

MONITORING THE COMPLIANCE OF
THE POLICE SERVICE OF NORTHERN IRELAND
WITH THE HUMAN RIGHTS ACT 1998

**REPORT ON THE POLICING OF THE
ARDOYNE PARADES 12TH JULY 2005
AND THE
WHITEROCK PARADE 10TH SEPTEMBER 2005**

REPORT ON THE POLICING OF THE ARDOYNE AND WHITEROCK PARADES 2005

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A. INTRODUCTION

1. Section 3(3)(b)(ii) of the Police (Northern Ireland) Act 2000 imposes a duty on the Northern Ireland Policing Board to monitor the performance of the Police Service of Northern Ireland (PSNI) in complying with the Human Rights Act 1998. The Policing Board is under a continuing obligation to discharge this duty unless and until s.3(3)(b)(ii) is amended or repealed.
2. In early 2003 the Policing Board appointed us as its Human Rights Advisors. Our first report on the performance of the PSNI in complying with the Human Rights Act was published in March this year.¹
3. As part of its review of public order policing, the Policing Board has committed itself to a first hand review of the policing of certain parades in 2005 and we have been asked by the Policing Board to produce a special report on two parades this year. First, the parade that passed through Ardoyne on 12th July this year. Second, the Whiterock parade which should have been held on 25th June this year, but was postponed and held on 10th September instead. It was always our intention to monitor these parades as part of our on-going work in evaluating the performance of the PSNI in complying with the Human Rights Act 1998.

¹ *Monitoring the Compliance of the Police Service of Northern Ireland with the Human Rights Act 1998. Human Rights Annual Report 2005* published by the Northern Ireland Policing Board on 7th March 2005 (Human Rights Annual Report 2005) available at www.nipolicingboard.org.uk.

4. As is now well known, in respect of the parades that passed through Ardoyne on 12th July this year, serious violence erupted when three parades (the Ligoniel True Blues LOL 1932 parade, the Ballysillan LOL 1891 parade and the Earl of Erne LOL 647 parade) and their supporters passed the Ardoyne shop fronts shortly before 8pm. The violence continued for approximately two and a half hours. Stones, bricks and other missiles were thrown by those opposed to the parades. In addition, petrol bombs and at least nine blast bombs were thrown, six of which exploded. 105 police officers and (at least) eight members of the public were injured. Most of the injuries were minor, but two were serious and one of the blast bombs broke the leg of a journalist who was present. The police used water cannon extensively and discharged 21 Attenuating Energy Projectiles (AEP impact rounds), at least nine of which struck individuals. Although no resulting injuries have been formally notified, it is highly likely that injuries were sustained. AEP impact rounds were introduced in June 2005 to replace plastic baton rounds. Neither had been used by the Police Service of Northern Ireland (PSNI) for nearly three years.²

5. The annual Whiterock parade was planned for 25th June this year, but was postponed until 10th September. As is also now well-known, serious disorder broke out during and after the parade that day. That disorder spread across Belfast during the night of 10th - 11th September and continued for several days thereafter. It is estimated that 150 live rounds were fired at the police and military. In addition, hundreds of blast bombs and petrol bombs were thrown at the police, along with many other missiles including paving stones, bricks and bottles. 93 police officers were injured, along with at least two serious injuries in the military and an unknown number of civilian injuries. 167 vehicles were hijacked and set on fire and there was extensive damage to property. During the weekend of 10th – 11th September, the PSNI discharged six live rounds, 238 AEP impact rounds and used water cannon extensively. The military discharged five live rounds and 140 AEP impact rounds over the same period. That no one was killed and that there were so few serious injuries to police officers, the military or members of the public is remarkable.

6. Our remit is to consider whether the policing of these parades complied with the requirements of the Human Rights Act 1998, which requires all public authorities, including the police, to comply with the European Convention on Human Rights.

² Plastic baton rounds were last used on 11th September 2002.

This is part of our on-going work advising the Policing Board how to meet its statutory duty to monitor the performance of the PSNI in complying with the Human Rights Act 1998. Last year, we produced a report on the policing of the 12th July Ardoyne parades.³

7. We attended all planning meetings and briefings for the Ardoyne parades on 12th July this year at all levels: Gold, Silver and Bronze. ACC McCausland was Gold Command for this parade, Chief Superintendent Little was Silver Command, and Superintendent White was Bronze Command (North Belfast) for this parade. We have spoken to each of them on numerous occasions. We have also examined all the relevant documents, including all the intelligence reports, briefings, risk assessments, tactical and legal advice. On the 12th July itself, we observed the policing operation on the ground, attending at the Ardoyne shop fronts when the parades passed through the area on the way out in the morning and when the police and military deployed in preparation for the return of the parade in the evening. The rest of the time, we either attended on-going planning meetings or observed events and decision-making in the Gold and Silver Command rooms. Subsequently, we have examined the records made during the course of the policing operation, including the contemporaneous logs generated by Gold and Silver command. We have also watched the available video footage.

8. We also attended planning meetings and briefings for the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September this year, again at all levels: Gold, Silver and Bronze. ACC McCausland was Gold Command for this parade, Chief Superintendent Little was Silver Command (North Belfast), Chief Superintendent Boulwood was Silver Command (West Belfast), Superintendent White was Bronze Command (North Belfast) and T/Superintendent Farrar was Bronze Commander (West Belfast) for this parade. Again, we have spoken to each of them on numerous occasions. We have also examined all the relevant documents, including all the intelligence reports, briefings, risk assessments, tactical and legal advice. On 25th June, we attended on-going planning meetings and observed events and decision-making in the Silver Command room. On the 10th September itself, we again attended on-going planning

³ *A Report on the Policing of the Ardoyne Parades 12 July 2004* published by the Northern Ireland Policing Board on 4th November 2004 (Ardoyne Report 2004) available at www.nipolicingboard.org.uk.

meetings and observed events and decision-making, this time in the Gold Command room. Subsequently, we have examined the records made during the course of the policing operation, including the contemporaneous logs generated by Gold and Silver Command (both North and West Belfast). We also reviewed extensive amounts of video footage recorded during the course of the policing operation.

9. We are pleased to be able to report that, as was the case last year, we have been given unrestricted access to all meetings, documents and officers in respect of both parades. No request by us for information has been refused, nor was any limitation placed on our ability to observe and monitor the policing operation. We are particularly grateful to ACC McCausland, Chief Superintendent Little, Chief Superintendent Boulwood, Superintendent White and T/Superintendent Farrar for facilitating our work. If we had encountered any difficulties, we would have recorded them here.

10. As part of our community consultation process, on 5th and 6th September, we met Father Troy and the North and West Belfast Parades and Cultural Forum to discuss any concerns they had about the policing of the 12th July Ardoyne parades this year. On 28th September and 27th October, we met the Forum again to discuss any concerns they had about the policing of the 10th September postponed Whiterock parade this year. We also met Inter-Action Belfast on 30th September and the Springfield Residents Action Group on 12th October to discuss any concerns they had about the policing of both parades. On 18th November we met Fred Cobain MLA with the same purpose. On 29th November we met with William Humphries (local DUP councillor). On the same day, we met Billy Mawhinney, District Master of West Belfast and Wesley McCreedy, District Secretary (the parade organisers) to discuss concerns they had about the policing of the Whiterock Parade. We requested meetings with the Ardoyne Parades Dialogue Group and with Gerry Kelly MLA so that they could raise any concerns they had with us, but unfortunately they declined to meet us.

B. THE LEGAL CONTEXT

11. Those who want to parade have recognised human rights, including the right to freedom of expression and freedom of assembly.⁴ They also have the right to expect the police to protect their exercise of these rights so long as they themselves remain peaceful.⁵ But equally, others who do not want parades that they consider to be offensive to pass through the area in which they live, have recognised human rights, including the right to protest should they wish to do so (so long as their protest is peaceful)⁶ or simply to peaceful enjoyment of their home environment.⁷ They too have the right to expect the police to protect their exercise of these rights so long as they themselves remain peaceful. Balancing these, often competing, rights and interests is never easy, and the policing of parades has been the subject of strong criticism for many years, both from those who want to parade and those who do not want parades to pass through the area in which they live.
12. The human rights of police officers and the military also have to be considered. While it is their duty to police parades according to the law and, in particular, according to any determination issued by the Parades Commission,⁸ police officers and the military have the right to be protected from the risk of injury and, in extreme cases, death.⁹ That requires very careful planning and execution of policing operations. It also justifies the use of force by police officers and the military in certain, clearly defined, circumstances.
13. The use of force by police officers in Northern Ireland is governed by the Criminal Law (Northern Ireland) Act 1967, the Police and Criminal Evidence (Northern Ireland) Order 1989, the common law and Article 2 of the European Convention on Human Rights. Where non-lethal force is used, the rule is that any force used must be 'reasonable in the circumstances'. Where lethal or potentially lethal force is used, the rule is stricter: the use of such force must be 'absolutely necessary'.

⁴ Articles 10 and 11 of the European Convention on Human Rights.

⁵ See the principles set out in the case of *Plattform Artze Fur Das Leben v Austria* [1988] EHRR 204.

⁶ Articles 10 and 11 of the European Convention on Human Rights.

⁷ Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights.

⁸ See the extensive analysis of the Public Processions (Northern Ireland) Act 1998 in our Ardoyne Report 2004 at paras.19-32.

⁹ Articles 2 and 8 of the European Convention on Human Rights.

14. The PSNI has adopted several policies intended to give effect to this legal framework. Four are of particular importance to the policing of the Ardoyne parades on 12th July this year: (1) the *Use of Force Policy*,¹⁰ (2) the *Water Cannon Policy*,¹¹ and (3) the (recently adopted) *AEP Impact Rounds Policy*¹² and (4) the *Use of Firearms Policy*.¹³ We reviewed the *Use of Force Policy*, the *Water Cannon Policy* and the *Use of Firearms Policy* in our Human Rights Annual Report 2005.¹⁴
15. The *Use of Force Policy* sets out the legal rules summarised above and expressly requires that, in carrying out their duties, PSNI officers ‘shall, so far as possible, apply non-violent means before resorting to the use of force’.¹⁵ It instructs police officers only to resort to force if other means remain ineffective and there is no realistic promise of achieving the lawful objective without exposing police officers, or anyone whom it is their duty to protect, to a real risk of harm of injury. The policy also instructs officers to have in mind the positive duty to protect life in planning policing operations.¹⁶
16. The *Water Cannon Policy* lays down that water cannon will be deployed and used only when properly authorised by appropriate officers and only by officers trained and qualified in their use.¹⁷ The availability of water cannon is intended to provide police commanders with a broader range of public order tactical options that might reduce reliance on, or defer resort to, baton rounds (now impact rounds).¹⁸
17. The guidance on the deployment and use of water cannon in the PSNI *Water Cannon Policy* is based on ACPO guidance, which has been audited for compliance with the Human Rights Act 1998.¹⁹ It provides that water cannon are one tactical option within a range of tactics and equipment that are available to the police when responding to unlawful protest, disorder and threats of violence. They are intended to provide a ‘graduated, flexible and proportionate’ police response. In addition,

¹⁰ General Order 34/2001.

¹¹ General Order 29/2004.

¹² General Order 21/2005.

¹³ General Order 61/2001.

¹⁴ Human Rights Annual Report 2005 at pp.108-110 and pp.115-117.

¹⁵ General Order 34/2001.

¹⁶ Principles derived from the cases of *McCann v UK* (1995) 21 EHRR 97 and *Andronicou v Cyprus* (1997) 25 EHRR 491.

¹⁷ General Order 29/2004, para.1(2).

¹⁸ General Order 29/2004, para.1(3).

¹⁹ General Order 29/2004, Appendix A, para.1(2).

water cannon must only be used in accordance with the *Use of Force Policy* summarised above.²⁰ Sufficient warnings must be issued before water cannon are used and repeated as often as necessary.²¹ Water cannon vehicles are equipped with electronic means of recording data, including date and time of use, pressure and flow rates, and the duration of each use.²²

18. Authorisation to make water cannon and trained personnel available for operational purposes must be granted by an officer of ACC/Commander rank and should be limited by time and geographical boundaries.²³ A Tactical Adviser must be consulted on the deployment and use of water cannon in the planning phase and during the operation.²⁴ The authority to deploy water cannon is vested in Gold Command. Authority to use²⁵ water cannon is vested in the Silver Commander (who must keep this authority under constant review). The authority to use water cannon is not an order to discharge it. It is a decision, based on all the information available, that water cannon *may* be a necessary and proportionate response to public protest or disorder.²⁶ Water cannon vehicles are deployed under the overall command of the Water Cannon Commander who is required to liaise with the appropriate Bronze Commander to ensure co-ordination of achieving tactical objectives.²⁷

19. AEP impact rounds were introduced on 21st June 2005. The PSNI *AEP Impact Rounds Policy* was adopted on the same day. Earlier in 2005, the Chief Constable had consulted with the Policing Board regarding the introduction of the AEP impact round as a replacement for the L21A1 baton round.²⁸ Following a series of deliberations, in March 2005 the Policing Board voted by a significant majority to

²⁰ General Order 29/2004, Appendix A, para.1(9).

²¹ General Order 29/2004, Appendix A, para.7(1) to (3).

²² General Order 29/2004, Appendix A, para.15(1).

²³ General Order 29/2004, Appendix A, ACPO Guidance.

²⁴ Ibid.

²⁵ Water cannon is deemed to be used when it has been discharged by any person in pursuit of police operations.

²⁶ General Order 29/2004, Appendix A, ACPO Guidance.

²⁷ Ibid.

