ONWARDS



E

A Photograph of HMP Maze, a Plan of H Block 6 and a Selection of Photographs of H Block 6

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H3593-97/9



View of H6 yard

SOCOPhotos-0027

1. View of H6 Yard



13 Mar 2007 15:54

2. View of H6 Gates



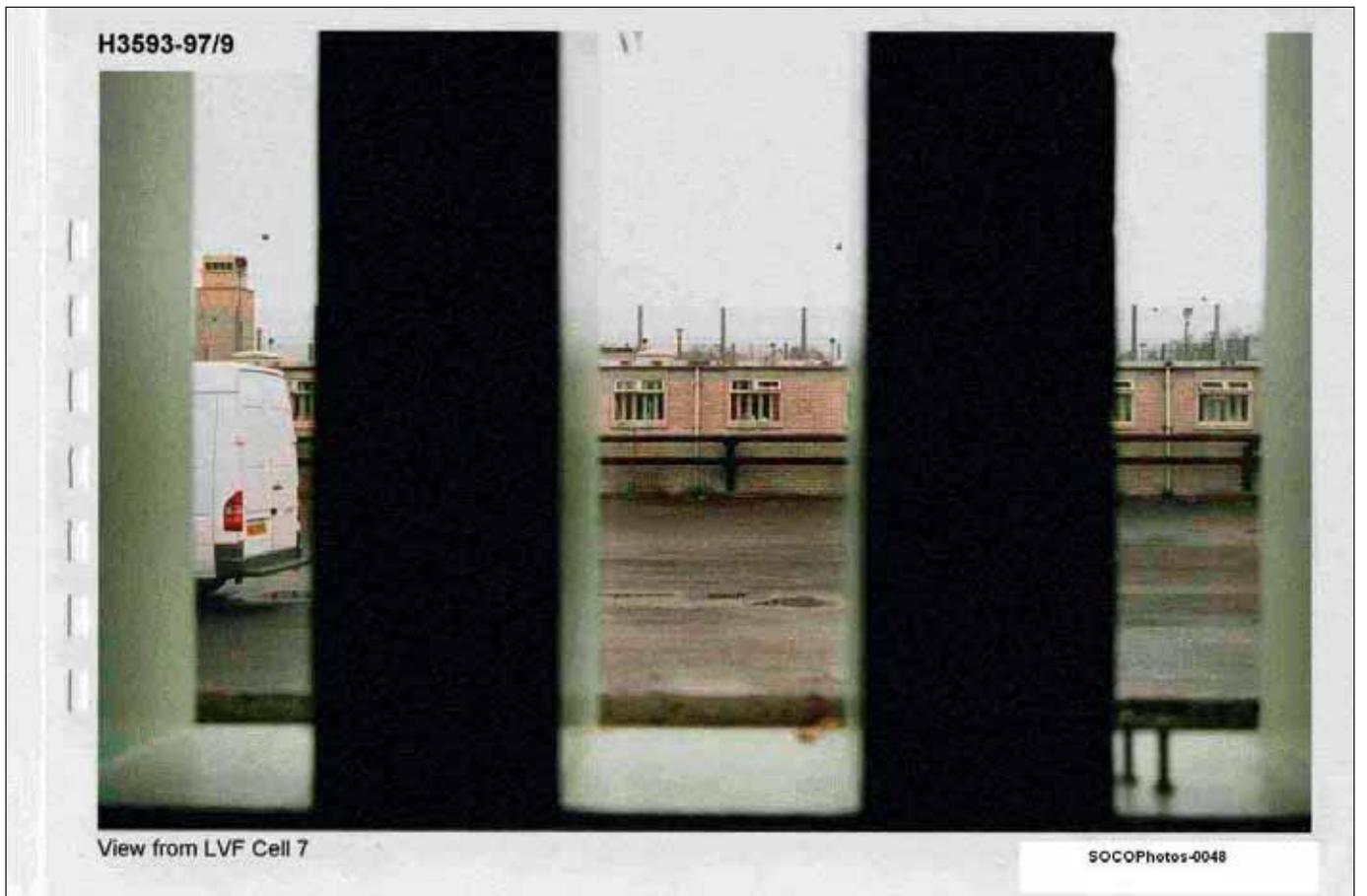
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4. View of H6 Hall Guard looking towards Block door



