

# Statement by the Police Ombudsman for Northern Ireland on her investigation into the circumstances surrounding the death of Raymond McCord Junior and related matters

**This Statement is published in accordance with Section 62 of the Police (Northern Ireland) Act 1998 and is a report on the Police Ombudsman's investigation into matters surrounding the death of Raymond McCord Junior. The report is based on the findings of an extensive investigation by the Police Ombudsman, including interviews with former and serving police officers and the assessment of intelligence reports and many thousands of other documents held within the policing system, only some of which will be referred to in this Statement.**



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22<sup>nd</sup> January 2007

# CONTENTS

## SECTION ONE: A MAJOR INVESTIGATION

The role of the Office of the Police Ombudsman for Northern Ireland

Executive Summary

1. Introduction
2. Human Rights Issues
3. Initial concerns – Matters brought to the attention of the Secretary of State and the Northern Ireland Office
4. Matters brought to the attention of the Chief Constable
5. Matters brought to the attention of the Surveillance Commissioner
6. The initiation and scope of the investigation
7. The review of the investigation
8. Difficulties encountered during the investigation

## SECTION TWO: THE MURDER OF RAYMOND McCORD JUNIOR.

9. The murder of Raymond McCord Junior and the subsequent investigation by the Police

## SECTION THREE: INTELLIGENCE LINKING INFORMANT 1 AND OTHERS TO MURDER AND ATTEMPTED MURDER

10. The murder of Mr Peter McTasney, 1991
11. The attempted murders of Intended Victim One, Intended Victim Two, Intended Victim Three and Intended Victim Four, 1989-1991
12. The attempted murder of Intended Victim Five, 1992
13. The murder of Ms Sharon McKenna, 1993
14. The murder of Mr Sean McParland, 1994
15. The murders of Mr Gary Convie and Mr Eamon Fox, 1994
16. The murder of Mr Gerald Brady and associated incidents, 1994
17. The murder of Mr Thomas Sheppard, 1996
18. The murder of Mr John Harbinson, 1997
19. The murder of Mr Thomas English, 2000
20. The attempted murders of Intended Victims Six and Seven, in 1992 and 1997
21. The attempted murders of Intended Victim Eight
22. The attempted murder of Intended Victims Nine and Ten

## SECTION FOUR: INTELLIGENCE LINKING INFORMANT 1 AND OTHERS TO OTHER CRIMES

- 23. CID searches blocked by Special Branch, 1997
- 24. Planned attack and attack in the Republic of Ireland, 1996 and 1997
- 25. Targeting of a Republican, 1994
- 26. Arson attack and other crimes, 1997
- 27. Drug Dealing in North Belfast and Larne
- 28. "Punishment" shootings and attacks
- 29. Possession of Information Likely to be of Use to Terrorists

## SECTION FIVE

- 30. Financial arrangements and Informant 1

## SECTION SIX

- 31. Informant Handling, Supervision and Management

## SECTION SEVEN

- 32. Collusion

## SECTION EIGHT

- 33. Conclusions
- 34. Recommendations

## APPENDIX A

Changes to PSNI Working Practices Since 2003

## THE ROLE OF THE OFFICE OF POLICE OMBUDSMAN FOR NORTHERN IRELAND.

The Police Ombudsman for Northern Ireland is:

- Established by the Police (NI) Act 1998.
- Accountable to Parliament through the Secretary of State.
- Constituted and operated independently of the Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland.
- Required to have regard to guidance issued by the Secretary of State for Northern Ireland.
- An executive, non-departmental body financed by Grant in Aid from the Northern Ireland Office.

The Police (NI) Act 1998 directs the Police Ombudsman to;

- Exercise her powers in such a manner and to such an extent as appears to her to best secure: (a) the efficiency, effectiveness and independence of the police complaints system and (b) the confidence of the public and members of the police service in that system.
- Observe all requirements of confidentiality.
- Receive complaints and other referred matters and decide how to deal with them.
- Receive and record policy complaints and refer them to the Chief Constable.
- Make recommendations to the Director of Public Prosecutions for criminal prosecution.
- Make recommendations and directions in respect of disciplinary action against police officers.
- Notify the Secretary of State, the Northern Ireland Policing Board and the Chief Constable of the outcome of certain complaints, referred matters and any investigation which the Police Ombudsman initiates without complaint.
- Report annually to the Secretary of State.

The Police (NI) Act 2000 directs the Police Ombudsman to:

- Carry out enquiries as directed by the Secretary of State and;
- Supply statistical information to the Northern Ireland Policing Board.

The Police (NI) Act 2003 directs the Police Ombudsman to:

- Investigate a current policy or practice if (a) the practice or policy comes to her attention under the Police (NI) Act 1988 and (b) she has reason to believe that it would be in the public interest to investigate it.

## EXECUTIVE SUMMARY

1. In May 2002 Mr Raymond McCord Senior made a complaint to the Police Ombudsman for Northern Ireland about police conduct in relation to the murder of his son, Mr Raymond McCord Junior. His complaint alleged that police over a number of years, acted in such a way as to protect informants from being fully accountable to the law.
2. Preliminary enquiries following receipt of Mr McCord's complaint showed that there were sufficient issues of concern to warrant a wide-ranging investigation not only into matters relating to the investigation of Mr McCord's son's murder, but also into the police handling and management of identified informants from the early 1990s onwards.
3. In the course of the investigation the Police Ombudsman sought the cooperation of a number of retired RUC/PSNI senior officers. Officers who were being treated as witnesses were asked to provide an explanation of Special Branch and CID internal practices during this period. Investigators offered to meet retired officers at venues with which they would be comfortable and at times which would suit them. They were advised of the areas of questioning and provided with significant disclosure of information, at their request. The majority of them failed even to reply. This was despite the fact that witness details would be anonymised in any public statement. Amongst those who refused were two retired Assistant Chief Constable's, seven Detective Chief Superintendent's and two Detective Superintendent's.
4. Some retired officers did assist the investigation, and were helpful. Officers varied a great deal in the manner in which they responded to questions. Some, including some retired officers dealt with challenging questions in a professional manner.

5. Others, including some serving officers, gave evasive, contradictory, and on occasion farcical answers to questions. On occasion those answers indicated either a significant failure to understand the law, or contempt for the law. On other occasions the investigation demonstrated conclusively that what an officer had told the Police Ombudsman's investigators was completely untrue.
6. The Police Ombudsman's initial concerns about PSNI informant management processes caused her to alert the Chief Constable to those concerns in March 2003. She subsequently made him aware on 8 September 2003 of her very detailed concerns about these matters. She also alerted the Surveillance Commissioner on 15 September 2003. He carried out an inspection of the Special Branch handling of Informant 1. That inspection found serious failings by Special Branch to comply with the requirements of the law in relation to the handling of informants.
7. The wider investigation was focused on seven main lines of enquiry, which had emerged during preliminary enquiries and in respect of which serious concerns had arisen. They were, in chronological order of event:
  - two attempted murders in 1991.
  - the murder of Sharon McKenna on 17 January 1993.
  - the attempted bombing of the Sinn Féin office in Monaghan on 3 March 1997.
  - the blocking by Special Branch of searches during a pre-planned CID operation intended to disrupt the activities of the UVF.
  - the murder of John Harbinson on 18 May 1997.
  - the murder of Raymond McCord Junior on 9 November 1997.

- Informant 1's alleged involvement in drug-dealing between 1994 and 2003.
8. Other issues emerged during the course of the investigation and were considered as part of the investigation.
9. Intelligence reports and other documents within the RUC and the PSNI, most of which were rated as 'reliable and probably true', linked informants, and in particular one man who was a police informant (referred to in this report as Informant 1) to the following ten murders:
- **Mr Peter McTasney** who died on 24 February 1991;
  - **Ms Sharon McKenna** who died on 17 January 1993;
  - **Mr Sean McParland** who was attacked on 17 February 1994, and died on 25 February 1994;
  - **Mr Gary Convie** who died on 17 May 1994;
  - **Mr Eamon Fox** who died on 17 May 1994, in the same attack as Mr Gary Convie;
  - **Mr Gerald Brady** who died on 17 June 1994;
  - **Mr Thomas Sheppard** who died on 21 March 1996;
  - **Mr John Harbinson** who died on 18 May 1997;
  - **Mr Raymond McCord Junior** who died on 09 November 1997
  - **Mr Thomas English** who died on 31 October 2000.

The Police Ombudsman's investigators also identified less significant police intelligence implicating Informant 1 in 5 other murders. For some of these murders, there is generally only one piece of intelligence, which police have not rated as reliable.

Intelligence was also found linking police informants, and in particular Informant 1, to ten attempted murders between 1989 and 2002.

Intelligence was also found which implicated police informants, and in particular, Informant 1, in a significant number of crimes in respect of which no action or insufficient action was taken:

- Armed robbery;
- Assault and Grievous Bodily Harm;
- Punishment shootings and attacks;
- Possession of munitions;
- Criminal Damage;
- Drug dealing;
- Extortion;
- Hijacking;
- Intimidation;
- Conspiracy to murder;
- Threats to kill.

**10. Conclusions of the Police Ombudsman about the allegations made by Mr Raymond McCord about the death of his son**

**Allegation 1:** that a senior UVF figure had ordered the murder of his son, and that this individual was a police informant.

**Finding:** The Police Ombudsman can confirm that a police informant is a suspect in the murder of Mr McCord's son. She cannot confirm or deny who that individual is.

**Allegation 2:** that police had failed to carry out a thorough investigation of his son's murder, and had failed to keep him updated about their investigation.

**Findings:** The Police Ombudsman has identified failures in the investigation of Mr McCord's son's murder. These failures may have significantly reduced the possibility of anyone being prosecuted for the murder.

There is some material which indicates some contact between specific police officers and Mr McCord, particularly during the days immediately following the murder. There has been a failure by those supervising the conduct of the police investigation to consider the benefit of identifying at the very least a single point of contact for Mr McCord. Such provision may have allowed the investigation to progress more effectively.

This allegation is therefore substantiated.

**Allegation 3:** that no-one had been arrested or charged with the murder of his son. Mr McCord alleged that this was because the man who ordered the murder was a police informant, and that this individual, and those working for him, had been protected from arrest and prosecution for a number of years.

**Findings:** A number of people were arrested for Raymond McCord Junior's murder. No one has been charged with the murder. There is no evidence that anyone has been protected from arrest for the murder of Raymond McCord Junior.

With reference to Mr McCord's allegation that a police informant had ordered his son's murder, and that this individual and those working for him had been protected from arrest and prosecution for years the Police Ombudsman conducted an extensive investigation which is detailed in this Report. It is clear that much intelligence was disregarded by police and that they continued to use Informant 1 despite his criminal record and the extensive intelligence they held in respect of alleged serious criminality, because he had value to them as an informant. This was wrong.

This allegation is therefore substantiated with the exception, firstly, of that part of it which refers to police failure to arrest anyone for Raymond McCord Junior's murder, and secondly, of the fact that, whilst the Police Ombudsman can confirm that an informer is a suspect in the murder of Mr McCord's son, she cannot confirm or deny who that individual is.

**Allegation 4:** that unidentified police knew something was going to happen to Raymond McCord Junior, but that they did not warn him or his family about this danger to protect the police informant who was responsible for the murder.

**Finding: The Police Ombudsman has found no evidence or intelligence to support this allegation. It is not substantiated.**

11. There are grave concerns about the practices of some police officers. The activities which were identified included:

- Failure to arrest informants for crimes to which those informants had allegedly confessed, or to treat such persons as suspects for crime;
- The concealment of intelligence indicating that on a number of occasions up to three informants had been involved in a murder and other serious crime;
- Arresting informants suspected of murder, then subjecting them to lengthy sham interviews at which they were not challenged about their alleged crime, and releasing them without charge;
- Creating interview notes which were deliberately misleading; failing to record and maintain original interview notes and failing to record notes of meetings with informants;
- Not recording in any investigation papers the fact that an informant was suspected of a crime despite the fact that he had been arrested and interviewed for that crime;

- Not informing the Director of Public Prosecutions that an informant was a suspect in a crime in respect of which an investigation file was submitted to the Director;
- Withholding from police colleagues intelligence, including the names of alleged suspects, which could have been used to prevent or detect crime;
- An instance of blocking searches of a police informant's home and of other locations including an alleged UVF arms dump;
- Providing at least four misleading and inaccurate documents for possible consideration by the Court in relation to four separate incidents and the cases resulting from them, where those documents had the effect of protecting an informant;
- Finding munitions at an informant's home and doing nothing about that matter;
- Withholding information about the location to which a group of murder suspects had allegedly fled after a murder;
- Giving instructions to junior officers that records should not be completed, and that there should be no record of the incident concerned;
- Ensuring the absence of any official record linking a UVF informant to possession of explosives which may, and were thought according to a Special Branch officer's private records, to have been used in a particular crime;

- Cancelling the “wanted” status of murder suspects “*because of lack of resources*” and doing nothing further about those suspects;
- Destroying or losing forensic exhibits such as metal bars;
- Continuing to employ as informants people suspected of involvement in the most serious crime, without assessing the attendant risks or their suitability as informants;
- Not adopting or complying with the United Kingdom Home Office Guidelines on matters relating to informant handling, and by not complying with the Regulation of Investigatory Powers Act when it came into force in 2000.

12. The cumulative effect of these activities, as described by police officers and as demonstrated in documentation recovered, was to protect Informant 1 and other informants from investigation. In the absence of explanation as to why these events occurred, the Police Ombudsman has concluded that this was collusion by certain police officers with identified UVF informants.

13. It is accepted by the Police Ombudsman that intelligence, in itself, is not evidence. However it may be possible to derive investigative opportunities from intelligence. There were mechanisms which were used by other police forces within the United Kingdom to prevent the failings of informant and intelligence handling identified in this Report. Those mechanisms should have involved clear and effective policies for informant handling, combined with regular training and effective intrusive management.

14. Although such systems were used, to some extent, by RUC CID, they were not used by Special Branch. In 1997 the RUC introduced new rules for informant handling and management. A decision was made by Chief Officers that those rules should not apply to Special Branch. The Regulation of Investigatory Powers Act in 2000 imposed statutory rules about the review, management, assessment and cancellation of informants. The Surveillance Commissioner found, following the referral of the matter by the Police Ombudsman, that those rules had not been complied with in the case of Informant 1, and that there had been a failure to meet National Minimum Standards and to take into account intelligence about Informant 1's own criminal conduct.
15. In the course of the investigation the Police Ombudsman has estimated that payments of at least £79,840 were made to Informant 1.
16. The Police Ombudsman has made 20 recommendations and the PSNI response to these recommendations is included in the Report. PSNI have accepted all the recommendations made to them.
17. Prior to 2003 some RUC/PSNI Special Branch officers facilitated the situation in which informants were able to continue to engage in paramilitary activity, some of them holding senior positions in the UVF, despite the availability of extensive information as to their alleged involvement in crime. Those informants must have known that they were not being dealt with for crime. Some RUC/PSNI officers were complicit in the failure to deal appropriately with Informant 1, and other informants, both by way of criminal investigation and by ceasing to use them as informants.
18. Since 2003 the PSNI has made significant changes and introduced new policies and working practices in relation to its strategic

management of its new Crime Operations Department, which includes Intelligence Branch (formerly Special Branch) under a single Assistant Chief Constable.

19. It is hoped that the further necessary changes, consequential upon this Report will combine with the change already made, to ensure that never again, within the PSNI will there be the circumstances which prevailed for so long in relation to the informant handling and intelligence managements processes which are discussed in this Report.

It is also essential that, in the arrangements for the future strategic management of National Security issues in Northern Ireland, there will be accountability mechanisms which are effective, and which are capable of ensuring that what has happened here does not recur.

# SECTION ONE

## A MAJOR INVESTIGATION

### INTRODUCTION

1.1 Mr McCord's statement of complaint alleged that police over a number of years, acted in such a way as to protect informants from being fully accountable to the law. It included the following specific allegations:

- that a senior UVF figure had ordered the murder of his son, and that this individual was a police informer;
- that police had failed to carry out a thorough investigation of his son's murder, and had failed to keep him updated about their investigation;
- that no-one had been arrested or charged with the murder of his son. Mr McCord alleged that this was because the man who ordered the murder was a police informant, and that this individual, and those working for him, had been protected from arrest and prosecution for a number of years;
- that unidentified police knew something was going to happen to Raymond McCord Junior, but that they did not warn him or his family about this danger to protect the police informant who was responsible for the murder.

- 1.2 Following initial enquiries of the PSNI in relation to Mr McCord's allegations, the Police Ombudsman established that there was intelligence strongly indicating the involvement of informants in several murders and serious crimes. Accordingly the terms of reference of the investigation were widened.
- 1.3 This report will provide a summary of the investigation which was given the name Operation Ballast. From its outset it has been a criminal enquiry into the actions of police officers. During Operation Ballast investigators have examined a number of incidents in relation to Mr. McCord's wide-ranging allegation that police shielded an informant and his associates in the UVF, from arrest and prosecution over a number of years. This Report relates to the period from 1991 –2003.
- 1.4 Over the years, different official terms have been used to describe individuals who supply information to the police. At various stages they have been described as informants, sources, agents, and, with the introduction of the Regulation of Investigatory Powers Act, Covert Human Intelligence Sources, or CHIS. For ease of reference, this report will generally refer to such people as "informants".
- 1.5 This report is published by the Police Ombudsman as a report under Section 62 of the Police (Northern Ireland) Act 1998, as she considers that it is in the public interest so to do, given the gravity of the allegations and of the findings of the investigation.

## HUMAN RIGHTS ISSUES

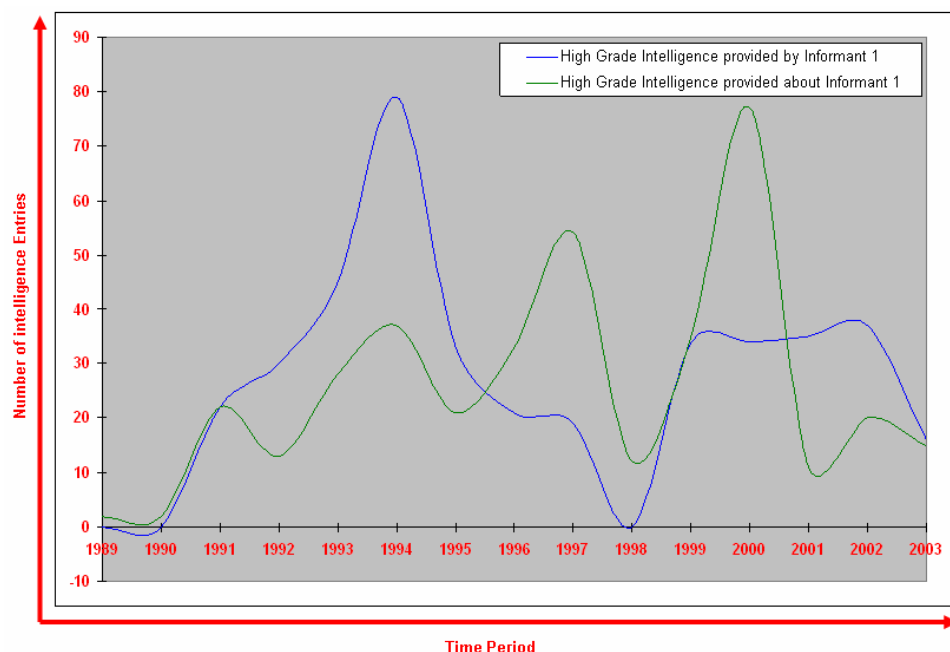
- 2.1 The Police Ombudsman has a statutory duty to investigate allegations of criminality against the police, including allegations such as those made by Mr McCord that the police may have “colluded” with paramilitary informants.
- 2.2 There are significant risks to the lives of people who are publicly revealed to be, or to have been, paramilitary informants. Northern Ireland has a history of the murder of those who were even suspected of being informants. The most recent murder is thought to be that of a self-confessed informant, who died in 2005.
- 2.3 The Police Ombudsman has a duty to act in compliance with Article 2 of the European Convention on Human Rights. This article not only confers rights on individuals who may be informants, but also confers obligations on investigators in terms of the nature and scope of the investigation of any matter in which representatives of the State may have colluded with murderers.
- 2.4 This report will refer to relevant police informants only as informants. No reference will be made to these informants’ real names, their relatives’ names, their police code-names or their police source numbers.
- 2.5 The Police Ombudsman will neither confirm nor deny whether the informants referred to in this report are the individuals against whom Mr. McCord has made his allegations. Nor will she confirm or deny whether any individual is, or ever has been, an informant for the police or any part of the security forces.

