

THE BILLY WRIGHT INQUIRY

**POSITION PAPER ON THE POLICE SERVICE OF NORTHERN
IRELAND'S RESPONSE TO REQUESTS FOR INFORMATION**

CHAPTER ONE

INTRODUCTION

1.1 The Inquiry has been given the task by the Secretary of State for Northern Ireland:

“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.”

1.2 Central to its investigation is the need to determine what knowledge was held by, or was available to, any of those agencies concerning risks to the safety and security of Billy Wright whilst he was in the custody of the State, when that knowledge was held and who, if anyone, had the responsibility for acting on it.

1.3 To that end the Chairman of the Inquiry, Lord MacLean, spelt out clearly at the Preliminary Hearing held on 22 June 2005 his hope and expectation that there would be full disclosure of all relevant and material evidence from those agencies who held it or had access to it. That remark has been reiterated and reinforced by the Inquiry both publicly and in correspondence when the opportunity has arisen.

1.4 Regrettably, despite those efforts, we have reached the point, more than three years after the Inquiry was established, where we have not yet been able to lay before the public any evidence of substance. We, the Panel, have already found the need to hold Preliminary Hearings in October, November and December 2006 into the availability of records held by the Northern Ireland Prison Service (NIPS) that can no longer be produced to the Inquiry. We now find ourselves in a position where we consider that we should

produce this position paper detailing the Inquiry's attempts to recover records relevant to its work from the Police Service of Northern Ireland (PSNI).

- 1.5 The then Royal Ulster Constabulary (RUC) was a significant security agency and is among those that we are charged with investigating, given the particular role that Special Branch (SB) played in Northern Ireland in counter-terrorist efforts. The Inquiry needs to know the totality of the information that was available to SB at the relevant times about risks to the safety of Billy Wright. It also needs to know how SB was structured, who had responsibility for which aspects of the counter-terrorist effort and what procedures and practices existed in respect of the collection, collation, evaluation and analysis of, and action on, intelligence information received. The relationship between SB and Prison Security is clearly also of importance.
- 1.6 At the start of the full Public Hearings in May 2007, the Chairman advised those present that the Inquiry had experienced further delay and difficulty in the recovery of documentation that appeared to be relevant and material to the Inquiry's work, primarily in relation to efforts to recover records from PSNI. At that first hearing, represented parties were informed that it was intended to devote a separate chapter to evidence presented during public hearings dealing with the length of time it had taken to conduct the search for PSNI materials, the extent of the exercise undertaken by the Inquiry team, the nature and extent of the responses by PSNI and the results of what had become by then a protracted exercise.
- 1.7 Such records are necessary not only to allow the Inquiry team to identify areas that might merit investigation or exploration in public hearings but also to identify witnesses within the then RUC who ought to be interviewed in connection with events or information related to the killing of Billy Wright in HMP Maze on 27 December 1997. They are also necessary to give proper context to the evidence that is to be heard.

- 1.8 On 18 May 2007 the Legal Advisor to PSNI wrote to the Inquiry advising that her clients considered that the matter of recovery of police documentation “was closed”.
- 1.9 Public Hearings commenced at the end of May 2007. A summer recess was taken at the end of June 2007 and it was intended to resume the hearings in September. In the middle of the summer break from hearings, the Solicitor acting for PSNI advised the Inquiry that the Chief Constable had instituted an internal review headed by a former Assistant Chief Constable (ACC) Samuel Kinkaid (referred to in this paper as the “Kinkaid Review”) to consider the documentation that had been produced by PSNI. Subsequently, at a meeting in August 2007 in Edinburgh, he said that further relevant documents and materials including intelligence materials would be forthcoming from that Review.
- 1.10 For that reason, as the Chairman made clear in his public statement at the hearing held in Banbridge on 17 September 2007, the Panel considered that it was necessary to suspend the formal Public Hearings to await the outcome of the Kinkaid Review and the likely receipt of further intelligence materials. Clearly the availability of such further intelligence documents could impact upon each of the substantive issues the Inquiry has to address. PSNI were given a deadline of 15 October to complete their Review.
- 1.11 After that one-day hearing, in a further effort to focus the concerns that the Inquiry had in relation to PSNI documentation, the Inquiry team met with Counsel for and representatives of PSNI to advise them of the specific areas where the Inquiry considered there appeared to be deficiencies in the materials available to the Inquiry. The intention behind that meeting was to assist PSNI in focusing their researches during the Kinkaid Review on areas of intelligence information where there appeared to be gaps or inconsistencies in the information that had hitherto been provided to it. PSNI were given details of the areas which raised concerns in respect of the intelligence materials provided to it. We deal with these later in this position paper. PSNI were also

advised at that meeting that the Inquiry expected that any Review carried out by them would fully and satisfactorily explain any concerns or fill any gaps.

1.12 On 18 October 2007, PSNI delivered to the Inquiry the Kinkaid Review along with a number of documents. On due consideration of that Review and all accompanying materials, the Inquiry is of the view that the gaps in information that existed prior to the Review remain. The Review has offered some response to the Inquiry's concerns. The explanations offered – some of which are set out in the body of this paper – require to be further investigated in public hearings. The Inquiry is really no further forward than it was when Public Hearings were suspended in September 2007. The sole consequence has been further delay with no gain to anyone.

1.13 As we detail later in this paper, so far as the documentary materials provided along with the Kinkaid Review are concerned, the Inquiry has received nothing relevant to the matters canvassed in its List of Issues that it had not already received from PSNI.

1.14 Specifically, in relation to a number of areas of intelligence where the Inquiry considers there is a lack of RUC SB materials, the Kincaid Review has produced only one material additional document in respect of the following issues:

- (1) the decision to transfer Billy Wright and the Loyalist Volunteer Force (LVF) to HMP Maze;
- (2) the transfer of Billy Wright and the subsequent transfers of Christopher McWilliams and John Kenneway to H Block 6 in HMP Maze;
- (3) an Irish National Liberation Army (INLA) threat to Billy Wright were he to be moved to H Block 6 in HMP Maze;
- (4) association between McWilliams and the INLA in late 1996, early 1997;
- (5) the motive behind the taking hostage of a prison officer in HMP Maghaberry in April 1997;
- (6) intelligence information on the hostage taking;

- (7) the presence of firearms in HMP Maghaberry in April 1997;
- (8) the possible smuggling into prison of a firearm to McWilliams by an ex-Maghaberry prisoner who was a RUC SB agent;
- (9) information on an impending incident in H Block 6 in late 1997;
- (10) INLA military activity in late 1997;
- (11) the decision by the INLA to kill Billy Wright in HMP Maze;
- (12) the murder of Billy Wright.

1.15 In light of the above circumstances and as intimated at the hearing of 17 September 2007, we consider that it is now appropriate and necessary to set out in this paper the various requests made of PSNI, meetings with and Formal Notices served upon them, and the nature of the PSNI responses.

1.16 We would emphasise that our remarks in this paper are designed both to express publicly our concern at the situation that we find ourselves in and to provide for the public and those parties represented at the Inquiry the context in which we will continue to pursue our investigation. This approach will, we hope, avoid the need to set these matters out in evidence through calling witnesses to speak to the whole process of recovery from PSNI. In so far as it is deemed necessary, questions will be addressed to witnesses on aspects of this paper as they are called to give evidence.

1.17 Through the medium of the Kinkaid Review and at meetings held with members of the Inquiry team, PSNI have suggested a number of reasons for any information gap that exists. Some of those reasons are referred to in this paper. They are not necessarily accepted by us. We should make it clear that this is a position paper designed to speed up progress of the public hearings and that PSNI will have the opportunity to state their position publicly during the hearings. When they do, that evidence will, of course, be open to questioning.

1.18 In this paper, the Inquiry has had regard to parts of confidential independent Reports commissioned by the RUC or PSNI on aspects of SB operations in the 1990's. These Reports are at times, understandably, written in a general way

and will be better and more fully understood by those with full knowledge of the context in which they were written. Nonetheless a reasonably clear picture emerges of aspects of the organisational structure of SB and what recording practices were followed in that department at different times during the 1990's. We appreciate that, owing to the sensitive nature of these Reports, it would not, at this stage, be appropriate to disclose any substantial part of their content publicly. Indeed, it may not become necessary to do so at all. However, we have used appropriate extracts from the content of these Reports to explain why the Inquiry has pressed PSNI at times to produce materials, and also to give some background as to why other questions have been raised.

1.19 The nature of the work of SB means that, apart from its general role and function, there is very little publicly available material to show how it was organised or how it worked. The Inquiry team had no prior knowledge at the start of this Inquiry of how RUC SB might have been expected to function. Nor could a comparison be made with SB departments elsewhere in the United Kingdom since RUC SB had the peculiar responsibility in Northern Ireland for the counter-terrorist effort. We would emphasise therefore that, in an Inquiry such as this, we are wholly dependent on the information received from the agencies we have been charged with investigating to provide knowledge of practice and procedure and aid our understanding. That applies as much to the organisation and structure of departments such as SB, including the names of relevant personnel involved at various levels in SB, as it does to information on how intelligence was collected, how it was stored, and what use was made of it.

1.20 An Inquiry such as this is also wholly dependent upon the cooperation of agencies such as PSNI in gaining access to intelligence records. At times PSNI have suggested that they themselves have been hampered in their efforts to assist the Inquiry by a loss of "corporate knowledge" of practice and procedure in the 1990's, and the absence within their present complement of persons with knowledge of systems used in the 1990's.

- 1.21 Whereas the Inquiry has formal powers under the Inquiries Act 2005 to require the production of evidence, it has limited power to investigate or search PSNI repositories. It is wholly dependent on those who hold the information to provide it. As we indicate in the body of this paper, the Inquiry has, at all times that it has considered it necessary, used its full powers under the 2005 Act to require the provision of materials from PSNI. Formal Notices were served upon the Chief Constable on 26 August and 25 November 2005, on 26 May 2006 and on 16 April, 24 August and 1 November 2007.
- 1.22 The focus in this paper is on what are referred to as “intelligence documents”, by which, in the context of this Inquiry, we mean documents recording information gathered by the RUC on risks to the safety and security of Billy Wright and on the intentions and military activity of the INLA in 1997. The focus is on such documents since that is where any gaps in information are most significant.
- 1.23 However, it is also in our view appropriate to deal in this paper with the overall response of PSNI to the Inquiry’s requirements and requests and to seek to explain in so far as we can why there has been delay in getting the Inquiry to its present point.
- 1.24 Dealing with the issue in this manner should provide a picture of how the process has been conducted, set out the difficulties that have been experienced, bring out those areas where there appears to be a lack of materials and, at the same time, set the context for the evidence that we will hear when we resume public hearings. As previously stated, PSNI will have a full opportunity to respond to this position paper.

CHAPTER TWO

RECOVERY OF DOCUMENTS RELEVANT TO THE INQUIRY'S LIST OF ISSUES

- 2.1 The Inquiry has taken a varied approach in its attempts to recover as much relevant information from PSNI as possible in order to aid its investigation of the issues set out in its List of Issues. Although it had as a guide the Report from Judge Cory, this Inquiry had to start with a blank canvas. The provision of records and information relative to organisation, practice and procedure is necessary to allow any investigation to proceed properly. The approach to that task, so far as PSNI is concerned, has included requests for voluntary compliance, inspection so far as was possible of PSNI records, numerous meetings at which attempts were made by the Inquiry team to assist PSNI's understanding of the Inquiry's requirements and the serving of Formal Notices under section 21 of the Inquiries Act 2005.
- 2.2 Often the result of these efforts, singly or in combination, has been to leave an incomplete picture. We would mention that PSNI throughout have asserted that they have at all times exercised due diligence, and they have assured the Inquiry that they have produced all material that has been found. There is no doubt that PSNI have provided large quantities of material. The documentation that relates specifically to our List of Issues, however, forms a small percentage of PSNI supplied papers.
- 2.3 After numerous meetings, discussions and correspondence with PSNI on matters relating to the questions we have identified as requiring investigation, there remain several important areas where the information available does not appear to be complete or full. Accordingly we set out below the extent of the intelligence documentation that has been provided by PSNI in response to "voluntary" requests and Formal Notices both before the Kinkaid Review and after the report of that Review had been supplied to us. There is little difference.