²⁸ The introduction of the AEP impact round as a replacement for the L21A1 baton round resulted from the work of the Steering Group on Alternative Policing Approaches to the Management of Conflict established in June 2000 by the Secretary of State for Northern Ireland pursuant to Patten Recommendations 69 and 70. The Steering Group's research concluded that the AEP impact round is less potentially lethal than the L21A1 baton round (Steering Group Forth Report, January 2004).

accept the Chief Constable's recommendation regarding the introduction of AEP impact rounds.²⁹

20. The *AEP Impact Rounds Policy* makes clear that the AEP impact round has not been designed for crowd control use, but is intended for use as a less lethal option in situations where police officers are faced with individual aggressors, whether such aggressors are acting on their own or as part of a group.³⁰ The AEP impact round is intended for use as an accurate and discriminating projectile.³¹

21. The *AEP Impact Rounds Policy* requires that AEP impact rounds should only be used in accordance with the *Use of Force Policy* and, in addition, imposes the stricter rule that their use must be 'absolutely necessary'. AEP impact rounds must only be used in public order situations where other methods of policing to restore or sustain order have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried and where their use is judged to be 'absolutely necessary' to reduce a serious risk of loss of life or serious injury or substantial and serious damage to property, which is likely to cause or is judged to be likely to cause a serious risk of loss of life or serious injury.³² Warnings must be given, if practicable and time permits.³³

22. The *AEP Impact Rounds Policy* vests authority to issue AEP impact rounds in planned public order situations in the Gold Commander.³⁴ Express authority to deploy and use AEP impact rounds is vested in the Silver Commander. Before a decision to use AEP impact rounds is put into effect, a designated senior officer must, by way of an on the ground assessment, confirm to the Silver Commander that the use of AEP impact rounds is justified.³⁵ Authorisation to deploy must be kept under review for the lifetime of the operation.³⁶

²⁹ The endorsement was subject to the Chief Constable demonstrating to the Policing Board at its April 2005 meeting that he had fully consulted with relevant bodies, including the Children's Commissioner. The Chief Constable satisfied this condition.

³⁰ General Order 21/2005, para.2(4)(a).

³¹ General Order 21/2005, para.2(4)(b).

³² General Order 21/2005, para.4(1).

³³ General Order 21/2005, para.9(1).

³⁴ General Order 21/2005, para.10 .

³⁵ General Order 21/2005, para.11(2). Use is justified when it meets the criteria set out in para. 4 of the Order summarised at para.20 above.

³⁶ General Order 21/2005, para.12(1).

23. The Urban Region Gold Strategy for Parades 2005 departs from the *AEP Impact Rounds Policy* in requiring that express permission of Gold Command (rather than Silver Command) must be obtained before AEP impact rounds are deployed.³⁷ This has been Urban Region strategy historically. It imposes a more strict command structure for the deployment of AEP impact rounds than that set out in the *AEP Impact Rounds Policy*. In our view, the PSNI Urban Region Strategy document and PSNI policy documents should be reconciled and we have verified that this has now happened: as a result of an internal PSNI debrief held on 16th July 2005, the command structure was aligned so that Gold Command now vests authority for deployment of AEP impact rounds in Silver Command in advance of public order policing operations.

24. The *PSNI Use of Firearms Policy*³⁸ provides practical guidance on the legal implications surrounding the use of firearms and sets out the training requirements for police officers issued with firearms. The policy sets out the law governing the use of force³⁹ and refers police officers to the *Use of Force Policy*, as well as to policies on the issue, deployment and use of baton rounds; the use of weapons and post incident procedures. It states that ‘firearms are only to be fired by police officers when their use is absolutely necessary, after conventional methods have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried.’⁴⁰

25. In like manner to the *Use of Force Policy*, the *Use of Firearms Policy* sets out prompts to ensure compliance with the requirement that the use of force used is “no more than absolutely necessary”, requiring officers to consider the nature of the aim pursued, the proportionality of the use of lethal/potentially lethal force and what other options were available, considered and discounted before resorting to the use of force. It instructs police officers that the ‘circumstances in which lethal/potentially lethal force can be used within the terms of UK law are likely to be very limited, being restricted to situations involving self-defence or defence of others and then only where absolutely necessary.’⁴¹ The policy does not prohibit police officers from

³⁷ Urban Region Gold Strategy 2005, para.5.6.

³⁸ General Order 61/2001.

³⁹ Referring to Article 2 of the European Convention on Human Rights, the Criminal Law (NI) Act 1967, section 3, the Police and Criminal Evidence (NI) Order 1989, Article 88 and the common law.

⁴⁰ General Order 61/2001.

⁴¹ Ibid.

firing from moving vehicles but makes clear that such a course of action must be deemed to be absolutely necessary 'where the life of an officer or member of the public is at risk'⁴² and reminds officers of their responsibilities to innocent bystanders under Article 2 of the European Convention.

C. THE 12TH JULY ARDOYNE PARADE

The determinations of the Parades Commission

26. The Parades Commission made three determinations in respect of the Ardoyne parades on 12th July this year. These were made on 4th July 2005. The conditions in each of the determinations were similar. On the outward route, restrictions were imposed on all parades to prevent the playing of music, save for a single drumbeat, between the junction of Crumlin Road and Hesketh Road, and the junction of Woodvale Road and Woodvale Parade. On the return route in the evening, a condition was imposed that no music was to be played from the junction of Woodvale Road and Woodvale Parade until all participants in the parade had passed the junction of Crumlin Road and Hesketh Road. **(Map attached at Appendix 1).**

27. In addition, the determinations required the three parades to proceed together along the Woodvale Road and Crumlin Road to their notified dispersal points at Ligoniel Orange Hall and Leroy Street on the return parade in the evening. All those taking part in the parades, including supporters, were required to pass the junction of Twaddell Avenue and the Woodvale Road no later than 8.30pm and the parades had to disperse no later than 9pm.

28. The Ardoyne Parades Dialogue Group submitted a protest notification to the Parades Commission on 6th July 2005 stating its intention to hold a protest meeting of 150 participants on the Crumlin Road at 7.30am on 12th July 2005. The Parades Commission issued no determination in relation to this protest meeting. No protest notification was received by the Parades Commission in relation to any proposed protest meeting in the afternoon or evening of the 12th July 2005.

⁴² Ibid.

Long-term planning

29. A Gold Command strategy meeting for all parades in the Urban Region took place in March 2005. This was followed by a further Gold Command strategy meeting on 3rd June 2005. These meetings were attended by all District Commanders. The PSNI human rights legal adviser also attended both meetings. We attended the strategy meeting on 3rd June as observers.
30. The documents prepared for the Gold Command strategy meetings included the Chief Constable's policy in relation to the policing of public order events, which makes clear that 'the human rights of all those affected by such events will be central to all stages of police preparations and subsequent actions'. The documents also included a list of the PSNI's intentions. These included a commitment to 'protect and uphold the human rights of all individuals involved in the event, including the public, those living and working within the vicinity of a parade, protesters, police and military, ensuring that any interference with human rights is lawful, in accordance with a legitimate aim, proportionate and necessary'.
31. Also included in the documents prepared for the Gold Command strategy meetings was an analysis of the recent changes in the legal framework brought about by the Public Processions (Amendment) (Northern Ireland) Order 2005 (summarised above). The revised Military Support Strategy⁴³ was also incorporated which set out '[o]n the understanding of police primacy, a joint protocol establishing a joint concept for the conduct of PSNI/Military operations in Urban region and how military support will be provided'.⁴⁴ The object of the protocol was to set the strategic and operational framework (including generic command structure) for the conduct of joint PSNI/military operations in Urban Region. This framework is set within the context of the overarching strategic aim for effective policing which is "to reach an environment where police can resume policing without routine aid from Military ... The achievement of the joint aim is based on tasking Military support in a manner that is ... justified by the requirement to achieve a particular effect and compatible with the PSNI obligations on Human Rights."⁴⁵

⁴³ PSNI Urban Region and 39 Infantry Brigade Concept for the Conduct of Joint Police and Military Operations.

⁴⁴ Ibid. at para.1.2.

⁴⁵ Ibid. at para.2.2.

32. Following the concerns highlighted in our Ardoyne Report 2004 regarding the effectiveness of the arrangements in place for joint operations between the PSNI and the military and our subsequent recommendation that the PSNI should review those arrangements and formulate a policy for joint public order operations in collaboration with the military,⁴⁶ we welcome the PSNI's prompt action in agreeing a strategic and operational framework with the military for joint public order operations and putting this new protocol in place.

33. The first Silver Command tactical planning meeting for the operation took place on 6th July 2005, following the issue of the Parades Commission determinations. A mini Gold Command strategy meeting was held on 7th July, with further Silver Command planning meetings on 8th and 9th July. A final mini Gold Command strategy meeting took place during the morning of 11th July, with the Bronze Command operational briefing in the late afternoon of 11th July. The PSNI human rights legal adviser attended nearly all of these meetings and gave advice as and when necessary. We attended all of the meetings as observers.

Tactical and legal advice

34. Those planning and implementing operations must consider using tactical advisers and any decision not to involve a tactical adviser must be documented.⁴⁷ The adviser's task is to provide information and recommend courses of action/inaction with their potential advantages and disadvantages. Tactical advisers do not make operational decisions or take any action.⁴⁸ The responsibility for the validity and reliability of the advice lies with the adviser, but the responsibility for the use of the advice lies with the commander.⁴⁹

35. A tactical adviser was used in the planning and implementation of the policing operation for the Ardoyne parades on 12th July this year. He attended all planning meetings and provided advice to the Silver and Bronze Commanders as required. Some written advice from the tactical adviser that had been prepared for a parade passing the Ardoyne shop fronts earlier in the year was also relied on, but only after

⁴⁶ Human Rights Annual Report 2005, Recommendation 33.

⁴⁷ General Order 12/2004.

⁴⁸ General Order 12/2004, para.s 4(3) and 4(4).

⁴⁹ Ibid.

it had been sent to the head of PSNI Legal Services and to the PSNI human rights legal adviser for approval. We have seen that advice and the approval of the PSNI's lawyers.

36. As noted above, the PSNI human rights legal adviser was present at nearly all of the planning meetings at Gold and Silver Command level and gave legal advice as and when necessary. ACC McCausland invariably asked the PSNI human rights legal adviser at the end of each Gold Command meeting whether she had any concerns about the legality of the planned operations. The PSNI human rights legal adviser was also present in the Gold Command room on 12th July as the policing operation was implemented in the morning and again in the afternoon/evening. She gave advice as and when required.

The morning parades

37. In the early hours of 12th July, a group of protesters began to gather at the Ardoyne shop fronts with placards and signs protesting against the parade. Because of the threat of a sit-down protest, the decision was taken to deploy police officers and military in a phased operation earlier than planned. At around 5.30am, police in public order uniform were deployed in land rovers to form a secure line on the Ardoyne shop fronts side of the Crumlin Road, from the junction of the Ardoyne Road and Crumlin Road to the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. Military personnel were deployed to form a secure line on the Mountainview side of the Crumlin Road, opposite the junction of the Ardoyne Road and Crumlin Road to the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. Further police and military personnel and vehicles were situated both on the Crumlin Road towards the Hesketh Road junction and in Woodvale Road.

38. Just before 6am, a group of about 50 protesters commenced a sit-down protest on the Crumlin Road close to the junction between the Crumlin Road and the Ardoyne Road. Some of these protesters locked themselves to a lamppost with metal chains. Several supporters, some wearing green bibs, flanked the sit-down protest. Community representatives, including Gerry Adams MLA and Gerry Kelly MLA, were also present. The protest effectively blocked the Crumlin Road. All those taking part in the sit-down protest and their supporters were peaceful.

39. The police began to negotiate with the sit-down protesters and their supporters in an effort to move them off the road. The protesters were informed that they were taking part in an illegal sit-down protest and asked to move off the road. The protesters were informed that if they refused to move off the road voluntarily, police officers would be forced to lift them off the road and they may be subject to arrest. A significant number of media, observers and supporters of the protest began to gather at the scene of the protest.
40. PSNI evidence gathering vehicles were moved in to gather video evidence of those taking part in the sit-down protest. Water cannon were also moved further up the Crumlin Road towards the group of protesters from Hesketh Road. The protesters remained peaceful but refused to move off the road. At about 8.05am, police officers with metal cutters approached the sit-down protesters and proceeded to cut the metal chains around those protesters who had locked themselves to the lamppost. Police officers in protective public order uniform moved into place behind the evidence gathering vehicles.
41. At about 8.10am, police officers in groups of four moved in to lift individual protesters (each officer taking one limb of a protester) and to carry them off the road. The protesters did not assist the police in their removal but remained peaceful. Some of the protesters attempted to re-chain themselves to the lamppost without success. Each protester was informed that he may be subject to arrest.
42. By this time, a crowd of about 300 individuals gathered at the junction of the Ardoyne Road and Crumlin Road to support the sit-down protest. Marshals urged them to remain peaceful and not to surge forward against the police line or to engage in violence. Some of the last remaining sit-down protesters voluntarily moved off the road. There was no violence between police and protesters. By 8.40am, the Crumlin Road was clear.
43. As soon as the road was clear of protesters, media and observers, the police land rovers on the shop fronts side of the Crumlin Road moved out and were replaced with military screen vehicles. Screens were placed from the junction of Ardoyne Road and Crumlin Road to the junction of Woodvale Road, Crumlin Road and

Twaddell Avenue. At about 8.52am, the three parades⁵⁰ and their supporters reached the military block located at the junction of Crumlin Road and Hesketh Road. At 9am, the military block was opened to allow the parades and supporters through. About 200 supporters (mainly children and young women and men) proceeded in front of the lodges and bands. The bands played a single drumbeat between the junction of Crumlin Road and Hesketh Road and the junction of Woodvale Road and Woodvale Parade in compliance with the Parades Commission's determinations. A police land rover followed the parades and their supporters as they moved up the contentious part of the route. By 9.08am, the supporters and parades were clear of the Ardoyne shop fronts and proceeding down the Crumlin Road towards the City centre.