- 2.6 Over the years, different official terms have been used to describe individuals who supply information to the police. At various stages they have been described as informants, sources, agents, and, with the introduction of the Regulation of Investigatory Powers Act, Covert Human Intelligence Sources, or CHIS. For ease of reference, this report will generally refer to such people as “informants”. They will be described as “Informant 1” and other “Informants”.
- 2.7 There remains a risk to police officers who have been involved in the handling and management of terrorist informants. Many of these individuals have now retired, but some are still serving officers. This Report will refer to such officers by their rank in the relevant period and by letter, e.g. Detective Constable A, B, C etc. in alphabetical order as they occur in this report.
- 2.8 There may also be a risk to other people mentioned in this report and they will therefore be described using letters: A, B, C et cetera.

## INITIAL CONCERNS

- 3.1 Following receipt of Mr McCord's complaint, preliminary enquiries were undertaken by the Police Ombudsman. These uncovered a large amount of police intelligence, which implicated informants in murder and other serious criminal activity. It uncovered anomalies in relation to a range of Special Branch material relating to informants within the UVF.
- 3.2 Of particular concern were disturbing irregularities in the police management of the individual who will henceforth be referred to as Informant 1. These irregularities related to the handling, controlling and management of Informant 1, about whom there was considerable intelligence, indicative of linkage with the most serious crime, in the RUC systems. It is accepted by the Police Ombudsman that intelligence, in itself, is not evidence. However it may be capable of providing evidential opportunities which then require to be explored.

**Chart to show the correlation between the quantity and quality of intelligence provided by and about Informant 1.**



3.3 When an informant is used by police officers, there is an obligation to assess the informant continually, and also to assess and process any information received. On review of the RUC material, it was discovered that there was no record of any individual written assessment of Informant 1 between 1991 and 1999, and no written assessment between 2000 and 2003, which took into account the large amount of intelligence implicating him in serious criminal activity, including murder.

3.4 Preliminary enquiries showed, therefore, that there were sufficient issues of concern to warrant a wide-ranging investigation into the police handling and management of identified informants from the early 1990s onwards. The investigation focused on seven main lines of enquiry.

3.5 They were as follows:

- two attempted murders in 1991.
- the murder of Sharon McKenna on 17 January 1993.
- the attempted bombing of the Sinn Fein office in Monaghan on 3 March 1997.
- the Operation Mechanic Searches.
- the murder of John Harbinson on 18 May 1997.
- the murder of Raymond McCord Junior on 9 November 1997.
- Informant 1's alleged involvement in drug-dealing between 1994 and 2003.

Other issues emerged during the course of the enquiry and are also referred to in this Report.

# MATTERS BROUGHT TO THE ATTENTION OF THE SECRETARY OF STATE AND THE NORTHERN IRELAND OFFICE

3.6 The Police Ombudsman was concerned about the implications, for her other ongoing investigative work, of conducting the investigation into these matters, because of the anticipated scale of the investigation, and its complex subject matter. She knew that it was inevitable that the McCord investigation would impact adversely on her ability to carry out her other obligations. Accordingly she explained the seriousness of the allegations to the Secretary of State, and requested additional funding from the Northern Ireland Office for this enquiry and two other very serious investigations. That request was made on 22 January 2003. This request for extra funding was not met, although a sum of £250,000 was provided on 27 November 2003 to assist the Police Ombudsman in these enquiries.

3.7 This sum did not meet the anticipated cost of these enquiries. The Police Ombudsman, however, decided it was still her duty to conduct these investigations, although it was recognised that it would mean resources would have to be diverted from other investigations. It also meant that this investigation was slower than would have been the case had additional resources been made available. It was not possible to start the formal stage of the investigation until 2 June 2003

## MATTERS OF CONCERN BROUGHT TO THE ATTENTION OF THE CHIEF CONSTABLE OF THE PSNI

4.1 The Police Ombudsman rapidly became concerned about informant handling processes within the RUC/PSNI, and she decided that it was necessary to alert the Chief Constable to those concerns so that he could take any necessary action to address the emerging problems as rapidly as possible. She therefore communicated her concerns about problems relating to informant handling to the Chief Constable in meetings on 25 March 2003 and other occasions. The Police Ombudsman's Executive Director of Investigations then wrote to the Chief Constable on 8 September 2003, alerting him to serious concerns about the PSNI management of informants, and the potential failures in police practice which had already been identified.

# MATTERS OF CONCERN BROUGHT TO THE ATTENTION OF THE SURVEILLANCE COMMISSIONER

5.1 The Surveillance Commissioner is required by the Regulation of Investigatory Powers Act to inspect the level of police compliance with the requirements of the Act. Preliminary enquiries had indicated to the Police Ombudsman that previous inspections by the Surveillance Commissioner had not identified significant non-compliance by the Police Service of Northern Ireland. His report of 26 February 2003, whilst identifying some failings stated

*“The majority of CHIS are working for Special Branch in the National Security area and are well handled and controlled.”*

He also concluded,

*“Overall there continues to be a high level of compliance with the legislation and codes of practice.”*

5.2 Accordingly the Police Ombudsman brought her concerns to the attention of the Surveillance Commissioner on 15 September 2003. The Surveillance Commissioner conducted a further inspection on 2 and 3 October 2003 and reported on 4 October 2004.

5.3 On 6 October 2003 the PSNI set up a Covert Human Intelligence Source Risk Analysis Group to undertake a full and comprehensive risk analysis of all PSNI informants. On 23 August 2004 the PSNI wrote to

the Police Ombudsman advising her of the progress of the Covert Human Intelligence Source Risk Analysis Group to that date. One of the outcomes was that 24% of informants were cancelled. 12% of all informants were cancelled because they no longer provided useful information and 12% because they were involved in serious crime.

# THE INITIATION AND SCOPE OF THE INVESTIGATION

6.1 As a consequence of her emerging findings, the Police Ombudsman decided that there should be an extensive investigation into Mr. McCord's complaint, and the issues arising from it, and that the terms of reference of the enquiry should be widened to include:

- the collection and analysis of specific informant files and authorities for the deployment of those informants;
- intelligence in respect of named individuals and incidents; and
- enquiries into police actions in respect of the investigation of many identified murders and other serious crimes.

6.2 The Police Ombudsman has examined police processes for the handling and management of informants, and intelligence from, and about, informants from within a UVF unit in North Belfast and Newtownabbey, primarily from 1991-2003, although reference is made to matters occurring from 1989. Intelligence indicates that members of this unit were responsible for the murder of Raymond McCord Junior. The Police Ombudsman has also examined whether the actions of police officers may have prevented these people from being held accountable for any crimes, including the murders of Raymond McCord Junior and other individuals.

6.3 Analysis of information about the informants whose alleged activities emerged during the course of this Report, which focused on the activities of Informant 1, indicated a high level of alleged criminality.

## Informant 1

6.4 The investigation has established that Informant 1:

- was a member of the UVF in North Belfast;
- progressed through the ranks of the UVF;
- was never a registered CID informant;
- was recruited through his *'long-standing friendship'* with a police officer
- provided intelligence to DC A and DS M prior to his formal registration as an informant;
- became a Special Branch informant in 1991;
- continued to be jointly handled by CID officers and Special Branch officers from May 1991 until February 1995 and by Special Branch alone from 1995 – 2003;
- Provided in excess of 400 pieces of intelligence over twelve years;
- Was the subject of in excess of 500 pieces of intelligence, provided by others over twelve years;
- was allegedly involved in the murder of ten individuals;
- was allegedly involved in the attempted murder of ten individuals;
- was allegedly involved in other serious crime including targeting an individual for a murder in 1994, a bomb attack in Monaghan in 1997, “punishment” attacks, drug dealing and attempting to pervert the course of justice;
- was never given participating “informant status” by the RUC/PSNI;
- was never fully investigated for the majority of these crimes ;
- has an extensive criminal record including convictions for serious crime;

- was considered in the course of a report on joint informant handling by Special Branch and CID in March 1995 when he was described by Detective Inspector F of Special Branch as;

*“A particularly difficult source to handle who tells only a fraction of what he knows and for this reason would require strong, careful and fully controlled and co-ordinate handling”*

- has been described by some of the uniformed and CID officers who worked in the North Belfast area between the early 1990s and 2003 as “a well-known terrorist and criminal”, who was involved in racketeering, drug dealing, feuding with UDA and other general crime. Some of the officers state that there were rumours Informant 1 was an informant and that Informant 1 appeared to be a “protected species”, as he was heavily involved in crime and was rarely held to account;
- has been paid in excess of £79,000 during a twelve year period from 1991 - 2003;

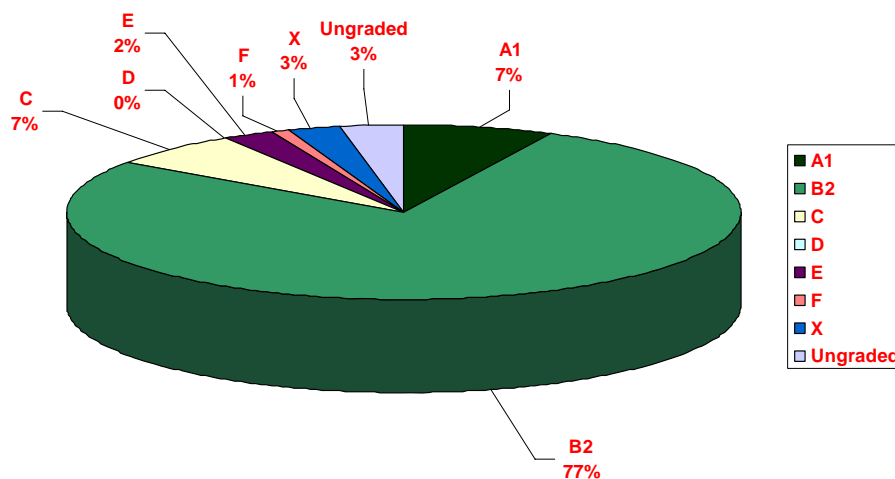
## Other Informants

6.5 The investigation has further established that other informants:

- were members of the UVF;
- received financial payments from the police;
- provided intelligence about crime that was not forwarded to CID investigators;
- were associated with informant 1;
- were mostly handled by the same informant handlers as informant 1;
- provided intelligence on the criminal activities of Informant 1 and each other;
- had UVF roles including responsibility for ‘punishment’ shootings;
- were allegedly involved in murders;

- were allegedly involved in the planning of murders;
- were allegedly involved in attempted murders;
- were allegedly involved in serious criminality, including drug dealing and kidnap;
- were not given “participating informant” status by the police;
- were never fully investigated for the majority of these crimes;

**Chart to show the percentage of gradings of all intelligence held in relation to Informant 1 between 1991 and 2003.**



6.6 Amongst that intelligence was information implicating Informant 1 in the following murders:

- Mr Peter McTasney, who died on 24 February 1991;
- Ms Sharon McKenna, who died on 17 January 1993;
- Mr Sean McParland, who was attacked on 17 February 1994, and died on 25 February 1994;

- Mr Gary Convie, who died on 17 May 1994;
- Mr Eamon Fox, who died on 17 May 1994, in the same attack as Mr Gary Convie;
- Mr Gerald Brady, who died on 17 June 1994;
- Mr Thomas Sheppard, who died on 21 March 1996;
- Mr John Harbinson, who died on 18 May 1997;
- Mr Raymond McCord Junior, who died on 09 November 1997 (whose death led to this investigation);
- Mr Thomas English, who died on 31 October 2000.

6.7 The Police Ombudsman's investigators also identified less significant intelligence implicating Informant 1 in five other murders. In some cases, there is only one piece of intelligence, which police have not rated as reliable.

6.8 Intelligence was found linking informants, and in particular Informant 1, to ten attempted murders between 1989 and 2002.

6.9 Intelligence was also found which implicated Informant 1 in 72 different other crimes between 1991 and 2003. They include the following crimes:

- |                                    |    |
|------------------------------------|----|
| • Armed Robbery                    | 3  |
| • Arson                            | 2  |
| • Assault/Grievous Bodily Harm     | 5  |
| • Conspiracy to murder             | 1  |
| • Control/use of bombing equipment | 4  |
| • Criminal Damage                  | 1  |
| • Drug dealing                     | 17 |
| • Extortion                        | 1  |

• Hijacking	1
• Intimidation	3
• Kidnap	1
• Possession of firearms	7
• “Punishment” attacks	13
• “Punishment” shootings	10
• Targeting	2
• Threats to kill	1

6.10 There was also information implicating informants, associated with Informant 1, in other crime.

6.11 The Police Ombudsman has also viewed intelligence reports relating to murder, in which Informant 1 is alleged to have destroyed significant evidence, and to have advised others to destroy evidence after murder, and how to avoid detection.

6.12 The Police Ombudsman has recently received information which may link Informant 1 to another murder. Police did not have this information, but the Police Ombudsman has now ensured that PSNI are aware of it.

6.13 When Mr McCord made his complaint Informant 1 had a lengthy criminal record.

6.14 24 police officers were interviewed under criminal caution, some on more than one occasion. Most of the officers involved in the cases in question have retired. Some subsequently refused to co-operate with the investigation, in areas in which they were not viewed as suspects and could not therefore be compelled to be interviewed.

6.15 These matters have been the subject of files which the Police Ombudsman has sent to the Director of Public Prosecutions in the course of this investigation.

# REVIEW OF THE POLICE OMBUDSMAN'S INVESTIGATION

7.1 In accordance with good practice, in early 2005 the Police Ombudsman commissioned an independent review of Operation Ballast by an external consultant. This review was carried out in March 2005 by a former Detective Chief Superintendent with Hampshire Constabulary, who was Chair of both the ACPO Computer Crime Unit and the UK Internet Crime Forum.

7.2 In his review, the consultant described the analytical work undertaken by the Police Ombudsman's office as "outstanding" and said of the analytical product:

*"it charts and provides provenance for all the major lines of enquiry and illustrates very graphically the issues"*

7.3 In his Conclusions, the reviewing officer made the following overall comments about Operation Ballast:

*"Within the parameters determined by the Terms of Reference and the circumstances affecting the investigation generally, there is nothing to identify it as being managed other than professionally and well."*

7.4 He also noted that the PSNI had shown an:

*“obvious lack of enthusiasm for co-operating fully with the Police Ombudsman in the Operation Ballast investigation.”*

7.5 The consultant then went on to conclude:

*“No obvious and potentially positive lines of enquiry have been overlooked by the SIO”.*

# DIFFICULTIES ENCOUNTERED DURING THIS INVESTIGATION

## Lack of Co-operation and Time Delay

8.1 The main difficulty encountered during Operation Ballast has been the refusal of a number of retired RUC / PSNI senior officers to co-operate with this enquiry, despite the fact that the Police Ombudsman took a number of steps to facilitate the needs of these retired officers:

- It was made clear to a number of these officers, who were not suspected of criminality, that they would be treated as witnesses, and were simply being asked to provide an explanation of Special Branch and CID internal practices during this period;
- The investigators offered to meet these retired officers at venues with which they would be comfortable, at times which would suit them;
- The personal details and addresses of retired officers would be treated as sensitive information and protected accordingly;
- Officers were advised of area for questioning and provided with significant disclosure of information at their request. Despite this, the majority of them failed even to reply.

- 8.2 The Police Ombudsman was particularly concerned that retired senior officers, who had had significant responsibilities within Special Branch and who undoubtedly could have assisted this enquiry, refused to do so. Among those who refused were two retired Assistant Chief Constables, seven Detective Chief Superintendents and two Detective Superintendents. No senior officer has taken total responsibility for the management of Informant 1 during the period under investigation.
- 8.3 Three retired officers were arrested because they would not attend voluntarily for an interview under criminal caution. A fourth officer, who was to be arrested but was away at the time, attended for voluntary interview under criminal caution when he returned.
- 8.4 Some retired officers did assist the investigation, and were helpful. Officers who were interviewed varied a great deal in the manner in which they responded to questions. Some, including some retired officers dealt with challenging questions in a professional manner.
- 8.5 Others, including some serving officers, gave evasive, contradictory, and on occasion farcical answers to questions. On occasion those answers indicated either a significant failure to understand the law, or contempt for the law. On other occasions the investigation demonstrated conclusively that what an officer had told the Police Ombudsman's investigators was completely untrue.
- 8.6 The evidence indicates that there was a major failure to ensure the proper management of Informant 1 and other informants. This investigation has also identified significant irregularities in the management of informants. However it has not been possible, because of the deficit in evidence, to attribute those failings

specifically to individual officers. Most of these senior officers have not given any explanation of their roles, and have not made themselves accountable. They have portrayed themselves as victims rather than public servants, as though the public desire for an explanation of what happened during the period under investigation was unjustified. Their refusal to co-operate is indicative of disregard for the members of families of murder victims from both sides of the community. In addition to this, their refusal to co-operate has had the effect of lengthening the investigation, and of depriving the public of their understanding of what happened.

- 8.7 Police Ombudsman investigators have sometimes had to wait an excessive amount of time for replies to their requests for information. The Police Ombudsman accepts that this investigation coincided with a period of significant restructuring within PSNI. The Police Ombudsman also acknowledges that demands for intelligence material came not only from this and other Police Ombudsman investigations, but also from Public Enquiries and other investigations.
- 8.8 However, there are some examples where the Police Ombudsman has had to wait for periods ranging from a year to two and a half years before PSNI was able confirm the answer to specific requests. There were also many occasions on which it took the PSNI three or four months to answer a question. This had the cumulative effect of delaying the investigation. It was particularly noticeable during the earlier period of the investigation.
- 8.9 There were lengthy delays in providing the Police Ombudsman with information about financial payments to informant 1 and others. There was clear resistance initially to the delivery of this information.

- 8.10 There were significant delays in the supply of information where the Police Ombudsman requested PSNI to supply informant identities and initially the Police were reluctant to supply such information. The matter was resolved when the Chief Constable provided the required information.
- 8.11 There were lengthy delays in the process of identifying and communicating with retired officers and in seeking to arrange meetings with them, and on occasion in arranging meetings with serving officers.
- 8.12 All these factors contributed to delays in the production of this Report.
- 8.13 However, following concerns articulated by the Police Ombudsman to the PSNI and as a result of changes to senior management in 2003, particularly of Intelligence Branch, these matters improved a great deal.

### Poor Record-Keeping

- 8.14 A further significant obstacle to this investigation has been the generally poor standard of record-keeping within Special Branch over many years, and the failure to document, or to document properly, matters including key pieces of intelligence in relation to murders. As a consequence, in part, of the lack of information storage facilities, information retrieval was on occasion very difficult. It was often difficult to establish where in the police estate documentation might have been stored.

- 8.15 Material which was retained was on occasions recorded in a selective manner which did not reflect the information given to police. Important documentation, which should have been retained, was unavailable to the Police Ombudsman's investigators. The Tasking and Co-ordinating Groups, (which were the most senior decision making groups responsible for Special Branch operations) routinely destroyed all material relating to their decision-making processes.
- 8.16 Despite the request for PSNI to provide the Police Ombudsman with all material on Informant 1, some material was only uncovered by Police Ombudsman investigators during computer searches. Other material was found by Police Ombudsman investigators in the course of the investigation, including material retrieved during searches by Police Ombudsman investigators.
- 8.17 Police Ombudsman investigators have established that there were no clear auditable financial records prior to April 2002. The police management of funds paid to informants lacked any clear structure, was totally inadequate, lacked transparency and had no audit processes. This made it very difficult to identify the extent of payments to informant 1, reasons for payments and details in relation payments made.

## Missing, Lost and Destroyed Documentation

- 8.18 In the course of this investigation it emerged that a number of important documents were either missing, lost or destroyed. This also had the effect of obstructing the investigation. These documents included murder files, murder investigation decision logs, intelligence documents, and all original material relating to significant pro-active operations
- 8.19 Some material was destroyed routinely by Special Branch who had no effective systems for document retention.

## SECTION TWO

# THE MURDER OF RAYMOND McCORD JUNIOR AND THE SUBSEQUENT INVESTIGATION BY THE POLICE

9.1 On the morning of Sunday 09 November 1997, Raymond McCord Junior was found beaten to death in Ballyduff Quarry, Newtownabbey. It was a brutal attack. A concrete block was used to kill Mr McCord.

9.2 Mr McCord Junior's father, also Mr Raymond McCord, in his statement of complaint alleged that police, over a number of years, acted in such a way as to protect informants from being fully accountable to the law. It included the following specific allegations:

- that a senior UVF figure had ordered the murder of his son, and that this individual was a police informant;
- that police had failed to carry out a thorough investigation of his son's murder, and had failed to keep him updated about their investigation;
- that no-one had been arrested or charged with the murder of his son. Mr McCord alleged that this was because the man who ordered the murder was a police informant, and that this individual, and those working for him, had been protected from arrest and prosecution for a number of years;

- that unidentified police knew something was going to happen to Raymond McCord Junior, but that they did not warn him or his family about this danger to protect the police informant who was responsible for the murder.