Hard copy records

- 2.4 Prior to embarking on that exercise, however, there is a more general issue that we wish to comment upon. A matter that has troubled us over the whole period of attempted recovery from PSNI has been the asserted absence of any hard copy records held by SB.
- 2.5 In the course of our investigations, we were advised by PSNI that RUC SB had ceased to keep hard copy intelligence records from around 1994–95 and that all information from 1995 onwards had been entered onto computer systems.
- 2.6 PSNI have been unable to produce any relevant hard copy intelligence document for the period from January 1996 to March 1998. All materials produced have been printed off from the computer systems within their organisation. We have received information taken from three computer systems – PRISM, MACER (shared jointly with the Army) and CHISM. The PRISM system and a version of the MACER system were in place between 1996 and 1998.
- 2.7 As this move to computerised records appears to have been a fundamental and wholesale change to operational practice that was not foreshadowed or recorded in any document that we had seen, the Inquiry sought from PSNI all internal memoranda, all correspondence, any training or instruction materials, and any Force orders or instructions regarding this changeover from a written to a fully computerised recording system for intelligence materials. No such documents have been forthcoming.
- 2.8 Further, on 7 June 2007 the Inquiry Solicitor asked PSNI to produce a statement from a suitable witness explaining how the stated move from paper files came about, by whom the decision was made, when the decision was taken and what steps were put in place to ensure the decision was

implemented. PSNI were also asked to confirm that the position was the same in HQ as in the Regions and to exhibit any documentation that existed. We have received no statement.

2.9 We consider that the possible existence of hard copy records for the period covering the matters we are to investigate is something that needs to be explored further in evidence for the following reasons:

- (1) Official Reports that the Inquiry has seen suggest that hard copy records, including intelligence records, continued to be used and kept up until at least 2000;
- (2) A document produced by PSNI to the Inquiry in support of the assertion that hard copy records ceased to exist from 1995 did not support that assertion but itself suggested that paper records remained as working records until 1998;
- (3) Statements taken by the Inquiry team from witnesses suggest that files and other hard copy records existed during the period we are investigating;
- (4) It would appear from entries on some of the computer print-outs that PSNI have supplied to us that additional hard copy files were in existence in 1996–98;
- (5) We have been advised that the Stevens Inquiry holds hard copy intelligence materials recovered from RUC SB that postdate 1995;
- (6) Comments in the McLachlan and Alpass Reports on SB practice on retention and disposal of documents suggest that hard copy records were kept and not regularly reviewed or destroyed.

Official Reports

2.10 The Inquiry has seen official Reports on different aspects of the operation of SB during the 1990's. Two of these Reports in particular deal with SB recording practice and straddle the period of our interest, namely, the McLachlan Report, written in 1987, and the Alpass Report, which looked at

SB practice as it was in 1999. A copy of the latter Report was located by PSNI and produced to the Inquiry only in May 2007.

- 2.11 The McLachlan Report contains a description of the SB Registry in the late 1980's and it is clear from that description that the system then was wholly paper based. It is also clear that intelligence assessments were hard copy documents and that extensive files existed, including hard copy records of the Tasking and Co-ordinating Groups (TCGs: the bodies that took decisions on and actioned intelligence information received by the security agencies). Of interest is the statement in the Report that whereas classified documents were stored in the Registry, highly classified documents were kept by the Deputy Head of SB.
- 2.12 The Alpass Report was commissioned by Sir Ronald Flanagan in October 1999 to carry out an independent Scrutiny of RUC SB Handling Procedures. The Report was produced in April 2000. This arose out of a comment in the Patten Report that there was a need for special procedures for intelligence work for, amongst other things, the handling and storage of secret intelligence, and the review and destruction of records.
- 2.13 We note in this connection that in an Appendix to the Force submission to the Patten Commission around August 1998 reference is made to the then current maintenance and management of both paper and computer files and to physical access to both paper and computer files stored in the Registry.
- 2.14 The Alpass Report, after describing what records were generated by SB intelligence gathering as at 1999, indicated that these records fell into two broad classes – “Live Files” and “Closed or Dormant Files”. “Live Files”, the Report states, are “mainly in paper form and are held in the KARDEX storage/retrieval system in SB Registry”. Alpass numbered 35,000 such files in 2000 although he noted that “increasingly” material was being held electronically. So far as closed and dormant files were concerned, his Report states that these comprised either paper files or microfiche.

- 2.15 According to the Alpass Report, it was the SB Registry that managed the paper records and the MACER database, but it did not hold any highly classified papers. The following comment was then made: “We understand the latter are held by individual SB officers but we have not had time to explore the issue.”
- 2.16 The suggestion in both these Reports that some important records may have been kept by individual officers is disturbing. PSNI searches, including those carried out by the Kinkaid Review, appear to have been focused on PSNI computer systems. We are aware that some papers – such as the Alpass Report – were recovered from individual officers. But, so far as we are able to tell, we have not received any intelligence records that may have been kept by individual SB officers.

Other records

- 2.17 There have also been suggestions made in the course of our inquiries that other records were not “officially” kept. In September 2005 the Inquiry sought recovery of any intelligence books or threat books held by PSNI. PSNI advised that they had carried out an extensive search to locate any such books but none had been found. Subsequently in response to the Formal Notice of November 2005, PSNI supplied a note of a SB officer’s recollection that there was at one time an “unofficial briefing book” used to assist briefings with the Regional Head of SB but that he could find no record of its existence. It also appears that individual SB officers may have kept their own “personal journals” or papers outwith the recognised RUC storage systems.

The “justification” document

- 2.18 In response to the Inquiry’s queries regarding the absence of any paper records, including subject files, relating to intelligence matters, PSNI produced as confirmation a classified document that was said to bear out that position. That document had been prepared, we were told, by an officer familiar with

the computer systems in SB. It did not, in the view of the Inquiry team, support what was being asserted.

- 2.19 The document narrates that prior to the introduction of information technology (IT) “all RUC intelligence” was held on paper files. It then explained that, after a number of reports were received on an individual, a paper file would be created. The document then states: “These files were maintained until 1998 when their use was phased out due to computerisation of SB intelligence reports.” Later in the same text, there is a reference to an upgrade of the PRISM computer system in 1994 that “reduced reliance on paper files”. Thereafter, the document states that whilst paper records were in use (i.e., until 1998) not all of the information collected by SB was entered onto the PRISM database.
- 2.20 Accordingly, the very document that PSNI have offered to the Inquiry, to justify the statement that hard copy records ceased to exist before the period we are interested in, seems positively to assert the opposite.

Statements

- 2.21 In the course of its preparatory work, statements have been taken by the Inquiry from some witnesses who operated within SB between 1996 and 1998. The import of these statements is that hard copy documents and files existed during that period. Indeed, the way in which current intelligence was handled suggests very strongly that some form of paper records would have been kept throughout the period of the Troubles whether or not they were supplemented by computer entries. That is a matter which will be further explored in evidence.

Examples from computer print-outs

- 2.22 In the course of studying the computerised intelligence documents for 1996 to 1998, there are at times references to attachments or to Registry Papers or Registry files that suggest the existence of hard copy records. Certainly the

computer generated records do not include such material. In the Kinkaid Review, there is an example given of a computer entry made in 1997 that refers to attachments that are not entered onto the computer system. We consider that such attachments to an intelligence report would have to be kept somewhere.

Stevens Inquiry

2.23 Members of the Inquiry team have been shown hard copy documents held by the Stevens Inquiry that are dated after 1995 when it is said that all paper intelligence records ceased to be kept.

2.24 We have been advised that security agencies provided intelligence information as hard copy to SB in 1997. No such documents have been produced by PSNI.

Destruction policy

2.25 By letter dated 23 September 2005 the Solicitor to PSNI advised that the destruction policy in force within the RUC/PSNI until 12 January 2005 was that contained in Appendix 21 E of the RUC Code. That Appendix relates to classes of documents held by various branches of the RUC. It does not on the face of it apply to intelligence records.

2.26 The Inquiry formally called upon PSNI in November 2005 to produce all circulars, notices, protocols or guidance issued by or on behalf of the Chief Constable that showed the policy guidance or criteria relating to the retention, destruction or disposal of RUC/PSNI documents.

2.27 A number of documents were produced in March 2006 in answer to that Call. The documents, which are in draft form, all postdated the death of Billy Wright. A document provided in response to that Call – a PSNI document – requires all intelligence material, including surveillance authority, intelligence logs, interviews and surveillance logs, threat logs and source registers to be kept permanently.

- 2.28 The Alpass Report, which directed its attention specifically to SB practice, stated in 2000 that, whereas SB did not have a formal policy on the retention, review or destruction of SB records, the accepted practice “in recent years” had been to retain records indefinitely. The Alpass Report also confirmed that, although the RUC was covered by the Public Records Act (Northern Ireland) 1923 and the relevant Preservation Lists applied to SB material, the Public Records Office (Northern Ireland) (PRONI) did not receive any materials from them.
- 2.29 The Inquiry has received no indication that any different policy on the retention or disposal of SB records was ever in force or introduced. We note that PSNI have not been able to provide any formal document that regulated the retention or destruction of records in the period we are interested in or, indeed, between that period and the changeover to the PSNI.
- 2.30 The comments in the Alpass Report echo what was said in the McLachlan Report in 1987 – namely that “RUC policy is that files are never destroyed” but, if they have been “dead” for a lengthy period, they would be microfiched. Similarly, the remarks in the RUC Submission to the Patten Commission indicate that it was generally agreed that SB should be “extremely cautious” in destroying old intelligence relating to criminal activity and that, since all SB paper records relate to the period of the Troubles, SB “may conclude that in the short term very few of them should be destroyed”.
- 2.31 The Kinkaid Review states that by 1997 “the majority” of intelligence was recorded on IT systems. We note that this Review has involved a search of the PSNI computer databases for any relevant information.
- 2.32 Accordingly, we have been told that all materials that would have been available for everyday operational work in 1996 and 1997 were on the computer system. All materials that have been provided to the Inquiry by PSNI are computer generated documents. That does not square with the other points we have mentioned. Indeed, on consideration of what has been provided

from the PSNI computer systems, there are remarkably few documents relevant to the issues we have raised. We comment on some of those returns below.

- 2.33 These issues surrounding the absence of paper records and the possible existence of gaps in the material stored on PSNI computer systems, together with the lack of any convincing evidence of the wholesale changeover of SB to computerised working in 1995, are such that we consider they are matters that we should attempt to have clarified or explained during public hearings.

The political context

- 2.34 In connection with the Panel's decision at the outset of this Inquiry that the events surrounding Billy Wright's transfer to HMP Maze, his location in H Block 6 alongside the INLA and the events surrounding his murder on 27 December 1997 should be investigated by them in the context of the political situation in Northern Ireland in 1997–98, PSNI were asked to produce all intelligence material that showed or tended to show any information, assessment, opinion, submission, or advice on the effect or potential effect of a number of topics on the all-party talks leading to the Good Friday Agreement.

- 2.35 The formal response from PSNI has been that they could find “no relevant material” falling within the scope of that request. Amongst the topics specifically mentioned in that connection were:

- (1) the activities of Billy Wright;
- (2) Drumcree 1996 and 1997;
- (3) the emergence of the LVF – where PSNI have produced four newspaper cuttings, a LVF pamphlet entitled “Leading the Way” and a number of documents on the decision in June 1997 to proscribe the LVF;
- (4) the stability of the Loyalist ceasefire – where PSNI have responded to the Notice by providing two newspaper cuttings and advising that “No other relevant documents have been found”;

- (5) the stability of the Provisional Irish Republican Army (PIRA) ceasefire – where no relevant documents have been found;
- (6) the Combined Loyalist Military Command (CLMC) threat to Billy Wright – where PSNI state that “No relevant material has been found”;
- (7) the effect of the murder of Billy Wright on the peace process – where the response is the same, i.e., that “No relevant material has been found”.

2.36 On the face of things, it seems surprising that no such documents should exist particularly where PSNI documents have been recovered in respect of these issues from other security agencies, and where it is known that assessments on some at least of these matters were carried out.

2.37 One specific document has been sought but not produced. In the course of its work, the Inquiry became aware of a proposed RUC surveillance operation that was to be mounted in 1996 against Billy Wright, called Operation Desmaid. Although we are assured that that operation did not proceed, there is a clear suggestion in a document recovered from one security agency that Billy Wright was regarded by the RUC, at least in 1996, as a threat to the peace process. PSNI have produced some papers relating to this operation and the Kinkaid Review has made comment upon the fact that it did not go ahead. However, we have not received the assessment that is referred to nor any paperwork that shows the basis for the proposed operation or what transpired in relation to it. It is unfortunate that the extent to which Billy Wright may have been regarded by the RUC or others as a threat to overall peace must be left to inference, owing to the inability of PSNI to produce these materials.