5. View of H6 Hall Guard leading to Circle



6. View from LVF Cell 7



7. View from H6 cloakroom



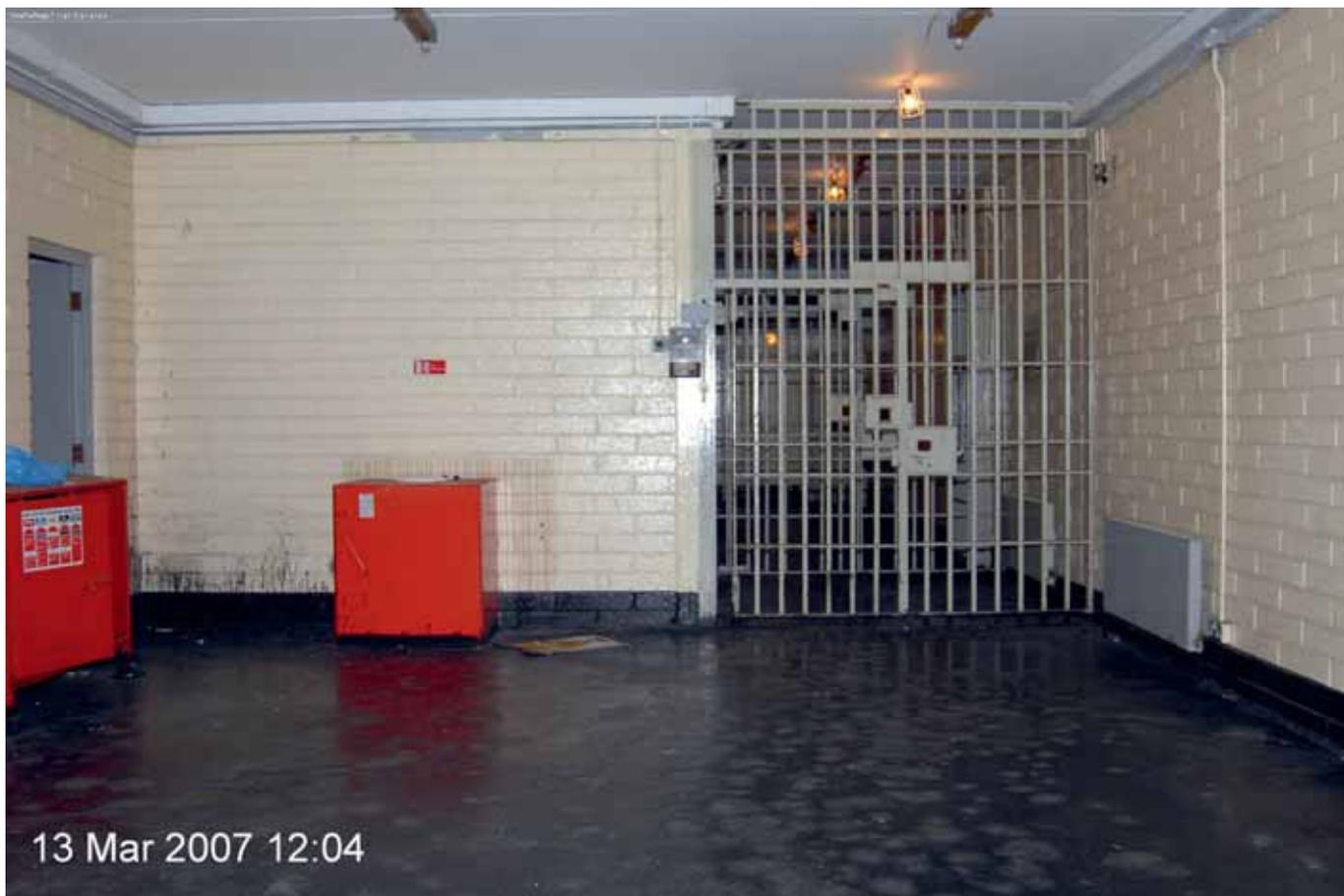