44. The police and military withdrawal from the area was rapid, organised and efficient. Military vehicles and personnel began to pull out at about 9.10am. At 9.12am, all military vehicles and personnel had withdrawn from the area and the PSNI began to extract. By 9.21am the Ardoyne shop fronts were clear of all police and military. Only a small number of police land rovers were left in the area to maintain a police presence.

The evening parades

45. A Gold strategy meeting and various Silver tactical planning meetings were held in the early afternoon on the 12th July to finalise plans for the policing operation in the evening. We attended these meetings as observers. The PSNI human rights legal adviser was consulted on any human rights issues arising out of these meetings.

46. During the day, information was received by the PSNI that a large group of protesters (anticipated to be significantly larger than the group in the morning) was likely to engage in a sit-down protest on the Crumlin Road, again at the junction of Ardoyne Road and Crumlin Road. As a result, a decision was taken to deploy police officers and military earlier than originally planned. In the end, police and military personnel were deployed at about 4.40pm.

47. In similar fashion to the morning, police were deployed in land rovers to form a secure line on the shopfront side of the Crumlin Road (from the junction of the

⁵⁰ As defined in para. 4 of this Report.

Ardoyne Road and Crumlin Road to the bottom of the Ardoyne shop fronts) and military were deployed to form a secure line (with screens) at the Mountainview side of the Crumlin Road (from opposite the junction of the Ardoyne Road and Crumlin Road to the junction of Twaddell Avenue and Crumlin Road). As they moved into their positions, a group of about 50 protesters, including marshals, walked onto the Crumlin Road. The protesters proceeded to unfurl a banner across the width of the road and stood peacefully. Marshals were in attendance. The police and military positioned on the Crumlin Road facilitated restricted but controlled access and movement of residents during the afternoon and early evening. Members of the press were also facilitated.

48. From about 5pm, the police began negotiations with the protesters. The protesters were informed that they were taking part in an illegal protest (no notification of any protest meeting had been received by the Parades Commission for the afternoon or evening of 12th July). The numbers of protesters at both the junction of Ardoyne Road and Crumlin Road and the junction of Brompton Park and Crumlin Road grew steadily over the period.

49. At about 7.15pm, two PSNI evidence gathering vehicles moved forward to formally warn protesters that they were taking part in an illegal protest and to gather video evidence. At about 7.21pm, a missile was thrown from the direction of Brompton Park. Marshals informed the police that the protesters would move off the road peacefully if the police facilitated the display of their protest banner. The police agreed to facilitate a few protesters to stand on a wall holding the banner behind the military line on the Mountainview side of the Crumlin Road. At about 7.25pm, the military opened their screens to allow the protesters through. Several protesters moved onto the pavement and mounted their protest. The remaining protesters moved off the Crumlin Road to join other protesters behind the police line at the junction of Ardoyne Road and Crumlin Road. By 7.30pm, there was a crowd of around 300 protesters at this junction.

50. During the course of the day on 12th July, the PSNI had received information about the accumulation of 'ammunition', including petrol bombs and other missiles, in the Ardoyne area. As the return of the parades became more imminent, information and

video footage suggested that several individuals in the area were carrying golf balls, snooker balls, iron bars and similar items.

51. At around 7.35pm, once the protesters, media and observers had vacated the Crumlin Road, military screen vehicles once again replaced police land rovers on the shopfront side of the Crumlin Road, from the junction of Ardoyne Road and Crumlin Road to the junction of Woodvale Road, Crumlin Road and Twaddell Avenue. Police land rovers and officers flanked the military vehicles on the shopfront side. Water cannons were positioned above the military line (at the Everton complex) and below the military line (at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue).

52. The lodges, bands and supporters arrived at the junction of Woodvale Road and Woodvale Parade at about 7.30pm. At 7.40pm, the protesters circulating at the Ardoyne shop fronts began to move down towards Brompton Park. A large crowd of protesters had gathered at the junction of Brompton Park and Crumlin Road. By this time, a crowd of around 200 individuals sympathetic to the parade had gathered at Twaddell Avenue. At about 7.45pm, the lodges, bands and supporters proceeded to move up the contentious part of the route, flanked by their own marshals. As with the morning parade, supporters walked in front of the lodges and bands, moving up the road in an orderly fashion. The lodges and bands were orderly and silent.

53. At about 7.49pm, as the supporters passed the junction of Crumlin Road, Woodvale Road and Twaddell Avenue, a number of missiles were thrown by members of the crowd at Brompton Park (the majority of whom appeared to be young males). These missiles included golf balls and stones. None of the supporters or parade members appeared to have been hit by the missiles, and none appeared to have responded. However, the orderly grouping of supporters began to break up as supporters ran for cover behind the military screens from the missiles being thrown from Brompton Park.

The violence at Brompton Park

54. Missiles continued to be thrown from the vicinity of Brompton Park and the Ardoyne shop fronts. At around 7.50pm, after a warning, water cannons were used for the first time to push the crowd throwing missiles back towards Brompton Park. A police line

with dogs sealed off the pavement mid-way up the shop fronts to prevent the crowd moving up the shop fronts to the junction of Crumlin Road and Ardoyne Road. The line then moved slowly forward pushing the crowd throwing missiles back towards Brompton Park.

55. At about 7.53pm, the supporters and parades were clear of the contentious part of the route. The military screen vehicles moved out of the area. However, the police were unable to withdraw because the crowd at Brompton Park were continuing to throw missiles and a large crowd of people remained at Twaddell Avenue.

56. At 7.57pm, use of the water cannon was suspended. According to the Gold Command journal, this was to allow the marshals to try to control the situation. Immediately the crowd at Brompton Park surged forward and starting throwing missiles at the police line. The police received information suggesting that no one amongst the protesters was able to control the crowd. The police came under heavy missile fire from the crowd. Water cannon were used once again to push the crowd back from the police line. Injuries to police officers were sustained.

57. At just before 8.10pm, a red car (which had apparently been stolen earlier that evening) was pushed out of Brompton Park. The crowd of around 300 individuals followed the car onto the Crumlin Road. Then about seven members of the crowd, some of whom wore scarves and/or hoods to cover their faces, attempted to set fire to the inside of the car (which appeared to have been doused in petrol). Water cannon were directed at the protesters surrounding the car to undermine their efforts to light the vehicle. A protester then carried what appeared to be a petrol bomb over to the car, lit it and threw it into the car, successfully setting it alight. Members of the crowd then attempted to push the burning car towards the police line. The water cannon put out the fire in the car and pushed back the crowd. At 8.11pm, use of the water cannon was suspended for a second time. Again, the Gold Command journal records that this was to allow the marshals to control the crowd. The crowd again surged towards the police line and threw heavy missiles. The red car was set on fire again. Water cannon was used from 8.13pm. There were several hundred protesters at the junction of Brompton Park and Crumlin Road at this stage. Every time the water cannon ceased, the crowd of protesters surged forward throwing missiles at the police line.

58. At around 8.26pm, there was a radio report that a blast bomb had been thrown. A request was made to Gold Command at that stage for authority to deploy AEP impact rounds. This is recorded at 8.29pm. Gold Command asked three questions: (1) *Can the officers take cover?* (2) *Can the officers manoeuvre (i.e. withdraw)?* (3) *Are there other less lethal methods that could be deployed to deal with rioters?* While the answers to these questions were being ascertained, a group of about eight masked, hooded and gloved individuals was seen with what appeared to be a blast bomb in an alleyway behind the shop fronts. That was about 8.30pm.
59. At about 8.32pm, an individual could be seen climbing onto the roofs of the Ardoyne shop fronts and throwing what appeared to be a blast bomb. Authority was immediately given by Gold Command to deploy AEP impact rounds. This is recorded in our log at 8.32pm. The authority given at that time was to discharge AEP impact rounds to defend against attacks from the roofs of the shop fronts by identified individuals. That authority was communicated to Silver Command and recorded in the Silver Command log at 8.34pm. It is recorded as having been given at 8.35pm in the Gold Command log, but that cannot be right because by then it had already been received by Silver Command (note: the logs and videos were not synchronised and therefore there are discrepancies of a few minutes in places).
60. It is important to appreciate that several requests for permission to use AEP impact rounds had been made between about 7.56pm and 8.30pm. These requests were made to Silver Command and refused because they originated as a response to missile throwing rather than blast-bombs and Silver Command was satisfied that the officers concerned could be protected either by the water cannon or by moving positions (which in fact happened on occasion).
61. Heavy and sustained rioting continued at the junction of Brompton Park and Crumlin Road with water cannon used to contain the crowd.
62. By about 8.40pm, Silver Command had provided the answers to the three questions posed by Gold Command, namely whether the officers could take cover, manoeuvre or deal with the rioters without deploying AEP impact rounds. The answers being negative, Gold Command gave permission to deploy AEP impact

rounds against identified rioters (i.e. not limited to those on the roof-tops throwing blast-bombs) in protection of life. Gold Command informed Silver that permission to use AEP impact rounds should only be given if requested by Bronze Command and emphasised that water cannon should be used where possible in the alternative.

63. Reports were then received of two unexploded blast bombs within the grounds of the Ambulance centre. At 8.43pm, a further unexploded blast bomb was reported at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. At 8.44pm, further reports of exploded blast bombs were received. Police attempts to withdraw from the area were hampered by a police injury and the unexploded blast bombs.

64. At 8.48pm, reports were received of an unexploded blast bomb at Twaddell Avenue. At around 9pm, reports were received that nine blast bombs had been thrown, with three unexploded. Rioting continued at the junction of Brompton Park and Crumlin Road, with water cannon being used to contain the rioters and also to ensure that they were kept an adequate distance from the unexploded blast bomb at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue.

65. Authority for the deployment of AEP impact rounds was reviewed by Gold Command at regular intervals and maintained.

66. At 10.16pm, marshals appeared at the junction of Crumlin Road and Brompton Park and the rioters began to withdraw into Brompton Park. By 10.20pm, marshals had pushed the majority of the rioters into Brompton Park and the rioting had ceased. The police withdrew into Twaddell Avenue. By 10.35pm, police had withdrawn from the shop fronts. Authority for the deployment of AEP impact rounds was reviewed and withdrawn.

Findings

67. We conclude that the strategic, tactical and operational planning of the policing operation for the parades that passed through the Ardoyne on 12th July this year was careful and considered. The human rights of paraders and their supporters, protesters, residents, police officers and the military were taken into account at all stages of the planning process. The senior command responsible for the operation

reacted to the changing circumstances of the operation as events unfolded during the day with care and diligence.

68. As noted earlier in this report, the new protocol agreed between the police and the military regarding joint public order operations is welcome and appears to meet the concerns which we highlighted last year in our Ardoyne Report 2004. A concern was raised with us that the military block at the junction of Hesketh Road and Crumlin Road was breached again this year. We have reviewed the video evidence carefully and questioned senior police officers who were on the ground about the effectiveness of the military block. Whilst a small number of individuals (about ten in total) gathered on the Crumlin Road below the military block, there is no evidence that they had come through the road block. We are therefore satisfied that the military block was effective and that there were no significant problems with the joint nature of the public order operation this year.

69. We also welcome the extensive use of tactical and legal advisers. As noted above, the PSNI human rights legal adviser was present for nearly all the planning meetings and was present in the Gold Command room on 12th July. This level of attendance is important. But it is difficult to sustain with only one (specific) human rights legal adviser in the PSNI. We therefore recommend that the PSNI Legal Services Department review how best to ensure the continuation of adequate human rights legal advice for future policing operations of this kind. Physical presence at meetings and during operations is extremely useful and should be encouraged. But if physical presence cannot always be achieved, other means need to be devised to ensure that human rights legal advice is available at all stages of the planning and execution of policing operations for contentious parades.

70. On a linked matter, we recommended in our Human Rights Annual Report 2005 the formalisation of an 'on call' system for legal advice within the PSNI.⁵¹ For this operation, the PSNI human rights legal adviser attended the vast bulk of strategic and planning meetings and was present for the duration of the operation on 12th July. Further, when she was not present at a meeting, she was contactable by mobile telephone. However, we are not fully satisfied that the PSNI Legal Services Department has adequately formalised its out-of-office 'on-call' system so that when

⁵¹ Human Rights Annual Report, recommendation 16, pp 54-55.

an operational commander requires specific human rights advice in circumstances when the PSNI human rights legal adviser is not available, another PSNI lawyer is available to provide that advice. We therefore once again recommend that the 'on-call' system be formalised as soon as possible as a matter of good practice.

71. Turning to the position of those taking part in the parades and their supporters, as noted above, consideration of their rights was incorporated in the planning and implementation of the policing operation. The Parades Commission determinations were upheld. The parades and their supporters were able to proceed peacefully along their notified route in the morning. When violence broke out in the evening as the parades and their supporters returned, the PSNI took all reasonable steps to protect the parades and their supporters from harm. We deal with the specific question of a partial 'gap' in the screening at Crumlin Road below.

72. Turning next to the protesters, we also find that their human rights were upheld. The removal of the sit-down protesters on the Crumlin Road in the morning was justified, lawful and proportionate. The sit-down protest was an unlawful obstruction of the Crumlin Road and would have prevented the lodges, bands and supporters from proceeding along their notified parade route, in accordance with the Parades Commission determinations. The police operation to remove the sit-down protesters was carried out in a measured, controlled and efficient manner.

73. Turning more generally to the use of force, it is important at the outset that we emphasise that we only seek to make general findings on the use of force by the police during the operation. Our remit is to consider whether, *overall*, the use of force complied with the requirements of the Human Rights Act 1998 and the PSNI's own policies as set out above. Any specific complaints about the use of force fall within the jurisdiction of the Police Ombudsman, who is currently carrying out investigations.

74. In relation to the use of water cannon, we have studied the videos and logs carefully. We have also examined our own notes made on the day. Having done so, we are satisfied that the deployment and use of water cannon was at all times within the PSNI *Water Cannon Policy* and compliant with the Human Rights Act 1998.