## The Murder

- 9.3 On 18 July 1997 Raymond McCord Junior had been stopped at Belfast Docks with a consignment of cannabis, which he had brought over on a ferry from Scotland. He had been remanded in custody from 18 July until he was released on bail on 13 August 1997, and he continued to sign his bail until the week of his death.
- 9.4 Police information indicates that Raymond McCord Junior had brought the cannabis into Northern Ireland on behalf of Informant 1, who was travelling in a separate vehicle with another person when Raymond McCord was stopped by the police. It also indicates that UVF members suspected Raymond McCord Junior of being an informant.
- 9.5 On the afternoon of Saturday 08 November 1997, Raymond McCord Junior went to visit the Maze prison to visit a prisoner with other people. Informant 1 attended the meeting which occurred.
- 9.6 Raymond McCord Junior's movements on the Saturday evening leading up to his death are not clear. Police documentation suggests that Mr McCord was taken away by other men that night and killed.
- 9.7 Police documentation, received over the hours and days following Mr McCord's murder, indicates that Mr McCord died following instructions issued by Informant 1, following a dispute over the drugs for which Mr McCord was previously arrested, and that Informant 1's creditors

threatened to inform the UVF senior hierarchy of his involvement in drugs. The information names those involved in the crime and gives details about it. Other information provided to both CID and Special Branch corroborates this information.

- 9.8 Special Branch were not in contact with Informant 1 whilst he was in prison.
- 9.9 A 2005 PSNI review of the McCord murder confirmed that Informant 1 is the main suspect for ordering the murder, and that Man D is the main suspect for carrying it out.

### The Police Investigation of Raymond McCord Junior's Murder

- 9.10 Suspicion initially fell on the UDA as being responsible for this murder, but as a result of Special Branch and CID intelligence, it became clear that it was a murder carried out within the UVF.

### Intelligence Matters

- 9.11 The Senior Investigating Officer has provided a witness statement to the Police Ombudsman about the murder investigation. He said that the day after the discovery of McCord's body, specific information was provided by Special Branch about the murder. He was told that some of this information names those who murdered Raymond McCord Junior.
- 9.12 The Senior Investigating Officer states that Raymond McCord Junior was caught with a consignment of drugs, and that Informant 1 lost £50,000 worth of drugs because of this. The Detective Chief Inspector states that Detective Sergeant E or Detective Constable P from Special Branch, Informant 1's handlers, attended the Case Conference for this

murder, and provided this information. The Detective Chief Inspector also states that Special Branch provided information about three named individuals who were involved in the murder on Informant 1's behalf.

- 9.13 It is clear that the available information was passed on to CID by Special Branch.

### Prison Issues

- 9.14 On 11 November Man D was a possible suspect, and CID investigators received further information on November 14 that Man D had been involved in the murder. On 17 November, an Acting CID Detective Inspector and a Detective Constable went to the Maze Prison to speak with prison authorities about the potential arrest of Man D and the search of his cell. They met senior prison officers.
- 9.15 The Acting Detective Inspector has provided a witness statement to the Police Ombudsman and a police report which he wrote about this meeting. In both he says that the prison authorities informed him it was a "non-starter" to consider searching Man D's cell for his boots and clothing, as this would cause a riot.
- 9.16 He was told that the wings in the Maze Prison were effectively under the day-to-day control of the respective paramilitary groups. This meant that paramilitaries were free to go in and out of the cells of other prisoners on their wing. Prison officers were not present in the wings during the day, other than to do a head count of prisoners, once in the morning and again in the evening.
- 9.17 He was told that the Maze Prison authorities acted in liaison with the "Commanding Officer" of each paramilitary wing, to arrange for arrests and searches to take place. Generally, the prison authorities were able

to arrange for a prisoner to be produced for arrest, because if this did not happen the other prisoners would be refused visits and parcels.

- 9.18 He was told that searches were more difficult, as prisoners could move freely between cells. In order to be effective a search would have to examine numerous cells, if not the whole wing. Attempts to carry out searches without the consent of the paramilitary groups had resulted in major riots, which had caused extensive damage to the prison and threatened the lives of prison officers.
- 9.19 The Acting Detective Inspector's report noted that prison authorities told him it would take over 100 prison officers to deal with such a search operation, that there would be a danger to the officers involved, and that there was the threat of a major riot which would cause extensive damage to the prison wing. The report noted that, as a result, the prison authorities would not give clearance for such a search.
- 9.20 He said that the alternative which was offered was that Man D could be produced for arrest, by way of the prison authorities, liaising with the "Commanding Officer" on the UVF wing. This was the option which police took. Man D was produced for arrest, but his cell was not searched, and his clothes and boots were not seized for forensic examination.
- 9.21 In January 1998 the Detective Superintendent with responsibility for the investigation, wrote a report to the Regional Head of CID. He noted that the Government had recently announced a review of security at the Maze Prison. He alleged that it had been "*impossible*" for police to examine the clothes they believed Man D was wearing at the time of the McCord murder. He wrote:

*“This would seem to strike at the heart of the whole concept of the ‘rule of law’. The irony is that this ‘No Go’ area for criminal investigations is one created by the Criminal Justice system.*

*I would recommend that this problem be brought to the attention of either HM Inspector of Prisons or the Northern Ireland Office. As the number of terrorists availing of home leave is not likely to reduce I have no doubt that we will be facing similar problems in the future.”*

- 9.22 The Police Ombudsman’s investigators have also taken a statement from the senior prison officer. He agreed with some elements of the report by the Detective Inspector. However, he stated that at no time did he refuse clearance for any police searches, as it was not within his power to do so.
- 9.23 He stated that he had an informal meeting with the CID officers, in which he outlined the potential difficulties which any search operation could present. However, he stated that there was a set procedure for police to carry out searches in the prison, which involved them submitting a written request authorised by an Inspector.
- 9.24 He stated that he never received any such formal request to search Man D’s cell. He also stated that in November 1997 he did not have a search team available to carry out such a task. He stated that no outside agency influenced the advice he had given to police, and that he never received any follow-up contact from senior police about this issue.
- 9.25 In reply, the police have said that there was no such thing as an “informal” meeting around this kind of issue, and that the prison authorities had point-blank refused to allow a search.

- 9.26 There is no further documentary evidence to indicate why police made no further attempt to search for Man D's clothing inside the prison. Legal processes were available to enable the police to gain access to the prison. The Police Ombudsman considers that police did not make every possible attempt to recover evidence from within the prison.
- 9.27 Police knew that Man D was in prison. However there is no evidence that any attempt was made to secure other potential evidence from within the prison.

## Arrests

- 9.28 On 19 November 1997 police arrested a number of suspected UVF members for the murder of Raymond McCord Junior. Man D was among those arrested and questioned. He did not reply to their questions.
- 9.29 Man B and Man C were arrested that day. During interview, police asked Man B about the whereabouts of vehicles which may have been used in the murder. There was evidence that attempts had been made to remove opportunities to recover forensic evidence, including gravel, from the vehicle. It was found burned out some days later.
- 9.30 On 25 February 1998 police arrested Informant 1 in the Maze prison. Police questioned Informant 1 about Conspiracy to Murder, putting it to him that he had ordered the murder of Raymond McCord Junior. Informant 1 denied any involvement in the murder, and he failed to reply to most of the police questions. Informant 1 was released from police custody and returned to the Maze the next day.

## Failings in the Investigation of The Murder of Raymond McCord Junior

9.31 The following failings have been identified in the investigation of the murder of Raymond McCord Junior:

- There was no search of Man D's cell, or of the cell block through which he had freedom of movement. Following the alleged inability of the Prison Service to facilitate the necessary search, police did not pursue the recovery of items belonging to Man D, which may have provided forensic opportunities;
- There were some delays in arresting those who had been named as being responsible for Mr McCord's murder.
- Police did not give any consideration to any pro-active investigation within the prison;
- A report of suspicious activity at the quarry on the day of the murder was not followed up until March 1998;
- There is some material which indicates some contact between specific police officers and Mr Raymond McCord, particularly during the days immediately following the murder. However there is no record detailing either the policy in relation to the updating of Mr McCord or that any consideration was given to the appointment of a dedicated family liaison officer, or the identification of a single point of contact to whom Mr McCord might refer.

## Conclusions of the Police Ombudsman About the Allegations Made by Mr Raymond McCord About the Death of His Son

- 9.32 Allegation 1: that a senior UVF figure had ordered the murder of his son, and that this individual was a police informant.

**Finding: The Police Ombudsman can confirm that a police informant is a suspect in the murder of Mr McCord's son. She cannot confirm or deny who that individual is.**

- 9.33 Allegation 2: that police had failed to carry out a thorough investigation of his son's murder, and had failed to keep him updated about their investigation.

**Findings: The Police Ombudsman has identified failures in the investigation of Mr McCord's son's murder. These failures may have significantly reduced the possibility of anyone being prosecuted for the murder.**

**There is some material which indicates some contact between specific police officers and Mr McCord, particularly during the days immediately following the murder. There has been a failure by those supervising the conduct of the police investigation to consider the benefit of identifying at the very least a single point of contact for Mr McCord. Such provision may have allowed the investigation to progress more effectively. This allegation is therefore substantiated.**

- 9.34 Allegation 3: that no-one had been arrested or charged with the murder of his son. Mr McCord alleged that this was because the man who ordered the murder was a police informant, and that this individual, and

those working for him, had been protected from arrest and prosecution for a number of years.

**Findings:** A number of people were arrested for Raymond McCord Junior's murder. No one has been charged with the murder. There is no evidence that anyone has been protected from arrest for the murder of Raymond McCord Junior.

With reference to Mr McCord's allegation that a police informant had ordered his son's murder, and that this individual and those working for him had been protected from arrest and prosecution for years the Police Ombudsman conducted an extensive investigation which is detailed in this Report. It is clear that much intelligence was disregarded by police and that they continued to use Informant 1 despite his criminal record and the extensive intelligence they held in respect of alleged serious criminality, because he had value to them as an informant. This was wrong.

This allegation is therefore substantiated with the exception, firstly, of that part of it which refers to police failure to arrest anyone for Raymond McCord Junior's murder, and secondly, of the fact that, whilst the Police Ombudsman can confirm that an informer is a suspect in the murder of Mr McCord's son, she cannot confirm or deny who that individual is.

- 9.35 Allegation 4: that unidentified police knew something was going to happen to Raymond McCord Junior, but that they did not warn him or his family about this danger to protect the police informant who was responsible for the murder.

**Finding:** The Police Ombudsman has found no evidence or intelligence to support this allegation. It is not substantiated.

## SECTION THREE

# INTELLIGENCE LINKING INFORMANTS TO MURDER

10.1 Mr McCord alleged that those involved in the murder of his son had previously been involved in serious crime, but had been protected to enable them to continue to act as informants.

10.2 The Police Ombudsman has identified intelligence held by PSNI, which when analyzed indicated informant involvement in 10 murders. There was a failure in the dissemination of some of the intelligence gathered, and inadequate police assessment, and consequential inadequate police action in relation to the possible links or involvement of police informants in these deaths. (These murders were not the primary subject of this enquiry, but came to the attention of investigators in the course of the analysis of intelligence relating to identified informants.)

10.3 Records held within the RUC/PSNI implicate, to varying degrees, identified individuals, whom this statement will refer to as informants, in a number of deaths. That linkage of informants to murders is alleged to have taken a variety of forms from actual involvement in the murder, to assisting offenders and conspiracy to pervert the course of justice

10.4 This Report will outline the situation in respect of those murders.

## The Murder Of Mr Peter McTasney

- 10.5 Mr Peter McTasney was murdered at Bawnmore in Belfast on 24 February 1991; he was 26 years old. The UVF later said they carried out the attack. The murder weapon was not found at the time.
- 10.6 Although the murder file contains no record of the involvement of Informant 1, there is evidence that police were told that Informant 1 had taken part in the murder.
- 10.7 Two men, Man E and Man F, who were both members of the UVF, were connected to the crime when it was established that the gun used in the murder attempt on Intended Victim One, for which they were being questioned by police, had been linked to Mr McTasney's murder.
- 10.8 Although the murder file does not make any mention of him, Informant 1 was also arrested and interviewed.
- 10.9 Police Ombudsman investigators have uncovered other police documentation which indicates that Informant 1 was suspected of being involved in the murder and that he was arrested in September 1991 and questioned in Castlereagh Holding Centre.

### Sham Interview

- 10.10 Informant 1 was interviewed a total of 19 times. The main interview team consisted of Informant 1's own 'handlers', Detective Sergeant D of Special Branch and Detective Constable A of CID. This

partnership conducted four of Informant 1's first five interviews. In addition, one of them would also usually have sat in on any of the interviews conducted by other officers. The other interviewing officers were Special Branch officers.

10.11 Detective Sergeant D has stated that he and Detective Constable A "babysat" Informant 1 through these interviews.

10.12 He said that Detective Constable A completed the official interview notes, which did not reflect the actual content of the interview, and that the notes would have given the impression that police questioned Informant 1 about the offences he was supposedly detained for and that Informant 1 did not answer relevant questions. He also said that Detective Constable A was more used to completing interview notes for this purpose.

10.13 Detective Sergeant D authorised Informant 1's release without charge on 24 September.

### Information Not Disclosed to the Director of Public Prosecutions

10.14 A combined file for the murder of Mr McTasney and the attempted murder of Intended Victim One was prepared for the Director of Public Prosecutions. CID asked Special Branch to check their records to ensure compliance with the requirement to inform the Director of Public Prosecutions of any involvement of police informants in the matters.

10.15 The then Deputy Assistant Chief Constable for Special Branch replied that no such disclosure was required, despite the fact that there was a clear obligation to do so.

10.16 The Public Prosecution Service has stated it can find no trace of any file which may have been prepared to inform the director about sensitive matters, nor any other documentation which would show that the Director of Public Prosecutions was aware that an informant was involved in this incident.

# THE ATTEMPTED MURDER OF VICTIM 1

- 11.1 In 1991 Informant 1 admitted to police that he was involved in an attempt to murder a man two days earlier. He provided this admission to both his Special Branch and CID ‘handlers’.
- 11.2 The Special Branch record of this conversation states that Informant 1 had admitted being involved in an aborted murder attempt in 1991. Informant 1 said that he and Man F hijacked a car. Informant 1 said he held the owners of the car while Man F drove to pick up two gunmen – Man E and Man G. They used specific guns in the attack.
- 11.3 However the CID record of this conversation makes no mention of Informant 1’s personal involvement in the murder attempt. It states that the UVF hijacked a car, but does not record that Informant 1 imprisoned the car’s occupants. The document does, however, provide further detail about the planned murder attempt in the future.
- 11.4 Informant 1 later provided further information about the proposed murder attempt.
- 11.5 Police knew that the murder attempt was to go ahead on a specific date. They knew also how the murder was to be carried out.
- 11.6 A surveillance unit looked on as the car used in this incident was stolen from its owners. An individual approached a house, and

when the front door was opened he put his hand in his pocket as though he had a gun. From the material available it is likely that this individual, who was not arrested at the time, was Informant 1. He held the occupants of the house hostage.

11.7 At around 21:55 hours on Monday 16 September police stopped a car containing Man E, Man F and Man G. There was a loaded pistol and a sledgehammer in the car, along with gloves and balaclavas. Nearby, police found a loaded Ruger pistol, which had been thrown out of the car window. A subsequent police report confirmed that this weapon was also used in the attempted murders of Intended Victims Two, Three and Four in 1989 and 1990.

11.8 All three men admitted they were on their way to murder a Catholic. Man E and Man F went separately with police to identify the house of their murder target, whom police identified as Intended Victim One.

11.9 Informant 1's main Special Branch handler at the time has told Police Ombudsman investigators that a number of people, including Informant 1, Man E, Man F and Man G were arrested in connection with the murder attempt.

11.10 Applications were made to the Secretary of State to enable the continued detention of the suspects. Police documentation shows that in interview Informant 1 *"would not speak in relation to any activity in relation to this hijacking"*. Police also note that Informant 1 *"is a well known member of the UVF in the North Belfast area and believed involved in sectarian murders"*. The documentation notes that he was released without charge.

11.11 Police asked the Northern Ireland Forensic Science Laboratory to compare the gun seized during these arrests with bullets recovered from the murder of Mr. Peter McTasney earlier that year. The gun and bullets matched. There was therefore a link between Mr. McTasney's murder and the attempted murder of Intended Victim One.

11.12 Man E, and Man F were subsequently convicted in relation to the murder and this attempted murder.

### Findings in Relation to the Murder of Mr McTasney and the Attempted Murder of Intended Victim 1

11.13 There is no documentation to indicate that Informant 1 was properly investigated for the murder of Mr McTasney or for his role in the attempted murder.

11.14 No records have been found of the allegations upon which an application was made to the Secretary of State in the McTasney investigation. The records implicating Informant 1 in murder and the four attempted murders have been destroyed, thus protecting Informant 1 from potential prosecution.

11.15 The police interview process was seriously flawed and contrary to any model of ethical policing. It could also have the effect of undermining any subsequent criminal prosecution.

11.16 Informant 1 provided information which saved the life of Intended Victim 1 and resulted in the arrest and convictions of people who were going to kill him. However the information indicated that Informant 1 was allowed to engage in a hijacking and attempted murder. There is no documentation recording authority for him to

act as a Participating Informant in these most serious crimes. Nor is there any documentation of the control and management of this situation, which involved a threat to life.

- 11.17 Special Branch failed to disclose the possible criminal role of Informant 1 for the file prepared for the Director of Public Prosecutions.

## ATTEMPTED MURDER OF VICTIM FIVE

12.1 In September 1992, UVF gunmen fired shots through the window of a home in Belfast. No one was injured. Police identified the vehicle which the gunmen used after they abandoned their getaway car as belonging to Man I

12.2 Police searched Man I's home that evening and recovered the weapons used in the attack, as well as balaclavas and other items. Man I admitted being involved in this murder attempt and was subsequently charged and convicted.

12.3 Acting on information received, which police cannot now find, police arrested Informant 1 and others in October 1992 and questioned them about the attempted murder of Intended Victim Five. Two other individuals named as being involved were not arrested. They were senior members of the UVF. Other people were convicted of matters related to Intended Victim Five's attempted murder.

12.4 Informant 1 was interviewed at Castlereagh Holding Centre by his handler, Detective Constable A, and another officer. Applications for the extension of his detention were made to the Secretary of State. Informant 1 was subsequently released without charge.

### Finding of the Police Ombudsman In Relation to the Attempted Murder of Intended Victim Five

12.5 There is a marked similarity between the accounts of the alleged involvement by Informant 1 in the crimes dealt with in paragraphs 10, 11 and 13 of this Report. There is an equally marked similarity in the

way in which Informant 1 was dealt with during interview and was released. There is no evidence that Informant 1's alleged participation in this crime was authorised.

- 12.6 The unexplained absence of the information upon which the Application for Extension of Detention was made appears to be indicative of a pattern of collusion. The information has been mishandled in the first instance and then destroyed or suppressed thus protecting Informant 1 from potential prosecution.

# THE MURDER OF MS SHARON MCKENNA

- 13.1 At 1730 on Sunday 17 January 1993, a Catholic woman, Ms Sharon McKenna, was shot dead at the home of her Protestant friend in Belfast.
- 13.2 Before the murder, a caller rang a restaurant, and ordered a take-away to be delivered to an address nearby. When the delivery driver arrived with the order, two men in balaclavas hijacked his car. The car was driven to the friend's house.
- 13.3 The gunmen rang the doorbell and entered the house. Ms McKenna was shot and suffered major injuries which led rapidly to her death.
- 13.4 CID arrested a number of suspected UFF members, at around 2200 hours on the evening of the murder, 17 January 1993. At 1700 hours on 18 January 1993, the UFF suspects were released, because their alibis had been checked and appeared genuine, and “*new intelligence was coming to hand*”.
- 13.5 At approximately 1500 hours on 18 January 1993, the UVF claimed responsibility for Ms Sharon McKenna’s murder. A number of UVF suspects were subsequently arrested on 26 January 1993, including Informant 1.
- 13.6 At the time of Ms McKenna’s murder, Special Branch and CID jointly handled Informant 1. Detective Sergeant E and Detective Constable C were Informant 1’s Special Branch handlers; Detective Constable A was Informant 1’s CID handler. Detective Sergeant M was no longer a

handler for Informant 1 at this point, although he remained informed about him through Detective Constable A

### Detective Sergeant M's Written Material

13.7 In 2002 Detective Sergeant M supplied to the Police Ombudsman's Investigators, material about several incidents, including an account written by him about Informant 1, and about the murder of Ms Sharon McKenna .

13.8 In this written account Detective Sergeant M made allegations that Informant 1 admitted that he was a gunman in the murder, and that police covered up his role at the request of Special Branch, stating that he was the second gunman involved in the murder of Sharon McKenna, but that he did not pull the trigger, referring to another Special Branch informant [who was not named] as the murderer.

13.9 There were three meetings between Informant 1 and his handlers after this murder.

13.10 The first meeting was on 18 January 1993. Detective Sergeant M wrote that Detective Constable A had contacted Informant 1 and Informant 1 had said that he was involved and that he wanted meet Detective Constable A. A senior CID officer then allegedly approved the meeting. It was also alleged that this officer told Detective Sergeant M that information was already in the system naming Informant 1 as the gunman who killed Sharon McKenna. Detective Sergeant M does not identify this "senior CID officer". At the time of this first meeting therefore police had identified Informant 1 as a suspect for the murder.