The decision to transfer Billy Wright to HMP Maze

2.38 In terms of the Formal Notice of November 2005, PSNI were called upon to produce all intelligence information made available to the Prisons Minister in respect of the decision to transfer Billy Wright and the LVF to their own paramilitary wing in HMP Maze and all intelligence information relative to the subsequent transfer of Christopher McWilliams and John Kenneway to the

same H Block. Whilst seemingly accepting that all intelligence information made available, e.g., to the Prisons Minister “would have been based upon intelligence held within intelligence databases”, PSNI have been unable to produce any documentation in relation to these matters.

- 2.39 As we mention elsewhere in this paper, PSNI have maintained that all intelligence material was held on their computer systems post 1995. The policy of SB appears to have been not to destroy records but to retain them indefinitely. It seems likely that SB would have had the means, at least, of input into any intelligence information supplied to the Prisons Minister when he was considering the transfer of Billy Wright.

Transfers of prisoners

- 2.40 Billy Wright was transferred from the Punishment and Segregation Unit (PSU) at HMP Maghaberry to H Block 6 of HMP Maze on 25 April 1997. The circumstances leading up to that transfer and the reasons for that transfer are matters that will be canvassed in evidence in the course of the public hearings. Statements have been taken from all of those persons still available to the Inquiry who were involved in the transfer.

- 2.41 In relation to what appears to have been a significant event in the political context of the time – namely, the transfer of Billy Wright and other LVF members to their own paramilitary wing in HMP Maze – all that the PSNI were able to produce, in answer to a Call for all intelligence documents relevant to that transfer, were 11 newspaper cuttings and five message forms which were of little or no significance.

- 2.42 Nor do PSNI hold any intelligence papers in respect of the transfer of McWilliams and Kenneway to HMP Maze. There are no intelligence files available in respect of the hostage taking, and PSNI can produce no intelligence information on McWilliams or Kenneway prior to January/February 1998 and only a few reports that mention John Glennon. That is

comparable to the situation in respect of the documentary evidence available from NIPS regarding the transfer of these two individuals, which is also scant.

The threat from the Irish National Liberation Army

- 2.43 The Inquiry has been provided with intelligence information from another security agency that bears upon a specific threat by the INLA against Billy Wright in April 1997 should he be moved to HMP Maze. A summary of that information will be disclosed publicly in the course of the hearings. That information, it appears on the face of documents recovered and from statements, was communicated timeously to RUC SB HQ.
- 2.44 In response to the Formal Notice of November 2005, PSNI produced no intelligence documents on this issue. The Inquiry was concerned for some time that PSNI did not appear to have any record of having received the information that had evidently been passed to them, and at meetings held with PSNI representatives, the Inquiry stressed that it was in possession of information that indicated on the face of it that SB had received such information.
- 2.45 In May 2006, PSNI produced an Intelligence Report (INTREP) that contained the information supplied to it. They did not produce the original document we have been told was given to them, which would have been hard copy and therefore likely to have been kept in a paper file. Nor did they produce any further information in respect of that threat.
- 2.46 PSNI were asked to address this matter in the course of the Kinkaid Review. The INTREP that had been produced originated in SB HQ, and comprised an entry on the MACER computer system that indicated that the information had been registered there, in effect, as not reliable. However, PSNI have not produced any other document that either supports that evaluation of the information on an INLA threat to Billy Wright or offers any contradictory or counter-balancing intelligence. Nor have they produced any threat or risk assessment that has taken that information into account.

- 2.47 The Kinkaid Review has confirmed that no further material documents have been discovered on the PSNI systems that indicated the normal executive action which would be expected for a threat of the nature referred to above. The Review has also confirmed that searches have not disclosed any record to show that either the prison authorities or Billy Wright himself was notified of that threat. Equally, it appears that there is no record on PSNI computer systems of any communication with the Lisburn Divisional Sub-Commander who had operational responsibility for HMP Maze.
- 2.48 The information on the threat to Billy Wright from the INLA relating to the proposal by NIPS to transfer him and the LVF to their own wing at HMP Maze, and in particular to H Block 6, is clearly of importance to this Inquiry. An issue arises as to the extent of dissemination of that information to those who took the decision to transfer or to those who had the duty to take reasonable care for Billy Wright's safety and security in prison. As matters stand, the Inquiry will have to investigate the question of acts or omissions of RUC SB and others with respect to this threat in the absence of any documentary evidence from PSNI in respect of the position they took in 1997.
- 2.49 The absence of any such records seems surprising in light of the assertion that the system was fully computerised by 1997. The computer systems used by the RUC in 1997 were still operational in 2003 and the information on these systems continues to be available to the Force both from the original system and on the new CHISM database. We have been given no reason to explain why, if information was entered onto these systems in 1997, whether at HQ or in the Regions, it should not be retrievable now.

The hostage taking at HMP Maghaberry

- 2.50 It was their involvement in the taking hostage of a prison officer at HMP Maghaberry that led, for reasons that we shall explore, to the transfer of Christopher McWilliams and John Kenneway to the INLA wing in HMP Maze

in May 1997. These two individuals were known to have Republican paramilitary connections.

- 2.51 In the Formal Notice of November 2005, PSNI were asked to provide all intelligence that they held in respect of the taking hostage of a prison officer at HMP Maghaberry on 28 April 1997.
- 2.52 In total, PSNI have produced ten documents on this incident from their computer databases. One comprises a brief report of the incident. Three others relate to the weapons used in the incident. A contemporaneous intelligence report suggests – on both CHISM and PRISM – that it was an escape attempt, whilst two later documents suggest other motives. One further document relates to unrest at HMP Maghaberry in 2001 and the final document does not relate directly to the incident.
- 2.53 The hostage taking was investigated as a criminal offence by the RUC at the time. On 18 May 2007 PSNI confirmed by letter that there was no intelligence book available for the incident.
- 2.54 There have been suggestions that the hostage taking was related to the transfer of Billy Wright to HMP Maze. There are also suggestions that it was related to the INLA internal feud and that the real target of the hostage takers was a prisoner called Kevin McAlorum who had been aligned with the Torney faction during the 1995–96 INLA feud.
- 2.55 Further, on the face of documents recovered from security agencies other than PSNI, it is evident that there may well have been some involvement of senior members of the INLA in the staging of this incident in April 1997.
- 2.56 The Inquiry suggested to PSNI at a meeting on 19 September 2007 that it seemed that there ought to be more intelligence in relation to this matter. The Kinkaid Review considered this issue. It has advised that “no intelligence has been uncovered indicating that there was prior PSNI knowledge of the events

of 28/4/1997” and that no reference could be found on the PSNI database of Prison Service information.

- 2.57 These matters will be explored in evidence during public hearings. However, they will have to be explored without any substantial input from RUC SB records since PSNI can produce little intelligence material in relation to this incident or to association between Christopher McWilliams and INLA members prior to it. We must await a hearing of all the evidence in relation to this incident before reaching any view on whether this tranche of intelligence materials is likely to have been the totality of what was probably available at the time.
- 2.58 However, two other related matters are worthy of mention in connection with this particular issue.
- 2.59 First, there had been, in August 1996, a previous attempt on the life of Kevin McAlorum in HMP Maghaberry by Christopher McWilliams. There are suggestions in documents that the Inquiry has seen that prior intelligence relating to that impending attack was available to the prison authorities. So far as this Inquiry is concerned, it has recovered no such intelligence documents relating to this assault on McAlorum in August 1996 either from PSNI or from NIPS. The Kinkaid Review has produced one further document of relevance that will be used in evidence.
- 2.60 Secondly, as was brought out at the Preliminary Hearing in relation to Prison Service documentation, there is in the Prison Intelligence File that the Inquiry holds on John Glennon – evidence having been given that all others have been destroyed – a handwritten entry to the effect that a gun had previously been smuggled into prison for Christopher McWilliams by an ex-Maghaberry prisoner. The only instances in the 1990’s in which firearms were smuggled into Northern Ireland prisons were the Maghaberry hostage incident and the murder of Billy Wright. That ex-prisoner was, at the time of the hostage incident and the time of Billy Wright’s murder, a RUC SB informant.

- 2.61 The Inquiry has recovered from PSNI the “product file” for that agent and the intelligence file on that agent.
- 2.62 Neither of these sources provides any intelligence in respect of the smuggling in of firearms to HMP Maghaberry or HMP Maze in 1997, nor do they provide any intelligence information on INLA activity. Indeed, the copy paper file provided as intelligence on this individual has entries from 1984 to 1998 but no entry for the whole of 1997. Only one computer document from the MACER system has been produced for 1997 and none from PRISM.
- 2.63 The Inquiry asked specifically that this issue be addressed by PSNI in the Kinkaid Review. That Review has commented that “No new [sic] papers were discovered indicating the involvement of a now deceased CHIS [agent] in the hostage incident.” It further commented that there was no system in existence in 1997 to authorise in writing an agent’s “participation” in crime and that agents could of course involve themselves in criminal acts without their handlers necessarily knowing about such involvement. We consider that it is necessary to address in evidence the issue of what the source of this information was.
- 2.64 The Kinkaid Review did confirm from ICIS (crime intelligence) records, however, that this agent had had access to firearms in 1997, although, we stress, not to the specific firearms used in the hostage incident or the murder.

An impending incident in H Block 6

- 2.65 PSNI have not provided any record relating to warnings or any intelligence information in relation to HMP Maze, particularly in respect of potential disruptive activity there towards the end of 1997. That absence of materials raises for us the issue of the relationship of Prison Security and SB and the role of the RUC SB Liaison Officer for HMP Maze as well as the question of the flow of information into and out of the prison. These are matters that will be canvassed in evidence.

The murder of Billy Wright

- 2.66 One of the first documents that was supplied to the Inquiry by PSNI was the CID murder investigation file into the murder of Billy Wright prepared for submission to the Director of Public Prosecutions in Northern Ireland. No policy file and no intelligence file for that investigation were provided at that time.
- 2.67 After further Inquiry requests, PSNI confirmed that a policy file had existed but had been mislaid. On 18 May 2007 they provided the intelligence file for that inquiry. That file contained only a claim of responsibility and an INLA statement along with details of threats to NIPS personnel and 200 newspaper cuttings.
- 2.68 In response to the Formal Notice of November 2005 which sought all intelligence materials providing information on the murder of Billy Wright, PSNI responded to the effect that “No relevant information has been found.”
- 2.69 Amongst other intelligence documents supplied to us, however, there are a number of intelligence reports of the incident and of information given after the event. There is no relevant intelligence document in December 1997 pre-dating the murder.

CHAPTER THREE

SPECIAL BRANCH AGENTS OR INFORMANTS

3.1 We have already made reference to meetings that have been held between members of the Inquiry team and representatives of PSNI. At more than one of those meetings, PSNI have been advised of other specific areas of concern by the Inquiry. Particular issues that have arisen – and that we consider merit mention in this paper – have been information and documentation in relation to agents or informants and documents and information on INLA military activity in 1997, particularly in December 1997.

3.2 In this and the following Chapters, we will discuss matters associated with the following aspects of INLA military activity in 1997:

- (1) the names of agents or informants reporting on the INLA between January 1996 and March 1998;
- (2) pen pictures of senior INLA members;
- (3) records of “sightings” of senior INLA members in November and December 1997;
- (4) surveillance operations targeting senior members of the INLA in 1997;
- (5) a meeting at which the decision to attempt to kill Billy Wright in HMP Maze was approved;
- (6) the possibility of an undisclosed “source” of intelligence information;
- (7) an apparent gap in intelligence reporting on the INLA in West Belfast between 6 December 1997 and the middle of January 1998.

We deal with each of these issues in turn.

Agents or informants

3.3 Central to the Inquiry’s remit to investigate whether any act or omission of the prison authorities or any state agency facilitated the death of Billy Wright is

the question of what was known to, or could have been ascertained by, the various security agencies operating in Northern Ireland in the 1990's.

- 3.4 The function of SB in Northern Ireland has been described as the collection, processing and assessing of information about subversive groups, organisations and connected personalities from all available sources.
- 3.5 RUC SB led the counter-terrorist effort in Northern Ireland at that time and the greater part of intelligence information was either collected by or available to that department.
- 3.6 It is not unreasonable therefore in our view to look to PSNI records for the bulk of intelligence materials. It seems to be accepted that RUC SB collected intelligence information by a variety of means. Such means included overt observations and reports from uniformed police, Army personnel and CID officers, and information obtained covertly through the use of informants or agents, technical sources and covert surveillance. The Alpass Report stated that "SB produces very large quantities of intelligence, ranging from high level insights into the strategic direction of the paramilitary organisations to the low level information about local activities and personalities."
- 3.7 Principal amongst those covert sources was the use of informers or agents (in which we include "casual contacts"; the generic title now in common use is a "CHIS"). It is evident that many of these were members of or closely identified with paramilitary organisations.