75. A particular concern has been raised with us, namely that the police used water cannon against protesters in Brompton Park too quickly as a result of a 'gap' in the police and military line at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue and without giving marshals the opportunity to control the crowd. It has been suggested that this early use of water cannon contributed to the escalation of violence. We have considered this concern carefully. Again, we have studied the videos and logs carefully. Again, we have also examined our own notes made on the day. Having done so, we do not agree that the police used water cannon against protesters in Brompton Park too quickly. We set out our reasoning in more detail in the next few paragraphs.

76. First, we considered the positioning of vehicles in the vicinity. Military screen vehicles were deployed from the junction of Ardoyne Road and Crumlin Road, along the shopfront side of the Crumlin Road, to just short of the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. PSNI vehicles and personnel flanked the military line on the shopfront side. PSNI water cannon were placed at both the top and bottom of the military line, at the Everton complex and at the junction of Woodvale Road, Crumlin Road and Twaddell Avenue respectively.

77. A partial 'gap' was left at the Crumlin Road at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue, in the sense that part of the Crumlin Road next to the water cannon was sealed only by PSNI land rovers, not screens. This deployment allowed the crowd at Brompton Park to see the supporters, lodges and bands as they moved through the contentious area and it was through (or more accurately over) this 'gap' that most of the missiles were thrown.

78. The police then waited for 45-50 seconds from the start of a sustained missile attack before using the water cannon to push the crowd back into Brompton Park. The video evidence does not show any diminution in the level of violence during this period. Had the police waited for a longer period before using the water cannon, they would be open to criticism that they gave those protesting a free hand to attack the supporters, lodges and bands for the length of time it took for them to pass the junction at Crumlin Road, Woodvale Road and Twaddell Avenue. The police would in that instance have failed in their duty to protect those peacefully parading. We

are therefore satisfied that the PSNI did not use the water cannon too quickly and that the use of water cannon did not contribute to the escalation of violence.

79. It should be noted that the timing of 45-50 seconds before the use of water cannon has been measured, as stated above, from the start of the sustained missile attack. Some missiles had been thrown earlier, but not as a sustained attack.

80. However, we are concerned by the partial 'gap' that was left at the Crumlin Road at the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. It resulted in the protesters in the vicinity of Brompton Park seeing the supporters, lodges and bands as they passed that junction and arguably provided less protection from missile attack than screens would have done.

81. We have discussed this with ACC McCausland. The reason for the partial 'gap' is that two of the military screen vehicles that it was hoped would be available were unserviceable. The result was that there were two less screens than needed. The military screen vehicles are now very old and similar problems are likely to occur again in the future. This is obviously a serious concern and we recommend that the PSNI should consider obtaining modern screening equipment of its own as soon as possible. Obviously the Policing Board should be kept fully informed.

82. In relation to the use of AEP impact rounds generally, we are satisfied that the issue, deployment and use of AEP impact rounds was within PSNI *AEP Impact Rounds Policy* (as further defined in the Urban Region Gold Command Strategy on Parades 2005).⁵² We are aware of suggestions in some of the press coverage of the events at the Ardoyne on 12th July that blast bombs were thrown *in response* to police use of AEP impact rounds. We have considered this allegation very carefully. As noted above, we were in the Gold Command room when authorisation to deploy AEP impact rounds was given. We have notes of the sequence of events and were watching events in real-time. We have also studied the video footage and examined the PSNI's own records. From this, we are in no doubt whatsoever that any suggestion that blast bombs were thrown in response to police use of AEP impact rounds is unsustainable.

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As noted earlier, these strategy documents have now been reconciled to reflect the same command structure.

83. The authority to deploy and use AEP impact rounds was kept under constant review by Gold command and authority was withdrawn as soon as the threat to life had reduced. We conclude that the issue, deployment and use of AEP impact rounds were compliant with the Human Rights Act 1998.
84. We have also considered whether the human rights of PSNI officers were adequately protected during the operation. Again, we have considered this very carefully. The extent of the injuries to police officers has already been noted. The question therefore arises whether better or more effective measures could have been taken to protect them from these injuries.
85. As noted above, the water cannon was used quickly after the crowd at Brompton Park started to throw missiles at the supporters, lodges and bands as they passed the junction of Crumlin Road, Woodvale Road and Twaddell Avenue. It was then used fairly extensively thereafter, subject to practical matters such as re-filling and the parameters of the *Water Cannon Policy* referred to above. We do not consider it could or should have been used earlier or more extensively.
86. Again as noted above, authority to deploy AEP impact rounds was given when an individual was seen on the rooftops throwing a blast bomb. We have considered whether authority could have been given earlier. Gold Command maintains that could not have been done consistently with the *AEP Impact Rounds Policy* referred to above because the use of AEP impact rounds could not be justified at that stage as 'absolutely necessary' to reduce a serious risk of loss of life or serious injury. As set out above, when Gold Command was asked to authorise the deployment of AEP impact rounds earlier, three questions were asked: (1) Can the officers take cover? (2) Can the officers manoeuvre (i.e. withdraw)? (3) Are there other less lethal methods that could be deployed to deal with rioters? These were intended to establish whether the use of AEP impact rounds was absolutely necessary as required by the policy. While the answers to these questions were being ascertained, the individual on the rooftops throwing a blast bomb was seen and authority to deploy AEP impact rounds was given.

87. Having reviewed the videos and logs (including our own log) in detail, our view is that the decision by Gold Command not to authorise the deployment of AEP impact rounds earlier cannot be faulted. The *AEP Impact Round Policy* requires the officer charged with authorising the deployment of AEP impact rounds to be satisfied about the level of threat, that lesser force would be ineffective and that AEP impact rounds can be fired at individual aggressors. On that basis, we conclude that notwithstanding the injuries caused to a large number of police officers, the human rights of PSNI officers were adequately protected during the operation. It should be noted that over 50% of the injuries sustained by police officers were sustained after the decision to deploy AEP impact rounds and that around 70% of all injuries sustained by police officers were ear injuries caused as a result of exposure to blast bomb explosions.

88. During the preparation of this report, an issue concerning the wearing of identification numbers by PSNI officers on duty at Ardoyne on 12th July this year was brought to our attention. Concerns were raised that some police officers failed to display visible identification numbers in accordance with a Police Ombudsman Recommendation of 2003 that, in addition to officers wearing identification numbers on their epaulettes,⁵³ all officers wearing public order uniform should clearly display their identification number on the front of their public order helmets at all times.⁵⁴ The PSNI issued new instructions to all officers regarding identification markings in February 2004.⁵⁵ These instructions required all officers with public order uniform to place a second identification sticker on their public order helmet in a position where it can be seen, even when the helmet visor is up.⁵⁶ These instructions are due to be included in the new PSNI General Order on Uniform to be published later this year.

89. We have explored the concerns raised regarding identification markings with the PSNI. All officers are strictly required to comply with the PSNI instructions issued in February 2004. Accordingly, all officers with public order uniform should have a second identification sticker on their public order helmet in a position where it can

⁵³ This is a requirement for all police officers wearing public order uniform.

⁵⁴ During an investigation in 2003, the Police Ombudsman was unable to identify police officers for the purpose of prosecution due to the identification numbers on the officers' public order helmets becoming obscured by the wearing of the visors on the helmets up. The Police Ombudsman subsequently made a recommendation to PSNI regarding identification markings on officers' public order helmets.

⁵⁵ Instructions were published Service-wide on 11th February 2004 by Weekly Order 06/04.

⁵⁶ All officers were issued with guidance on the positioning of the second identification sticker.

be seen, even when the helmet visor is up. When seeking an explanation from the PSNI as to why some officers may not have been complying with this requirement, we were informed that sometimes officers are issued with replacement helmets at short notice (e.g. where a helmet is damaged) and those helmets do not have the required second identification marking. We were also informed that although officers regularly deployed in a public order uniform are familiar with the February 2004 instruction, other officers who are not normally deployed in public order situations may not be familiar with that instruction. This is unsatisfactory and we recommend that all District Commanders bring the PSNI instructions on the wearing of identification markings in public order situations to the attention of all their officers forthwith.

90. For completeness it should be noted that, to date, 21 individuals have been arrested and charged in connection with the serious violence at Ardoyne on 12th July 2005. At this stage, it would be inappropriate for us to comment on those cases.

D. RECOMMENDATIONS ARISING FROM THE ARDOYNE PARADE

Recommendation 1: PSNI Legal Services should review how best to ensure that human rights legal advice continues to be available at all stages of the planning and execution of policing operations for contentious parades.

Recommendation 2: PSNI Legal Services should formalise the ‘on call’ system as soon as possible as a matter of good practice.⁵⁷

Recommendation 3: The PSNI should consider obtaining modern screening equipment of its own as soon as possible.

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In line with recommendation 16 of the Policing Board’s Human Rights Annual Report.

Recommendation 4: All District Commanders should bring the PSNI instructions on the wearing of identification markings in public order situations to the attention of all their officers forthwith.

E. THE WHITEROCK PARADE

The event planned for 25th June

91. The Whiterock parade is usually held on the last Saturday in June. Its usual route is from the West Belfast Orange Hall on the Shankill Road to the Whiterock Orange Hall via the Springfield Road, returning to the Shankill Road via the West Circular Road and Ballygomartin Road. This year it was planned for 25th June and notification was duly given to the Parades Commission. **(Map attached at Appendix 2).**
92. A period of consultation then followed between interested parties and the police. A number of individuals and groups have expressed to us their frustration about the consultation process and we recognise the depth of their feelings on this issue. The precise details and nature of these consultations are highly controversial and we do not consider that it would be either helpful or appropriate for us to attempt to record the varying accounts here.
93. A community impact assessment (form 11/9) was then prepared and submitted to the Parades Commission as a joint document by North and West Belfast District Command Units (DCUs). Both DCUs subsequently attended a meeting of the Parades Commission to discuss the community impact assessment and related issues.
94. On 16th June 2005, the Parades Commission issued a determination prohibiting the parade from going through Workman Gate, which is situated at the junction of Workman Avenue and Springfield Road. Instead, the determination required the parade to enter the Invest Northern Ireland site (formerly the Mackies complex) at the Woodvale Avenue entrance and exit onto the Springfield Road some 100 yards further up the Springfield Road.

95. This determination created a great deal of resentment amongst the parade organisers and likely participants and they requested a review. The Parades Commission refused this request. Tension mounted and there was a very real fear, held by the parade organisers and police alike, that serious disorder would result. On the evening of the 24th June, the parade organisers therefore announced the postponement of the annual Whiterock parade.

96. Notification of this postponement was received by the PSNI along with notification of a new intended parade on 25th June, namely one that remained within the areas of Greater Shankill and the Highfield Estate. Despite the late notice for this intended parade, it was permitted by the Parades Commission because it was not deemed contentious. In the event, it passed off without any disorder.⁵⁸

The postponed Whiterock parade on 10th September

97. On 11th August 2005, No.9 District LOL gave notice of an intention to hold the 'postponed' Whiterock parade on 10th September 2005. The anticipated numbers were 850, including 17 bands and an unknown number of supporters. The start time was given as 2.15pm; the dispersal time as 4.30pm. No. 3 District LOL and No.2 District LOL also gave notice of an intention to parade from and to the West Belfast Orange Hall on 10th September 2005.

98. On 12th August 2005, the Earl of Erne LOL 647 gave notice of an intention to hold a subsidiary parade on 10th September 2005. It was proposed that this would join that parade at the West Belfast Orange Hall and then leave it at Twaddell Avenue on the way back. The anticipated numbers were 50, with one band and no supporters.

99. On 13th August 2005, the Ballysillan LOL 1891 gave notice of an intention to hold a subsidiary parade on 10th September 2005. It was proposed that this parade would join the main parade at the West Belfast Orange Hall and then leave it at Twaddell Avenue on the way back, returning to Ligoniel Orange Hall. The anticipated numbers were 45-50, including 1 band and an unknown number of supporters.

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We observed the substitute parade on 25th June from North Belfast Silver Command room.

100. Again, following notification of the parades, a period of consultation followed. Again the precise details and nature of these consultations are controversial. The community impact assessment (form 11/9) was updated and again submitted as a joint document to the Parades Commission by North and West Belfast DCUs. Both DCUs attended another meeting of the Parades Commission to discuss the community impact assessment and related matters.

The determinations of the Parades Commission

101. On 1st September 2005, the Parades Commission made a determination in respect of the postponed Whiterock parade.⁵⁹ This was essentially the same as the determination that had been made in June. It prohibited the parade from joining the Springfield Road at its junction with Workman Avenue. Instead, the parade was to proceed from Workman Avenue to Woodvale Avenue and turn left into the Invest Northern Ireland site. The parade was then to proceed along a new road through the Invest Northern Ireland site and join the Springfield Road by turning right at the junction of this new road with the Springfield Road and resume the remainder of its notified route from that point.

102. Only hymns were permitted to be played at the point that the parade turned right onto the Springfield Road from the new road through the Invest Northern Ireland site to the junction of Springfield Road and West Circular Road roundabout. Supporters of the parade were prohibited from the section of the parade route between Woodvale Avenue, and the junction of Springfield Road and West Circular Road.

103. The determination also prohibited the display of any banner, instrument or object referring to Brian Robinson between the point where the parade turned right onto the Springfield Road from the new road through the Invest Northern Ireland site, and the junction of Springfield Road and Dunboyne Park. It also prohibited colour parties of any type, or flags, clothes, instruments, badges or emblems displayed which could be seen as associated with any paramilitary organisation. Undue stoppages or delays while the parade was in progress were also prohibited.

⁵⁹ Strictly speaking the main determination was for the No 9 District LOL parade, which the other parades joined.