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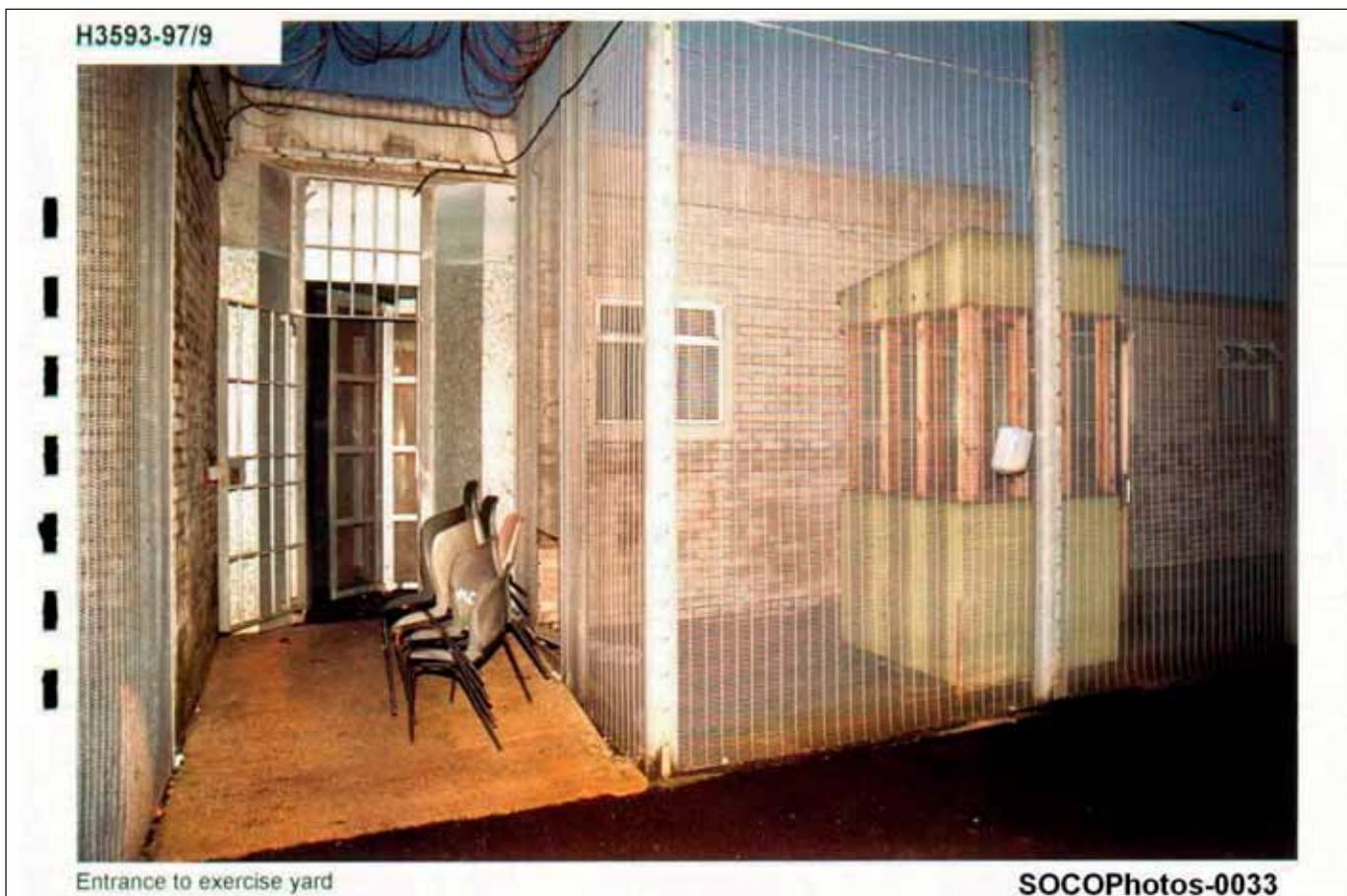
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11. View from Circle towards A&B Wing