The names of agents/informants

- 3.8 At one point in its investigation and as a result of information received by it from other security agencies, the Inquiry reached the view that it should consider whether, at any stage during the period of Billy Wright's incarceration in prison, RUC SB or others had knowledge of INLA intentions concerning Billy Wright, or had the means of making an assessment of those intentions.

- 3.9 That task necessitated a considered look at those senior figures within the INLA or the Irish Republican Socialist Party (IRSP) in 1997 and their involvement during 1997 in respect of the issues we have set out to consider. It had become evident to the Inquiry that there was likely to have been regular reporting by agents/informants or by other technical means on many of these persons and on their associates. It was also apparent from the information referred to above and from the fact of the military nature of paramilitary organisations that some at least of those persons were likely to have known about and even to have sanctioned the decision to attempt to kill Billy Wright in HMP Maze.
- 3.10 To that end, it became necessary for the Inquiry team to consider the extent to which the security agencies had “source” coverage of those making military decisions within the INLA and whether RUC SB had the capacity to know or to find out from members of the INLA of the plot to kill Billy Wright in HMP Maze.
- 3.11 We began this particular quest in the spring of 2006; as yet, it has no satisfactory ending.

The first attempt to comply with the formal request

- 3.12 In March 2006, the Inquiry Solicitor, in an attempt to advance this aspect of our work, wrote on our behalf to PSNI seeking the names of “all INLA agents or informants known to the RUC both inside and outside the Maze prison in the period from 1st January 1996 to 31st March 1998”. At that stage, we did not anticipate any particular difficulty with the request since a former ACC had offered to assist the Inquiry by providing such information should we require it.
- 3.13 Correspondence ensued until, in May 2006, the Panel resolved to serve a Formal Notice on the Chief Constable to provide the information within ten days.

- 3.14 PSNI responded to the effect that they did not consider that they could reasonably comply with the Notice. A meeting to discuss their concerns was arranged. On 20 June, representatives of the Inquiry team met with an ACC and representatives of the PSNI Inquiries unit at PSNI HQ. At that meeting, the PSNI representatives explained the difficulties they would face in complying with the request that had been made, not on any principle in respect of disclosure, but because the combination of a request framed in general terms and the record keeping system that had been employed by the RUC in the 1990's meant that it would take a number of years for the Force to be able to comply fully with the terms of the Notice.
- 3.15 After discussion, and in an effort to assist PSNI to meet the Inquiry's request, it was agreed that the Inquiry team would provide at the outset a list of people of interest to them so that PSNI could respond to the Notice by indicating who, if any, were active as agents informing on the INLA between January 1996 and March 1998. We were assured that such a modified request would allow a definitive answer to be provided within a short period of time.
- 3.16 A list of names was delivered to PSNI the following week. It was made clear to PSNI that the list included names of senior members of the INLA/IRSP, some prisoners who had been located in H Block 6 in 1997, and a few other names of interest.
- 3.17 In August 2006, PSNI gave the Inquiry a certain number of names from that list together with SB code numbers. Included in that number were several names of senior INLA members and the names of some persons who had been prisoners in H Block 6 at some point in 1997.
- 3.18 From that response, therefore, it appeared to be the case that members of RUC SB would have had – at the very least – the means of finding out about the INLA's intention to kill Billy Wright in HMP Maze. From information the Inquiry already held, some of the names provided were likely to have been involved in the decision to kill Billy Wright. That in turn appeared to raise

starkly for this Inquiry issues relating to the role of RUC “participating” SB agents, the question of agent handling and the actions of SB.

- 3.19 On the basis of that information supplied in response to a Formal Notice from a Public Inquiry, and given the material that the Inquiry had already received from other state agencies, it would have been possible for the Inquiry to proceed to hearings where these issues would have been explored publicly. As it turned out, if the Inquiry had acted upon the list of names provided by PSNI, as it was entitled to do, that could have had potentially embarrassing, difficult and dangerous consequences.
- 3.20 Fortunately, the Inquiry decided to seek further information from PSNI and to ascertain, in particular, if PSNI held any record of specific intelligence from agents that pointed to an INLA intention to attack Billy Wright in HMP Maze. To that end, arrangements were made to inspect SB files on the number of names provided. At that stage the Inquiry team understood – as it appeared did the Inquiry’s PSNI contact – that the files we would see were SB paper files.
- 3.21 Members of the Inquiry team travelled to Belfast in early September 2006 for that purpose with the intention of inspecting all of the relevant files during that visit. The first two files made available to the members of the team for inspection were SB paper files from SB HQ. The information contained in these files ended well before the period of our interest (January 1996 to March 1998). It was at that juncture that the Inquiry was advised for the first time that RUC SB had ceased to use paper files from about 1993, and that, thereafter, all agent intelligence records were kept on the computer systems. We have already made comment on that asserted position.
- 3.22 The first file reviewed started in 1989, had only one PRISM computer entry and related to a person associating with the PIRA in 1995. We were advised that there was a record of a financial payment to that person in 1997 but that no explanation could be offered for that. Besides that PRISM document, there were 12 pieces of paper on the file and no press cuttings. The file had never been officially closed.

- 3.23 The second file was again an HQ file that had no closing date but ended in 1991. Although there were over 100 agent “reports” on that file, a subsequent search of PRISM found only 15 entered there.
- 3.24 When further attempts were made by the Inquiry team to compare entries on paper SB files for other names with entries on the PRISM system, the members of the team were advised that access to those other paper records was no longer possible since the only two persons who could retrieve the records (who we understand were SB personnel operational in the 1990’s) had left the building for the day and accordingly there was no longer any access to that material.
- 3.25 At that time assistance was provided by PSNI to allow an inspection of the entries on the PRISM system. A thorough search of PRISM for the number of names provided to the Inquiry as agents informing on the INLA in 1996–98 proved no more satisfactory. Apart from one individual, the records contained no intelligence on the INLA, one individual was evidently on the face of the documents a loyalist paramilitary, some of the names that had been provided had not even been recruited as agents prior to 1998 and others were reporting on drug dealing in Northern Ireland and not paramilitary activity.
- 3.26 Accordingly, at the end of that six-month exercise, what had appeared on the face of things to be a “match up” of significant INLA names and RUC SB informants turned out – on the basis of the records provided for inspection – to be the provision of non-terrorist related information by persons not linked to the INLA and mostly not active between January 1996 and March 1998.
- 3.27 Yet it is clear that there were agents active during that period. The Inquiry itself had by this stage identified, from documents produced by PSNI as a result of searches by the Inquiry team, a number of SB agent codes of sources providing information on the INLA during that period. On comparison of those codes with the codes given by PSNI in response to the Formal Notice, only one matched.

3.28 By then it was evident that the serving of the Notice, the discussions with PSNI and the response to the request had been anything but fruitful and, on the best interpretation, things had gone badly awry. Completely wrong or inaccurate information had been supplied to the Inquiry in response to a Formal Notice served under the Inquiries Act 2005.

3.29 The Inquiry's strong disquiet was conveyed immediately to PSNI representatives and the Inquiry asked that PSNI take appropriate steps to re-address the situation that had arisen and comply with the terms of the Notice served upon them.

The “master list”

3.30 On 22 September 2006, the Inquiry team met representatives of PSNI in Edinburgh. PSNI produced a policy document that set out their proposals for addressing the issues that had arisen. It was said that there was “mutual concern” about the state of the information supplied and some explanation was offered as to how the position had come about. We have difficulty with the explanation given, not least because of the formal nature of the process and because of what subsequently transpired in respect of this request.

3.31 In the course of these meetings and on subsequent occasions, the Inquiry sought confirmation that PSNI held a “master list” of agents that could be used to check off the names of those listed by the Inquiry. At one point in time, that confirmation appeared to be given.

3.32 However, the Inquiry was subsequently advised that a master list did not exist in any complete, identifiable form until after the passing of the Regulation of Investigatory Powers Act 2000. Prior to that the names were held, it was said, in Regions by the Regional Head of Special Branch (RHSB) in a loose leaf slip index format and, in order to provide any names at all, PSNI had to work with 20 different indices held at Regional Source Units and at HQ. That position is supported by comments in the Kinkaid Review where it is

suggested that the ACC in charge of SB had “no role in the recruitment or the participation of CHIS [i.e. agents/informants or casual contacts], which seem to have been largely left to the RHSB”.

- 3.33 It seems strange that no comprehensive list of agents in Northern Ireland should exist or have existed. The Army and the Security Services were obliged to advise RUC SB of any agents being run by them in Northern Ireland. Only the RUC had knowledge of the complete picture. Yet, according to the McLachlan Report of 1987, the recruitment, registration and payment of agents was all controlled from a central point. This Report states that:

“No attempt at recruitment will be made without reference to the DHSB [Deputy Head of Special Branch] who maintains records of all agents registered in NI whether they be run by SB, Army, CID or the Security Services.”

When an agent has proved his reliability and value he may become registered:

“The register of agents is maintained in slip index form by the DHSB. At this stage the agent will be assigned a number and all reference to him thereafter is by that number. This includes records of payments made to him....

“All financial transactions at HQ and Divisional level are recorded in a hard backed A4 size bound book with lined pages. The amounts are consecutively marked and the possibility of alteration or substitution does not exist. The book is maintained indefinitely.”

- 3.34 That description does not sit well with what we have been given to understand was the situation with the keeping of names of agents in 1997.

The second attempt to provide the information

- 3.35 PSNI made proposals as to how they could provide an “auditable” process recording the nature and extent of their searches. That process was to involve, as a first stage, a search of all databases (PRISM, MACER and CHISM) as well as paper files, and of all HQ and Regional SB offices, the personal files of agents, and paperwork at the offices of origin, in order to provide a list of persons of interest to the Inquiry. This would allow the Inquiry to identify agents whose product was of interest and agents in whom the Inquiry had an interest. Once the Inquiry had identified agents in whom it had an interest, it could undertake a second stage, in which it would access personal files, including financial records where available, and agent handler files.
- 3.36 In these proposals, there was no mention of the fact that no financial records regarding payments to agents now exist nor that the “handlers’ files” referred to have not been kept since 1995 but comprise simply the same agent “product” on the computer systems. The Kinkaid Review contained a statement from an ACC Crime Support confirming that none of the hard copy handler files for the agents or informants in whom the Inquiry had expressed an interest contained any document after 28 November 1995.
- 3.37 In early October 2006, PSNI reported that they had started the exercise. They reported completion in November and papers were delivered to the secure repository in Edinburgh. Rather than refining the number of hits produced by the first exercise, this approach produced three times as many names.
- 3.38 Inspection of those papers, however, revealed that what PSNI had done was to apply what they deemed to be appropriate “relevancy” criteria to the “hits” they found and on that basis decide whether or not they had agents amongst the names on the Inquiry’s list. The effect was that the Inquiry did not carry out the second stage referred to above. That meant, for example, that although one agent had produced 162 pieces of intelligence in a year, none of that was disclosed. Another had produced 118 pieces of intelligence with no “product” delivered to the Inquiry. More particularly, this approach to the request did not

assist the Inquiry in determining whether SB had the wherewithal, if matters had been brought to their attention, of tasking agents close to the centre of the INLA with finding out what the INLA's intentions were towards the end of 1997.

- 3.39 As a result, although in November 2006 the PSNI computer systems had produced three times as many names of INLA agents as the original number given to the Inquiry in August 2006, by applying relevancy criteria, PSNI had reduced that to about twice as many as the original number of agents and then further refined it to half the original number of agents who, in their view, were providing "relevant information" in 1996 and 1997. In addition, the actual names of the individuals they had found were not produced at the time.
- 3.40 Having been advised by the Inquiry team – again – that PSNI could not apply their own "relevancy" criteria to people who were active agents over the period and that the Inquiry needed to have the names of ALL informants found from its list, in order to be able to judge whether RUC SB had the means of ascertaining what the INLA's military intentions were in 1997, an oral promise was made to hand over the actual names the following Monday when the Inquiry was sitting in Belfast.
- 3.41 That did not happen, the explanation given being related to "sensitivity" issues associated with handing such information over in public. It was agreed that the names would be provided to the Inquiry's secure repository the following Wednesday. Police officers did not arrive from PSNI until the Friday afternoon and what they delivered were not names but a list of codes and CHIS numbers that related to the Inquiry's original list of names.
- 3.42 However, a comparison of the coded list against the names of those in whom the Inquiry had an interest produced a remarkable result that cannot be reported here. If it had been regarded as true and accurate, the significance for the Inquiry and for RUC SB would have been extreme.