13.11 Detective Sergeant M wrote that Detective Constable A and he met and spoke to Informant 1 who stated that he was the second gunman.

Detective Sergeant M claims he put it to Informant 1 that he killed Sharon McKenna, but that Informant 1 denied this. Detective Sergeant M writes that he told Informant 1 he would be arrested in a very short time. Detective Sergeant M writes that he and Detective Constable A then “*drove to brief senior police and to receive further instructions*”.

13.12 Detective Sergeant M’s police journal entry for 18 January 1993 confirms that this meeting occurred. It also confirms that Informant 1 admitted involvement in the murder.

13.13 A retired officer who was a uniformed Chief Inspector at the time of Sharon McKenna’s murder told Police Ombudsman investigators that he remembered seeing Detective Sergeant M looking withdrawn in the police canteen around the time of the Sharon McKenna murder. This information was not contained in Detective Sergeant M’s private written material.

13.14 The retired officer said that Detective Sergeant M made an unsolicited remark to him, that one of his sources had admitted to being involved in the Sharon McKenna murder. The officer said that although he was an Inspector at the time, he did not have managerial responsibility for Detective Sergeant M, and that he did not take the conversation any further, as he believed it to be a matter for CID to resolve. This retired officer has declined to make a witness statement to the Police Ombudsman about this incident.

13.15 Detective Sergeant M wrote that a second meeting occurred on 19 January 1993, between Informant 1, his two Special Branch handlers and Detective Constable A. Detective Constable A later told him about the meeting. There is evidence in the journal of one of Informant 1’s handlers that this meeting occurred. There is no other note of the meeting.

13.16 Detective Sergeant M wrote that Detective Constable A told him that Informant 1 had been agitated and started to bring up the topic of the Sharon McKenna murder, but that he was stopped before he could say anything. The Special Branch handlers allegedly handed Informant 1 hundreds of pounds of spending money, for a foreign holiday. When Informant 1 again tried to talk about the murder of Ms McKenna, the Special Branch handlers interrupted him and did not allow him to talk about it. Informant 1 then broke down and admitted that he shot Sharon McKenna. The Special Branch officers allegedly said nothing in response.

13.17 Detective Sergeant M wrote that he and Detective Constable A then met with a CID Detective Superintendent, who allegedly told them that Informant 1 was the gunman who killed Sharon McKenna and that Informant 1 would be arrested *“to keep everybody right, but the Branch fear he will admit it because he is so low at the moment”*. He allegedly also went on to say that Special Branch could not afford to lose Informant 1, as he was probably the most important intelligence asset in that UVF grouping.

13.18 Detective Sergeant M writes that the CID Detective Superintendent told Detective Constable A and Detective Sergeant B that they would interview Informant 1 about the Sharon McKenna murder, and that they would do this “back-to-back” with two other CID officers, who would know nothing about Informant 1’s position as a source and would be trying to “break” him. The CID Detective Superintendent allegedly instructed them to “guide” Informant 1 through his detention, give him “a shoulder to cry on”, and make sure that Informant 1 did not admit to the murder. He also allegedly said that Informant 1 had to come in for interview, because he had been named as a suspect, but that he would be no good to Special Branch in prison.

13.19 Detective Sergeant M writes that he refused to follow these instructions, he made his feelings known and left the meeting. Detective Constable A agreed to do as he was asked.

13.20 A third meeting on 20 January 1993 between Informant 1, Special Branch and CID is recorded in Detective Sergeant E's journal. There is no documentation of this meeting by either Special Branch or CID officers.

### The “Exceptional” Intelligence

13.21 In the murder file the Deputy Senior Investigating Officer, records receipt of intelligence from Special Branch naming nine people, including Informant 1, and other members of North Belfast and Newtownabbey UVF.

13.22 Special Branch has no record of this key piece of intelligence in the murder enquiry, which it provided to the Murder Investigation Team and which it described as “*exceptional*.” Special Branch officers have informed the Police Ombudsman that it would have been extremely unusual to describe intelligence as “exceptional”.

## The Arrest of Informant 1 and Others

13.23 Nine days after the murder, police arrested Informant 1 in relation to the Sharon McKenna murder. They also arrested the eight other people named by Special Branch intelligence.

13.24 Informant 1 was detained for six days in Castlereagh and forensic samples were taken from him. He was interviewed 37 times about the murder of Sharon McKenna, but police records state that he refused to talk about the murder. Detective Constable A and CID Detective Sergeant GG conducted 19 of these 37 interviews. Another pair of CID detectives conducted Informant 1's other 18 interviews.

13.25 CID Detective Sergeant GG who interviewed Informant 1 about the Sharon McKenna murder with Detective Constable A, said that "the dogs on the street" knew Informant 1 was a source, and he knew that Detective Constable A was one of Informant 1's handlers. The Detective Sergeant confirmed that Detective Constable A had previously told him that Informant 1 was one of his sources.

13.26 Detective Sergeant GG said that he "*felt like a gooseberry*" sitting in on the interview of Informant 1, as he knew that Informant 1 was Detective Constable A's source and would say nothing of relevance in front of him, adding that it was common practice to arrest a source who had provided information about an incident, so as to provide cover for them.

13.27 Detective Sergeant GG said he felt the interview was just going through the motions, as the arrest was probably just a cover for Informant 1 and that he knew Informant 1 was not going to say anything in front of him.

13.28 Informant 1 was released without charge.

13.29 Information was subsequently received stating that Informant 1 had committed the murder of Ms McKenna, and that another informant was involved in the murder.

13.30 Before the murder of Sharon McKenna, police paid Informant 1 a monthly retainer of £100 a month. In the weeks after the murder, this regular payment was increased to £160 a month. The increase in Informant 1's monthly payments was authorised by a senior Special Branch officer.

### Police Ombudsman Interviews and Arrests

13.31 The Police Ombudsman investigators interviewed many of the officers involved in handling Informant 1, and in the murder investigation.

13.32 Informant 1's CID Handler, **Detective Constable A**, was arrested by Police Ombudsman investigators, having repeatedly declined to be interviewed voluntarily. He confirmed that he and Detective Sergeant M met with Informant 1 on 18 January 1993, and that Informant 1 admitted to being the second gunman in the murder. He could not recall meeting Informant 1 with Special Branch on the following day.

13.33 He said that he informed senior officers of Informant 1's confession, although he refused to name whom he told. He added that he also submitted a written record of the meeting. No such documentation has been recovered.

13.34 When asked why he did not arrest and caution Informant 1 following his admission to Sharon McKenna's murder, Detective Constable A claimed that what Informant 1 told him was intelligence and not a confession. He claimed during interview under caution and in the press

that no one had tried harder than he to put away Informant 1 for the murder of Sharon McKenna. He would not state who instructed him to interview Informant 1. He did confirm that Detective Sergeant M was asked to conduct the interview and refused.

13.35 Detective Sergeant M was also arrested by the Police Ombudsman's investigators, having repeatedly declined to be voluntarily interviewed under caution. He confirmed that Informant 1 had admitted to being the second gunman during the murder of Ms McKenna. He had put it in his RUC Journal to bring it to the attention of senior police and that that was where his responsibility ended.

13.36 When questioned as to why he did not arrest Informant 1, when Informant 1 admitted to him that he had been the second gunman, he said that he did not consider it appropriate and that he would not have been permitted to arrest Informant 1. He stated that in Northern Ireland at that time (1993) Special Branch were in total control of the RUC, and that the Walker Report (which was incorporated into an RUC Force Order and which restricted the activities of police officers dealing with informants) prevented him from arresting anyone other than in a 'hot pursuit'. He also stated that he did not view the comment from Informant 1 to amount to an admission, adding that in his opinion it was quite simply intelligence only. He was adamant that he would have arrested Informant 1 had he had the authority to do so

13.37 Detective Sergeant M stated that he passed all the details to the CID Detective Superintendent B. He declined to answer questions over his prior allegations that the CID Detective Superintendent B had asked that Informant 1 be guided through interview. He simply confirmed that he refused to take part in the interview of Informant 1.

- 13.38 Detective Constable A and Detective Sergeant M have recently taken part in separate television documentaries. They have both said that Informant 1 had said that he had taken part in the murder of Sharon McKenna. In interview under caution concerning the allegations he had made previously, both to the Police Ombudsman and in the media, Detective Sergeant M distanced himself from these accounts. He claimed that his written account of the murder of Ms McKenna was inaccurate, an exaggeration and written when he was suffering from depression. Nonetheless, he has recently repeated these allegations in the media.
- 13.39 The CID Detective Superintendent B was also arrested and interviewed by the Police Ombudsman's investigators, having repeatedly declined to be interviewed voluntarily under caution. He confirmed that within days of the murder, either or both Detective Sergeant M and Detective Constable A informed him that Informant 1 was involved in the murder. He added that it may even have been another CID officer who told him of Informant 1's role, but that the information definitely did not come from Special Branch.
- 13.40 He stated that he would have briefed his own Detective Chief Superintendent before going on to meet his own counterparts in Special Branch. He stated that it was his intention to seek authority to arrest Informant 1. He said that he told the Special Branch Detective Chief Superintendent L, and Detective Superintendent J, and Special Branch Detective Sergeant E, that one of their informants was believed to have been concerned in the murder of Sharon McKenna. He was given authority to arrest Informant 1.
- 13.41 The CID Detective Superintendent B could offer no explanation why there was no record whatsoever of the intelligence apparently passed to him by Detective Sergeant M and/or Detective Constable A, or of his

discussion with Special Branch, or of their granting authority to arrest Informant 1.

13.42 The meeting with Informant 1 on 20 January 1993 was after authority to arrest Informant 1 had been granted.

13.43 The CID Detective Superintendent B denied knowing Detective Constable A was one of Informant 1's handlers and he denied all allegations put to him that he instructed there to be a cover up during the interviews with Informant 1 over his role in the killing

13.44 Other officers also denied knowledge of all or part of these events. CID Detective Chief Superintendent FF denied any knowledge that Informant 1 was an informant at the time and also denied any knowledge that he had admitted the murder. Special Branch Detective Chief Inspector N also denied knowing that Informant 1 had admitted the murder. However Detective Chief Inspector N stated that during the days following the meeting between Detective Superintendent B and Special Branch on 19 January there was also discussion of the fact that Informant 1 was involved. The Deputy Senior Investigating Officer, Detective Inspector EE, denied knowing that Informant 1 was an informant. The Special Branch Detective Superintendent J who was at the meeting could recall nothing of relevance and had destroyed his police journal some years previously.

13.45 Detective Constable C, one of informant 1's handlers, who was at the meeting on 19 January, stated categorically that Informant 1 did not confess to the murder. He claimed that Informant 1 provided no intelligence about the murder. Detective Sergeant E, another handler, who was at the meetings on 19 and 20 January also said that Informant 1 did not admit to taking part in the murder. He said he would have arrested Informant 1 had he admitted to the murder. In

contradiction to Detective Constable C's account, Detective Sergeant E claimed that Informant 1 provided intelligence as to who may have committed the murder.

13.46 Detective Chief Inspector QQ, the CID Senior Investigating Officer of Sharon McKenna's murder, refused to co-operate with the Police Ombudsman. There were no grounds for his arrest.

13.47 Two applications for the Extension of the Detention of Informant 1 were made to the Secretary of State, However there is no identifiable intelligence to support these applications, as would normally be expected. The officers who sought the applications can provide no explanation as to what information they provided to the Secretary of State, and those same officers deny knowledge of Informant 1 at the time. The two applications referred to are the only documents on the source file of Informant 1 in relation to the murder of Sharon McKenna, apart from the general intelligence Informant 1 provided some time after the murder, which does not name those involved. It would have been expected that all the supporting intelligence, particularly the intelligence described as "exceptional," would have appeared on Informant 1's source file. The intelligence reports which both Detective Constable A and Detective Sergeant E claim to have submitted cannot be found.

13.48 The Police Ombudsman has brought all of the above issues relating to the murder of Sharon McKenna to the attention of the Director of Public Prosecutions.

## Findings of the Police Ombudsman in Relation to the Police Investigation of the Murder Of Ms Sharon McKenna

13.49 The Police Ombudsman has confirmed that:

1. Informant 1 remains a main suspect for this murder, but he has not been properly investigated for it;
2. There is no record of the key Special Branch intelligence in relation to this murder.
3. In relation to the meeting on 19 January 1993 between Detective Constable A, the Special Branch handlers and Informant 1 there are four different accounts:
  - Detective Constable C said that there was no admission made and no intelligence provided by Informant 1 in relation to the murder;
  - Detective Sergeant E stated that there was no admission made, but that Informant 1 provided intelligence as to who may have committed the murder. This intelligence cannot be found;
  - Detective Constable A said that he had no recollection of the meeting;
  - Detective Sergeant M claimed that Detective Constable A told him that informant 1 had admitted the murder during this meeting.
4. There is no record of Informant 1 ever providing any intelligence about who killed Sharon McKenna;

5. On 18 January 1993 police are alleged to have known that Informant 1 was a suspect. They met with him three times after that, without arresting him.
6. None of these meetings were officially documented;
7. Both Detective Sergeant M and Detective Constable A have confirmed during their interviews under caution that Informant 1 had admitted to being the second gunman. No proper action was taken in respect of this disclosure;
8. The journals of Detective Sergeant M and Detective Sergeant E confirm these undocumented meetings with Informant 1;
9. Detective Sergeant E's journal confirms that there was a meeting between Special Branch and Detective Superintendent B, following the undocumented meet with Informant 1 on 19 January 1993;
10. During the meeting between Special Branch and Detective Superintendent B it was alleged that Informant 1 was the backup gunman for the murder. No proper action was taken in respect of this allegation;
11. Of the 37 criminal interviews of informant 1, 19 were carried out by his own CID handler, Detective Constable A. Detective Sergeant GG, who sat in on these interviews felt he was "just going through the motions." Detective Sergeant GG knew that Informant 1 was Detective Constable A's informant and believed that he was not going to say anything of importance about the murder. These interviews were a sham.

12. The interview notes provided by the police do not indicate that Detective Constable A challenged Informant 1 about his admission to Detective Constable A that he had been involved in the murder of Ms McKenna;
13. Detective Sergeant GG has said that he knew that Informant 1 would say nothing during the interview, because he was not one of his handlers. Therefore the interview was not purposeful for the criminal investigation;
14. Special Branch increased their monthly payment to Informant 1 from £100 a week to £160 a week, in the weeks after the murder, despite the fact Informant 1 was a main suspect for this unsolved murder. Detective Sergeant E states that this was because of the intelligence provided by Informant 1 about the murder of Sharon McKenna. There is no intelligence provided by Informant 1 which justifies this increase;
15. No one has been charged with the murder of Sharon McKenna;
16. There is no record of a review of the continued employment of Informant 1 as an informant following the murder;
17. The facts outlined above have had the effect of protecting Informant 1 from possible prosecution for the murder of Sharon McKenna. This is collusion.

# THE MURDER OF MR SEAN McPARLAND

- 14.1 Mr Sean McParland was from Derriaghy, South Belfast. He died on 25 February 1994. He had been babysitting four grandchildren at his daughter's house on 17 February in Skegoniel when two gunmen entered the house and he was shot and wounded in the neck. Two weapons were used in this attack. He died in hospital from his injuries. The Red Hand Commando claimed responsibility but police did not accept this, and have attributed the murder to the UVF.
- 14.2 An investigation ensued and at least four people were identified as responsible for the murder. An informant had provided intelligence the day before the murder that someone was going to be killed in the area. Police had mounted a response during which Informant 1 was seen in the area. The informant stated Informant 1 had been involved in the aborted attempt the day before the murder, and that the operation had been called off for the time being.
- 14.3 An informant provided intelligence the day after the shooting that the UVF were responsible. He named those who were allegedly involved.
- 14.4 Informant 1 also provided intelligence, on 19 February 1994, stating that the UVF were responsible and that named persons, including another informant, were involved. He also named himself as having had some role around this murder, although it did not specify what his role was. Four people, including Informant 1, were arrested for this murder on 21 February 1994.

14.5 Three other individuals were circulated as “Arrest on Sight” on 21 February 1994. This was subsequently cancelled,

*“due to accommodation and manpower shortages”*

14.6 The arrests were to be re-scheduled but this did not happen.

14.7 An Application for Extension of Detention was made for all four suspects on 22 February 1994. It stated that all four men were believed to have been responsible for the attack. The intelligence on which it was based cannot be found.

14.8 Informant 1 and two others were released without charge.

14.9 On 5 January 1994 during a search, prior to the murder, a piece of paper was found which had details of the owner of the house at which Mr McParland was shot. The person in whose custody this document was found was arrested after the attack and pleaded guilty to the charge of possession of information of use to terrorists. He was convicted.

14.10 Following this murder Informant 1 and another informant were appointed to more senior positions within the North Belfast/ Newtownabbey UVF.

14.11 Subsequently an informant was named as the gunman who killed Sean McParland.

14.12 The police did not provide the intelligence provided by Informant 1 in response to a request by the Police Ombudsman. In October 2004 police at Castlereagh Police Station found an abandoned cabinet. They discovered that it contained material which appeared to relate to

Detective Sergeant M and Detective Constable A. They informed the Police Ombudsman who took possession of the cabinet. Among the documentation discovered was the intelligence document which stated the information in paragraph 14.4.

- 14.13 No action was taken to review the ongoing employment or to cancel any informant status as a consequence of this murder. It is not possible to prove conclusively that the police officers responsible had seen this intelligence, provided by Informant 1. The Special Branch Detective Chief Superintendent L, who would have been responsible for such a review, has refused to co-operate with this enquiry.

### Findings of The Police Ombudsman in Relation to the Murder of Mr Sean McParland

- 14.14 Informant 1 was involved in a conspiracy to murder on 16 February 1994. He did not tell his handlers about this. The attack was aborted as a consequence of information supplied by another informant.
- 14.15 Police arrested Informant 1, and others. They made the application for extension of detention. There is no intelligence available upon which these applications were based. The absence of the relevant intelligence is indicative of a pattern of similar behaviour to that identified in the previous paragraphs. They were all released without charge.
- 14.16 Police did not arrest the other individuals despite the intelligence which they held about their alleged responsibility for the murder.
- 14.17 Police continued to employ Informant 1 and another informant without any consideration of all the information which was available to them. This is indicative of collusion.

# THE MURDERS OF MR GARY CONVIE AND MR EAMON FOX

- 15.1 Seven days before the murders of Mr Gary Convie and Mr Eamon Fox, an informant told police that he had two guns, of the type used for the subsequent murders, and other weapons under his control. The evening before the murder police sighted Man S and another man at the junction of Shore Road and Skegoneil Avenue.
- 15.2 At approximately 13.25 on 18 May 1994 Mr Gary Convie and Mr Eamon Fox were shot dead whilst eating their lunch in a blue Volkswagen Polo, parked close to a building site in North Queen Street in Tigers Bay. A third person received lesser injuries.
- 15.3 Clothing and the murder weapon were subsequently recovered at a derelict house, following information received. Man S was one of those arrested. He admitted having the gun prior to the murders and then taking the gun and clothing and storing it afterwards.
- 15.4 Police documentation indicates that the day before the murders Man S was picked up in a car by a man he knew and that this man gave him the gun used in the murders. Man S was convicted.
- 15.5 Informant 1, and others, including another informant, were arrested on the day of the murders. An informant was suspected of scouting the murders as he was in the area driving around at the time. He was also spotted by police with Informant 1 in Informant 1's car before the murders. Informant 1's custody record notes that he asked for and was supplied with a razor after his arrest. His custody photograph was

taken the day after the murder by which time he had shaved off his goatee beard.

- 15.6 The gunman for these murders was reported by witnesses to have a goatee beard. It has been noted by the Police Ombudsman's Investigators that it is recorded that, at interview, Informant 1 was asked why he had shaved off his goatee beard.
- 15.7 There is no record of any consideration by police of carrying out any identification process, despite the fact that there were witnesses to the murders who described the gunman in varying degrees.
- 15.8 Further detailed intelligence was subsequently received by police in relation to the murder
- 15.9 Some documents relating to this murder were recovered during Police Ombudsman searches of material at Greencastle Police station.

### Findings of the Police Ombudsman in Relation to the Murders of Mr Gary Convie and Mr Eamon Fox

- 15.10 Informant 1 was arrested and released in relation to these murders. He removed his beard whilst in police custody, and there was no attempt to carry out any identification process at that time, despite the fact that there was witness evidence which stated that the gunman had a goatee beard.
- 15.11 In the absence of a satisfactory explanation for this sequence of events:
- The arrest and subsequent release of Informant 1 without any attempt to carry out an identification process,

- Failure to take further action in relation to the weapons under the control of informants;
  - The absence of any participating informant status in respect of other matters identified during this investigation, and
  - The continuing employment of an informant without consideration of all these matters;
- is indicative of collusion.