104. Conditions were imposed on parade organisers to arrange for the presence of an adequate number of stewards to ensure that all parade participants acted in an orderly manner; and that all stewards and participants obeyed any direction given by the police.
105. The Parades Commission also issued determinations in respect of the Earl of Erne LOL 647 and the Ballysillan LOL 1891 parades. These prohibited those parades from passing between the junction of Woodvale gardens and Twaddell Avenue and the junction of Hesketh Road and Crumlin Road (i.e. past the Ardoyne shop fronts) on their return.
106. Notice of intention to organise a related protest meeting was received from the Springfield Residents Action Group. The location of the proposed protest meeting was the Springfield Road from the junction with Workman Avenue to the gates of the Invest Northern Ireland site. The Parades Commission made no determination in respect of this proposed protest meeting and ultimately the notice of protest was withdrawn.

Planning

107. We attended a number of the strategic and tactical planning meetings for the Whiterock parade on 10th September. We have also had access to all planning documents, including intelligence reports, briefings, risk assessments and tactical advice. No written legal advice was given, but the PSNI human rights legal adviser attended a number of meetings. A tactical adviser was also present at a number of the planning meetings.
108. North Belfast DCU held a Silver Command planning meeting on 5th September 2005. We attended this meeting. The PSNI human rights legal adviser also attended and gave advice about the Parades Commission determination. At that stage, it was anticipated that the parade organisers would be seeking a review of the determination from the Parades Commission. The tactical adviser was present, as were military personnel. Various scenarios and tactical options for the policing of the operation were discussed.

109. A Gold Command strategy meeting was held on 7th September 2005. We attended this meeting. The PSNI human rights legal adviser also attended this meeting and gave advice when required. The police intentions and policy in respect of policing public order events were set out. These included a commitment to protect and uphold the human rights of all individuals involved in the event, including the public, those living and working in the vicinity of the parade, protesters, police and military. The major areas of concern were identified. These were the potential for disorder at or near Workman Gate and the potential for disorder later as the two subsidiary parades returned past the Ardoyne area. Requests were made at this meeting for water cannon and AEP impact rounds to be deployed. These requests were based on the intelligence then available, the recent disorder in Belfast and as a tactical option to protect police officers.
110. West Belfast DCU also had information by 7th September that individuals seeking disorder may attend the parade on 10th September.
111. A request was made by the parade organisers at about 5pm on 7th September 2005, via ACC McCausland, for the Chief Constable to apply to the Secretary of State to review the determination. This was refused. It is clear at this stage that the parade organisers were concerned about serious violence erupting that they would be unable to contain. We have checked this with several of the individuals concerned.
112. Between 7th and 10th September, a series of protests were held to express resentment at the determinations of the Parades Commission relating to the proposed parade on 10th September. These took the form of roads blocks at Dunboyne Park and Springfield Road. The PSNI monitored these protests, warned protesters that they were committing criminal offences and gathered evidence.
113. West Belfast DCU held a Silver Command planning meeting on 8th September. The military attended this meeting, as did a PSNI tactical adviser. At the meeting, the tactical options for the operation were discussed, including the nature and scale of deployments and physical measures to be put in place.

114. North Belfast DCU also held a Silver Command planning meeting on 8th September at which the latest intelligence was presented and discussed. We have been given access to that intelligence. From that intelligence it was clear that, on any view, serious disorder and targeted attacks on the police and military were anticipated in the vicinity of the parade and elsewhere in Belfast on 10th September.
115. A further Gold Command meeting was held on 9th September. Intelligence reports were presented and discussed. Various tactics were discussed. It was clear by this time that the police were aware of the possibility that groups of individuals might attempt to come down the West Circular Road and gain access to Springfield Road during the afternoon of 10th September.
116. The main operational briefings were held on 9th and 11th September 2005. The Parades Commission determinations were outlined, along with the command and control structure for the operation and the operational phases. Policing intentions included respecting the human rights of all individuals, policing the parade in accordance with the Parades Commission determination, minimising disruption to local communities and bringing offenders before the courts. Unit commanders were reminded of the General Order relating to the use of AEP impact rounds and the threshold for justifying their use.
117. At 7.30pm on 9th September, ACC McCausland gave authority for water cannon to be made available and for AEP impact rounds to be issued on 10th September. This was based on the intelligence then available and to protect police officers and the public. Authority to deploy the water cannon and/or AEP impact rounds was delegated to Silver Command in North and West Belfast DCUs.
118. A request to the Parades Commission to review the determination was still outstanding, but was expected during the evening of 9th September. Sometime that evening, the police also became aware that the parade organisers planned to hold a rally at Woodvale Park at about 5pm on 10th September at which the Reverend Ian Paisley MP, MLA and Sir Reg Empey MLA would speak.
119. Meanwhile, further intelligence was received by the police reinforcing the view that serious disorder and targeted attacks on the police and military would occur on 10th

September. Overnight on 9th - 10th September, the PSNI received reports that JCB excavators were likely to be used against police and military lines on 10th September.

Events on the day

120. The reports that JCB excavators were likely to be used against police and military lines on 10th September were confirmed during the morning of 10th September. Specific advice was sought from the PSNI legal services department about the legality of the possible responses to this threat.
121. A mini-Gold meeting was held at 10am to review intelligence and deployments. Thereafter, intelligence and other information was received on a regular basis throughout the day and considered. This included intelligence and information about the location of bottles, petrol bombs, blast bombs and arms.
122. Workman Gate was sealed by 10.20am.
123. From around 1.20pm, North Belfast Silver Command log records lodges and bands proceeding to West Belfast Orange Hall on the Shankill Road to form up for the main No.9 District LOL Whiterock Parade.
124. A request was made at about 1.55pm for Fred Cobain MLA, the Reverend Hamilton, Frank McCoubrey and John MacVicker to accompany the parade onto the Springfield Road as observers when it reached that stage. Fred Cobain (as an elected representative) and Reverend Hamilton (as a local clergyman) were given permission.
125. About 2pm, various groups of individuals began to gather around Belfast. A group was seen in Lanark Way armed with stones; another group gathered in Albertbridge Road; and another in Donegall Pass.

Commencement of the main parade

126. At about 2.20pm, various roads were blocked by groups of individuals. The roads blocked included Westland Road, Upper Crumlin Road, Ligoniel Road and Sandy Row. At about the same time, the main parade moved off from the West Belfast

Orange Hall along the Shankill Road, down Ambleside Street, onto Agnes Street and back onto the Shankill Road.

127. Minutes later, a group of about 300-400 loyalist protesters started to move up the West Circular Road towards Springfield Road.
128. At about the same time, a group of about 150 people were seen heading from the City Hall towards the Grosvenor Road roundabout. By 2.30pm the Grosvenor Road roundabout was blocked. In addition, a group of about 200 were seen on Ballygomartin Road moving towards the West Circular Road and a group of about 500 were seen moving from East to South Belfast.
129. North Belfast Silver Command log records the parade passing the junction of Tennent Street and the Shankill Road at 2.59pm. At 3pm, the parade organisers made contact with the PSNI to report that they were no longer in control of the parade. This information was passed on to all Bronze commanders.
130. The main Whiterock parade turned into Ainsworth Avenue at about 3.05pm. The parade then proceeded past Woodvale Avenue. The head of the parade reached Workman Gate at about 3.15pm-3.20pm.
131. The North Belfast DCU Silver Command log records that a large number of persons with scarves around their faces and carrying bottles joined the head of the parade at Workman Gate at this time. West Belfast DCU Silver log also records that individuals in the parade were putting on masks at around this time. The North Belfast DCU Silver Command log records the parade's colour party approaching Workman Gate and a LOL Member knocking on the gate with a staff at 3.20pm. At 3.21pm, the parade's colour party and the individuals with it moved away from the gate. The main parade then proceeded up Workman Avenue. At 3.25pm, the head of the parade was recorded as approaching the back gates to the Invest Northern Ireland site. There was a sizeable crowd of parade supporters at the gates at this time.

The parade splits

132. What happened next is of some importance. The most detailed record is in an electronic contemporaneous log created by North Belfast DCU. It records that at 3.23pm the main parade was at Workman Avenue/Woodvale Avenue. It then records that at 3.25pm the head of the parade was approaching the gates of the Invest Northern Ireland site. At 3.26pm, the log records that some of the parade turned down Dhu Varren Parade. It is then recorded at 3.27pm that the “remainder of the parade is continuing up Woodvale Avenue”. The next entry, also at 3.27pm, records that “at this time none of the parade has gone into Mackies [Invest Northern Ireland site]”.
133. We have checked this using the available video footage. That clearly shows the head of the parade reaching the Workman Gate at about 3.20pm, and the parade then moving up towards the gates of the Invest Northern Ireland site. It then shows some of the parade turning into Dhu Varren Parade. That is at about 3.25pm. At 3.26pm, several lodges and bands can then be seen processing straight up Woodvale Avenue, past the gates of the Invest Northern Ireland site. We have studied this carefully and it is clear that these lodges and bands did not stop at the gates to the Invest Northern Ireland site at all and that, at this stage, there was not disorder at the gates (in fact, no-one had gone through the gates, or even attempted to at this stage). That group of lodges and bands then processed around Woodvale Park and eventually came down the West Circular Road towards the Springfield Road. We deal with this in detail below.
134. One lodge and one band then went through the gates into the Invest Northern Ireland site. The North Belfast DCU log then records that at 3.31pm a group of individuals tried to push through Workman Gate and were forced back by the police and army and missiles were thrown. This reference to Workman Gate must be an error because there were no police officers or army on the Workmen Avenue side of Workman Gate at that time. It must therefore be a reference to the gates of the Invest Northern Ireland site. We have checked this against the video evidence and against the other logs. The Gold Command log records an attempt by parade supporters to push through the gates of the Invest Northern Ireland site at 3.29pm and the video times this at 3.31pm (note: the logs and videos were not synchronised and therefore there are discrepancies of a few minutes in places).

When the group of individuals tried to push through the gates, the police responded first by using baton strikes to push the crowd back and then by shutting the gates to the site. This kept some lodges and bands outside the gates.

135. Negotiations then took place between parade organisers and the police, and the gates to the Invest Northern Ireland site were re-opened without any disorder at about 3.55pm. The lodges and bands that had remained outside the gate then proceeded into the Invest Northern Ireland site where they joined up with the band and lodge that had initially entered the site.
136. At the same time, LOL 974 remained at Workman Gate. At 3.56pm, the band accompanying LOL 974 played the *Sash*. Some individuals who appeared to be members of the lodge then climbed up Workman's Gate and held the LOL 974 banner up above the gate so that it was visible to those on the Springfield Road. Some of these individuals also shouted abuse at nationalist residents on the Springfield Road. At 3.58pm, lodge members attempted to force the Gate. At 4.02pm, nationalist stewards moved the nationalist crowd that had gathered on the Springfield Road back from the Gate. At 4.05pm, members of the lodge tried again to force the Gate. At 4.08pm, the Gate was reinforced by military and police land rovers on the Springfield Road. By around 4.11pm, the situation had calmed.⁶⁰
137. Inside the Invest Northern Ireland site, the lodges and bands formed up and then proceeded out onto the Springfield Road. This was at about 3.58pm. Having proceeded a short distance up Springfield Road, these lodges and bands stopped. Some bands continued to play music and some individuals marched on the spot. We have studied the logs and the videos relating to this and it appears that this stoppage was voluntary: there were no obstructions on the Springfield Road.
138. At about 4.21pm, military vehicles attempted to drive up Springfield Road through the lodges and bands. This caused several individuals within the lodges and bands to sit down on the road and block their passage. Unbeknown to those individuals, the military vehicles were attempting to provide support for a military roadblock at the junction of Springfield Parade and West Circular Road, which was trapped in a

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We understand from a number of those that we met that LOL 974 subsequently proceeded up Workman Avenue, around Woodvale Park and onto the West Circular Road.

particularly heavy and sustained attack during which numerous petrol bombs and other missiles were thrown: see below.

139. The video footage also clearly shows that the *Sash* was played several times while the group of lodges and bands were on Springfield Road (for example at 4.24pm and again at 4.26pm). It also clearly shows that a bannerette depicting Brian Robinson was being carried and displayed.
140. At about 4.40pm-4.50pm, the lodges and bands on the Springfield Road began to move again. By about 4.59pm, this parade had reached the roundabout at West Circular Road.
141. By about 5.05pm, all of the lodges and bands that had been on the Springfield Road had moved to West Circular Road roundabout and proceeded up to Dunboyne.

Meanwhile

142. Meanwhile, the lodges and bands that had not entered the Invest Northern Ireland Site had proceeded up Woodvale Avenue to Woodvale Road, along Ballygomartin Road and by 3.49pm were moving down the West Circular Road heading towards the Springfield Road. At 3.59pm, the Gold Command log recorded this group and its supporters approaching a police line that had been placed across the West Circular Road about 50 yards up from the Springfield Road roundabout to prevent the lodges, bands and supporters proceeding to the Springfield Road roundabout. It is difficult to estimate the number in the group as a whole, but it clearly comprised several hundred individuals.
143. We have examined the decision not to allow the parade to proceed down the West Circular Road. The reasons are recorded in the West Belfast DCU log. They were that to allow the parade to proceed would weaken police defensive lines, be in breach of the determination and potentially ignite sectarian violence on Springfield Road. The log shows that the police line was inserted at 4pm.
144. The lodges, bands and supporters halted about ten yards from the police line and the band continued to play. Some lodge members then walked up the pavements

on either side towards the police line. Several took off their sashes or turned them inside out. A sizeable number of individuals at the front of the crowd moved forward with them.