3.43 If what had been provided was NOT correct, then, again, after this “formalised auditable” exercise in meeting the requirements of a Formal Notice, the Inquiry was given, not the names of INLA agents, informants or casual contacts, but confirmation that persons with the same or similar names as senior members of the INLA and of INLA prisoners in H Block 6 were police informants. To all intents and purposes, the same unsound conclusions had been reached by the second formalised exercise as had come out of the first. A further explanation was offered by PSNI for this result. We consider that such explanations must be given in public.

The third attempt to meet the terms of the Formal Notice

3.44 On 1 December 2006, a meeting was held with PSNI in Edinburgh to discuss this issue and other issues with regard to the PSNI response to Inquiry requests. PSNI agreed to re-address this issue once more.

3.45 On 14 December 2006, the Solicitor to the Inquiry wrote on behalf of the Chairman to the Chief Constable expressing the Inquiry’s concern at the time that had elapsed since requests were first made and the time taken to deal properly with requests.

3.46 Progress was interrupted for a short while thereafter as a result of the issuing of the Decision in the Judicial Review that had been taken by David Wright against the Secretary of State’s Decision to convert this Inquiry to one under the 2005 Act. PSNI questioned the position of the Inquiry in seeking to use powers under the 2005 Act to recover such information as the names of informants or agents when the Judge had ruled that the Secretary of State for Northern Ireland had erred in his Decision to convert the Inquiry. That position was later resolved.

3.47 By the beginning of March 2007, PSNI had accepted that the exercise in relation to the provision of the names of informants had been wrongly done a second time and confirmed that only a mechanical check of names had been carried out without any attempt to relate those names to the INLA or to the

provision of intelligence information in relation to the INLA. PSNI also advised at that stage that one of the names provided had been wrongly provided and the SB code reference given related to a different individual who did not even have the same name as the person on the Inquiry's list of names. The name on the Inquiry's initial list of names had by then been provided by PSNI as an agent on two occasions. If that information had been correct, then, again, that would have had significant consequences for RUC SB and a significant effect on the work of this Inquiry.

3.48 Representatives of PSNI agreed to attend at the secure repository in Edinburgh the following Monday to discuss what had been provided and the Inquiry's concerns over the material deposited there. They did not attend.

3.49 Accordingly, on 6 March 2007 the Chairman wrote directly once again to the Chief Constable expressing the Inquiry's deep concern at failure on two occasions to carry out properly the exercise in relation to the provision of information about SB agents, particularly when the Inquiry had made every effort to assist PSNI in their understanding of the Inquiry's requirements and the justification for them and lack of progress on this matter.

3.50 The exercise in providing names was begun a third time and the results of that further work were intimated orally to the Inquiry at a meeting on 22 March 2007. At that meeting, the Inquiry team were advised that the end result of PSNI researches carried out over the previous nine months was that only a quarter of the names first identified from the Inquiry's original list had been found to have provided relevant information. To sum up, we had been told that there were during the relevant period, from our initial list, a certain number of agents or informants, three times that many agents, twice as many, half as many and, finally, a quarter as many agents.

3.51 Other matters arose out of that meeting relating to the provision of names. First, PSNI searches had found a number of other "hits" on names on the Inquiry list of names but, we were advised, these names had never been approached and had never been registered. That individuals have been

allocated SB code numbers when they have never been recruited requires full explanation. It is not something that accords with the procedures set out in the independent reports we have seen, nor does it appear that it can accord with any good practice.

3.52 Secondly, a second SB code number was, on the materials provided, allocated to four different individuals with the same surname. We were advised that the allocation of that code number did not in fact apply to any one individual but that the number had been used within a particular Region as a “dustbin” for all “general intelligence” received by that Region. That suggestion we find surprising not least in light of the comments in the McLachlan Report, referred to above. If a repository for “general intelligence” was considered necessary in the RUC SB systems it could easily have been provided, even with a SB code number as was the case with information coming out of prisons, without allocating to that number any particular surname. At present, we do not find that explanation a satisfactory one.

3.53 Thirdly, PSNI further explained that, at times, an agent had been allocated more than one CHIS PIN reference and at other times two agents had been given the same CHIS PIN. Further, the means of recording the registration of agents had been such that the records may have been incomplete. In effect the position adopted by PSNI at that meeting and subsequently in response to a further Formal Notice was that PSNI today could respond to the Formal Notice only on the basis of what they currently hold and have access to, which we understand to be incomplete and fragmented records.

Formal Notice of April 2007

3.54 In light of the comments made at that meeting, and against the background detailed above, the Inquiry decided to serve a further Formal Notice on PSNI seeking a statement from them as to whether, owing to their records being incomplete, they were unable to state whether the persons on the Inquiry’s list had been agents or informants in 1997.

- 3.55 In answer, PSNI stated that they were unable to provide assurances in respect of previous practices and information, that they had trawled all records that they currently held and that, so far as the information in those records was concerned, the answers they had given were accurate.
- 3.56 In light of the apparent uncertainty over the accuracy of PSNI records of agents, the absence of any “master list” and the fact that the situation being put to us by PSNI did not sit well with what was recorded in McLachlan, the Inquiry sought voluntary and then formal access to, and the provision of, the financial records of agents. That request was seen both as a method of checking the periods when agents were active and as a further check on the extent and nature of the information being supplied by such agents. McLachlan had suggested that, in 1987 at least, there was a hard copy book held at SB HQ in which all such payments were recorded and that the book was held “indefinitely”.
- 3.57 PSNI advised that they held no financial records on agents. In May 2007 they advised that, in accordance with auditing policies, such records were destroyed after six years. The Inquiry requested that that matter be addressed in the Kinkaid Review.
- 3.58 The Kinkaid Review advised that the books in which agent handlers recorded payments to agents were no longer available to PSNI. Some documents on financial payments to some of the agents of interest were provided but they did not assist the Inquiry in its desire to check the information otherwise being given to it by PSNI.
- 3.59 We consider that the fact that there is no longer available any record of payments to informants is a matter that requires further clarification. It is information that one might have expected to be regularly kept and reviewed or monitored. Apart from any general record such as a hard backed book or the “books” referred to by the Kinkaid Review, one might have expected it also to be kept, e.g., in agents’ personal files – which we understand still exist – particularly if the agent continues to be “active”.

- 3.60 The Kinkaid Review suggests that paper records such as these finance records would not be kept for ever, especially when there was an annual independent audit process carried out by the National Audit Office. However, PSNI can produce no papers setting out a policy for retention or disposal of such financial records.
- 3.61 For the sake of completeness, the Security Service which was in overall charge of the vote for such payments was asked to produce such records as they had in relation to RUC informants but could not provide any material of relevance to our investigation.
- 3.62 The Inquiry continues to have concerns over how this exercise was progressed and whether it has achieved full and complete disclosure of the names of agents or informants or of all relevant and complete records on such persons. Some of the reasons for those concerns are dealt with in the following Chapters. We are continuing to investigate these issues.

CHAPTER FOUR

THE LEADERSHIP OF THE IRISH NATIONAL LIBERATION ARMY

- 4.1 Similar difficulties have been encountered by the Inquiry in respect of a request to PSNI to produce “pen pictures” of a number of Republican paramilitary figures. For example, as we comment elsewhere (paragraph 2.42), PSNI have been unable to produce any intelligence record relating to two of the three killers of Billy Wright – namely Christopher McWilliams and John Kenneway – prior to January/February 1998. That applies also to “pen pictures” provided by PSNI for these men, despite the fact that they had a history of paramilitary involvement before 1997 when they were involved in both the hostage incident and the murder of Billy Wright.
- 4.2 It is of import to the Inquiry’s work that it be fully apprised of the affiliation of individuals whose names appear in intelligence reports and their standing or position within their respective organisations.
- 4.3 It is clear not only from what has been written of the Troubles in Northern Ireland but also from documents retrieved from other security agencies that it was regular practice to keep information on individuals known or suspected to be involved with paramilitary organisations, to note their position within the organisation and the nature and extent of their involvement.
- 4.4 The Formal Notice of November 2005 sought all documents showing or tending to show the command structure of the INLA between January 1996 and March 1998. In response to that, PSNI have produced no meaningful contemporaneous materials but have supplied a document that has been compiled from unspecified records. That information does not accord with materials recovered from elsewhere.
- 4.5 In September 2006 a specific request was made to PSNI to advise the Inquiry who in the INLA were members of the Ard Chomhairle after 6 December

1997. That request resulted in the production of a number of intelligence documents from which the Inquiry team extracted pertinent information. It now appears from a document provided with the Kinkaid Review that at that time PSNI created an Ard Chomhairle “ORBAT” for the period between January 1996 and March 1998 “for the assistance of the Inquiry” giving the roles of individuals within the organisation but “in the absence of a specific request” for the ORBAT did not provide it to us. As yet, we have still not received that document.

4.6 Also in September 2006 the Inquiry requested PSNI to provide “pen pictures” of a number of named individuals within the INLA and PIRA who were mentioned in intelligence documents. The point of the exercise was to have PSNI tell us from their records who RUC SB regarded as being in senior positions within the INLA in 1997 and what links there were with the named PIRA individuals. What has been provided is again a series of intelligence documents from which the Inquiry team has extracted pertinent information. It seems to us surprising that RUC SB appear not to have held – or no longer to hold – any contemporaneously updated comprehensive record of leading Republican paramilitary figures and are not in a position from such records to assist the Inquiry in determining who the decision makers in these organisations were. Such information must surely have been a prerequisite for any counter-terrorist effort and it seems extremely unlikely that there was no central repository for such intelligence or that each SB officer held the information in his head.

4.7 As a consequence, the Inquiry itself has produced a list of names and related designation codes for use in the public hearings. That list has been compiled from ORBATS and other intelligence documents recovered from a variety of sources. It has been circulated to all security agencies with a request for comments or clarification on the designations attributed to the individuals on the list. No comments have been received from any security agency. The Inquiry is therefore proceeding on the basis that those agencies with knowledge of the affiliation of those persons, their positions within their

organisations and the roles with which they were associated in 1997 are content that this list is accurate.

CHAPTER FIVE

“SIGHTINGS” AND SURVEILLANCE OF THE IRISH NATIONAL LIBERATION ARMY

- 5.1 The concern raised by the prolonged exercise in attempting to identify any informants reporting on INLA activity towards the end of 1997 is accentuated when consideration is given to another question.
- 5.2 On reviewing documents provided to the Inquiry by another security agency, the Inquiry became aware of a number of “sightings” of senior INLA members and associates at addresses in Belfast in December 1997 shortly after the Ard Fheis of the IRSP/INLA held in Dublin on 6 December that year. Requests for further information were made of that agency, who readily complied.
- 5.3 The Inquiry also became aware of a potentially significant meeting of such senior INLA members in the middle of December 1997, a meeting that appears to have been related to the decision to attempt to kill Billy Wright in HMP Maze. From information received, it would seem that very material information had been imparted to those attending.
- 5.4 It is possible at least, if not probable, that those attending that meeting and others attending subsequent meetings were involved in, or at least knew of, the decision of the INLA to attempt to kill Billy Wright in HMP Maze in December 1997. Because of their possible implication in the decision to kill Billy Wright these individuals will not be referred to in this paper (or throughout the public hearings) by name.
- 5.5 In view of the need to investigate information received by the Inquiry, PSNI were asked in September 2006 to produce all “sightings” in Belfast of six named people between 26 November and 27 December 1997 and to provide all information on all “sightings” in December 1997 of people frequenting two locations in Belfast.

- 5.6 Significantly, perhaps, the terms of this request used the word “sightings”. As we comment below in respect of Operation JAW, it subsequently transpired that several of those individuals were in fact targets for surveillance operations carried out under a RUC SB operation run against the INLA, named Operation JAW, and that two senior members of the INLA were being specifically targeted in November and December 1997. None of the information collated and stored on PSNI computer systems under Operation JAW was provided by PSNI in their response to the Inquiry request for “sightings”. We make further comment on that below.
- 5.7 In November 2006 PSNI produced in respect of the two senior figures referred to in paragraph 5.6 a long list of computer document numbers giving dates of sightings of these two people over a two-year period rather than the six-week period asked for. However, PSNI did not provide any of the documents themselves. This was a very specific request that was misconstrued by PSNI and thereafter the response did not in any way match what had been sought by the Inquiry team. All responses of this nature cause further delay.
- 5.8 Further requests had to be made and further information was in due course produced. However, none of that information made any association between the named individuals or any link between them and the addresses that had been provided.
- 5.9 That was wholly inconsistent with the information received from another security agency. Further, these “sightings” which reported such associations and links had all been entered onto the MACER computer at the lowest security level and were therefore available to and held on the MACER computer system by PSNI. PSNI used the MACER system to respond to our request. None of the documents supplied to us by that agency from that system were produced to us by PSNI.
- 5.10 The Kinkaid Review considered why these sightings contained on the MACER system had not been disclosed to the Inquiry. In addressing this

issue, the author of the Review indicates that his attention was drawn to an agreement between PSNI and that other agency regarding the use of the MACER system and writes: “I have been informed that paragraph ten leaves the decision about dissemination of military intelligence to MoD.” The Inquiry has not seen any such agreement.