12. Entrance to exercise yard

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Hole in fencing

SOCOPhotos-0034

13. Hole in fencing

H3593-97/9



View of H6 from A & B Tower

SOCOPhotos-0049

14. View of H6 from A&B Tower

H3593-97/9



View of H6 from C & D Tower

SOCOPhotos-0050

15. View of H6 from C&D Tower

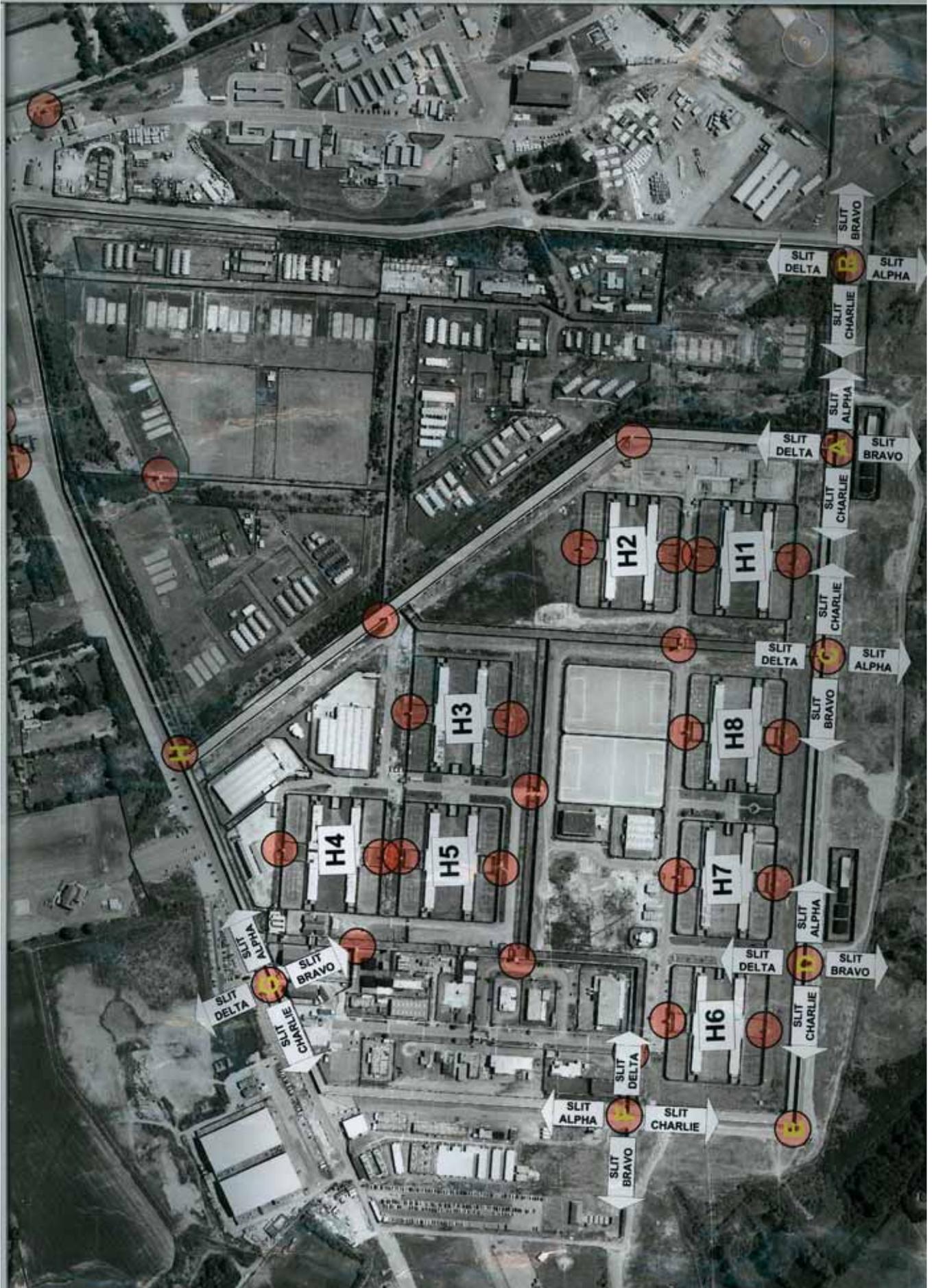


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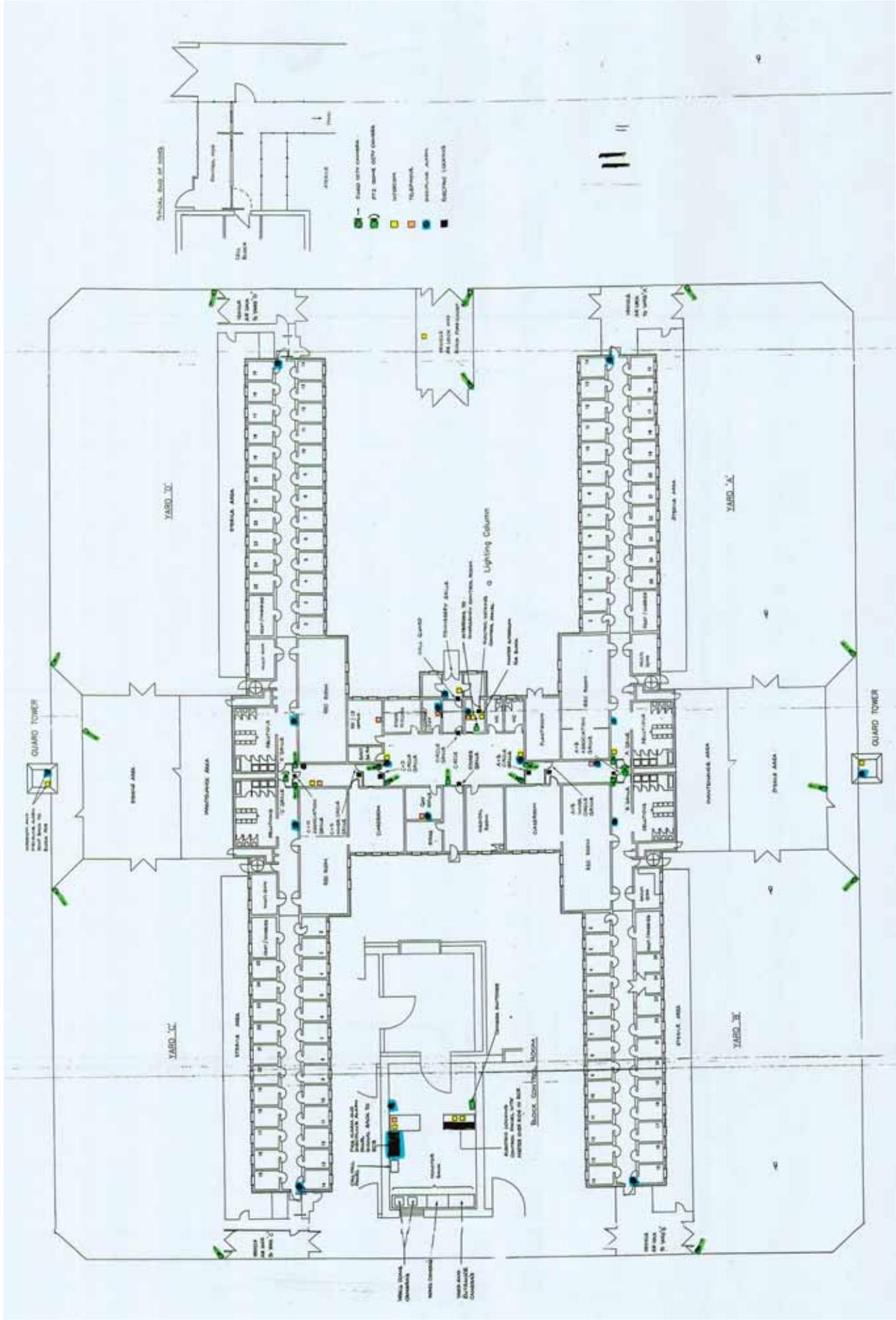
16. View of Sterile Area abutting A Wing Yard