# THE MURDER OF MR GERALD BRADY AND ASSOCIATED INCIDENTS

- 16.1 Mr Gerald Brady was a taxi driver who picked up two men in Antrim town centre on 17 June 1994 and took the men to Carrickfergus. He was shot three times and died of his injuries.
- 16.2 Almost three years later an informant stated that three individuals were involved in this murder, including Informant 1 and others. He gave further details about the murder. Informant 1 has never been arrested for the murder of Gerald Brady.
- 16.3 Ballistic tests in 1997 showed that the gun used to murder Gerald Brady was also used in a “punishment” shooting two weeks later (which was linked to the same UVF unit), to two later UVF “punishment” shootings (associated with North Belfast and Newtownabbey UVF) and to more than ten other shooting incidents .

## Findings of the Police Ombudsman in Relation to the Murder of Gerald Brady and the Associated Cases.

- 16.4 Police had access to intelligence implicating three individuals, including Informant 1 and another informant, in the murder of Gerald Brady. They also had forensic evidence that the gun used to shoot Gerald Brady was available to the UVF. Informant 1 had informed police a few months after the murder that he was in possession of a handgun of the same type. There is no record of him being given participating informant status to have the weapon, or of any action taken by police to recover the weapon.

- 16.5 The Police Ombudsman has considered the continued employment of the two informants, the fact that police failed to act properly following the receipt of the information relating to the murders of Mr Convie and Mr Fox, the matters described above in relation to the murder of Mr Brady, the matters described in relation to the “punishment” shooting which followed it and the two shootings three years later. This is indicative of a pattern of collusive action.
- 16.6 There was no linkage by CID, followed by investigation of these incidents, despite the fact that there could have been.

# THE MURDER OF MR THOMAS SHEPPARD

- 17.1 Mr Thomas Sheppard lived in Coleraine. He was shot in front of a number of customers in the Towers Tavern in Balee Estate in Ballymena on 21 March 1996.
- 17.2 Subsequently an informant gave details of who carried out the murder. Informant 1 was named as participating in the murder.
- 17.3 Intelligence from another source stated that Informant 1 had been in a pub recently, “spouting about” having shot Thomas Sheppard the year before, and gave further information about the murder.

## Findings of the Police Ombudsman in Relation to the Murder of Mr Thomas Sheppard.

- 17.4 Police Ombudsman enquiries into the murder of Mr Sheppard have found no mention of Informant 1 as a possible suspect for this murder. There is no record of the above intelligence in the investigation file, or of any action taken in respect of it, by the team investigating the Sheppard murder.
- 17.5 There is no record of any review of the continued employment of Informant 1 following the receipt of this intelligence.

# THE INVESTIGATION OF THE MURDER OF MR JOHN HARBINSON

- 18.1 In the early hours of Sunday 18 May 1997, Mr Harbinson was found murdered in an alleyway in the Mount Vernon estate. The attack which led to his death had been allegedly sanctioned by a senior member of the UVF in this area.
- 18.2 Informant 1 and his associates became the main suspects for this murder within hours of the murder. A significant amount of high grade intelligence was received by both CID and Special Branch on 18 and 19 May 1997
- 18.3 Detective Sergeant E telephoned Informant 1 after the murder, and was told by a person in the house that he was drunk and in bed.
- 18.4 Informant 1's house was searched, as were the houses of many of his associates. He was eventually arrested on 25 May 1997, after an officer spotted him coming out of a local bar. He was released without charge on 26 May 1997.
- 18.5 In the days immediately after the murder of Mr Harbinson, Special Branch had received information from an informant. Special Branch have provided no contemporaneous written record of the information received which, apart from naming those responsible, also indicated that:
- an informant had witnessed the murder and

- had run away with the murderers to Ballyhalbert.

This information was never documented. The Murder Investigation Team did not receive it. The Police Ombudsman found it in the journal of an officer who had been making enquiries on another matter and had noted it. This officer identified that the names had been received by the murder investigation team at the time, but did not realise the significance of the reference to Ballyhalbert.

18.6 Had this information been shared with CID, a search and arrest operation could have obtained vital forensic evidence which may have linked the suspects to the murder of Mr Harbinson. As it was the CID teams properly searched empty houses in Belfast, but could not arrest the suspects until days afterwards, when any opportunities for the recovery of forensic evidence deriving from their involvement had been lost.

18.7 Having identified the existence of the information about Ballyhalbert, the Police Ombudsman conducted enquiries to establish if there was any trace of the murder suspects going to Ballyhalbert in May 1997. There is no direct evidential link between the suspects for the murder and this information.

18.8 The enquiries made included:

- A search of local police records and liaison with local officers and collators;
- Searches of other agencies systems;

- The identification of all public telephone call boxes and analysis of billing;
- The identification of caravan sites;
- The identification of CCTV routes into and out of Ballyhalbert;
- The identification of ATMs;
- Limited financial enquiries;
- Telephone billing enquiries;
- Computer searches on Ballyhalbert.

18.9 The Police Ombudsman has established that there was a phone-call from a caravan park in Ballyhalbert to the Police Exchange at 1501 hrs on Monday 19 May. Detective Constable S began duty at 15.00 hours that day. The Police Ombudsman's investigators have established that there are no records at the local station of any incidents in Ballyhalbert to which police were called at that time.

### Interview of Police Officers by Police Ombudsman's Investigators

18.10 The Police Ombudsman has interviewed a number of Special Branch informant handlers including Detective Constable P, Detective Constable T and Detective Sergeant E about the handling of the intelligence that an informant had seen the murder and had run away with the murderers and in particular about the dissemination of the

information. At interview these officers deny knowing anything about the information which stated that the murderers had gone to a named location or about why Mr Harbinson was murdered:

- Detective Constable T said that his understanding was that an informant had heard a commotion, and saw the attackers beating Mr Harbinson to death, and that the informant had “*panicked*”, and had run away with the murderers.
- Other officers, including Detective Constable P who received the information, denied that the informant had named the location. He said that he had relayed the message verbally to Detective Sergeant E, who said he would take care of it.

18.11 Detective Sergeant E has said that he passed the information onto CID as to who was responsible for the murder but denied knowing anything about Ballyhalbert.

18.12 Detective Constable T said on 11 September 1997, four months after the murder, Detective Sergeant E and Detective Inspector Q told him that information from the informant was missing from the system, and that Detective Sergeant E then dictated to him the wording of the document. The document submitted did not contain any reference to Ballyhalbert, even at that stage.

18.13 Detective Sergeant E denies any involvement in preparing this document.

18.14 Police Ombudsman investigators sought to re-interview the officers:

- Detective Constable T refused to be re-interviewed, on medical grounds. There were insufficient grounds to arrest Detective Constable T.
- On re-interview Detective Constable P denied covering up the location to which the murderers had allegedly fled.
- Detective Sergeant E refused to be re-interviewed. He described the failure to record any of the information in May 1997 as an “*administrative error*”.

18.15 The senior CID detectives in charge of the Harbinson murder investigation were interviewed, as was the officer who reviewed the murder investigation in 1999. They state that they were aware there was intelligence naming the people allegedly involved. However, no CID officer, at any level, was told that two of the suspects were informants at the time of the murder, nor were they told that an informant had provided witness information about the murder. No CID officer was told that the suspects were at Ballyhalbert following the murder. The senior CID officers state that if they had known the location of the suspects, they would have arrested them.

18.16 Junior CID officers who were involved in the murder investigation were interviewed. Many of these officers recall little detail of the murder itself, or they had only a short-term role in the investigation. However, it is clear that Informant 1 and his associates were always the main suspects for the murder. An Officer refers to “*locker room talk*” within CID that Informant 1 was a “*protected species*”, but the Detective Constable does not provide any specific examples of Special Branch protecting Informant 1.

- 18.17 The Police Ombudsman has considered the option of interviewing the informant, to find out what he told his handlers concerning the murder of Mr Harbinson. This option was ruled out, as he is himself a prime suspect for the murder.
- 18.18 Of the main suspects for the Mr Harbinson murder, two were police informants at the time. These individuals were also the most senior UVF figures in the group who allegedly murdered Mr Harbinson, and Special Branch already had a wealth of information implicating them in “punishment” shootings, beatings, and murders over previous years. They continued to be employed as informants.
- 18.19 The continued employment of the informant was the subject of questions by the Police Ombudsman’s investigators. Detective Superintendent K, said that this decision would have been made with the approval of the Regional Head of Special Branch, taking into account the ongoing need for intelligence from the UVF, despite the fact that he was of the opinion that Informant 1 was probably responsible for the Harbinson murder. The Regional Head of Special Branch for this period, Detective Chief Superintendent R, has declined to co-operate with this enquiry. The senior Special Branch officer also stated that Special Branch would have informed senior CID officers of sensitive issues around this murder investigation, such as the fact that two of the murder suspects were Special Branch informants. The CID officers deny this and there is no record of it.

## Other Investigative Failures

- 18.20 Police Ombudsman investigators tried to obtain the CID Policy Book for the Harbinson murder investigation, to establish what decisions CID took in relation to this case. However, PSNI has told the Police

Ombudsman that this Policy Book has gone missing and cannot be found.

18.21 Tape-lifts which had been created were returned to the police in September 1997 with no record of any forensic work having been carried out on them. Police did not ask FSNi to check the body bag in which Mr Harbinson was removed, for forensic evidence. Most of the exhibits, including the clothes Mr Harbinson was wearing, and the handcuffs he was found in, were destroyed on 22 October 1997, as they were deemed to be a “health hazard”. The clothing of the murder suspects was returned to them shortly afterwards.

18.22 A glove and two metal bars were photographed near the location at which the body was found. There is no record of them in the Exhibit Book or of them being submitted for analysis and they cannot now be found.

18.23 Two of the main suspects identified in relation to the murder of Mr Harbinson were never arrested.

### Findings of the Police Ombudsman in Relation to the Investigation of the Murder of John Harbinson

18.24 Had the information about Ballyhalbert been shared with CID, an arrest and search operation could have obtained vital evidence, which may have linked the suspects to the murder. CID could not arrest the suspects until days afterwards when any forensic opportunities had been lost.

- 18.25 The Police Ombudsman is totally unconvinced that the informant, as an innocent witness to the murder decided to run away with the murderers.
- 18.26 The Police Ombudsman considers that in relation to the murder of John Harbinson, Special Branch did not deal properly with information about the wrongful acts of their agents, and that Special Branch colluded with the murderers of Mr Harbinson, by concealing information received following the murder, and by continuing to employ the two informants after the murder.
- 18.27 Given the serious failings in the original investigation and the destruction and loss of exhibits, there appears little chance of any successful re-investigation, unless all potential witness evidence is fully exploited.
- 18.28 The suppression of the information about the location of the suspects is another example of Special Branch officers mishandling information in the first instance and suppressing vital information, which had the effect of protecting Informant 1 and other informants from possible prosecution.

# THE MURDER OF MR THOMAS ENGLISH

19.1 On 31 October 2000 four men in balaclavas burst into Thomas English's house and shot him dead in front of his wife.

19.2 Intelligence about Mr English's murder named informant 1 and three of his associates. Informant 1 and his associates were arrested on 8 November 2000, but they provided alibis for each other, saying that they were setting off fireworks for Halloween at the time of the murder. Informant 1's house and car were searched.

19.3 No one has been charged with Mr English's murder.

## Finding of the Police Ombudsman in Relation to the Murder of Mr Thomas English

19.4 Informant 1's alleged involvement in this murder adds to the existing intelligence picture of Informant 1's alleged involvement in murder.

19.5 Subsequent Special Branch written assessments of Informant 1 make no mention of his alleged involvement in this murder. Instead they state, in relation to Informant 1:

*"As far as can be ascertained the CHIS is not currently involved in criminality"*

## ATTEMPTED MURDERS SIX AND SEVEN IN 1992 AND 1997

- 20.1 In 1992 Victim Six grappled with an attacker who tried to shoot him at a specific location. At the time, he provided police with a description of his attacker and a photo-fit montage, which resembled Informant 1. Informant 1 was not arrested at the time. From Police Ombudsman enquiries it is clear that Informant 1 is a potential suspect for this attempted murder in 1992.
- 20.2 In April 1997 an Informant told his CID handlers that Victim Six was a prospective UVF murder target. On 07 May 1997 Informant 1's close associates were arrested for placing a bomb under Victim Six's car.
- 20.3 Informant 1 was not arrested for this second murder attempt, although briefing notes viewed at Forensic Science Northern Ireland state he was in the area at the time.
- 20.4 **The intended victim has now made a complaint to the Police Ombudsman alleging that the police investigation into these murder attempts were “stymied” in order to protect police informants. The Police Ombudsman cannot, therefore, comment further on this matter at the present time.**

## ATTEMPTED MURDER EIGHT

- 21.1 In 1993, Informant 1 provided information that led to a successful police operation, preventing the murder of Intended Victim Eight and leading to the arrest and conviction of one of Informant 1's associates.
- 21.2 His information led to police stopping this man in possession of a loaded shotgun as he was on his way to his intended victim.
- 21.3 Informant 1 was also arrested for the attempted murder. The Police Ombudsman has uncovered documentation indicating that the arrest was made so that he would not come under suspicion as a police informant. Informant 1 was remanded in prison for a number of months, apparently at his own request, to ensure he was not identified as the source behind this police operation.
- 21.4 The perpetrator was convicted and served a number of years in prison for this offence.

### Findings of the Police Ombudsman in Relation to Attempted Murder Eight

- 21.5 Informant 1 provided good information in dangerous circumstances, which foiled the murder. His information led police to arrest a suspected UVF terrorist however there remains a question as to police compliance with the rules in relation to allowing Informant 1 to act this way and whether police disclosed to the Director of Public Prosecutions that an informant had been involved in this murder attempt.

- 21.6 There is no record of any participating informant status having been granted to Informant 1 in relation to this incident.

## ATTEMPTED MURDER NINE

- 22.1 Police Ombudsman investigators have seen police documentation in relation to a failed murder attack on a man in 2002. The intended victim survived and identified Informant 1 as one of his attackers.
- 22.2 There is also other extensive intelligence held within the policing system which identifies Informant 1 as having been involved in this incident. He was arrested days after the attack but subsequently released without charge.
- 22.3 This matter was subsequently dealt with by the police.

### Finding of the Police Ombudsman in Relation to Attempted Murder Nine

- 22.4 In the subsequent authorisation for the continued employment of Informant 1 this matter is not mentioned.
- 22.5 A misleading and inaccurate confidential document was prepared for submission to the Director of Public Prosecutions which failed to mention that Informant 1 was suspected of involvement in numerous murders and other serious criminality.
- 22.6 Both these documents were therefore misleading.

## ATTEMPTED MURDER OF INTENDED VICTIM TEN

22.7 Detailed information was given to police that Informant 1 and another male were planning an attack on an unknown male. They were allegedly in possession of two weapons and aborted the attempt when a gun jammed. The weapons were later recovered and other members of the UVF arranged for a vulnerable person to accept responsibility for the weapons.

22.8 Informant 1 was not arrested or questioned about this matter.

## SECTION FOUR

# INTELLIGENCE LINKING INFORMANT 1 AND OTHERS TO OTHER CRIMES

### CID SEARCHES BLOCKED BY SPECIAL BRANCH

- 23.1 In 1997 detailed information was received by CID about the location of weapons, ammunition and explosives and also a list of intended murder targets for the UVF.
- 23.2 It was alleged Informant 1 kept guns in two locations. Informant 1 had himself previously provided information to his handlers that he had three handguns, one of which was at his own home. The information also indicated the location of a large UVF arms hide at which there were a number of weapons. A number of other locations were identified at which UVF weapons were stored.
- 23.3 CID planned a number of searches of UVF-linked properties in North Belfast. The aim was to frustrate the UVF by seizing a large quantity of their munitions, and arresting individuals in possession of them.
- 23.4 In order to carry out these searches, CID had to obtain clearance from Special Branch, in case they impacted on any ongoing Special Branch operations.
- 23.5 Special Branch approved the searches of a number of addresses and locations. Special Branch however refused clearance for CID to search

four locations including the two locations used by Informant 1, and the alleged site of the UVF arms hide.

- 23.6 The searches of the other properties went ahead, resulting in the recovery of some munitions, but they did not significantly undermine the UVF.

### CID OFFICERS HIDE ARMS ON THE M2 MOTORWAY AND THEN HELP COLLEAGUES TO FIND THEM

- 23.7 The Police Ombudsman also has concerns about the alleged actions of Detective Sergeant M and Detective Constable A in relation to this matter. Detective Sergeant M's memoir-style accounts, which he provided to the Police Ombudsman, state that he wanted to ensure that the Informant did not change his mind about the searches and remove weaponry, so that police could not find it
- 23.8 Detective Sergeant M said he and Detective Constable A took some of these munitions from a location and stored them in the boot of an Assistant Chief Constable's car, without that officer's knowledge. He writes that the Assistant Chief Constable's car was later driven out of Castlereagh police station, and that the driver did not know that he had munitions stored in the boot. The car was returned to Castlereagh Police Station without anyone discovering the munitions.
- 23.9 Detective Sergeant M writes that he then went out to the M2 motorway and stored the munitions in a hide by the side of the road. Detective Sergeant M writes that he later came back to this site with the police search teams, and directed them to where the weapons were hidden, as though it was the UVF who had put them there.

- 23.10 Special Branch officers have not been able to provide any reason why they refused to grant clearance for the searches of the locations referred to in this section. The two senior CID officers involved in the searches have now retired and have declined to co-operate with this enquiry.
- 23.11 CID Detective Inspector MM who authorised the searches has provided a witness statement to the Police Ombudsman stating that he vaguely recalls Special Branch did not provide clearance for an address to be searched. He states he cannot recall which address this was, but that if Special Branch refused clearance, this would be taken to be on the grounds of National Security and CID would not question it. The Police Ombudsman has found no evidence of any ongoing Special Branch operation which would have been compromised by the searches.
- 23.12 Within six weeks of Special Branch refusing clearance for some of the searches, Informant 1 and his close associates were implicated in the murder of John Harbinson and an attempted murder, as well as other terrorist crimes.

### Findings of the Police Ombudsman in Relation to the Blocked Searches

- 23.13 By blocking the searches of the locations relating to Informant 1 and an alleged UVF arms dump, Special Branch shielded Informant 1 from possible arrest and prosecution, and protected his position of authority within the UVF. This is collusion.
- 23.14 The absence of records in Special Branch in relation to the blocking of the searches is indicative of a pattern replicated throughout this report. This is also collusion.

# PLANNED ATTACK IN THE REPUBLIC OF IRELAND

## Dublin

- 24.1 In October 1996, Informant 1 provided information to his Special Branch handlers that the UVF were planning bomb attacks in Dublin in retaliation for any further IRA bombings. A subsequent entry on a Special Branch officer's private document notes that Informant 1 claims to have managed to convince the UVF hierarchy to abandon plans to bomb the Sinn Fein offices in Dublin by saying there was a heavy Garda presence when they were targeting the premises. This does not appear in any intelligence report or on Informant 1's source file, nor was this issue brought to the attention of the Police Ombudsman by the police.
- 24.2 In February 1997 Informant 1 provided information which stated that the UVF in Belfast had received a supply of commercial explosives and stated that the UVF had been given the "green light" to carry out an operation on a suitable high-profile Republican target.
- 24.3 Detective Sergeant E received this information. His police journal entry for that day notes that he met Detective Superintendent K and they liaised with colleagues about the explosives.
- 24.4 Police Ombudsman investigators found two personal documents apparently prepared by Detective Sergeant E to show Informant 1's value as a source.
- 24.5 Among the information stored was a statement that the UVF intended to bomb Provisional Sinn Fein Offices in Dublin in 1996. On 20

February 1997 the informant provided explosives which were made safe by police and returned to the informant.

### Attack in Monaghan

24.6 On Monday morning, 3 March 1997, a device partially exploded near the Sinn Fein offices in Monaghan. The detonator was the only part of the device which exploded.

24.7 On that date Informant 1 told his handlers that a bomb had been deployed to the Sinn Fein offices in Monaghan. Detective Sergeant E's "Successes" document, which was not an official record, states that *"The explosives used were the [made safe] explosives returned to the UVF"*

24.8 Despite numerous requests by the Police Ombudsman, the PSNI have not supplied any documentation recording the receipt of these explosives. Nor is there any record of Informant 1 telling police what he did next with them, where he put them or who he gave them to. There is no record of any pro-active operation in relation to the matter. There is no record of any attempt to investigate or arrest anyone for the matter. The only official record that Informant 1 provided explosives, was created to give him a reward payment.

24.9 Some weeks after the attack information was received naming those involved in the attack, and giving details about it.

24.10 The only official records, apart from the reward application, which show the explosives were used in Monaghan is in a confidential document prepared for the Director of Public Prosecutions for Informant 1s arrest on another matter. It records that he thwarted *'a bombing campaign in*

*the Republic of Ireland*’ on 25 November 1996 and that he thwarted ‘a bomb attack in Monaghan’ on 3 March 1997. The document does not mention that Informant 1 had a role in the attack and that the explosives were returned to him by police.