5.11 We regard that as an inadequate answer to the failure to provide relevant documents that exist within PSNI records. This is a Public Inquiry seeking to investigate matters of public interest. Having sought information from PSNI that that organisation held, we should have been provided with it. Not only did PSNI not disclose the information, they did not, until the Kinkaid Review, suggest that they might have a reason for not disclosing it to us. In any event, the reason proffered is not a justifiable one in the context of a Public Inquiry request. Why such documents were not produced is a matter for which we will seek a full explanation in the public hearings.

5.12 A similar issue has arisen with documents supplied by that other agency entitled “RIRACs” that were not forthcoming from PSNI even though held on the same MACER computer system. According to that agency, such a document is, in its entirety, a PSNI document, the acronym standing for “RUC Intelligence Report and Comment”. According to PSNI, a document of that type is not theirs and, although the intelligence may emanate from RUC sources, the document belonged to the other security agency and could not be accessed by them on the system. The true position remains unclear to us.

Operation JAW

5.13 The incomplete response by PSNI to the Inquiry’s requests for “sightings” is highlighted by the circumstances surrounding Operation JAW.

5.14 Our present understanding is that counter-terrorist operations against paramilitaries in the Regions were mounted by the TCGs of which we will hear more in the public hearings. There were recommendations in the Warner Report of 1996 that suggested that HQ, through the then to be newly formed

Intelligence Management Group (IMG), should play more of a role in operations targeting senior Republican figures. The IMG was in existence in 1997. It is therefore possible that HQ was also involved in operations of this type. Materials we have seen suggest the involvement of SB HQ in Operation JAW.

- 5.15 We mention these points in this context because, subsequent to the above requests for sightings and surveillance and to the response by PSNI, in May 2007, the Inquiry received from another security agency two short extracts from a document originating from a unit in Northern Ireland that was generally tasked by the TCG with conducting surveillance operations on terrorist suspects.
- 5.16 The whole document, we were advised, was a weekly summary of the unit's operations, and the two extracts considered to be relevant to the Inquiry related to surveillance of the Chief of Staff of the INLA in November 1997 and of the 2I/C of the INLA at the beginning of December 1997.
- 5.17 It was evident from these extracts that the operation under which the tasking was ordered and carried out was called Operation JAW. It was also apparent from the extracts that were provided to the Inquiry by another security agency that that operation had been proceeding at least since 28 September 1996, a point in time when the two individuals mentioned above had wrested control of the INLA after that organisation's internal feud.
- 5.18 We were advised that the surveillance summaries – of which they had supplied extracts – were passed to the RUC daily and that the RUC distilled the information in them onto the MACER computer system at Data Security Level (DSL) 23.
- 5.19 What was evident from those limited extracts was that the RUC had been running an operation against INLA members apparently since September 1996 and that the operation was active and on-going in December 1997.

- 5.20 A copy of the information pertaining to Operation JAW that had been provided to the Inquiry was sent to PSNI at the same time.
- 5.21 On 11 May 2007, PSNI were asked whether they had more information on this operation and were asked for a full explanation of what was involved in it. Despite continual reminders, written and oral, no reply, formal or informal, had been received from PSNI prior to the suspension of hearings in September 2007.
- 5.22 Examination of a large volume of papers lodged with the Inquiry by PSNI just before the start of hearings produced a number of other references to Operation JAW. All of these reports came from the PRISM system, had on the face of the document been passed to the TCG for information or action, generally had a DSL of 210 and indicated SB HQ involvement in the operation.
- 5.23 The DSL can be, we understand, a means of determining the sensitivity of the information in an intelligence report and of restricting access to the full information in it to those with a need to know. Our queries in relation to the security levels on these RUC computer systems were made initially in respect of MACER entries. We received a number of explanations. We were told that DSL 23 was a level used to record details relating to compromised police officers and that there was no level 21. Thereafter, we were advised that there was in fact a paper file at Security Level 21 held on compromised police officers. We were also advised by PSNI that DSL 23 was a level kept by the police for operational purposes but that it was used operationally only from 2003. Prior to that the “understanding” of PSNI was that the level provided an option for SB officers to upgrade the security level of an intelligence report where the lower level was not suitable – “e.g., intelligence regarding other police officers”. That is contrary to the information received from that other security agency. The position therefore with regard to DSL 23 on MACER is not clear. In any event, we have received no records from that system at level 23.

- 5.24 The Inquiry had, until this point in time, been under the impression that the highest security level on the RUC PRISM system was DSL 190. Not a single document with a DSL higher than that had been produced to us. The extracts from Operation JAW indicated that there was also a DSL 210 on the PRISM system. Recovery of a running log relating to another surveillance operation carried out by RUC SB at that time also indicated that there was a further security level on the PRISM system, namely DSL 250. Until discovery of such documents over the summer recess the Inquiry was unaware that such levels existed.
- 5.25 Concerns about what we had been told in relation to computer system security levels were raised with representatives of PSNI at the meeting on 19 September 2007. The Kinkaid Review indicated that we would receive a Report from PSNI on all the IT issues raised by the Inquiry. What was provided with that Review was a paper that indicated that the security level on PRISM had no relevance to the access that could be gained to the information, that there were a large number of security level codes on PRISM but that the relevance of these codes is not understood by the present staff in PSNI.
- 5.26 The Kinkaid Review offered the Inquiry a full Report from PSNI on all PRISM IT issues. We formally required that Report in the Formal Notice of 1 November 2007. To date that has not been provided, although we understand it is in the course of preparation. When we do receive it, we trust that it will explain fully how documents were created, stored and accessed on the PRISM system and what the significance of the various DSLs is.
- 5.27 We would like to be certain that all levels of all PSNI computer systems have been checked for relevant information. Eavesdrop product, for example, is recorded on a separate system. We have sought assurances that all systems at all levels have been searched.
- 5.28 The documents we identified in relation to Operation JAW seem to indicate to us that close attention, by both Army and police personnel, was being paid to a

number of members of the INLA throughout 1997 and that particular attention was being paid to the two senior members towards the end of 1997.

- 5.29 At the meeting held with PSNI on 19 September 2007, in case it was not by then obvious, the representatives of PSNI were made fully aware that the Inquiry considered that all records pertaining to Operation JAW were fundamental to its work.
- 5.30 At that meeting PSNI were specifically asked to produce to the Inquiry as soon as possible – and not as part of the documents to be provided with the Kinkaid Review – the full intelligence log for that operation targeting leading figures in the INLA in 1996 and 1997. PSNI were advised that the Inquiry held a running log for a similar operation run by RUC SB over the same period and that that log was stored at DSL 250 on the PRISM system. The significance of such a log is that it details every piece of relevant information gleaned during an operation from start to finish, whether the information be obtained by overt or covert observation, by technical means or from an agent or informant.
- 5.31 To date, and following on the further formal steps taken by the Inquiry after consideration of the Kinkaid Review, that full intelligence log has not been produced, nor has any explanation been proffered as to why it has not or cannot be produced to the Inquiry. This still requires explanation.
- 5.32 The Kinkaid Review has advised that Operation JAW was a “conventional surveillance operation” directed against the INLA in Belfast that commenced on 13 June 1996 and continued until 16 October 1998. Both police and military surveillance teams were deployed under this operational name to “respond to intelligence” and to provide “life style” information on suspects.
- 5.33 The Kinkaid Review for the Chief Constable does ask the question why PSNI did not provide details of Operation JAW to the Inquiry in response to its various requests. After considering a number of reasons, the Review concludes that “On balance, the existence of Operation JAW would have become

apparent during the searches and its existence should have been made known to the Inquiry.”

- 5.34 In our view, that comment goes without saying. It was the Inquiry that specifically asked PSNI in May 2007 for details of Operation JAW. It was the Inquiry that continually sought materials from Operation JAW from PSNI. It was the Inquiry that brought to the attention of PSNI representatives the fact that there were security levels on the PRISM computer system other than the DSL 19 documents that had hitherto been produced to it. It was the Inquiry that highlighted to PSNI representatives the fact that the PRISM computer system had a Security Level 250 where the full intelligence log for operations such as JAW were likely to have been stored. It was the Inquiry that brought the seeming importance of this operation to the attention of PSNI representatives in September 2007.
- 5.35 Some extracts from the computerised log for Operation JAW were supplied with the Kinkaid Review to “give the Inquiry an appreciation of how far Operation JAW is relevant”. That comment in the Kinkaid Review seems to us to overlook the Inquiry’s continual requests for all information relating to Operation JAW and not to deal with the specific request made to PSNI representatives at the meeting of 19 September 2007 for the complete log for that operation.
- 5.36 Most of those documents provided with the Kinkaid Review were already held by the Inquiry. However, as we have indicated, we were still not provided with the full running log for this operation. What has been provided – either by way of document or by way of explanation – does not go any way to dealing properly with the Inquiry’s requests. Apart from the absence of the complete log, the Kinkaid Review does not contain an answer to the Inquiry’s queries as to which departments of SB and which personnel were responsible for the running of Operation JAW.
- 5.37 In consequence, the Inquiry resolved to serve upon the Chief Constable of PSNI on 1 November 2007 a further Formal Notice. That Notice required,

inter alia, the PRISM Security Level 250 intelligence logs and other relevant material for Operation JAW, the names of the sections within SB responsible for Operation JAW and the names of the intelligence and operational officers responsible for directing, analysing and controlling that operation, both at RUC HQ and in Belfast Region together with the periods of time for which they had responsibility.

- 5.38 The response made in compliance with that Notice reached the Inquiry offices on 16 November 2007. No full running operation log was produced. No Security Level 250 documents have been provided. What PSNI have provided are again some extracts from that log, most of which relate to periods in 1998. It is to be noted particularly that we have recovered no material in respect of Operation JAW for the period between 3 December 1997 and early January 1998. That “gap” reflects the position in respect of reporting from agents or informants on which we comment further below.
- 5.39 In so far as the request for the names of the SB officers involved is concerned, PSNI have provided (i) the name of a case officer at the TCG and (ii) the name of a detective inspector in charge of the police surveillance team.
- 5.40 From materials previously provided by PSNI, it is clear that the case officer named left that post in June 1997 and was not there during the whole period in which the Inquiry is interested. PSNI have not provided the relevant names for the remainder of the relevant period. The absence of such information of course has an effect on the ability of this Inquiry to identify those officers within SB who had responsibility for this operation and who ought to be considered as witnesses to this Inquiry. The response by PSNI in respect of Operation JAW does not assist the Inquiry in its work. It is difficult to understand why PSNI records do not show which personnel held which posts in the course of their police careers.
- 5.41 Further, as we have mentioned, the Warner Report recommended that operations such as this involve both HQ and Regional officers from SB. If that

proposal was implemented by 1997, then the Inquiry has not been told who in SB HQ were involved with this operation targeting senior INLA members.

5.42 That this operation was in train and was targeting senior members of the INLA in Belfast between 1996 and 1998 is of significance to the Inquiry for a number of reasons.

5.43 First, it was clear from information supplied by another security agency that close surveillance was being kept by Army special units on the 2I/C of the INLA at the beginning of December 1997 for a particular reason. The intelligence that had given rise to that surveillance is not brought to a conclusion on the documents we have recovered. The surveillance on this individual is therefore likely to have continued until the RUC were satisfied that the issue that had given rise to the need to mount the surveillance had been adequately dealt with. Yet the documentary trail stops on 3 December 1997.

5.44 Secondly, we have mentioned that PSNI had not, unlike the other security agency, provided to the Inquiry sightings that showed associations between senior members of the INLA in Belfast in the middle weeks of December 1997. A number of these individuals were also targets of Operation JAW as were some of the addresses that they frequented. If any, or a number, of those persons were under continued surveillance, it is unlikely that the meetings and associations noted by Army personnel would have gone unnoticed and unrecorded by SB and the TCG in particular. That applies particularly to the meeting we refer to later in this paper.