145. Several lodge members tried to go past the police line and the crowd came up to the police line. At 4.02pm, the video shows several individuals right up against the police line pushing against it. About this time at least one individual attempted to kick out at the police line. One officer then struck out at an individual who was pushing the police line with a baton. It cannot be seen from the video whether he made contact with the individual, but it seems likely. Immediately behind the person struck was another individual (not a lodge member) who immediately threw a missile (which looks like part of a brick) at the police from a range of about two metres. This individual was standing in the middle of the road in front of the bands. The crowd then moved back a few yards.
146. A further missile was thrown seconds later. The video shows the individual going to the left hand side of the police line, bending down, picking up a missile and throwing it, again from about 2-3 yards. Gold Command log tallies with this, recording the first attack on the police line on the West Circular Road at 4.02pm.
147. Several missiles were then thrown by a small group of supporters, who had positioned themselves in the gap between the lodges and bands and the police line. These missiles were stones, bricks or parts of paving stones. These individuals moved back and forth between the lodge members and bands and no one made any attempt to stop them. At about 4.04pm, the band then moved right up to the police line so that it was effectively in contact with the police line and continued to play. Several individuals began to mask up.
148. At about 4.05pm, a number of missiles were thrown at the police line from behind the band and lodges (i.e. over their heads). These came from individuals who were positioned in the road. In addition, a number of individuals at the front of the group continued to throw missiles at close range. These missiles included bricks, paving stones etc. The video footage of this scene clearly shows that on several occasions, several lodge members threw missiles at the police.

149. At that point, still 4.05pm, a lodge member carrying a ceremonial sword approached the police line with the sword held in front of him and jabbed it towards the police line. He did not make contact with any police officer and then retreated into the group.
150. A series of missiles were then thrown from several individuals, again including some who ran through the bands into the gap between them (the bands) and the police line. Lodge members and individuals who were standing in adjoining gardens also threw missiles. Again, these missiles included broken bricks and paving stones. No attempt was made at any stage to stop these missiles.
151. At about 4.07pm, an individual appeared in front of the police line carrying a large plank of wood about six feet long. On several occasions this individual brought the plank of wood down in a chopping action in an attempt to divide the police line. Missiles continued to be thrown at the police line. The police line moved forward and the individual retreated. At the same time, the West Belfast DCU log records that water cannon was moved up to the West Circular Road and positioned. At this stage missiles were still being thrown over the top of the bands/supporters. There is further video evidence of a lodge member throwing a missile at this point.
152. At about 4.08pm, more missiles were thrown including what appear from the video evidence to be parts of paving stones. The video evidence clearly shows a number of broken bricks and similar debris lying on the road.
153. Shortly thereafter, the PSNI responded by using water cannon. We have carefully checked the timing of this and it was at 4.08pm. At the same time, a request for the deployment of AEP impact rounds was made. The water cannon had the effect of moving the crowd back. At 4.10pm, use of the water cannon was halted. Thereupon a number of individuals used metal poles and other instruments to destroy a wall to provide missiles that were then thrown at the police line. Shortly thereafter the water cannon was used again.
154. Over the next few minutes, there was sporadic throwing of missiles and sporadic use of the water cannon. The first record of possible blast bombs was at 4.11pm, but there was no evidence of them at that stage. However, at 4.13pm the video clearly shows an individual preparing petrol bombs and, at 4.14pm, the video clearly

shows petrol bombs being lit and thrown at the police line. Further petrol bombs were thrown during the next few minutes.

155. At about 4.15pm, permission was given by West Belfast DCU Silver command to deploy AEP impact rounds on the West Circular Road. The reason given is the attack on police using petrol bombs. This is recorded in the Gold command log at 4.17pm and at about the same time a warning was given to the crowd that AEP impact rounds would be used.
156. At about the same time, a heavily disguised man approached the police line with a large chain and threw it at the officers in the front line. Missiles continued to be thrown at the police line. The first record of a blast bomb being thrown was at 4.19pm. It is recorded that this injured two police officers.
157. By about 4.21pm, a railing was placed across the road as a makeshift barrier. Within a minute or so, live fire can clearly be heard on the video followed by loud cheering from the crowd. As a result the water cannon was used again and the police retreated first behind the water cannon and then into 'hard cover' (i.e. behind or into their protected vehicles).
158. During this time, a military line across Springfield Parade had come under heavy attack from the large group of individuals on the West Circular Road. Numerous petrol bombs were thrown, along with bricks, broken paving stones, pieces of fencing and other missiles. Several military vehicles were on fire (at least in the sense that they were covered in petrol as a result of the petrol bombs, and this petrol was alight). The military could not withdraw because of concerns about the protection of nationalist homes on Springfield Parade. As noted above, attempts to provide support to this line were impeded by the sit down protest that had occurred in Springfield Road by this stage.
159. Over the next twenty minutes or so the police attempted to move up the West Circular Road towards the military line across Springfield Parade. As they did so, live fire was used against them on several occasions and blast bombs and other missiles were thrown at them. At least one bullet appears to have entered a police vehicle, causing damage to the interior. Another bullet entered the protective

clothing on a police officer's leg. Water cannon and AEP impact rounds were used in response. The instances of live fire are recorded at 4.21pm (as set out above) and again at 4.37pm and about 4.50pm.

160. On several occasions the police had to retreat into hardcover. This was usually as a result of live fire attacks, which appear from the video and from the logs to have come from the Highfield area.
161. At 4.55pm, the West Belfast DCU log records that blast bombs were being thrown at the police from Highfield Drive. From about this point, one suspected gunman could clearly be seen on the video.
162. At about 5.20pm, Silver Command in West and North Belfast were instructed to review their authority to use AEP impact rounds. In consultation with Gold Command, it was agreed that deployment was still justified.
163. At 5.23pm a masked gunman was seen in West Circular Road. Further shots were then fired at the police. The West Belfast DCU log records this as a volley of gunshots at police at 5.23pm. The location was some distance up the West Circular Road, at the furthest point that the police had pushed to at that stage.
164. As a result of this use of live fire, the police officers at this location again retreated into hard cover, leaving a line of vehicles, rather than individuals across the West Circular Road. There were gaps between the vehicles, and the video clearly shows a number of individuals, including what appear to be lodge members, using that opportunity to walk through the police line and down the West Circular Road towards the Springfield Road.
165. At about 5.30pm, some of the parade organisers met T/Superintendent Farrar on West Circular Road. We have heard various versions of this meeting and none of them correspond. However, all agree that the organisers requested that the police allow the parade (or at least part of the parade) to proceed down West Circular Road to Springfield Road and then to Dunboyne Park. This request was refused because there was on-going rioting on the West Circular Road. The West Belfast DCU log records that during these discussions, shots and blast bombs could be

heard, unexploded devices were lying on the road and an individual with gun shot wounds was walked through the police line. That live rounds were discharged at police while negotiations were taking place and that an injured man was walked through police lines at this same point was confirmed by several of those we met who had been negotiating with T/Superintendent Farrar.

166. The West Belfast DCU log records that, at about the same time, a blast bomb was thrown at the police line in the West Circular Road. It also records that ten shots were fired at the police at 5.31pm, followed by a second set of ten shots, followed by a blast bomb.

167. At 5.32pm, reports were received that a member of the public had been hit by a bullet on the West Circular Road. This is almost certainly a reference to the injured man who was walked through the police lines as outlined above.⁶¹ No one has suggested that the bullet that injured this man has been fired by the police (in fact, neither the police nor the military had used live fire at that stage). At 5.36pm, an individual with an automatic weapon was sighted on West Circular Road. An attempt was made to fire at the police line, but it appears that the gun jammed. Three minutes later, automatic gunfire was reported. Some of these shots appear to have hit a police vehicle.

168. At 5.35pm, an individual with a different gun was seen. When the police moved towards this individual in a vehicle, they came under attack by automatic gunfire at about 5.39pm, and again at about 5.42pm.

169. The West Belfast DCU log records that at 5.46pm, a blast bomb and about 30 petrol bombs were thrown at the police line. AEP impact rounds were then fired. Further AEP impact rounds were discharged at 5.49pm. At 5.53pm a casualty of a blast bomb was identified and later taken to hospital. Again no one has suggested that this individual was injured by the police and it seems likely that he was injured by a blast bomb.

170. The West Belfast DCU log records that permission for AEP use was reviewed at 6.11pm and continued for West Circular Road. The reason given was that petrol

⁶¹ See para. 165.

bombs were still being thrown at the police at that location. At about 6.12pm, more shots were recorded. At about the same time, the PSNI received notice that the main Whiterock parade intended to return to the West Belfast Orange Hall and attempt to disperse.

171. At 6.12pm, another four live rounds were recorded as being fired at the police, coming from the Highfield area. At 6.18pm, the West Belfast DCU log records more live fire. It records that the military returned fire. At 6.20pm further shots were fired at the police line. Video footage shows a gunman periodically firing at the police.
172. The West Belfast DCU log records further live fire at the police from what appeared to be the same gunman at 6.24pm. The police returned one round via a handgun and five rounds via a MP5. Another four rounds were then fired at the police.
173. The decision was taken at that stage by Gold Command that Highfields would have to be entered and the high ground occupied by the police. This was intended to prevent gunmen using the high ground to fire down at the police line. It was also intended to prevent petrol bombs and missiles being thrown by individuals who had climbed onto the roofs of the houses on the West Circular Road. There is clear video evidence of this. The operation to enter Highfields was carried out within the next twenty minutes or so. Later requests for the police to withdraw from the Highfields were refused for the reasons outlined above.
174. Over the next hour and a half, serious disorder continued on the West Circular Road. More petrol bombs and blast bombs were thrown at the police, and AEP impact rounds were discharged in response. In addition water cannon was used periodically.
175. The West Belfast DCU log records that permission to use water cannon was reviewed at 7.25pm and withdrawn because the area was calming down.
176. The West Belfast DCU log records that permission to issue AEP impact rounds was reviewed at 7.28pm and withdrawn because the area was calming down.

177. In total, 93 AEP impact rounds were recorded as having been discharged by police at identified rioters on and around the West Circular Road on the day and night of 10th September 2005.
178. The water cannon left the West Circular Road at about 9pm and were re-deployed to East Belfast. A large unexploded firework on the West Circular Road was removed at 9.10pm and four pipe bombs were removed at 9.25pm.
179. At 9.06pm, firearms and blast bombs were recovered at an address in Highfield Gardens and removed. At about 9.30pm, several handguns were also recovered from an address in Highfield Gardens.
180. At 2am, 40-50 petrol bombs were recovered from a location in Highfield Drive. Just before that, spent cases had been found in West Circular Road.

Disorder at Hesketh

181. At 2.37pm, several individuals carrying placards came out of Hesketh Road. At 2.39pm, they blocked the Crumlin Road at the junction with Hesketh Road. The North Belfast Silver Command log records that a public order warning was given to these individuals blocking the road.
182. By 3.27pm, the group blocking the Crumlin Road at Hesketh had grown to about 20 people. The police were present in vehicles. At about 3.45pm, the North Belfast Silver Command log records that a crowd had gathered further down the Crumlin Road at the Ardoyne shop fronts.
183. The crowd at Hesketh grew to about 50 people by about 4pm. A small barrier was put on the road by the crowd. By 4.18pm, the crowd had grown to about 100 and included a substantial number of men with hoods and baseball caps. At 4.29pm, the North Belfast Silver Command log records that the crowd had grown to 150. Some women and children left the crowd at this time.
184. At 4.36pm, a number of men with their faces covered by scarves appeared on the Crumlin Road. At 4.40pm, a hijacked vehicle was driven out of Hesketh Road onto the Crumlin Road. The three men in the vehicle got out and swiftly moved away

from the vehicle. The North Belfast Silver Command log records that the police units in the area were instructed to get into hard cover. A missile was thrown at police vehicles on the Crumlin Road. A petrol bomb was then thrown at the hijacked vehicle, setting it alight. At 4.41pm, missiles and petrol bombs were thrown at the police in a sustained attack by individuals coming out of Hesketh Road.

185. The North Belfast Silver Command log also recorded a large crowd maintaining a presence at the Ardoyne shop fronts.

186. At 4.42pm, the hijacked vehicle was still burning on the Crumlin Road at the junction with Hesketh Road and missiles were still being thrown at police lines. Information about the possibility of blast bombs being used had been received and at 4.43pm, the North Belfast Silver Commander granted permission for AEP impact rounds to be deployed. At 4.45 and 4.46pm, the North Belfast Silver Command log records AEP impact rounds fired at the Crumlin Road/Hesketh Road area. At 4.49pm, the situation at the Hesketh Road/Crumlin Road junction was calming. At 4.55pm, three hijacked vehicles had been abandoned further down the Hesketh Road towards the Ardoyne Road, close to the army block on the Ardoyne Road. One vehicle had been set alight and was burning. At 5.01pm, two men approached another of the vehicles and set it alight. At 5.03pm, the third hijacked car was set alight.

187. At 5.06pm, the North Belfast Silver Command log records that a further AEP impact round was fired at Crumlin Road/Hesketh Road junction. At 5.07pm, another hijacked vehicle was driven onto the Hesketh Road and set alight by individuals who had gathered on the road.

188. At 5.10pm, the North Belfast Silver Command log records that nationalists were stoning across the Everton complex onto the Crumlin Road.

189. At 5.14pm there were about 40 men remaining at the junction of Hesketh Rd and Crumlin Road. At 5.21pm, the North Belfast Silver Command log records that police units had secured the Hesketh Road.

190. Things then calmed down. At 6.23pm, North Belfast Silver Command log records Bronze Command reporting that the Crumlin Road/Hesketh Road area was relatively clear and that Silver Command should consider opening the Crumlin Road fairly soon.
191. At 6.41pm, the North Belfast Silver Command log records that the Police Ombudsman had been informed about the firing of AEP impact rounds in the Crumlin Road/Hesketh Road area. At 6.43pm, authority to deploy AEP impact rounds at this location was reviewed and withdrawn. In total, between about 4.45pm and 6.43pm, three AEP impact rounds were recorded as having been discharged in and around the Hesketh Road/Crumlin Road junction.