17. View of H6 A&B Tower Guard from outside Block



18. Aerial View of HMP Maze

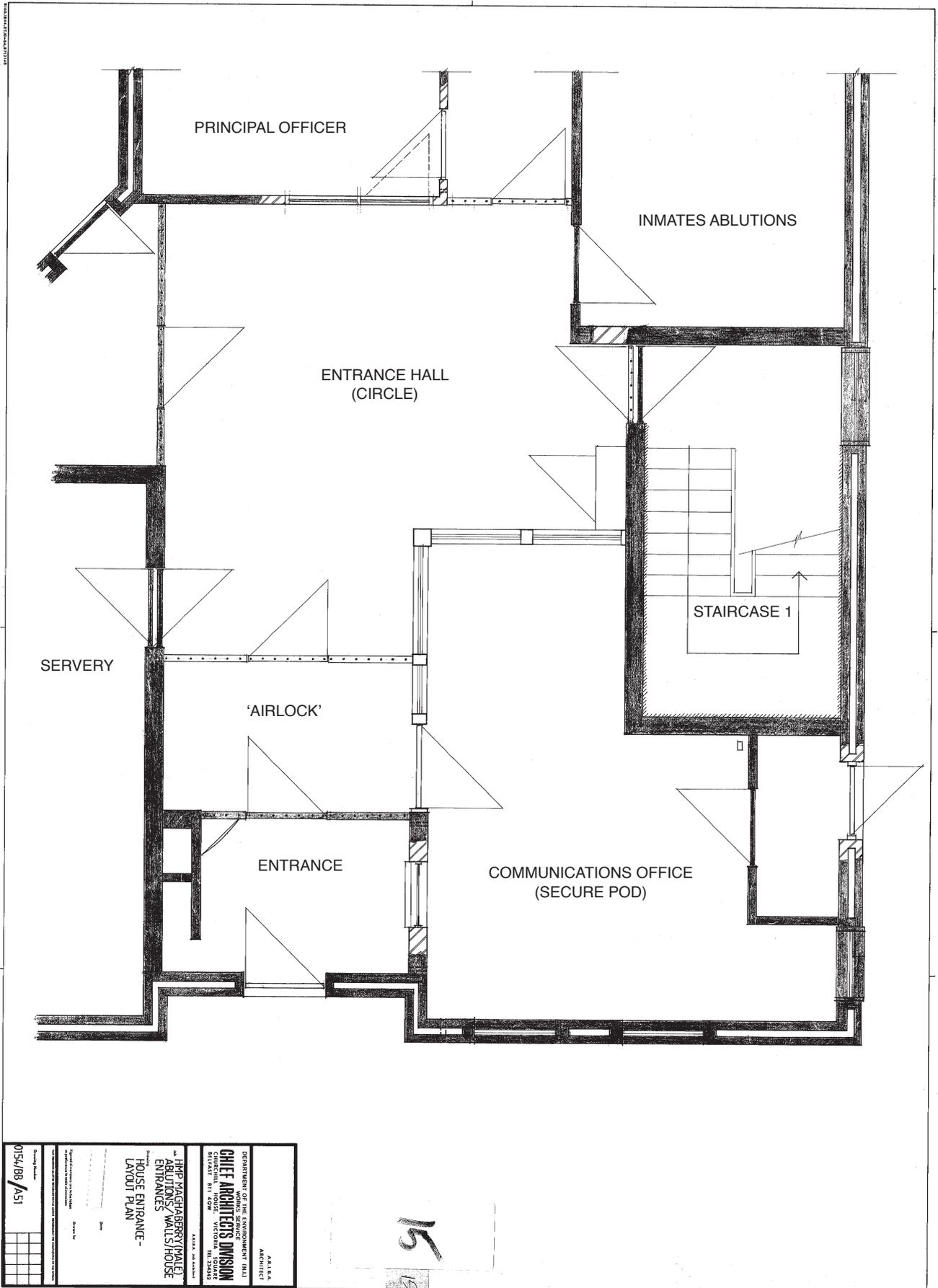


F

**HMP Maze
Organisational
Structure – October 1997**

G

**A Plan of the Entrance
to Foyle House**



Drawing Number 0154/BB / A51	Date 15/10/2011	Scale 1:50	Drawing Title HOUSE ENTRANCE - ABLUTIONS WALLS/HOUSE ENTRANCES LAYOUT PLAN	Client H&M MACHABERRY MALET & ASSOCIATES 100/102 STANLEY STREET SYDNEY NSW 2008 TEL: 02 9231 2244	Architect CHIEF ARCHITECTS DIVISION DEPARTMENT OF THE ENVIRONMENT (H&M) 100/102 STANLEY STREET SYDNEY NSW 2008 TEL: 02 9231 2244
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