- 24.11 There is no evidence that Special Branch informed the Garda Siochana at any stage of this bombing attempt, or of who was behind it. The Garda Commissioner has confirmed to the Police Ombudsman that Special Branch did not provide them with any intelligence about this incident. The Police Ombudsman wrote to the Chief Constable asking him to pass on this intelligence.

## Police Ombudsman Interviews

- 24.12 Police Ombudsman investigators have interviewed a number of officers about this matter. Detective Sergeant E was interviewed under caution. He stated that he was involved in the hand over of the explosives and the return of the made safe explosives to Informant 1. He stated that he had no prior knowledge of the Monaghan attack. He said his role was simply to collect the explosives and return them to Informant 1. He said that he was under instructions not to make any written record. He said that it was all to be done verbally as Special Branch did not want any written records until they were sure it was going to take place.

- 24.13 Detective Constable C, who was involved in the handover of explosives, said he did not know they were used in Monaghan.

- 24.14 Detective Inspector F was the overall officer in charge ‘on the ground’ for the handover of the made safe explosives. He confirmed that the Regional Head of Special Branch and other senior police officers would have approved the handover. He said he believed the fact the explosives were made safe meant that they were no longer a risk to

life, and police would not generally have tracked what happened to them subsequently.

24.15 The Police Ombudsman also interviewed Detective Superintendent K who was the overall officer in control of the division in which the matter was developing. He said he did not recall this specific incident.

### Findings of the Police Ombudsman in Relation to the Monaghan Attack

24.16 As a consequence of Informant 1's involvement in the supply of the explosives to his handlers, the potential for loss of life may have been diminished. However the Police Ombudsman has real concerns about the effectiveness of the RUC intervention:

- No records have been found by police in relation to this matter, despite an intensive search by police senior management;
- An instruction was allegedly issued at the time of the incident that no notes should be completed in respect of the incident;
- Two informants were involved in this activity. No participating informant status was considered;
- No attempt was made to conduct a pro-active operation to disrupt or arrest those who may have sought to use the explosive material which Informant 1 had supplied to the police;
- There was no sharing of intelligence in relation to this matter with An Garda Síochána either before or after the Monaghan explosion, and therefore no complementary action could be taken;

- No attempts were made to arrest those involved in the attack despite the fact that police were in possession of information identifying those allegedly responsible;
- The suppression of intelligence that Informant 1 had been in possession of explosives, whom he received them from and who he gave them to meant that any subsequent investigation into the attack would be inherently flawed. This failing protected Informant 1 from investigation and possible prosecution.

24.17 The Police Ombudsman only established the operational activity in relation to the made safe explosives when a Special Branch officer's records were examined. This information should have been officially recorded.

24.18 The only official records which show the made safe explosives were used in Monaghan are in a confidential document prepared for the Director of Public Prosecutions.

24.19 In the course of this investigation it has been established that Special Branch suppressed intelligence which they received from Informant 1, failed to keep records and failed to deal with informants who had allegedly been involved in the planting of a bomb in Monaghan.

24.20 The Police Ombudsman considers these events to be an example of police collusion.

## INFORMANT 1 LINKED TO TARGETING A REPUBLICAN

- 25.1 Police Ombudsman investigators have uncovered details that Informant 1 was involved in targeting a man in North Belfast. This material was uncovered when they were searching police computer systems and had not been disclosed to the Police Ombudsman by the PSNI.
- 25.2 In July 1994, an informant told police that the UVF were planning a hit on a “Republican target” in the Antrim area, and that a white Mercedes was to be used in this attack. He said that he was to meet with Informant 1 and others at a named place that day.
- 25.3 An operation was mounted to watch what was happening, and to prepare for a response to any murder attempt. The operation log, which is available, notes that three men drove away from a club. They drove around North Belfast and stopped in an area, where one of the men indicated a particular house. The surveillance log indicates that the UVF were identifying the occupant of the house for a future attack.

### Findings of the Police Ombudsman in Relation to the Targeting Operation

- 25.4 Informant 1 was involved in the targeting of a person without reporting any of this to his handlers. This should have been a major cause for concern for police but there is no record of police challenging Informant 1 about it or considering his continued employment as a source.

## ARSON AND OTHER CRIMES BY INFORMANTS

- 26.1 The Police Ombudsman has seen intelligence that an informant told police of an impending attack on a bar in Portadown. The attack went ahead and 12 people were arrested, including Informant 1.
- 26.2 On 19 August 1997, an informant told Special Branch about a UVF Brigade meeting, attended by Informant 1 and other senior UVF members. He said that 15-20 UVF members from each area were to meet at 1900 hours the next evening at a named location. They would then travel by car to Portadown, where they were going to attack a named bar. On 7 January 2007 PSNI confirmed to the Police Ombudsman, in response to a request made on 21 September 2004, that this intelligence had not been disseminated.
- 26.3 Special Branch had also received a more general debrief from a "Casual Contact" on 20 August 1997, which stated that the Belfast UVF intended to attack UVF social haunts in Mid-Ulster. Six potential targets were listed, one of which was the bar which was subsequently attacked. Special Branch informed the Source Unit of this general information, and an Action Sheet was issued to other police, noting that these premises could be the scene of a confrontation between the UVF and the UVF.
- 26.4 On the next day, 20 August 1997, Informant 1 and some 29 of his associates went into the bar at approximately 20.00 hours waving guns and declaring that they were Tigers Bay UVF. They then smashed up the bar with baseball bats, poured petrol around it and set it on fire.

- 26.5 A member of the public in the bar rang police and told them that the bar was being attacked. Local police crews were informed and drove towards the pub where another member of the public waved one of the police crews in the direction of three UVF vehicles which were leaving the scene.
- 26.6 Police pursued the UVF, stopping two of the vehicles. Twelve people were arrested, among them Informant 1. All twelve were convicted at court. Informant 1 was released in March 1999. Special Branch officers have claimed at interview that Informant 1 was arrested and imprisoned for this attack because of Special Branch intelligence, and that it was a Special Branch-led operation which resulted in these arrests.
- 26.7 Police Ombudsman investigators have taken a statement from the Duty Inspector that evening. He said that when he began duty at 1600 hours, a Special Branch Constable briefed him there was intelligence that there may be a UVF attack on either of two bars in the near future.
- 26.8 The Inspector was not given details of the time of a proposed attack, or of what individuals would be involved. The Inspector states that he considers the subsequent arrests to have been reactive on the part of police, rather than proactive. The Inspector states that he was not given sufficient detail for any police operation to be mounted prior to the attack.
- 26.9 While Informant 1 was on remand for this attack, his handler Detective Constable C prepared a confidential document for disclosure to the Director of Public Prosecutions. This report notes Informant 1's benefits as an informant. It comments that one of Informant 1's motives for becoming an informant was "to *prevent the murder of innocent people*" and that Informant 1's intelligence has "*invariably led to lives being*

saved'. At the time this report was written Informant 1 was a main suspect for murder, and had been implicated in a number of other murders from 1991 onwards. None of this is mentioned.

26.10 Police Ombudsman investigators interviewed Detective Constable C in relation to this. He stated that he had not been aware at that time of any intelligence implicating Informant 1 in murders. This statement is lacking in credibility. Special Branch had recently broken off contact with Informant 1 because of his suspected involvement in the murder.

26.11 Detective Superintendent K was interviewed in relation to the confidential document and Informant 1's continued employment as an informant. He said Special Branch handlers had an obligation to be close to their sources, and that as a result,

*"there can be a slight deviation on objectivity, but that's what they're required to do. The state require them to do that."*

### Findings of the Police Ombudsman in Relation to Special Branch Handling of Matters Relevant to the Attack on the Bar

26.12 Special Branch officers were aware of the detail of the threat of an impending attack. They did not inform local police about all the details which they had, nor did they arrange for a police operation, which may well have had the capability to prevent the attack on the bar, and to arrest more of those involved in the attack. Only good local police work on the day helped apprehend those responsible.

26.13 By their failure to act appropriately Special Branch allowed a situation to develop in which life and property were put at risk. That risk attached affects not only members of the public but also the uniformed officers who had to respond to the call for help.

26.14 In the absence of any explanation from any of the Special Branch officers involved, the Police Ombudsman has concluded that this situation arose because of collusion.

## DRUG DEALING BY INFORMANTS

- 27.1 The Police Ombudsman has obtained around 70 separate intelligence reports held by police implicating Informant 1 in 17 instances of drug-dealing, including two reports where he admitted to serving police officers that he was involved in this criminality. Most of this intelligence comes from CID and Drugs Squad and is graded as “*usually reliable and probably true*”, according to the Special Branch definition.
- 27.2 Police documentation noted when and where Informant 1 and others went to sell drugs and locations at which drugs were openly used and sold.
- 27.3 The material within CID is particularly detailed. It notes places where Informant 1 sold drugs and those selling drugs on his behalf. It also refers to the drugs he controlled, including cannabis, ecstasy, amphetamines and cocaine.
- 27.4 Special Branch also received their own intelligence which linked Informant 1 to drug dealing: on some occasions they passed this intelligence to the Drugs Squad, on other occasions they did not.
- 27.5 Throughout this period Informant 1 occasionally supplied Special Branch with information about other drug-dealers, including some of his own associates. In analysing this intelligence, it appears that his motivation in supplying this information was to incriminate rival drug-dealers, in order to protect his own interests and maintain control over the drugs trade in his area.

## Larne

- 27.6 Police Ombudsman investigators have recovered police intelligence dated July 1994 in which police stopped Informant 1's car at a hotel in Larne. In the car were Informant 1 and a number of his associates. Special Branch documentation does not note if anyone was searched or arrested when this car was stopped.
- 27.7 Police records show that in August 1994 Informant 1 told his handlers that the North Belfast UVF had taken control of drug-dealing in the hotel. He stated that the UVF were allowing local dealers to sell drugs on their behalf, and that Man O [a senior UVF figure] allowed this practice to continue on a trial-basis, as long as UVF members were not directly seen to be involved in drug-dealing themselves. There is no evidence that this information was ever passed to the Drugs Squad. In November 1994 Informant 1 was arrested, charged and convicted of drugs offences.
- 27.8 Intelligence indicates that Informant 1 was personally involved in drug-dealing from 1994 onwards, and that he had effectively admitted this to his handlers.
- 27.9 In October 1994, an informant told his Special Branch handlers that Informant 1 and others were involved in the sale of drugs in North Belfast. This information was apparently passed to the Drugs Squad.
- 27.10 In February 2001, police discovered a pipe-bomb making factory in flats in North Belfast. During the same search, police also discovered a large cache of ecstasy tablets. Subsequently Informant 1 supplied information relating to the purpose of the pipe bomb factory.

27.11 In November 1999, Informant 1 had told Special Branch that his associate, another informant, was dealing in cannabis. In February 2002, police intelligence noted that an informant was now dealing cannabis for Informant 1, as Informant 1 had carried out a “punishment” shooting on him the previous year. The reason for the “punishment” shooting was that he had been buying drugs at a cheaper price from the UDA, instead of from Informant 1.

## Police Ombudsman Interviews

27.12 The Police Ombudsman has interviewed a number of Special Branch officers in relation to Informant 1’s apparent involvement in drug-dealing.

27.13 The vast majority of them have said they were unaware of any intelligence implicating Informant 1 in drug-dealing. They said that if they had researched an individual on the CID intelligence system that could have compromised the informant’s identity.

27.14 The Police Ombudsman does not accept this explanation, nor does she accept that the officers were ignorant of Informant 1’s drug dealing.

27.15 The Police Ombudsman investigators have spoken to one Special Branch handler who has given an entirely different account. Detective Constable P was a handler for Informant 1 from 1996 to 2002. He said in interview that although Special Branch did not have direct access to the CID intelligence system, print-outs were forwarded to them to give them a picture of general criminal intelligence in their area.

27.16 Police Ombudsman investigators have spoken to a number of Drugs Squad officers to establish why police did not take a more pre-emptive

role against Informant 1 in relation to his apparent drug dealing. Informant 1 was only prosecuted once for drugs offences when there was a wealth of intelligence implicating him in drug dealing.

27.17 They have said they were aware of Informant 1's probable involvement in drugs, but that their limited staff resources meant that they only targeted larger-scale drug dealers further up the supply chain.

### Findings of the Police Ombudsman in Relation to Drug Dealing

27.18 Police documentation records that monies from drug operations formed a major part of the revenues of loyalist paramilitaries during this period. The failure by police to deal with this aspect of their criminality meant that this source of funding continued.

27.19 The Police Ombudsman considers that Special Branch deliberately disregarded most of Informant 1's involvement in drug dealing from 1994 onwards. This is collusion. Although police have high-grade intelligence that their informant was involved in drug dealing, his only related conviction was for the possession of drugs.

## “PUNISHMENT” SHOOTINGS AND ATTACKS.

- 28.1 Apart from matters for which Informant 1 has been charged and convicted there is significant intelligence which indicates that, between 1991 and 2002, Informant 1 and his associates are alleged to have been concerned in up to ten separate punishment shootings and at least 13 punishment attacks.
- 28.2 Informant 1 is named by the victim of one of these punishment shootings in 1997 as having been involved in the attack. Bullet heads recovered were submitted for forensic analysis and the weapon was identified as having been used in a punishment shooting two days earlier.
- 28.3 Significantly the ballistic test also identified this weapon as the one used to murder Gerald Brady three years earlier in June 1994.
- 28.4 The victim of the shooting in 1997, who names Informant 1, subsequently withdrew his statement of complaint and the matter was not proceeded with.
- 28.5 Of the ten identified punishment shootings, on three occasions Informant 1 is named by others as having been directly involved in the incident. Of the remaining seven incidents, Informant 1 is suspected of having had some level of involvement. Of the thirteen punishment attacks Informant 1 is named as having direct involvement in eight of the identified incidents. In the remaining five incidents Informant 1 is suspected as having had some level of involvement.

## Finding of the Police Ombudsman in Relation to Punishments

28.6 There is no evidence that any action was taken by police in respect of Informant 1's involvement in any matters referred to above.

# POSSESSION OF INFORMATION LIKELY TO BE OF USE TO TERRORISTS

- 29.1 Following his arrest in November 2000 for the murder of Thomas English, Informant 1's vehicle was searched and a piece of paper was recovered which had an address and a vehicle registration number on it. He was subsequently charged with the offence of possession of information likely to be of use to terrorists.
- 29.2 In interview Informant 1 stated that someone else had given him the car registration number, and that it was not in his handwriting. He stated that in the past he had provided details of cars acting suspiciously to a police officer. Informant 1 stated that he thought that he may have asked this officer to do a check on this vehicle.
- 29.3 The officer in question stated that at no time did informant 1 ask him to do a check on that particular vehicle, nor did he do a check on that particular vehicle.
- 29.4 Informant 1 was charged with the offence but a Direction of "No Prosecution" was issued by the Director of Public Prosecutions.
- 29.5 Informant 1's senior handler Detective Sergeant E prepared a confidential document, to be forwarded to the Director of Public Prosecutions in this case. In this report, Detective Sergeant E provided a favourable account of Informant 1's history as a source and states:  
*"The recent arrest was due to unavoidable and unfortunate circumstances which were not under his control. There were no sinister motives behind the possession of [the] vehicle registration number.... I am of the opinion that the [he] will be of great value in the future and he*

*is aware that it was unavoidable circumstances which have resulted in his present circumstances.”*

- 29.6 Detective Sergeant E’s report is misleading. It does not mention that Informant 1 was arrested because he was a suspect for the murder of Mr Thomas English.

### Finding of the Police Ombudsman

- 29.7 The confidential document prepared for the court was misleading. In the absence of an explanation this is indicative of collusion.

## SECTION FIVE

# FINANCIAL ARRANGEMENTS - INFORMANT 1

- 30.1 In August 2003 the Police Ombudsman asked PSNI to produce a detailed schedule of all payments made to Informant 1, by way of any incentive, retainer, welfare or reward since his registration in May 1991. This request also sought all relevant supporting documentation for any authority for payment, and the method used for each payment.
- 30.2 PSNI supplied some material in relation to this request. However some material had never been recorded or had been destroyed.
- 30.3 Informant 1 was paid a regular monthly retainer and other payments between 1991 and 2003.
- 30.4 The police management of funds paid to informants / CHIS lacked any clear structure, was totally inadequate, lacked transparency and had no audit processes.
- 30.5 The Police Ombudsman discovered there were many anomalies including:
- The absence of clear auditable financial records prior to April 2002;

- Discrepancies in the amounts of incentive payments which have made it difficult for Police Ombudsman investigators to carry out an accurate conclusive audit;
- Applications for payment exist only in relation to some payments prior to 1999. For example a payment of £10,000 was made to Informant 1 on one occasion. Nothing is known about why this payment was made, how it was paid, or who authorised it. Nor is there any record of any receipt for payment.
- There are discrepancies in the dates of meetings with the informant, in comparison to the dates that the finance was authorised for payment and believed to have been paid.
- There are only very limited records of any welfare or operational payments which may have been made. Informant 1 received a welfare payment of £1000 for some work which he allegedly needed to carry out. When asked whether the handlers had verified the claim made, they replied that no checks had been carried out.
- It has been impossible to verify actual amounts received by the informant. The Police did not have a policy requiring an informant to provide a receipt.

30.6 Notwithstanding these difficulties the Police Ombudsman made an assessment of the payments believed to have been made to Informant 1 covering the period 1991 to 2003. This assessment was made, in part, on an assumption that authorised retainers were paid on a monthly basis as indicated by police, except for the period when Informant 1 was in prison, despite the fact that some of these records

were missing. Police are only able to confirm that a total of £ 22,500 was paid to Informant 1 up to and including 1998.

- 30.7 Police Ombudsman investigators have examined the official records provided by police and the computer records retrieved in the course of the investigation. It is concluded that the figures outlined below are a reasonable estimate of the payments received by Informant 1. It was estimated the total amount authorised for payment to Informant 1 was £79,840.

Year	Retainers	Incentive Payments	Operational Payments	Welfare Payments
	£	£	£	£
TOTAL	34140	42000	1700	2000

## Findings of the Police Ombudsman in Relation to Financial Arrangements

- 30.8 The Police Ombudsman is most concerned that there could have existed a system for the payment of informants which was so lacking in proper accountability mechanisms.
- 30.9 The Police Ombudsman has seen no justification for the level of payments to Informant 1, whose alleged involvement in serious crime appears to have far exceeded any contribution which he may have made. There is also evidence to suggest that Informant 1 may have been abusing the system. On one occasion Informant 1 was paid a reward of several thousand pounds for information which he provided to Special Branch. He had provided intelligence that senior UVF members were going to target people for future attack. A car containing a number of senior UVF people was stopped, but no guns were found and no arrests ensued. An application was made for a reward for

Informant 1, but the application did not state that Informant 1 was one of the three people in the car when it was stopped. Nor did it state that the other occupants of the car were also informants.

- 30.10 The Police Ombudsman regards the financial arrangements for the payment of informants as a significant failure by RUC/PSNI management to provide a proper system of control of payments, and to arrange for proper audit of payments made.

## SECTION SIX

# INFORMANT HANDLING, SUPERVISION AND MANAGEMENT

- 31.1 It is accepted by the Police Ombudsman that intelligence does not, in itself, confirm wrongdoing. The purpose of this element of the investigation was to determine whether police had complied with the rules relating to the use of informants, and the intelligence provided by them, and also to determine whether the investigative opportunities deriving from such intelligence had been exploited.
- 31.2 The mechanisms by which the failings of informant and intelligence handling in this Report should have been either prevented or detected at an early stage, did not exist within the RUC Special Branch. Those mechanisms should have involved clear and effective policies for the handling of informants, combined with proper and regular training and effective intrusive management.
- 31.3 Informant handling is a sensitive and important task. Mechanisms did exist and were used by police forces in the rest of the United Kingdom (These were known as the Home Office Guidelines). They were not specifically designed for the purpose of terrorist informants. Nevertheless they would have provided a structure within which there would have been regular assessment of informants, clearly defined and auditable processes for intelligence handling, annual reviews of their contribution and situation, and control over any notified future occasions on which an informant was permitted to engage in crime.

This was the process known as “participating informants,” through which informants could be authorised, within defined limits, to engage in crime.

31.4 This system was used by RUC/PSNI CID, to some extent, prior to 2000.

31.5 The rules for participating informants were as follows:

1. the police must never use an informant to encourage another person to commit a criminal offence;
2. the police should not mislead a court about an informant's role in the commission of a criminal offence, particularly where the informant had more than a minor role in the criminal act;
3. No member of a police force, and no police informant, should counsel, incite or procure the commission of a crime;
4. Where an informant gives the police information about the intention of others to commit a crime in which they intend that he shall play a part, his participation should be allowed to continue only where:
  - i. He does not actively engage in planning and committing the crime;
  - ii. He is intended to play only a minor role; and
  - iii. His participation is essential to enable the police to frustrate the principal criminals and to arrest them,

(albeit for lesser offences such as attempt or conspiracy to commit the crime, or carrying offensive weapons) before injury is done to any person or serious damage to property.