Disorder in the Shankill

192. Serious disorder broke out in and around the Shankill Road during the evening of 10th September. Various vehicles were hijacked, set alight and used as barricades in the road between the junctions of Shankill Road and Agnes Street and the junction of Shankill Road and Tennent Street. Shops were also set alight and some looting took place. For about three hours (between about 8pm and 11pm), the police and the military were subjected to sustained attacks during which blast bombs, petrol bombs and many other missiles were thrown at them by individuals in a crowd that swelled at some stages to about 500 individuals.
193. The first reports of disorder were shortly before 7pm, when cars were hijacked in Shankill Road area. By 7.50pm, many of these had been set alight and shortly after that, shops were set alight. When the police arrived to deal with this disorder, they were attacked.
194. Water cannon arrived at about 8.09pm and was initially deployed to put out the fires in the shops. The fire service had been contacted but was unwilling to attend because of the threat of serious injury or death to their fire fighters. The North Belfast Silver Command log records the first blast bomb thrown in this vicinity at 8.12pm.
195. Various missiles were thrown at the police at the junction of Agnes Street at about 8.19pm and water cannon was used to keep the crowd back at about 8.22pm. At

8.25pm an urgent request for authority to deploy AEP impact rounds was made and granted. Warnings about the use of AEP impact rounds were given and they were then used at about 8.28pm.

196. The North Belfast DCU Silver log records a group of individuals advancing towards the police at 8.31pm and that petrol bombs were thrown. AEP impact rounds were discharged at 8.32pm, 8.33pm and 8.39pm. The Silver Command log recorded that the Police Ombudsman was informed at 8.41pm of the firing of AEP impact rounds at this location.
197. It appears that a BBC camera man was dragged into the crowd at about 8.50pm and his camera taken. Later reports suggest that he was uninjured, but that possibly another camera man was injured. There are no further details recorded.
198. Further AEP impact rounds were fired on the Shankill Road at 9.01pm, 9.02pm and 9.03pm. At 9.04pm a large firework was fired at the police in the vicinity of Agnes Street and Shankill Road and officers were instructed to take hard cover. Further AEP impact rounds were fired at 9.09pm and 9.11pm. Further petrol bombs were thrown at 9.14pm.
199. The North Belfast DCU Silver log records that five rounds from an automatic gun were fired at police on the Shankill Road at around 9.15pm. This is also recorded in the Bronze Command journal. Further live rounds were anticipated and the police had to retreat into hard cover and pull back. Two large explosions were recorded at 9.24pm and 9.26pm. Further AEP impact rounds were discharged at 9.25pm.
200. At 9.31pm there were reports of several individuals putting on masks in the Shankill Road. Overhead video surveillance indicated a group of individuals making petrol bombs at 9.34pm. The police were then attacked at Crimea Street at 9.41pm and petrol bombs were thrown at 9.44pm. AEP impact rounds and water cannon were discharged at 9.47pm.
201. Burning vehicles remained on the Shankill Road at various junctions during this time. These restricted the ability of the police and military to move and deal with the disorder.

202. At about 9.51pm another group (of approximately 300 individuals) gathered on Crimea Street. This group threw missiles and petrol bombs at police. Further AEP impact rounds were discharged at 9.52pm and 9.58pm following a further warning. Further blast bombs were thrown at 10.03pm.
203. At about 10.30pm, a crowd of about 200 began to block the Shankill Road. This started with further hijackings shortly beforehand. At about 11pm individuals on the Shankill Road then broke into various shops, looted them and then set fire to them. Again the fire brigade were unwilling to attend because of the threat of serious injury or death to fire fighters.
204. A decision was taken at this stage to clear the Shankill Road in a joint police/military operation. This involved the use of heavy mobile lifting equipment to move obstacles in the road, with police vehicles and officers on foot following. This operation commenced at about 11.22pm. Occasional missiles, including some petrol bombs, were thrown at the police and military during this operation. Water cannon and AEP impact rounds were used in response.
205. At 11.35pm, several police officers arrested an individual on the Shankill Road who appeared to be kicking steel barrels into the road. They approached him at speed and one of them struck the individual on the legs with a baton. He was then taken away.
206. The North Belfast Silver Command log records that the Shankill Road was cleared by about 12.30am on 11th September. In total, 41 AEP impact rounds were recorded as having been discharged in North Belfast during the day and night of 10th September.

Disorder in East Belfast

207. The police had anticipated that some form of an un-notified parade might take place in East Belfast on 10th September. Any such parade would clearly have to be unlawful under the Public Processions (Northern Ireland) Act 1998.

208. At about 2.30pm, a group of about 200 individuals was seen walking up both pavements and the central reservation of the Albertbridge Road. Sporadic violence broke out, but was largely contained.
209. Between about 4.40pm and 5.30pm, there was further sporadic violence, predominantly in the form of stoning of passing cars and minor altercations. This was in the vicinity of Short Strand, Albertbridge Road and Castlereagh Street. It was largely contained by the police and military.
210. However, things deteriorated at about 7.00pm when a crowd of about 200 began to engage in more serious disorder in the Castlereagh Street area. The East Belfast DCU log records that petrol bombs were thrown at the police at about that time and the deployment of AEP impact rounds was authorised. Water cannon had been requested, but was unavailable because it was being used in response to serious disorder in West Belfast: see above.
211. The authority to deploy AEP impact rounds was reviewed fairly quickly (at 7.07pm) and continued because blast bombs were by then being thrown at the police. Further blast bomb attacks were recorded at 7.19pm in Castlereagh Street and at 7.20pm in Frank Street.
212. A further review of the authority to deploy AEP impact rounds took place at 7.44pm. Authority was again extended because of persisting violence in the vicinity of Frank Street and Albertbridge Road.
213. At about 7.45pm, authority was further extended to allow the police to advance and recover blast bombs lying in the road.
214. At 8.20pm, authority to deploy AEP impact rounds was again reviewed and again extended. The East Belfast DCU log records that petrol bombs were still being thrown at the police at that stage and that unexploded pipe bombs on the ground posed a threat to life.
215. At about 9.05pm, authority to deploy AEP impact rounds was reviewed. It was extended because petrol bombs were still being thrown at the police in Lord Street.

Things did not improve and, at about 9.57pm, the East Belfast DCU log records that a crowd of about 200 individuals was still on the streets throwing petrol bombs and other missiles at the police.

216. Water cannon was available by this time and was used from about 9.40pm onwards. The East Belfast DCU log records that live fire was discharged at the police at about 9.56pm.

217. Rioting continued in Lord Street and authority to deploy AEP impact rounds was extended at 10.29pm. The East Belfast DCU log records that petrol bombs, masonry and other missiles were still being thrown at the police.

218. By 11.45pm, the disorder was continuing, but by now it was in Albertbridge Road. Water cannon was used because of a serious threat to police officers who were on foot. Authority to deploy AEP impact rounds was extended at this time and again at 1.10 am the next morning.

219. The Gold Command log records that shortly after midnight, a mechanical excavator was driven out of Lord Street, and then ignited. The East Belfast DCU log records that 200 individuals were still in the vicinity at that time.

220. Authority to deploy AEP impact rounds was withdrawn at 1.58am when, it is recorded, an immediate risk of serious injury no longer persisted. In total, 73 AEP impact rounds were recorded as having been discharged in East Belfast during the day and night of 10th September.

Disorder during the next few days

221. Disorder in and around Belfast continued during the next few days. The Gold Command log records serious disorder from 11th September through to 14th September. Thereafter there were sporadic outbursts of disorder, but on a much more limited scale and by Saturday 17th September things had quietened down considerably.

222. It is beyond the scope of this report to consider whether the policing of this continuing disorder complied with the requirements of the Human Rights Act

1998.⁶² Moreover, unlike the policing of the Whiterock Parade and the disorder that followed on 10th – 11th September, we did not personally witness the policing of the continuing disorder from 11th – 17th September and therefore cannot make any first hand assessment of it.

223. However, it is important to note that serious disorder occurred during the evening of Sunday 11th September, which included the throwing of petrol bombs and other missiles at the police and military, the discharge of live rounds at the police and military and the burning of shops and other premises. New Barnsley police station was attacked several times and, in Albertbridge Road, a JCB excavator was used to demolish lampposts, traffic lights and to ram the ATM machine at the garage on the Albertbridge Road. In response the police discharged AEP impact rounds and used water cannon. In addition, the military discharged two live rounds when confronted by an individual firing a crossbow at them at Broadway.
224. Further serious disorder continued on Monday 12th, Tuesday 13th and Wednesday 14th September. During this period, further live rounds were fired at the police, petrol bombs, fire bombs and other missiles were thrown and scores of vehicles were hijacked, set alight and used as barricades in the streets. Again the AEP impact rounds and water cannon were used in response. During this period, several arrests were made and weapons, including guns, bomb making equipment and a crossbow, were recovered. In total, 42 AEP impact rounds were recorded as having been discharged across Belfast during 11th – 13th September 2005.

Findings

225. We have carefully considered the strategic, tactical and operational planning of the policing operation for the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September this year. As we have already outlined, we attended most of the planning meetings at all levels and observed the events and decision-making from the Silver Command room on the 25th June and from the Gold Command room on 10th September. In our view, the strategic, tactical and operational planning of the policing operation was careful and considered. The

⁶²

We have been tasked to monitor implementation of the pre-planned policing operation of certain parades rather than the more general police response to ad-hoc violence following those parades.

rights of paraders and supporters, protesters, residents, police officers and the military were taken into account.

226. We have already recorded the very high levels of violence and disorder that broke out during and after the postponed Whiterock parade on 10th September this year. During the weekend of 10th – 11th September 2005, at least 150 live rounds were fired at the police and military and hundreds of blast bombs and petrol bombs were thrown, along with various other missiles, including broken paving stones, bricks and bottles. The police and military responded with live fire (the PSNI fired six live rounds; the military five), AEP impact rounds (the PSNI discharged 238 AEP impact rounds; the military 140) and used water cannon extensively. As we have already noted, that no one was killed and that there were so few serious injuries to police officers, the military or members of the public is remarkable.

227. During the course of the day on 10th September and into the evening and night of 10th - 11th September difficult decisions had to be taken very rapidly at all levels of police command.

228. While we did not witness every incident ourselves, from our vantage point in the Gold Command room we were able to observe several sites of disorder in live time, to hear all verbal communication coming into and out of the Gold Command room in live time, and to watch decisions being made and implemented in live time as matters developed. No attempt was made to conceal any aspect of the decision-making process from us. It is therefore important that we record that we did not personally see or hear anything that we considered to have been a breach of the Human Rights Act 1998. A number of matters have subsequently been brought to our attention and we deal with them below. But the significance of this first finding cannot be over-stated, nor can the fact that without the unlimited access that the PSNI has allowed us to the decision-making process at all steps and at all levels, this finding could not have been made. We commend this approach and our first recommendation therefore is that the PSNI continue to allow the Policing Board's human rights advisors the same level of access to its decision-making processes in relation to public order police operations to enable effective monitoring of its performance in complying with the Human Rights Act 1998 to carry on.

229. Before dealing with the specific incidents on 10th and 11th September, we should deal with a number of issues that have been raised with us about consultation between the police and interested parties in the run up to the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September. As we have noted above, the precise details and nature of these consultations is highly controversial. However, effective consultation between the police and interested parties is very important and all those involved need to have a clear understanding of the purpose and limits of the exercise.
230. As we noted in our report on the policing of the Ardoyne Parades last year,⁶³ the Public Processions (Northern Ireland) Act 1998 places a duty on the Parades Commission to take key decisions affecting the human rights of those wishing to parade and those who live in the vicinity of those parades and to make determinations (in relation to both parades and protests) accordingly. In respect of those decisions, no criticism can properly be levelled at the police for policing the determinations, even if some individuals or groups may consider the determinations in question to be wrong.
231. As we have already noted, a number of individuals and groups have expressed to us their frustration about the consultation process and we recognise the depth of their feelings on this issue. But, in our view, it is clear that where consultations between interested parties themselves break down, or one or more interested parties decline to engage directly with the Parades Commission, expectations about the role of the police in the consultation process can be unrealistic. It is beyond our remit to make recommendations about interested parties or the Parades Commission. Our remit is to consider the conduct of the PSNI and make appropriate recommendations about the PSNI. Against that background, we recommend that the PSNI should review its own procedures and guidelines relating to its consultation with interested parties in respect of contentious parades and seek to establish a protocol with the Parades Commission about the purpose and limits of the consultation process. That way, we hope, there can be clarity even if there is not agreement.

⁶³

A Report on the Policing of the Ardoyne Parades 12 July 2004, op cit. at note 3 above.

232. On a related issue, a number of individuals have raised with us questions of consultation, planning and decision-making where a parade passes through different DCUs: here, North Belfast DCU and West Belfast DCU. Keeping firmly in mind the ambit of this report, which is concerned with human rights compliance not operational matters as such, we say very little about this. As we have already indicated, we did not observe anything in the planning and implementation of the policing operation on 10th and 11th September that we considered to have been a breach of the Human Rights Act 1998 and that observation applies to the planning and implementation of the policing operation in both North and West Belfast DCU. However, the potential for difficulties to arise is obvious and we recommend that the PSNI should review the planning and implementation of the policing operation for the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September and consider whether any further guidance is needed for dealing with parades that pass through different command units.

233. Turning to the specific incidents on 10th and 11th September this year, the sheer scale of the disorder precludes us from making findings in respect of every use of force by the PSNI and, in any event, it would be inappropriate for us to do so since all discharges of live fire and AEP impact rounds by the PSNI are automatically referred to the Police Ombudsman for investigation. In due course, we will refer to all of the Police Ombudsman's findings as part of our ongoing work monitoring the performance of the PSNI in complying with the Human Rights Act. For the purposes of this report, we seek only to make general findings on the use of force by the police during the operation. Our remit is to consider whether, overall, the use of force complied with the requirements of the Human Rights Act. Any specific complaints about the use of force fall within the jurisdiction of the Police Ombudsman.