5.45 The Kinkaid Review made general reference to other operations targeting INLA activity in 1997. On receipt of that information, the Inquiry, in the Formal Notice of 1 November 2007, required the production of the full intelligence logs and further details for those operations. What we have received in response – again without clarification or explanation – is a few printed-off computer extracts relating to these operations that, by themselves, tell the reader little. If what has been produced is the entirety of the available

log entries for the operation, then the information on the PSNI computer systems appears incomplete.

5.46 There is one further aspect relating to this operation that we will mention. Shortly before the deadline for completion of the PSNI Review set by the Chairman at the hearing on 17 September 2007, the Inquiry team came across two documents that related to an HQ Division of SB. One of these documents was a Daily Report and the other was a Weekly Report from that department. Both were computer generated documents and both made reference to Operation JAW. Each contained information of the sort that would be of interest to the Inquiry in its work. At the meeting with PSNI on 19 September 2007, we accordingly sought recovery of all such Daily and Weekly Reports for Operation JAW over the period of the operation.

5.47 The Kinkaid Review has reported that searches were instructed for such Reports amongst PSNI records. As a result of those searches the Inquiry has been offered sight of only one document. That document was provided for inspection on 22 November 2007. It is neither a Weekly Report nor a Daily Report from the HQ department referred to and contains nothing of interest to us.

5.48 Accordingly, we again resorted to a formal requirement by including this request in the Formal Notice of 1 November. No document has been produced in response by PSNI, nor has any explanation been received as to why no such Daily or Weekly Reports can be provided to the Inquiry. A letter from a member of the Public Tribunal Liaison Group supplied in response to the Formal Notice comments:

“The reference to daily/weekly reports in respect of Operation JAW is presumed to refer to team précis made subsequent to a successful deployment. The content of these documents were transferred to PRISM where appropriate, and the hard copy then destroyed.”

- 5.49 If the content was transferred to PRISM, and if PSNI has correctly identified the reports we seek, we do not understand why they cannot be made available to us as requested.
- 5.50 This is again an example of a situation where the Inquiry has found PSNI computer records in respect of operations aimed at the INLA that were clearly compiled on a regular basis but for which we have been unable to recover any further documents of the same or a similar type from PSNI. Since these documents appear to have been entered onto the PRISM computer system, as PSNI accepts, and since that system still exists, we consider that a full public explanation is necessary to explain why PSNI are unable to make full disclosure.
- 5.51 The inability or failure to produce the complete running log for Operation JAW is a matter of extreme concern to us. On any view of things, that was clearly an on-going operation being carried out against senior members of the INLA in Belfast that would give sources of information about their actions, associations and activities in the latter part of 1997.
- 5.52 There is another aspect of the intelligence information sought by the Inquiry that augments the questions we have in relation to the absence of such information. The Inquiry has sought to recover from PSNI all relevant and material intelligence evidence received by SB relating to the murder of Billy Wright from their agents or informants or gleaned by technical means. The produce of that request in the Formal Notice of 16 April 2007 was the delivery of a substantial amount of documentation to the Inquiry just before public hearings began in May 2007. A review of all of that information discloses that, 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.
- 5.53 As with the lack of prison intelligence records for the period of Billy Wright's incarceration in HMP Maze, the complete absence of any intelligence record

within PSNI for this highly significant period in the affairs of Northern Ireland is a gap that we consider needs to be fully explained.

5.54 One such explanation proffered in the Kinkaid Review is that “It is not unusual for reporting levels to go down over the Christmas period as unofficial ceasefires happened every year during the troubles.”

5.55 That cannot be said, however, of the Christmas period in 1997. The Inquiry has already heard evidence from Professor Richard English relating to the aftermath of the murder of Billy Wright when there were a number of tit for tat revenge killings by paramilitary groups including a number effected by the INLA. In December 1997 and January 1998, therefore, there was an escalation of violence rather than any unofficial ceasefire. Yet there appear to be no intelligence records within PSNI that relate to reporting during that period on INLA involvement in these murders. This appears on the face of things to be unlikely, particularly when one considers that, at the end of 1997, the state of the peace process was fragile, with apparent dissension within PIRA ranks and the INLA not on ceasefire.

5.56 Another comment made in the Kinkaid Review on this aspect is the suggestion that, of the agents or informants in whom the Inquiry “had indicated an interest”, there were 25 agent reports for the period 1 to 30 December 1997. What that comment does not reflect is the point we make that, not only in respect of these documents, but also in respect of the other 37 or so supplied by PSNI for December 1997, there is no intelligence on operational activity by the INLA in Belfast after 9 December 1997.

CHAPTER SIX

IRISH NATIONAL LIBERATION ARMY ACTIVITY

- 6.1 As with most paramilitary organisations, decisions on “military” actions or operations would usually be taken by or approved by the senior members or Army Councils of those organisations. Generally, it would be at the top levels of the organisation that the finances and the acquisition, storage and use of weapons would be determined. The Inquiry has seen documentary evidence to suggest that the INLA operation to kill Billy Wright in HMP Maze did not fall outside that expected norm.
- 6.2 We have mentioned in this paper the sightings of senior INLA members and their associations with each other and members of the PIRA in December 1997. We will consider in the course of the evidential hearings whether these may have had relevance to the operation mounted against Billy Wright. In that context, we also note that senior INLA members and the addresses that they frequented were targets for surveillance under Operation JAW. Operation JAW, as we have noted, was active and on-going in December 1997.
- 6.3 From our review of documents recovered under the Formal Notice of April 2007, the SB also received intelligence information on a regular basis from human sources about the activities and plans of the INLA.
- 6.4 From information obtained by us from agencies other than PSNI, it would appear that, in December 1997 prior to the operation being mounted by the INLA in HMP Maze against Billy Wright, there was a meeting of senior INLA personnel in Belfast. On the face of the information available to the Inquiry, it seems to us, even at this preliminary stage, that that meeting would have been central to the paramilitary action taken by members of the INLA in HMP Maze against Billy Wright. What we have been told about that meeting has a distinct bearing on some of the issues that we have raised in our List of Issues, notably, in relation to the weapon used by McWilliams to shoot Billy Wright,

to the standing down of the watchtower guard and to the timing of the attack during a visiting period for Billy Wright.

- 6.5 From all of the intelligence materials provided to us by all security agencies, including PSNI, there is reference to only one meeting of the INLA on the relevant date. Owing to the nature of the responses we have received, the Inquiry cannot at this stage be sure that those materials correctly identify the meeting we refer to in the preceding paragraph. However, if the meeting of which we have been informed were to be the correct meeting, then it is clear that RUC SB were aware that the meeting was taking place as it happened.
- 6.6 We have also seen evidence that might suggest 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.
- 6.7 If that evidence is well founded, it is possible that some security agency at some point had a means of knowing what had transpired at that meeting. Such information could, of course, have been obtained by technical means or through human sources, or both.
- 6.8 Each of the other relevant security agencies has indicated that, so far as they can tell from their records and recollections, the information in question did not emanate from any source to which they had access.
- 6.9 Accordingly, this issue was raised with PSNI at the meeting of 19 September 2007 and they were asked to consider this point in the course of the Kincaid Review. As a result of that Review, PSNI have indicated that they hold no intelligence on any such meeting and in effect that they too can offer no explanation as to how information about that meeting may have entered the intelligence system.

CHAPTER SEVEN

THE PROCESS OF RECOVERY

- 7.1 The principal issues that we have dealt with in this paper relate to intelligence information or to the lack of clarity about SB practice and procedures in 1996 to 1998. We had thought that the Kinkaid Review, as had been indicated to us, would have produced further relevant intelligence documents. That has turned out not to be the case and we have related in this paper a number of areas where we consider further explanation, clarification or investigation is required.
- 7.2 This interruption to the public hearings has caused delay without benefit. We have sought to expedite matters through the production of this paper. For similar reasons we consider that it is also appropriate to give some further general indication here of the nature of the whole process of attempted recovery of relevant material from PSNI rather than to lead oral evidence in relation to it.
- 7.3 The announcement by the Secretary of State for Northern Ireland was made in April 2004, after publication of Judge Cory's Report. The Chairman and Panel members were appointed in October–November 2004. The Inquiry team started work in early 2005. The first request to PSNI for documents was made in February 2005. As we have indicated, the nature of the response from PSNI and others was such that a Formal Notice was served in November 2005. Almost immediately PSNI sought an extension of time of three months in which to answer the Notice. The Chairman granted an extension to 31 January 2006. On 27 January PSNI sought a second extension of time to 28 February 2006. On that date, PSNI sought a third extension of time. Justification was sought by the Inquiry for that further application and, after due consideration, the Chairman granted PSNI a further extension, to May 2006.

- 7.4 By July 2006 PSNI intimated that they considered that they had complied with the terms of the Notice. Thereafter they continued to provide documentation to the Inquiry, often duplication of what had already been provided and often documents that were not relevant. PSNI were continuing to send documents to the Inquiry when it started public hearings in May 2007 and, indeed, documents supplied with the Kinkaid Review were duplicates of documents that PSNI had already supplied to the Inquiry. For example, the Kinkaid Review provided 55 documents on INLA targeting in 1997 that were said to be “additional” and important. Of these, 48 had already been supplied to the Inquiry prior to the start of public hearings and the other seven are of little moment.
- 7.5 A particular problem that arose with the provision by PSNI of materials related to the manner and condition in which documents, particularly intelligence documents, were provided. As we have noted elsewhere, the intelligence documents provided to the Inquiry have been printed off from PSNI computer systems. PSNI delivered these reports in a loose leaf format and in a non-chronological manner. That required the Inquiry team to collate the pages of each document and order them in a way that allowed a proper understanding of the information they contained before work could start on the papers.
- 7.6 The initial batches of these intelligence materials recovered at the beginning of 2006 had superimposed over the text a “watermark” indicating that they had been supplied to the Billy Wright Inquiry. That watermark was so dark that many of the documents were illegible. The Inquiry had to ask for fresh copies. At the end of February 2006 PSNI replaced only some of the illegible papers. These replacements were once more provided in a loose leaf format and not in any sensible order, and the ordering exercise had to be repeated before the Inquiry team could check to see which documents had been “refreshed” and which had not. It was the end of May 2006 – some five months after the problem of legibility had been brought to the attention of PSNI – before all badly watermarked documents had been replaced and work on reviewing the documents could proceed properly.

- 7.7 In the course of checking the documents that had been supplied the Inquiry team discovered that there were documents missing, that documents not on PSNI lists had been produced and that there were often duplicated documents supplied.
- 7.8 A significant number of documents supplied from the MACER computer system were incomplete in that the front sheets for these documents were not provided. From the small number of complete documents we received, it became clear that the front sheets for these intelligence reports from the MACER system contained significant information.
- 7.9 At the Inquiry's request, PSNI printed off and supplied the missing front sheets. These were delivered at the end of August 2006, some four months after PSNI had been advised that the complete document had not been supplied. The Inquiry team had then to physically relate the front sheet to the rest of the MACER document that had been given to them.
- 7.10 We have commented on the joint access that RUC SB had with another security agency to certain levels of the MACER system and have raised the issue of RIRACs. PSNI also held documents that originated from other security agencies that fell under the terms of the Formal Notices served upon them. In December 2005 PSNI declined to provide the Inquiry with those documents until they had the consent of the agencies where the documents had originated. The power of the Inquiry under the Inquiries Act 2005 of course requires anyone holding a document that is relevant to produce it if they have possession of it, regardless of its origins. In this Inquiry, complete disclosure of all documents held by an agency is important in allowing the Inquiry to attempt to cross check what it is receiving from each of the agencies under investigation. Although PSNI listed the documents they held, they did not respond to the number of demands by the Inquiry to produce those documents until May 2006 when they were delivered. Even then, many of them were incomplete documents and further copies had to be sought.

7.11 Some more examples may serve to illustrate further the type of difficulty the Inquiry has experienced. Some two months after its initial request – and after an assurance that PSNI were “making every endeavour” to provide all relevant materials – all that the Inquiry team had received from PSNI was the police investigation file into the murder of Billy Wright. It took PSNI some five months to produce the complete Holmes database into the murder investigation. Even then, the Inquiry was advised by PSNI only in May 2007 that there was no available policy file in respect of that murder investigation.

The Stevens Report

7.12 On 13 May 2005 the Inquiry sought access to Reports commissioned by PSNI from Lord Stevens into allegations of collusion between the Security Forces and loyalist paramilitary organisations. In July 2005 PSNI agreed to provide copies of two of those Reports. On 26 August 2005 the Inquiry had to serve a Formal Notice on the Chief Constable of PSNI requiring their production within 21 days. On 9 September 2005 the Inquiry was given sight of these Reports.