5. The need to protect an informant does not justify granting him immunity from arrest or prosecution for the crime if he fully participates;
6. Where an informant has been used, who has taken part in the commission of a crime for which others have been arrested, the prosecuting solicitor, counsel, and (where he is concerned) the Director of Public Prosecutions should be informed of the fact and of the part that the informant took in the commission of the offence, although, not necessarily of his identity.

31.6 These rules were not applied by RUC Special Branch. Officers have stated that in the context of terrorism, they were “*unworkable*”. Attempts were made in the early 1990s to devise a satisfactory system, and approaches were made to Government for the adoption of a more flexible approach to terrorist informant handling. Government did not respond positively to those approaches.

31.7 The Police Ombudsman has not been provided by the PSNI with any documentation which would indicate that any Special Branch informant whose activities were examined during this investigation, were given participating informant status by the RUC or PSNI for any of the crimes the investigators have examined. These include the suspected crimes of membership of a proscribed organisation and directing terrorism. Over the years informants were allegedly involved in a number of intelligence led operations managed by senior officers, in relation to

situations in which the informants allegedly committed offences such as hijacking, unlawful imprisonment, possession of firearms and of explosives. For all of these offences there is no record of Participating Informant status being granted.

31.8 The Assistant Chief Constable Crime Department has told the Police Ombudsman that a system for the authorisation of participating informants was developed by the RUC for Special Branch in 2001.

31.9 When information was received, Special Branch officers determined what intelligence should be disseminated to CID or Uniform police on a day-to-day basis. When there had been a terrorist murder, it was the responsibility of local Special Branch officers to liaise with the CID investigation team, to provide them with relevant information which could assist their enquiries. The Police Ombudsman has seen intelligence, which should have been passed to CID officers investigating murders, which was deliberately not passed to them, and was marked “*No Downward Dissemination*”.

31.10 When it became necessary to arrest or charge an informant the Walker Report provided that this should only be done in the case of “planned arrests”. In accordance with the following rules; it must be

*“cleared with Regional Special Branch to ensure that no agents of either RUC or Army are involved. A decision to arrest an agent must only be taken after discussion between Special Branch and CID. If agreement is not possible the matter will be referred to Assistant Chief Constable level. The charging of an agent must be the result of a conscious decision by both Special Branch and CID in which the balance of advantage has been carefully weighed.”*

31.11 RUC rules provided also that :

1. Police officers should record as much intelligence as possible on official documentation since intelligence '*held in an officer's memory*' was unlikely to be properly exploited;
2. Until 1995, CID "*agents*" who were members of "*subversive organisations*" should be handed over to Special Branch or, where this was not possible, they should be jointly handled by Special Branch and CID.
3. Special Branch had primacy over CID in terms of joint handling of paramilitary informants, until 1995 when CID officers ceased to handle paramilitary informants.
4. Officers should assess the continued employment of their sources in the light of the information available at the time.

31.12 In 1997 the RUC adopted new rules for the "Management and Use of Informants," modelled on rules produced by the Association of Chief Police Officers [ACPO] in 1995. A former Assistant Chief Constable told the Police Ombudsman in 2003 that Chief Officers of the RUC made a decision, in 1997, that Special Branch should be excluded from the operation of these rules. In 1998 a document was produced for the Patten Independent Commission on Policing, stating that all the rules did apply to Special Branch. This clearly was not the case. The evidence from officers is that there was no change in Special Branch practice until 2000.

31.13 On 25 September 2000, the Regulation of Investigatory Powers Act 2000 [RIPA] came into effect. Under the Act informants are referred to as "*Covert Human Intelligence Sources*" [CHIS]. In August 2002 a

*“Covert Human Intelligence Sources: Code of Practice”*, came into force in accordance with the Act.

31.14 The Regulation of Investigatory Powers Act also established the Office of the Surveillance Commissioners. Amongst the responsibilities of the Surveillance Commissioners is the review of the practices and procedures used, and the records kept in connection with the authorisations, review, cancellation and risk assessment of CHIS.

### Special Branch Non-Compliance with the Regulation of Investigatory Powers Act 2000

31.15 The first three Authorisations for Informant 1 under the Regulation of Investigatory Powers Act did not give a balanced account of Informant 1’s conduct as a source. They stated;

*“As far as can be ascertained the CHIS is not currently involved in criminality”*

31.16 In the early stages of this investigation, the Police Ombudsman had immediate concerns about the Special Branch management of Informant 1 and drew them to the attention of the Surveillance Commissioner.

31.17 An inspection was carried out for the Surveillance Commissioner, and a report was prepared dated 04 October 2003, which examines the police handling of Informant 1 under RIPA. The report found that Special Branch failed to meet National Minimum Standards, and failed to take into account intelligence about Informant 1’s own criminal conduct. It noted a number of deficiencies in the management of Informant 1 and it makes the following observations:

- *“This CHIS is a high risk source and the management process has not been documented to the standard required.*
- *There is a failure to document regular reviews taking into consideration the position of the CHIS in a terrorist organisation and the criminal intelligence regarding his own conduct.*
- *There has been failure to ensure that the use and conduct of this source has been considered at Chief Officer level.*
- *There has been a failure to secure and preserve original material from contacts or meetings between handlers and source.*
- *There has been a failure to follow the ACPO/HMC&E Manual of Minimum Standards in relation to CHIS...”*

## Findings of the Police Ombudsman in Relation to Informant Handling, Supervision and Management

31.18 There is evidence of non-compliance by some CID officers with the requirements for the handling of informants. The CID handling of some informants was, on occasion, quite bizarre. Informant 1 was never a registered source for CID and his relationship with his CID handlers was totally inconsistent with RUC requirements for CID handling at the time. PSNI have provided no evidence of sufficient management of the informant handling activities of these officers.

31.19 The Police Ombudsman has not been provided by PSNI with any annual review of informant 1 between 1991 and 1999. The four reviews which were carried out under the requirements of the Regulation of Investigatory Powers Act did not reflect the level of criminality in which Informant 1 was alleged to be involved. They are inaccurate, misleading and do not enable any proper review of the continued employment of Informant 1 by the RUC/PSNI.

31.20 The PSNI Special Branch have provided no clear documentation indicative of the fact that senior officers properly supervised the handling by junior officers of informants. In particular senior officers within Special Branch did not use the process of Participating Informant status to regulate the activities of informants engaged in crime so as to ensure that they complied with the Home Office Guidelines. In 1997 a decision was made by Chief Officers that the RUC's own document on "The Management and Use of Informants" would not apply to the handling of Special Branch informants.

31.21 Whilst it is accepted that the Home Office Guidelines did not support the complex policing created by the different security situation of Northern Ireland, nevertheless they should not have been ignored. There should have been a system of management, based on clearly articulated policy, which regulated the activities of Special Branch. This did not exist. In the absence of policy, officers operated in a difficult environment on what appears to have been a case by case approach.

31.22 Despite the work done in 1998 the reality was that there was limited policy and little training provided to Special Branch officers in relation to the Regulation of Investigatory Powers Act prior to 2003, to enable them to carry out the various functions which attach to the running of informants and the gathering, management and use of intelligence.

31.23 The PSNI have provided no evidence of any effective intrusive management or supervision of informant handling matters by the Chief Officers with responsibility for Special Branch.

31.24 The RUC did not prepare properly for the introduction of the Regulation of Investigatory Powers Act. Despite the introduction of new procedures for the overall management of sources, it is clear that some

RUC / PSNI Special Branch officers failed to comply with the Regulation of Investigatory Powers Act in their handling and management of Informant 1 from 2000 to 2003.

31.25 The Special Branch documentation of Informant 1 under the Regulation of Investigatory Powers Act is selective, biased, and misleading, and it includes statements that are manifestly untrue.

31.26 The report by the Surveillance Commissioner in October 2003 found that Special Branch failed to meet National Minimum Standards, and failed to take into account intelligence about Informant 1's own criminal conduct. The previous report, in February 2003 had stated that ,

*“The majority of CHIS are working for Special Branch and are well handled and controlled”*

31.27 Prior to 2003 some RUC/PSNI Special Branch officers facilitated the situation in which Informant 1 was able to continue to act as a senior figure in the UVF, despite the availability of extensive information as to his alleged involvement in crime. Informant 1, by virtue of his alleged rank in the UVF, must have been engaged in the direction of terrorism and must have known that he was not being dealt with for crime. Some RUC/PSNI officers, at all levels, were complicit in the failure to deal appropriately with Informant 1, both by way of criminal investigation and by dispensing with his services as an informant.

## SECTION SEVEN

### COLLUSION

32.1 In his Stevens 3 Report Lord Stevens defined collusion as *“the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, the extreme of agents being involved in murder..”*

32.2 In his reports on his Collusion Enquiries into the deaths of Patrick Finucane, Robert Hamill, Rosemary Nelson, and Billy Wright, Judge Cory states that:

*“the definition of collusion must be reasonably broad... That is to say that army and police forces must not act collusively by ignoring or turning a blind eye to the wrongful acts of their servants of agents, or supplying information to assist them in their wrongful acts, or encouraging them to commit wrongful acts. Any lesser definition would have the effect of condoning or even encouraging state involvement in crimes, thereby shattering all public confidence in these important agencies.””*

32.3 The Police Ombudsman has used these definitions for the purposes of examining whether collusion has been identified in the course of this investigation.

32.4 In the absence of any justifiable reason why officers behaved as they did, the Police Ombudsman has identified from police documentation, records and interviews, collusion in the following areas:

- The failure to arrest informants for crimes to which those informants had allegedly confessed, or to treat such informants as suspects for crime;
- By creating interview notes which were deliberately misleading; by failing to record and maintain original interview notes and by failing to record notes of meetings with informants;
- The failure to deal properly with information received from informants, so that informants were able to avoid investigation and detection for crime;
- By arresting informants suspected of murder then subjecting them to lengthy sham interviews by their own handlers at which they were not challenged and then releasing them on the authorisation of the handler;
- By not recording in investigation papers the fact that an informant was suspected of a crime despite the fact that he had been arrested and interviewed for that crime;
- By failing to take steps to hinder an attempted bombing by the establishment of an operation either to disrupt or arrest the alleged perpetrators whose names were known to Special Branch;
- By giving instructions to junior officers that records should not be completed, and that there should be no record of the incident concerned;

- By ensuring the absence of any official record linking a Special Branch informant to the possession of explosives which may, and were thought, according to private police records, to have been used in a particular crime;
- By withholding information from CID that the UVF had sanctioned an attack;
- By concealing from CID intelligence that named persons, including an informant or informants, had been involved in particular crimes;
- By withholding information about the location to which a group of murder suspects had allegedly fled after a murder;
- By the concealment on a number of occasions of intelligence indicating that up to three informants had been engaged together in murders and a particular crime or crimes;
- By routinely destroying all Tasking and Co-ordinating Group original documentary records so as to conceal an informant's involvement in crime;
- By destroying or losing forensic exhibits such as metal bars and tape lifts;

- By not requiring appropriate forensic analysis to be carried out on items submitted to the Forensic Science Service Laboratory;
- by blocking the searches of a police informant's home and of another location, including an alleged UVF arms dump;
- By not questioning informants about their activities and continuing to employ informants without risk assessing their continued use as informants;
- By finding munitions at an informant's home and releasing him without charge;
- By not informing local police of an anticipated attack, and not taking any action to prevent the attack;
- By not using the available evidence and intelligence to detect a crime and to link the investigation of crimes in which an informant was a suspect;
- By some Special Branch officers deliberately disregarding a very significant amount of intelligence about informant involvement in drug dealing in Larne, and North Belfast and in punishment attacks linked to drug dealing from 1994 onwards;
- By continuing to employ as informants people suspected of involvement in the most serious crime without assessing the attendant risks or their suitability as informants;

- By not acting on witness and other evidence received in particular crimes when the suspect was an informant;
- By not considering or attempting to conduct identification processes when there was particular evidence from witnesses about a criminal's appearance;
- By providing at least four misleading and inaccurate confidential documents for possible consideration by the court in relation to four separate incidents and the cases resulting from them, where those documents had the effect of protecting an informant;
- By not informing the Director of Public Prosecutions that an informant was a suspect in a crime in respect of which an investigation file was submitted to the Director;
- By their failure to maintain the record of intelligence which was the basis for applications for extensions of time in detention to the Secretary of State;
- By withholding intelligence from police colleagues including the names of alleged suspects which could have been used to attempt to prevent and to detect crime;
- By the practice of Special Branch not using and following the practice of authorisation of participating informants;

- By completing false and misleading authorisations and reviews of informants for the purposes of the Regulation of Investigatory Powers Act;
- By cancelling the wanted status of murder suspects “because of lack of resources” and doing nothing further about these suspects;
- This investigation has examined the activities of police officers responsible for informants over a period of twelve years. On only one occasion have PSNI provided any document indicative of consideration of the termination of the relationship which Special Branch had with any of these informants, despite the extent of the alleged involvement of these informants in the most serious of crimes.

32.5 The RUC decisions not to adopt the rules relating to the handling, supervision and management of informants meant that it is not possible to attribute responsibility to individual officers for actual breach of rules

## SECTION EIGHT

# CONCLUSIONS AND RECOMMENDATIONS

### CONCLUSIONS OF THE POLICE OMBUDSMAN IN RELATION TO THE COMPLAINT MADE BY MR RAYMOND MCCORD

33.1 This investigation began as a consequence of a complaint made by the father of Raymond McCord Junior who was murdered in 1997. Mr McCord's complaints were extensive and the initial enquiries rapidly led to a decision to conduct a lengthy investigation, an investigation which was expanded as a consequence of the emerging findings of the initial enquiries. The conclusions to Mr McCord's complaint are articulated in paragraph 9 of this Report. They are as follows:

**Allegation number one:**

That a senior UVF figure had ordered the murder of his son, and that this individual was a police informant;

**Finding**

The Police Ombudsman can confirm that a police informant is a suspect in the murder of Mr McCord's son. She cannot confirm or deny who that individual is.

**Allegation number two:**

That police failed to carry out a thorough investigation of his son's murder, and failed to keep him updated about their investigation;

**Finding**

The Police Ombudsman has identified failures in the investigation of Mr McCord's son's murder. These failures may have significantly reduced the possibility of anyone being prosecuted for the murder.

*The Police Ombudsman has also substantiated the claim that police failed to keep Mr McCord updated about the investigation.*

**Allegation number three:**

That no-one had been arrested or charged with the murder of his son. Mr McCord alleged that this was because the man who ordered the murder was a police informant, and that this individual, and those working for him, had been protected from arrest and prosecution for a number of years.

**Findings**

- A number of people were arrested for Raymond McCord Junior's murder. No one has been charged with the murder. There is no evidence that anyone has been protected from arrest for the murder of Raymond McCord Junior.
- With reference to Mr McCord's allegation that a police informant had ordered his son's murder, and that this individual and those working for him had been protected from arrest and prosecution for years the Police Ombudsman conducted an extensive investigation which is to be found in paragraphs 10 et seq.

- Whilst there had been some arrests of informants over the years, it is clear that much intelligence was disregarded and not properly managed by police. They continued to use Informant 1 despite his criminal record and the extensive intelligence they held in respect of alleged serious criminality. This allegation is therefore substantiated with the exception, firstly, of that part of which it refers to police failure to arrest anyone for Raymond McCord Junior's murder, and secondly, of the fact that whilst the Police Ombudsman can confirm that an informer is a suspect in the murder of Mr McCord's son, she cannot confirm or deny who that individual is.

#### **Allegation number four**

That unidentified police knew something was going to happen to Raymond McCord Junior, but that they did not warn him or his family about this danger to protect the police informer who was responsible for the murder.

#### **Finding**

The Police Ombudsman has found no evidence or intelligence to support this allegation. It is not substantiated.

### **OTHER CONCLUSIONS OF THE POLICE OMBUDSMAN IN THIS INVESTIGATION**

- 33.2 Operation Ballast analysed a small part of the informant handling of Special Branch RUC/PSNI. The investigation examined the activities of a number of Special Branch officers of all ranks in relation to Informant 1, and also the other informants who were associated with him. There

is no reason to believe that the findings of this investigation are isolated. Indeed given that many of the failings identified in the course of the investigation were systemic, this is highly likely and the implications of this are very serious.

- 33.3 There have been various reviews and enquiries over the years into intelligence and informant handling by the RUC. Recommendations have been made. Some of these enquiries have been very high profile enquiries, such as the Stevens and Stalker enquiries. The Patten Independent Commission on Policing also made recommendations about the reform of Special Branch and its proper integration into crime operations. Prior to 2002, when Mr McCord made his complaint, the various reports had had very little impact on policies and practices within Special Branch.
- 33.4 In the course of this investigation it has emerged that all of the informants at the centre of this investigation were members of the UVF. There was no effective strategic management of these informants, and as a consequence of the practices of Special Branch, the position of the UVF particularly, in North Belfast and Newtownabbey, was consolidated and strengthened.
- 33.5 The handling of informants by Detective Sergeant M and Detective Constable A was not satisfactory. There was no management intervention to ensure that informants were registered properly, and no review of the officers' performance as handlers. PSNI have provided no evidence that any action was taken by the RUC to deal with this.
- 33.6 Special Branch systems for information management, dissemination and retention were seriously defective. In effect handlers, and on occasion controllers, determined what information went into such systems as did exist. Those systems which did exist were not effective.

There is evidence that information was withheld by handlers. Instructions were given that matters should not be recorded. The general absence of records has prevented senior officers, who clearly have significant responsibility for the failings, from being held to account. It is abundantly clear that this was not an oversight, but was a deliberate strategy and had the effect of avoiding proper accountability. The former ACC Crime Operations has described this situation as one of “plausible deniability”.

- 33.7 The senior management of the RUC/PSNI would have been well aware of the various statutory and policy requirements relevant to the handling and management of informants. The RUC/PSNI was represented on national working parties formulating such policy. There was however a disregard for such policies and for the law. This had the effect over the years of ensuring that individuals could not be held to account for significant decisions made.
- 33.8 Police officers at all levels working in Special Branch very often determined the future dissemination, if any, of intelligence held within Special Branch, to officers outside Special Branch. Had the necessary systems of accountability been in place the situation which is described in this Report should not have arisen. However the reality was that a Constable or a Sergeant could, and did, refuse to divulge information even to senior officers, and the mechanisms by which the decisions of individual Special Branch officers could be challenged were not used effectively by senior officers. The Special Branch liaison officer for any particular investigation, who was responsible for the verbal passing of information, was very often the handler of an informant who was a prime suspect for the particular crime. The Police Ombudsman also identified abuses of the existing controls for dissemination which often resulted in the failure to disseminate information at an appropriate time.

There was no documented record of the reasons for the decision making in this area.

33.9 It would be easy, and indeed tempting, to examine and severely criticise the junior officers' conduct in dealing with the various informants. These officers are not blameless. However they could not have operated as they did without knowledge and support at the highest levels of the RUC/PSNI. Chief Officers should have been aware of the processes used. The most serious failings are at Chief Officer level, particularly those Chief Officers who were responsible for Special Branch, since they are responsible for ensuring that training and systems are put in place to meet legal and policy requirements.

33.10 A culture of subservience to Special Branch developed within the RUC. Officers in the rest of the RUC have articulated quite clearly that Special Branch maintained control over those normal ethical policing activities which might affect either Special Branch informants or Special Branch operations. The consequence of this was that, in the absence of effective Chief Officer Management of Special Branch, it acquired domination over the rest of the organization which inhibited some normal policing activities.

33.11 The effect of that dysfunction was that, whilst undoubtedly Special Branch officers were effective in preventing bombings and shootings and other attacks, some informants were able to continue to engage in terrorist activities including murders without the Criminal Investigation Department having the ability to deal with them for some of those offences.

33.12 On occasions this also resulted in crimes being committed by informants with the prior knowledge of Special Branch officers. Informants engaged in such crimes were not subject to any of the

controls inherent in the system for the use of Participating Informants devised by the Home Office for use by all police forces. On occasion, despite the fact that they had not given informants Participating Informant status, police nevertheless watched as serious terrorist crimes were committed by their informants.

33.13 The Police Ombudsman was concerned also at the attitude of some Special Branch and CID officers to their obligations as police officers. Some officers have articulated the belief that they had no function beyond intelligence gathering. Successive Police Acts have provided that the primary duties of a police officer are to protect life and property, and to prevent and detect crime.

33.14 Whilst acting as an informant, and with the knowledge of some Special Branch and some CID officers, informants moved through the ranks of the UVF to senior positions. The evidence clearly shows that Informant 1's behaviour, including alleged murder, was not challenged by Special Branch, and the activities of those who sought to bring him to justice were blocked repeatedly. Records were minimized, exaggerated, fabricated and must also have been destroyed. Informant 1 would have been well aware of the level of protection which he was afforded.

33.15 It is also the case that whilst he was engaged in drug dealing and other money making activities, Informant 1 was not only protected by Special Branch but he was also given large sums of public money in return for such services as he provided. Indeed on one occasion he is recorded as having provided information which led police to stop a car containing him and two other leading UVF men, all of whom were police informants. No arrests followed and Informant 1 was paid £3,000. The total amount estimated to have been paid to Informant 1 over 12 years is in excess of £79,000.

33.16 This investigation demonstrates graphically the dangers of a separated and effectively unaccountable specialist intelligence department with extensive and largely uncontrolled powers. No effective analysis could have been made by the RUC/PSNI over the years of the implications of the totality of the information about, and activities of, the informants who have been identified during this investigation.

33.17 In many other crimes described in this report there were witnesses, who either drew police attention to a crime or volunteered to give evidence, some of it quite specific. There was also one occasion on which the victim of a punishment shooting gave extensive information to the police about what had happened to him. In all these situations the individuals involved were either seeking to assist the police or to be protected by the police. The Police Ombudsman has found that on a number of occasions the police did not use these opportunities to further their investigations. This had two consequences: firstly the investigation did not proceed, and secondly failure by police to use evidence tendered by witnesses to paramilitary shootings and other activity, must have given rise to a lack of confidence among the people that there was any point in assisting the police when such crimes were committed. The consequence of this would inevitably have been that the police became less effective and the community confidence in policing was reduced.

33.18 This investigation demonstrates that one of the greatest dangers to any anti-terrorist work is that, if those charged with intelligence gathering and investigation do not abide by the rules, and if those who manage them do not operate effectively to ensure compliance with both law and policy, the risk of terrorist attacks is enhanced, not reduced.

33.19 It remains the case that there are many officers within the RUC/PSNI who served bravely and honourably, some even making the ultimate

sacrifice. On many occasions in the course of the work of the office, the Police Ombudsman has identified examples of excellent policing. This is in stark contrast to the activities and systemic failures identified in this report.

33.20 Since 2003 the PSNI has made significant changes and introduced new policies and working practices in relation to its strategic management of Crime Operations Department, which now incorporates Special Branch (now Intelligence Branch) under a single Assistant Chief Constable. A description of those changes is contained in Appendix A of this Report. It is hoped that the further necessary changes consequential upon this Report will combine with the change already made, to ensure that never again, within the PSNI, will there be the circumstances which prevailed for so long in relation to informant handling and intelligence management and which are articulated in this Report.

33.21 It is evident that the arrangements for ensuring compliance by the PSNI with the Regulation of Investigatory Powers Act were ineffective between 2000 and 2003. Before the Police Ombudsman drew these matters to his attention, the Surveillance Commissioner had not been able to identify the misleading documentation which was created by some Special Branch officers. Recent Surveillance Commissioner reports have identified very significant improvements but the most recent report still identifies areas for development. It is essential that in the arrangements for the future strategic management of National Security issues in Northern Ireland, there will be accountability mechanisms which are effective and which are capable of ensuring that what has happened here does not recur.

## RECOMMENDATIONS

The Police Ombudsman presented her recommendations to the Chief Constable prior to the publication of this report. His response is as follows:

“We welcome the opportunity to respond to these recommendations. Our response to the report itself will be made when we have had sight of the full text and its conclusions. We have detailed below our acceptance of the recommendations and the actions which have been or will be taken in respect of each one.”

- 34.1 This investigation has shown that within the UVF in North Belfast and Newtownabbey there was a network of informants, some of whom held senior positions. There should be a thorough investigation of all crimes with which those informants have been associated, in the course of which PSNI should re-interview the Special Branch handlers and controllers who are responsible for them. These officers may have further information about the informants’ criminal offences, which has not been officially documented. Any indication of criminal behaviour by a serving or retired officer which emerges in the course of the PSNI investigations which are initiated, following this Report by the Police Ombudsman, should be referred to the Police Ombudsman for investigation.

*Chief Constable’s response:*

*This recommendation is accepted and its implementation is already underway. The Historical Enquiries Team (HET) became operational in January 2006. The McCord case was one of the first cases to be given to HET to re-examine, at the direction of the Chief Constable. (This was under one of the exemption criteria from the normal chronological process, as a matter of serious public interest).*

*When HET examines a case, it also looks at others linked to it. The McCord case is one of those examined in this report, and is linked to a number of other incidents. HET will be undertaking a thorough re-examination of these cases contemporaneously because of linking factors.*

*The HET has a good relationship with the Office of the Police Ombudsman, including regular meetings between senior colleagues. A protocol exists for the referral of relevant matters to the Office of the Police Ombudsman from HET if investigations uncover evidence that points to the involvement of police officers in serious crime.*

- 34.2 As a matter of urgency the PSNI must investigate Informant 1 as a suspect for all the unsolved murders, attempted murders and other serious crime for which he remains a suspect. The PSNI should

consider these crimes as linked incidents. The PSNI has the responsibility to restore public confidence in what has been a number of seriously flawed investigations.

*Chief Constable's response:*

*This recommendation is accepted and in fact the Police Service commenced this process in January 2006, with the referral of the McCord case to HET. Other linked cases are gradually being adopted into the investigation in a structured and managed fashion. HET will be assisted by the analytical work conducted by the Office of the Police Ombudsman in the preparation of their report.*

- 34.3 Twenty-four percent of informants were cancelled, following the Police Ombudsman's intervention in March and September 2003, and the recommendations made by Lord Stevens. Twelve percent of all informants were cancelled, because of their ongoing involvement in serious criminality. Those informants should now be investigated for their suspected serious crime.

*Chief Constable's response:*

*This recommendation is accepted. At the time of the CHIS review in 2003/04 CHIS suspected of involvement in Serious Crimes were referred to CID investigators for investigation. In the light of this recommendation relevant cases will be referred to the Historical Enquiry Team for further review and investigation.*

- 34.4 Following the recent changes made by PSNI, they should continue to ensure that all officers in Intelligence Branch (formerly Special Branch) receive full training, consistent with national policing standards in the area of informant handling, in all their responsibilities and legal obligations, and that that training is regularly updated.

*Chief Constable's response:*

*This recommendation is accepted. Training is an ongoing commitment and is carried out to national standards. During the past 12 months 290 C3 personnel received relevant intelligence training. All staff involved in CHIS management will undergo further training in 2007.*

- 34.5 As PSNI acquires sufficient trained detectives those appointed to Intelligence Branch in the future should have detective training, to enable them to carry out their functions efficiently and effectively, as a consequence of their enhanced ability to understand the specific requirements of Investigating Officers.

*Chief Constable's response:*

*This recommendation is accepted. All detectives in Intelligence Branch are in the process of being provided with detective training. All Police Officers appointed to CHIS handling duties are now required to have CID detective experience prior to appointment.*

- 34.6 The Chief Constable should continue to review current process with a view to ongoing effective dissemination of intelligence received by the PSNI Crime Operations Department.

*Chief Constable's response:*

*This recommendation is accepted. We agree that continuous review is important and it is core to the way we do business. The procedures for the dissemination of intelligence to investigators is covered by way of a written protocol. Following the transfer of National Security lead to the Security Service intelligence will continue to be disseminated to investigators according to the PSNI protocols. This is one of the 5 principles outlined at a previous Policing Board meeting.*

- 34.7 The Chief Constable should review the continued deployment in Intelligence Branch of those few officers who appear, by virtue of this investigation, to be uninformed of critical issues in relation to the role and functions they are required to carry out, to determine their suitability for the difficult work of informant handling, management and supervision.

*Chief Constable's response:*

*This recommendation is accepted and we agree that it is critical that all officers are clear on any critical issues relating to their role and function. The PSNI will examine in detail the content of the PONI report and, should it be ascertained that an officer is deemed unsuitable for a particular Intelligence Branch function, appropriate management action will be taken.*

- 34.8 PSNI should operate processes to ensure that informant handlers change at sufficiently regular intervals and that Intelligence Branch remains integrated within Crime Operations Department in accordance with best practice for specialised and vulnerable posts in United Kingdom policing.

*Chief Constable's response:*

*This recommendation is accepted. A policy is in place requiring that handlers should not remain with a CHIS for a protracted period.*

- 34.9 The PSNI and the Police Ombudsman experienced significant difficulty in retrieving intelligence for the purposes of this investigation. Part of that difficulty derives from the current processes for the recording and identification of information as it is received as intelligence. Those processes have been reviewed to ensure that in the future intelligence will be more readily accessible and retrievable. However it is essential that the process and information technology changes arising from this review are completed as rapidly as possible.

*Chief Constable's response:*

*This recommendation is accepted. We acknowledge that intelligence retrieval is essential. To that end Intelligence Branch continues to review and update its records management processes. A specific IT strategy for Intelligence Branch to address the Branch's needs in the short, medium and long term is currently in draft form. It will be approved for action shortly.*

- 34.10 This investigation, like others, has identified a total absence of operational records in respect of certain intelligence operations. Although there are now new procedures in place, PSNI should review the effectiveness of those processes to ensure there is total compliance with the requirements of the law, administrative processes and a high level of professionalism under the new arrangements.

*Chief Constable's response:*

*This recommendation is accepted. Records pertaining to operations and investigations are now retained in accordance with PSNI policy and in compliance with CPIA legal requirements. The effectiveness of these procedures will be monitored to ensure that the highest standards are maintained.*

- 34.11 The Police Ombudsman is aware that many officers and retired officers may have police materials and documentation in their possession. The Chief Constable should ensure that every effort is made to recover all such materials and documentation.

*Chief Constable's response:*

*This recommendation is accepted. In fact, instructions have already been issued to police officers prohibiting the retention of journals by officers currently serving or those who are retiring. A renewed request will be made to retired police officers to report and return any police material in their possession building on previous work in this area.*

- 34.12 The Chief Constable must remind all officers of their legal obligations under Section 66 of the Police (Northern Ireland) Act 2000 and Regulation 8 of the RUC (Complaints etc) Regulations 2000.

*Chief Constable's response:*

*This recommendation is accepted. PSNI officers have already been reminded of this legal requirement. Furthermore a Memorandum of Understanding between the Police Ombudsman's Office and Crime Operations was signed on 17 August 2005. This document outlines the above legislative obligations. We will use internal communication tools to further heighten awareness among officers of their obligations. .*

- 34.13 The Chief Constable must ensure that there is no continued obstruction of the Police Ombudsman such as experienced in this investigation.

*Chief Constable's response:*

*This recommendation is accepted and is linked to the previous recommendation. Police Officers have been made aware that the Ombudsman's powers as set out in Section 66 of the Police (Northern Ireland) Act 2000 and Regulation 8 of the RUC (Complaints etc) Regulations 2000, supersede those in other legislation that restrict the sharing of information, eg Regulation of the Investigatory Powers Act.*

- 34.14 The PSNI should consider the introduction of the practice of Operational Risk Advisors, as used by the Serious Organised Crime Agency, or introduce a sensitive policing desk / department to provide consistent advice on sensitive and covert policing issues, to ensure that such operations comply with all the requirements of the law.

*Chief Constable's response:*

*This recommendation is accepted. In preparation for the transfer of National Security to MI5 the introduction of operational risk assessors will be considered. The PSNI will liaise with other agencies to identify any other good practice in this regard.*

- 34.15 PSNI should review procedures for the provision of confidential information to the Public Prosecution Service in order to ensure the accuracy of the information provided in compliance with the Criminal Proceedings and Investigations Act.

*Chief Constable's response:*

*This recommendation is accepted. PSNI has already amended procedures to ensure that all relevant material, including sensitive*

*material is revealed to prosecutors. Given the importance of this issue, it is subject to continuous monitoring to ensure the procedures are observed.*

- 34.16 The PSNI are required to introduce and to monitor the effectiveness of new systems for the gathering of intelligence from prisons.

*Chief Constable's response:*

*This recommendation is accepted. A new Memorandum of Understanding has been prepared in consultation with the prison service. This sets out the procedures for sharing intelligence between PSNI Intelligence Branch and Prison Service. Additional dedicated staff are being appointed to these duties.*

- 34.17 Although the Surveillance Commissioner is not within the jurisdiction of the Police Ombudsman, the Police Ombudsman nevertheless recommends that the Chief Surveillance Commissioner considers whether the current processes adopted by his Office are sufficient to ensure that the service offered by the Surveillance Commissioner is adequate to ensure compliance with the law, at this unprecedented period of threat to the National Security of the United Kingdom.

- 34.18 During the course of this investigation, and others, the Police Ombudsman has identified inadequacies in the procedures for the dissemination of all levels of information between the PSNI and An Garda Síochána. The two organisations should ensure that there are clearly described and auditable processes to enable effective policing operations in both jurisdictions.

*Chief Constable's response:*

*This recommendation is accepted. Procedures are already in place to ensure intelligence passed to An Garda Síochána by PSNI Intelligence Branch is fully documented. In the light of this recommendation PSNI will liaise with An Garda Síochána and carry out a review of those procedures to identify any areas upon which PSNI can improve.*

- 34.19 In light of the forthcoming transfer of National Security matters to the Security Service MI5, Her Majesty's Inspector of Constabulary should conduct a thematic inspection of the new PSNI processes for informant handling, controlling and management, with a view, particularly, to identifying any legislative or administrative changes which may be required to enable the effective handling and management of Covert Human Intelligence Sources within terrorist networks.

*This recommendation is accepted by Her Majesty's Inspector of Constabulary.*

- 34.20 The Northern Ireland Policing Board should establish a mechanism to review the PSNI response to the recommendations made in this Report within a period of six months and at appropriate intervals thereafter.

## APPENDIX A

# CHANGES TO PSNI WORKING PRACTICES SINCE 2003

1. In the early stages of Operation Ballast, the Police Ombudsman made it clear to the Chief Constable that she had serious concerns about the way PSNI had handled and managed paramilitary informants since the early 1990s. The Police Ombudsman informed the Chief Constable that as a result of these concerns she was conducting a criminal investigation into the actions of a number of Special Branch officers.
2. As a result of these pressures from the Police Ombudsman, along with the Stevens III recommendations and a report by the Surveillance Commissioner, PSNI have radically changed their working practices since 2003.
3. The main change has been structural, in that Special Branch is no longer a separate part of the PSNI, but has been integrated into the broader Crime Operations Department.
4. The old Special Branch 'E' Department has been replaced by C3 branch, which works alongside branches C1 [Investigation of Organised Crime] and C2 [Investigation of Serious Crime]. This integration of C3 with Crime Investigation Departments has changed the structure and now has huge potential benefits for the way that PSNI deals with intelligence in the future.

5. It is no longer the prerogative of senior figures within Special Branch to determine whether information is withheld from Crime Operations Branch.
6. The Assistant Chief Constable for Crime Operations now takes ultimate responsibility for the whole of C Department, including C3. This means that one ACC has an overview of what were previously disparate Special Branch and CID functions.
7. This ACC ultimately holds responsibility across Crime Operations Department for the appropriate sharing of information between CID and Intelligence Branch within Crime Operations Branch.
8. In October 2003 PSNI instigated a major review of the informants they employed, with the creation of a *CHIS Risk Analysis Group*. This review of informants is commonly known as the “CRAG review”.
9. The CRAG review examined all informants employed by the PSNI, as well as informants who were run by the military with the knowledge of PSNI. Its remit was to ensure that the PSNI employment of informants was proportionate in relation the terrorist threat, in compliance with Recommendation 11 of the Stevens III report.
10. As a result of the CRAG review, 24% of all PSNI informants had their relationship with PSNI terminated. Half of these terminations were because the informants no longer had access to relevant intelligence. The other half of these terminations were because the CRAG review found that the informant had been too deeply involved in criminal activity for their continued employment to meet the legal and ethical standards set by RIPA.

11. This meant that prior to the CRAG review around 12% of PSNI informants were implicated in criminality to an extent that exceeded the legal and ethical standards set by RIPA. This confirms that Informant 1 is not an isolated example of a rogue source, but rather an illustration of wider failings in the Special Branch handling and management of informants.
12. The CRAG review designated as “*high-risk*” all those remaining informants who were either members or supporters of proscribed organisations. It introduced a control mechanism at ACC level to authorise such high risk informants.
13. The CRAG review also required specific annual authorisations for “*membership / support*” of proscribed groups, and established that the activities of such informants must be reviewed by a Superintendent every 3 months.
14. The CRAG review established that involvement in any criminal offence, other than membership or support of a proscribed organisation, had to be the subject of an application to the ACC of Crime Operations, who would approve or refuse the request.
15. The CRAG review directs that all criminal activity by paramilitary informants has to be strictly documented and controlled.
16. The Police Ombudsman considers that, while the CRAG review caters for the specific demands of the terrorist situation in Northern Ireland, it shows a concerted attempt by PSNI to bring its working practices in line with the principles of Home Office Circular 35/1986.

17. PSNI also took a number of further measures to ensure that their handling and management of informants complied with legal and ethical standards of best practice.
18. In February 2004 PSNI introduced new guidelines on the dissemination of intelligence to police officers investigating serious crimes, such as murder. PSNI recognised that their previous practices in this regard were inadequate, and that:

*“The perception was that the balance was tilted towards source protection rather than the needs of the investigation.”*

19. The new guidelines outline the circumstances in which intelligence must be passed to the Senior Investigating Officer of a murder investigation. They specifically address the issue of informants who are themselves suspected of murder, and they outline how intelligence should be disseminated to the Senior Investigating Officer in such cases.
20. Also in February 2004, PSNI introduced a system of detailed checks on individuals who may be approached to become informants. These checks research an individual's Criminal Record, as well as their intelligence history on all PSNI databases.
21. Once an individual has been registered as an informant, these intelligence and Criminal Record checks have to be updated each year, as part of the annual review of the informant's employment as a source.
22. In April 2004 PSNI directed that all original notes of meetings with informants should be retained, in compliance with the CPIA.

23. Also in April 2004, PSNI issued internal guidance which emphasised that officers should conduct proper Risk Assessments of informants, in line with the ACPO Manual of Minimum Standards.
24. Officers have been instructed that Risk Assessments do not solely apply to the security of the informant, but that they also involve issues such as the corporate responsibility of PSNI and the wider risks to the community as a whole.
25. Officers have also undergone extensive training in complying with ACPO standards of handling and managing informants. In August 2004 PSNI stipulated that only ACPO-trained officers were allowed to handle or manage informants
26. In August 2004 PSNI also introduced stricter guidelines around obtaining information from members of the public who were not registered informants. This clarified working practices in relation to individuals who were previously treated as “Casual Contacts”.
27. PSNI also introduced a Manual for the Management of CHIS, which covered the use of informants both for the investigation of crime and in the interests of National Security, and applied similar principles to each type of informant.
28. In December 2004 PSNI created a Central Authorisation Bureau, whose function is to ensure that PSNI comply with RIPA in their authorisation, review, and general employment of informants. This bureau sits independently of C3, and it conducts formal audits of the C3 management of informants. PSNI now conduct routine criminal record checks as part of this process.

29. During 2004 and 2005 all Authorising Officers involved in the management of informants within PSNI were trained to ACPO standards.
30. In December 2005 PSNI set out new guidelines in relation to the management of informant payments and financial records.
31. Also in December 2005, PSNI issued a Policy Directive to implement the National Intelligence Model. The National Intelligence Model sets out principles for obtaining the best quality intelligence to combat crime at community, regional, and national levels.
32. A key principle of the National Intelligence Model is for intelligence to be shared appropriately between different police departments.
33. The National Intelligence Model also advocates the analysis of intelligence to identify trends in criminal activity, and to direct police resources to focus on highly active criminals. It notes that intelligence can assist in the arrest and prosecution of such individuals, by highlighting patterns of behaviour and identifying tactical options to work against them.
34. By adopting the National Intelligence Model, PSNI has committed itself to the thorough documentation and analysis of intelligence at every level of policing, as part of a pro-active approach to combating serious crime.
35. These changes to PSNI working practice in the handling and management of informants have been the subject of positive comment by the Surveillance Commissioners and by the Northern Ireland Policing Board.
36. The Surveillance Commissioner notes in his 2005 Inspection Report:

37. The Surveillance Commissioner notes in his 2005 Inspection Report:

“There is now a new Manual for the Management of Covert Human Intelligence Sources. This is an excellent document, giving clear corporate guidance and compliant with the legislation and the CHIS code of practice.”

38. The Northern Ireland Policing Board Annual Report for 2005 notes:

“The adoption by the PSNI of a Manual for the Management of Covert Human Intelligence Sources, a procedure for the dissemination of intelligence to serious crime investigators, and a procedure for handling confidential information supplied by members of the public is an important initiative.”

39. These new internal guidelines have radically changed the PSNI approach to informant-handling and have brought the management of PSNI informants into line, at least on paper, with current legal and ethical standards.

40. The PSNI have now adopted the principles of the ACPO, HM Revenue and Customs, SOCA and Centrex guidance on the Management of Covert Human Intelligence Sources.

41. The Police Ombudsman hopes that these new measures by PSNI will prevent the failures identified by Operation Ballast from re-occurring in the future.

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