7.13 Delay is of course undesirable and is the cause of unease amongst those who wish to see this Inquiry progress. Had the delay that arose from the PSNI response resulted in the Inquiry receiving all that it might reasonably expect to receive then it would be much more acceptable. However, as this paper indicates, we are not convinced that we have been able to recover all documents that must have been in existence during the period that we are interested in.

Special Branch practice and procedure

7.14 Because PSNI had not supplied to the Inquiry in response to our requests any official documentation in relation to the organisation of SB, the manner in which it collected, collated, assessed and acted on intelligence, or its relationship with other security agencies operating in Northern Ireland, we sought in August 2005 to identify a senior officer who had been in SB in 1997

who could be interviewed in relation to SB procedure and practices, in particular recording practices, before we set about requesting specific documents or reviewing the computer databases used by SB. We were given the names of two officers. On interview, it transpired that the first officer had not joined SB until June 1998 and had only limited knowledge of the time period the Inquiry was interested in. The second officer put forward did have relevant knowledge but was not, however, available for interview until February 2006.

7.15 An ACC also offered himself as a witness. However, he had never worked in SB as a junior officer and became responsible for that branch only after the department had been reorganised.

7.16 Detailed requests for documents in this area made by letter of 27 September 2005 met with a very limited response. These requests were followed by the Formal Notice of November 2005. As is noted below, to date PSNI have not been able to provide any contemporaneous documents dealing with the operation of SB between 1996 and 1998. The Inquiry's search for relevant documentation therefore proceeded without that wider knowledge of how SB worked.

The Formal Notice of November 2005

7.17 It is a matter now of public record that, in November 2005, the Inquiry was also experiencing difficulty with the recovery of papers from NIPS. The "voluntary" approach – based upon the assurance by the Secretary of State for Northern Ireland that the Inquiry would receive full cooperation from all agencies of Government – did not seem to be either producing the material that the Inquiry considered necessary to allow it to perform its task efficiently or providing in our view satisfactory explanations for the inability to produce documents. The process was also contributing to delay in progressing to the public stage of hearings.

7.18 In those circumstances, we resolved to serve upon PSNI and all other agencies a Formal Notice calling for the provision of relevant specified material. The following is a précis of the nature of the requests that were made and the response that ensued.

The organisation and management structure of Special Branch, including lines of accountability in Northern Ireland in 1996 to 1998

7.19 Two documents that were part of the submission put by the RUC to the Patten Commission were provided in response to a Formal Call under this heading, neither of which related to the period in question.

7.20 A copy of the McLachlan Report was provided. It clearly predates the period in question by a number of years. We have noted that there seem to be differences between what is described in this Report and practice in the mid 1990's.

7.21 A copy was also produced of a report by Sir Gerald Warner entitled "A Review of the RUC Special Branch" dated 1996. That Report made a number of recommendations for changes in the way that SB at HQ RUC was structured and related matters; it is not clear – and no documentation has been produced that assists – whether these recommendations were put into effect and when.

7.22 The Inquiry continued to press for more information on the structure of SB during the relevant period, though PSNI had asserted in April 2006 that they considered they had complied with the Formal Notice. One year after service of that Notice, on 27 December 2006 PSNI provided to the Inquiry an undated and unattributed document headed "E Department Structure 1997" that was not contemporaneous but had apparently been compiled from the memory of unspecified serving and retired SB officers.

7.23 Although this might on one view be seen as a helpful approach by PSNI, the information was provided in a manner that meant that the Inquiry team had

itself to compose from the information in the document a chart setting out the various sections of E3 and the related personnel. The information provided did not assist in determining whether the Warner reforms referred to above were implemented or not. Moreover, the information provided was incomplete. No details were given of SB officers operating in Belfast Region, A and B Divisions. No names of agent handlers were provided. No name was given for the significant post of Deputy Head of SB. The Inquiry obtained that name from the interview of a witness. However, it subsequently transpired in connection with another query by the Inquiry that the person named was not in post until about June 1997. The name of the Deputy Head of SB for 1996 and the first half of 1997 has not been provided, yet that information must reside somewhere in PSNI records. Some names of SB personnel in HQ who may have had knowledge of Operation JAW at the end of 1997 have been supplied only very recently.

7.24 As a result of the way in which information has been provided, it has proved difficult for the Inquiry team to identify which posts and which individuals may have had responsibility for matters that arise in connection with the List of Issues made available to parties in 2005. One of the explanations offered by PSNI for uncertainties in information is the “loss of corporate memory” after the revamping of the police service in Northern Ireland post Patten. Another explanation that may be evident is the apparent lack of full or adequate records for the relevant period.

7.25 So far as the role and function of SB is concerned, we were supplied with papers published in 1998 that formed part of the police submission to the Patten Review presumably as indicative of what might have been the position within SB in 1996–98. Unfortunately, the Kinkaid Review has confirmed that some of the information contained in that submission is incorrect in so far as it suggests that it applied to SB practice and procedure.

The collection of intelligence

- 7.26 Standing the lack of meaningful response to the attempts by the Inquiry to ascertain by what means the RUC, and in particular SB, collected intelligence information in 1996 to 1998, the Formal Notice of November 2005 called specifically for all documentation available that related to the issues the Inquiry is investigating. A significant number of documents have been received that do not relate to the period under investigation or are of doubtful or little relevance to the request.
- 7.27 Information was provided at that stage on agent accountability and review and on Guidance on Handling Agents. When these documents were produced, the Inquiry was not advised that the policy, practice and guidance that they refer to did not apply to the practices followed by SB in the 1990's. That such was the case was brought to the notice of the Inquiry team by another source. It was later confirmed by the Kinkaid Review of the documents that PSNI had supplied.

The recording, collation, assessment, evaluation and dissemination of, and action on, intelligence information

- 7.28 PSNI have not produced any documentation showing how intelligence was collected and then processed within SB between 1996 and 1998, nor have they produced any documentation showing the flow of information between HQ RUC SB and between SB Regions and other security agencies. It may be that no such documents exist (or existed then) but no explanation has yet been offered to us.
- 7.29 We have, on the other hand, been provided with a document detailing the policy for Regional SB collection, recording, reviewing and dissemination of agent intelligence dated August 2000. That document appears to introduce a new policy as from 1 October 2000 that is to "supersede all previous instructions relating to the collection, recording, reviewing and dissemination of agent intelligence". That suggests that there was a prior policy and that

there were probably documents setting out instructions on this matter which could be of significance for this Inquiry. PSNI have not supplied any prior policy documents or instructions.

- 7.30 PSNI can produce no briefing material or records of meetings of the TCGs. PSNI has offered a statement from the personal knowledge of an individual who worked with one of those groups. The individual concerned however did not work within Belfast Regional SB and, because we understand the SB practices varied from Region to Region, his statement is of limited relevance to us and does not aid our understanding.
- 7.31 PSNI can produce no Minutes of the Intelligence Review Committee even though they were attendees and recipients of relevant papers. They cannot supply any copies of Northern Ireland Intelligence Reports (NIIRs) though they received these in hard copy as long ago as 1997. They can produce only two Minutes of the Prison Liaison Groups meetings attended by a RUC senior officer.
- 7.32 PSNI were required by Formal Notice to produce Minutes from, inter alia, the Security Policy meetings and Security Co-ordination meetings held in Northern Ireland for the relevant period and the Minutes of the Province Executive Committee meetings. Each of these meetings was attended by senior RUC officers. The response suggested that Minutes of the first meeting were taken by the Northern Ireland Office (NIO) but were “not circulated below that level” and none were produced in response to the Notice at that time. Subsequently, in May 2007 – one year later – PSNI produced, without explanation, some Minutes for 1997. They also then produced, again without explanation, the Minutes of the Security Co-ordination Committee meetings to the Inquiry.
- 7.33 In relation to the Province Executive Committee Minutes, some 13 months after having advised the Inquiry that these Minutes were “not filed in SB records”, PSNI produced the Minutes, again without comment or explanation.

Relationship with prisons and with other security agencies

- 7.34 Very little information of relevance was provided under this formal request, and a significant proportion of what was provided related to a period post 1997. For example, the information provided on the Prison SB Liaison Officer relates to the post as it now exists and not as we understand it to have been in 1996 to 1998.
- 7.35 A Memorandum of Understanding on the Dissemination of Intelligence was entered into between NIPS and the RUC in 2000. It was evident to the Inquiry that there had been much communication and discussion between these two agencies before that agreement was finalised yet neither organisation could produce any of that preparatory material.
- 7.36 On 30 August 2007 the solicitors acting for PSNI produced a “correspondence file” which purported to comprise the preparatory material between the RUC and NIPS in connection with the Memorandum of Understanding. These papers appear to have been held in the Registry. The file produced appears to be a collection of documents from six separate files. The documents suggest that SB had been part of the process and that papers were prepared and circulated by SB. We have received no SB papers.
- 7.37 It is evident that at times NIPS turned to the RUC for specialist help and advice on security matters. One such area where advice was sought was review of security at HMP Maze. In the Formal Notice of November 2005, PSNI were called upon to produce all security reviews carried out for the Prison Service including the RUC Review of Prison Searching Procedures and the RUC Review into Maze Security Procedures that had been referred to in recovered NIPS documents.
- 7.38 In April 2006 PSNI replied to the effect that they could not find any such documents. They provided a Prison Service Security Search Procedures file for the period September to November 1994 containing 17 documents that

refer to a “Prisons Survey” Report. The Report was not included with these papers.

7.39 PSNI have produced no document to show the nature of the relationship between the RUC and the Director of Policing and Security in the NIO and can provide no document that shows the relationship between the Security Service – in particular the Director and Co-ordinator of Intelligence – and the RUC other than an extract from the police submission to Patten that suggested “there [was] a close working relationship between SB and Security Service in relation to the security of the State”. Nor can PSNI provide any document that showed the relationship between the Joint Intelligence Committee and SB.

7.40 The absence or lack of documentary records in relation to the general organisation of SB, its relationship with other security agencies operating in Northern Ireland and its practices and procedures in the field of intelligence has not only caused delay in moving this Inquiry on but equally hampers the ability of the Inquiry to investigate one of the agencies included within its remit. It may be that reasons for the lack of such general records become apparent during the course of our public hearings.

The Provisional IRA tunnel

7.41 The Formal Notice of November 2005 seeking intelligence documents on the attempted escape from HMP Maze in March 1997 drew a negative response from PSNI. Subsequently, the Inquiry sought recovery of the intelligence file for this incident. In May 2007, a file containing four reports and two newspaper cuttings was provided. Late in June 2007, PSNI produced four files of documents that had been found in a rural police station. These files contained no intelligence material relative to the tunnel.

The Averill escape

7.42 In response to the Formal Notice of November 2005 PSNI produced to the Inquiry the Narey Report and indicated that nothing further of relevance had

been found. The Inquiry again subsequently sought the intelligence file for this inquiry. When provided, that file was found to contain two intelligence-related reports and nine newspaper cuttings.

7.43 **INTREPs.** INTREPs were documents that PSNI compiled from intelligence received from the Security Service. Eighty-two of these documents were incomplete and some of these contained no text whatsoever. Full copies had subsequently to be supplied.

7.44 **IMGIRs.** IMGIRs were documents compiled by HQ RUC SB from material collected from human and technical sources. These documents were issued to other security agencies. PSNI have produced only one IMGIR for 1997. It has no bearing on the issues with which the Inquiry is concerned.

Intelligence from technical sources

7.45 The Inquiry has sought from PSNI all intelligence information that may have been available to RUC SB from any technical sources available to them in respect of information emanating from HMP Maze or from addresses frequented by INLA members. No such intelligence product has been provided to us.

CHAPTER EIGHT

COMMENT

- 8.1 We have listed in this paper the process we have followed in attempting to recover the maximum material relevant to the issues we are to address and we have raised issues that we consider require clarification, explanation or further investigation.
- 8.2 The Chief Constable of PSNI has stated publicly on a number of occasions that his intent is to facilitate the work of this Inquiry to the fullest extent possible. Despite this, PSNI has been unable to provide the Inquiry with a copy of the documents it has requested. It may be that the Panel will be provided with good explanations for the inability of PSNI to provide some of the materials that we seek and that, on any view, must have been within their record keeping systems at some point in time.
- 8.3 The public hearings will now proceed and they must proceed upon the basis of the documentation the Inquiry has succeeded in recovering after full use of the powers available to us. In due course, we will have to construe the evidence as a whole, and the significance or otherwise of any gaps in the information available to us can only be assessed once we have heard from all witnesses and considered the totality of the evidence.

THE BILLY WRIGHT INQUIRY PANEL

EDINBURGH

January 2008