234. However, we are able to make a number of findings of a general nature.

235. Our first finding is that, in our view, there were a number of breaches of the determinations issued by the Parades Commission, in particular:

- (a) instead of entering the Invest Northern Ireland site, a number of lodges and bands processed up Woodvale Avenue, Woodvale Road, Ballygomartin

Road and round to West Circular Road towards the roundabout with the Springfield Road;

- (b) the lodges and bands that proceeded through to the Invest Northern Ireland site, and onto the Springfield Road, stopped on the Springfield Road when there was no obstruction causing them to do so; several lodge and band members sat down; and,
- (c) the *Sash* was played and a bannerette of Brian Robinson was displayed in the Invest Northern Ireland site and on the Springfield Road.

236. We have no jurisdiction to consider or comment on whether any specific individuals committed criminal offences in respect of what we consider to be breaches of the determinations, nor do we seek to do so. But, our general findings about these breaches are important because the police are under an obligation to police the determinations. How the PSNI responds to any alleged breaches is significant and clearly falls within the ambit of this report.

237. We have set out a detailed chronology of what happened when the parade got to the gates of the Invest Northern Ireland site. Several lodges and bands processed straight up Woodvale Avenue, past the gates, onto Woodvale Road and Ballygomartin Road, before eventually coming down the West Circular Road towards the Springfield Road. Having studied the video footage very carefully, we have seen nothing to justify this and, in our view, the decision by West Belfast Command to treat the lodges and bands who processed this route as an unlawful parade cannot be faulted. The road block put across the West Circular Road at about 4pm to prevent this group of individuals and others who had joined them proceeding any further towards the Springfield Road did not breach the right of the lodges and bands to freedom of expression or freedom of assembly under Articles 10 or 11 of the European Convention on Human Rights.

238. As we have noted, the other lodges and bands did enter the Invest Northern Ireland site and eventually made their way onto the Springfield Road. Although there is general agreement that there was a short episode of violence at the gates of the Invest Northern Ireland site which caused the gates to be closed for twenty minutes

or so, there are conflicting accounts about the cause of this disorder. The PSNI logs at all levels, Gold, Silver and Bronze, record that a group of supporters tried to rush through the gates in breach of the determination, and that is our clear record of events. However, some of those we have consulted have suggested to us that maybe one or two women tried to enter the Invest Northern Ireland site and on doing so were struck by police officers with batons, precipitating the disorder. We have checked the available video footage but can find no evidence to support this allegation. Obviously it is possible that this incident, if it happened, was not captured on the video footage. But equally, it is obvious that we cannot make any finding regarding the matter in the absence of any corroboration supporting the allegation. It seems to us that if the matter has not already been referred to the Police Ombudsman, it should be referred as soon as possible. On the evidence that we have seen, the use of force at the gates of Invest Northern Ireland site and the closing of the gates at about 3.30pm was justified and proportionate.

239. The stopping of the bands and lodges on the Springfield Road is more straightforward. As we have noted, we saw no reason for this stoppage and no-one has suggested one to us.
240. Equally, the playing of the *Sash* and the display of a Brian Robinson bannerette on the Springfield Road are straightforward. The determination of the Parades Commission prohibited both of these activities and we recommend that the PSNI evidence gathering exercise should be completed as soon as possible and such evidence as there is of these activities, and the stoppage on Springfield Road, should be passed to the Public Prosecution Service for a decision to be taken as to whether any individuals should be prosecuted.
241. A number of individuals have raised with us the question of why the PSNI allowed military vehicles to attempt to pass through the lodges and bands on the Springfield Road while they were stopped. The reason is clear, but may not have been known to the individuals on the Springfield Road at the time. As we have set out above, a military road block across Springfield Parade was being subjected to a sustained petrol bomb attack at the time and urgently needed support. That support could only be provided from behind, i.e. from Springfield Parade.

242. In our consultations it was suggested that, in two separate incidents, the police allowed a police dog to bite an individual lodge or band member on Springfield Road and that the police struck an individual with a baton. As with the allegation that two women were struck with batons at the gates to the Invest Northern Ireland site, we have reviewed the available video footage but can find no evidence to support these allegations. Again, obviously it is possible that these incidents, if they happened, were not captured on the video footage, but equally it is obvious that we cannot make any finding about them in the absence of any corroboration supporting the allegations. Again, it seems to us that if these matters have not already been referred to the Police Ombudsman, they should be referred as soon as possible.

243. We now turn to the violence on the West Circular Road. We have carefully set out a detailed chronology of events above, which we have re-checked against the logs, the video footage and our own recollections. Any suggestion that the PSNI used water cannon before the police line was attacked with bricks, broken paving stones and other missiles between about 4.00pm and 4.08pm on 10th September is unsustainable. The sequence of events is clear. The first missiles were thrown at the police at about 4.02pm. Further missiles were then thrown between 4.02pm and 4.08pm. These included bricks, broken paving stones and other missiles. Some of these were thrown by lodge members and most were thrown from the road way (i.e. not from adjoining gardens – at that stage). The water cannon was not moved into position until 4.07pm and was not used until 4.08pm. Having studied the logs and videos carefully, we are satisfied that the use of water cannon at this stage was within the PSNI *Water Cannon Policy* and compliant with the Human Rights Act 1998.

244. The immediate sequence of events thereafter is also reasonably clear. Petrol bombs were made and thrown at the police from about 4.13 / 4.14pm. Authority to deploy AEP impact rounds was given at 4.15pm and the crowd were warned before they were used. The first record of a blast bomb was at 4.19pm and by 4.21pm live fire had been discharged at the police line. Against that background, we are satisfied that the issue, deployment and use of AEP impact rounds was within the PSNI *AEP Impact Rounds Policy* and compliant with the Human Rights Act 1998.

245. As set out above, over the next three to four hours there was very serious disorder on the West Circular Road. And as we have already noted, the sheer scale of the disorder precludes us from making findings in respect of every use of force by the PSNI and, in any event, it would be inappropriate for us to do so since all discharges of live fire and AEP impact rounds are automatically referred to the Police Ombudsman for investigation.
246. A number of issues regarding individual incidents of use of force by police officers have been raised with us. Having considered the matter very carefully, we consider that to make findings in respect of individual incidents when force was used by the PSNI would go beyond our remit and might trespass on the work of the Police Ombudsman.
247. However, we should record that we have seen no evidence to suggest that the policing on the West Circular Road was heavy handed. And although some of those that we consulted did allege that the PSNI used unlawful force on several occasions, no evidence to support these allegations has been provided to us.
248. Our general finding about the use of force by the PSNI on the West Circular Road, including the use of live fire and AEP impact rounds is that it was proportionate and compliant with the Human Rights Act 1998. The sustained attack on the police and the military was serious, life threatening and cannot be justified.
249. We have adopted the same approach to the use of force at Hesketh and in and around the Shankill Road in North Belfast and at certain locations in East Belfast. Hopefully our detailed chronology will enable those reading this report to form their own conclusions about the use of force by the PSNI in response to the disorder in each of those two areas. Our general finding about the use of force by the PSNI in each of those areas is that it was proportionate and compliant with the Human Rights Act 1998.
250. However, we do have two specific concerns. First the arrest at about 11.35pm of an individual who appeared to be kicking barrels into the road in the Shankill area. This is captured on video and shows police officers approaching the individual at speed and one police officer striking him on the legs with a baton. In our view, the footage

of this incident should be studied by the Chief Constable as soon as possible and appropriate action taken if necessary.

251. Our second concern relates to some footage on a video/DVD provided, we understand, by the Shankill Mirror which appears to show an individual being struck and kicked by police officers. No date, time or location is given for this footage and its origin needs to be carefully checked. Nonetheless, we consider that the footage of this incident should also be studied by the Chief Constable as soon as possible and appropriate action taken if necessary.

252. Finally, we make the following observation. We have studied all the logs and other records kept by the PSNI in relation to the planning and implementation of the policing operation for the postponed Whiterock parade on 10th September. We have watched many hours of video footage. We have also listened to numerous accounts of events, many of which conflict – the clearest example being the question of what happened in the West Circular Road on 10th September between about 4.00pm and 4.30pm. In our view, the PSNI should consider whether to make some of the video footage publicly available, if necessary with pixilation to conceal identities, so that all those with an interest in the event can study this footage and form their own view about the events in question.

253. For completeness, it should be noted that to date 52 individuals have been arrested in connection with the serious violence that occurred throughout Belfast during the weekend of 10th – 11th September 2005, with 39 individuals formally charged following these arrests. Police investigations are continuing.

F. RECOMMENDATIONS ARISING FROM THE WHITEROCK PARADE

Recommendation 1: The PSNI should continue to allow the Policing Board's human rights advisors the same level of access to its decision-making processes in relation to public order police operations to enable effective monitoring of its performance in complying with the Human Rights Act 1998 to carry on.

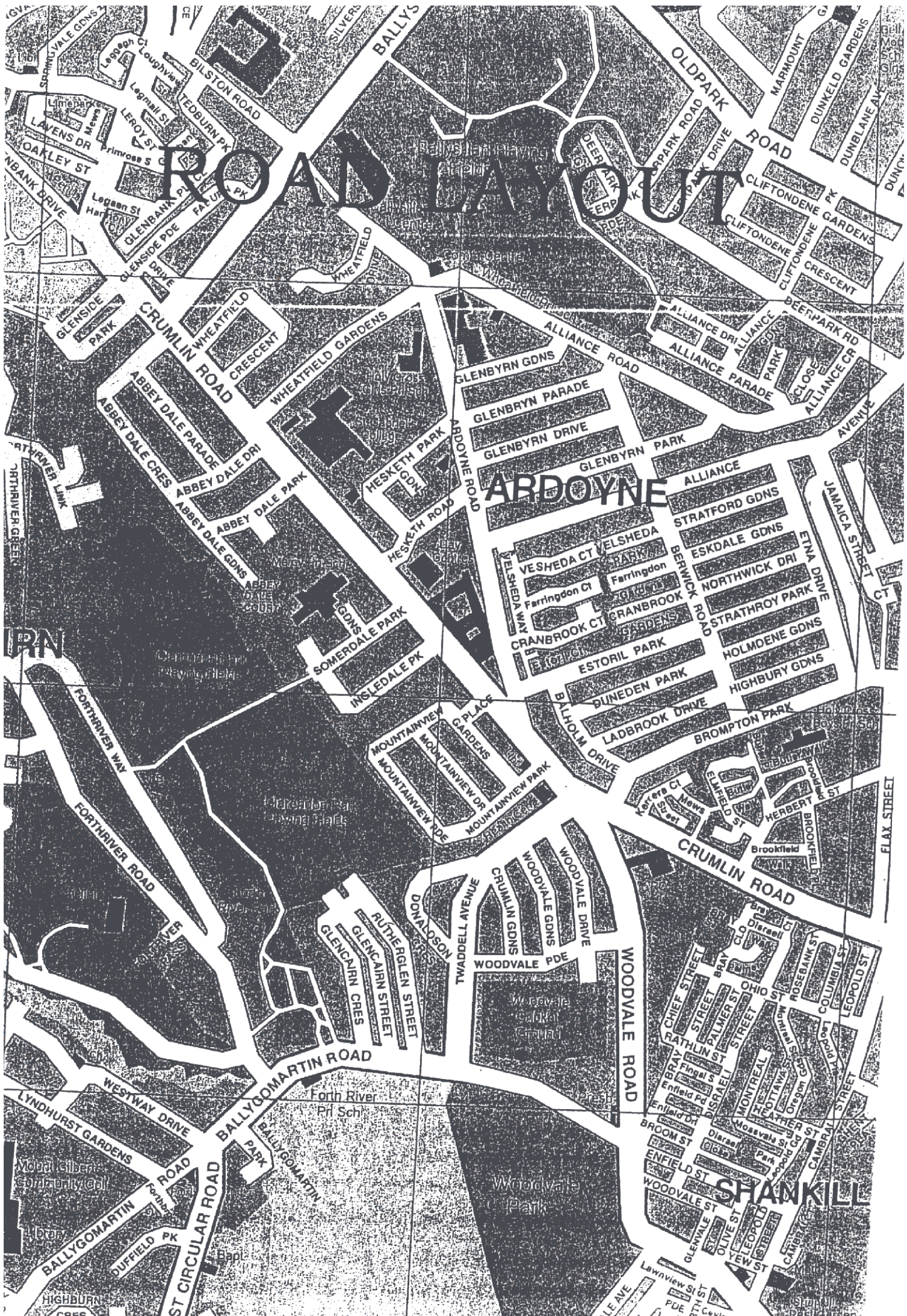
Recommendation 2: The PSNI should review its own procedures and guidelines relating to its consultation with interested parties in respect of contentious parades and seek to establish a protocol with the Parades Commission about the purpose and limits of the consultation process.

Recommendation 3: The PSNI should review the planning and implementation of the policing operation for the planned Whiterock parade on 25th June and the postponed Whiterock parade on 10th September and consider whether any further guidance is needed for dealing with parades that pass through different command units.

Recommendation 4: The footage of the incident where the individual who appeared to be kicking barrels into the road in the Shankill area was approached by police officers at speed and struck on the legs with a baton by one of the police officers should be studied by the Chief Constable as soon as possible and appropriate action taken if necessary.

Recommendation 5: The footage on the video/DVD provided by the Shankill Mirror which appears to show an individual being struck and kicked by police officers should be studied by the Chief Constable as soon as possible and appropriate action taken if necessary.

Recommendation 6: The PSNI should consider whether to make some of the video footage publicly available, if necessary with pixilation to conceal identities, so that all those with an interest in the event can study this footage and form their own view about the events in question.



ROAD LAYOUT

ARDOYNE

SHANKILL

IRN

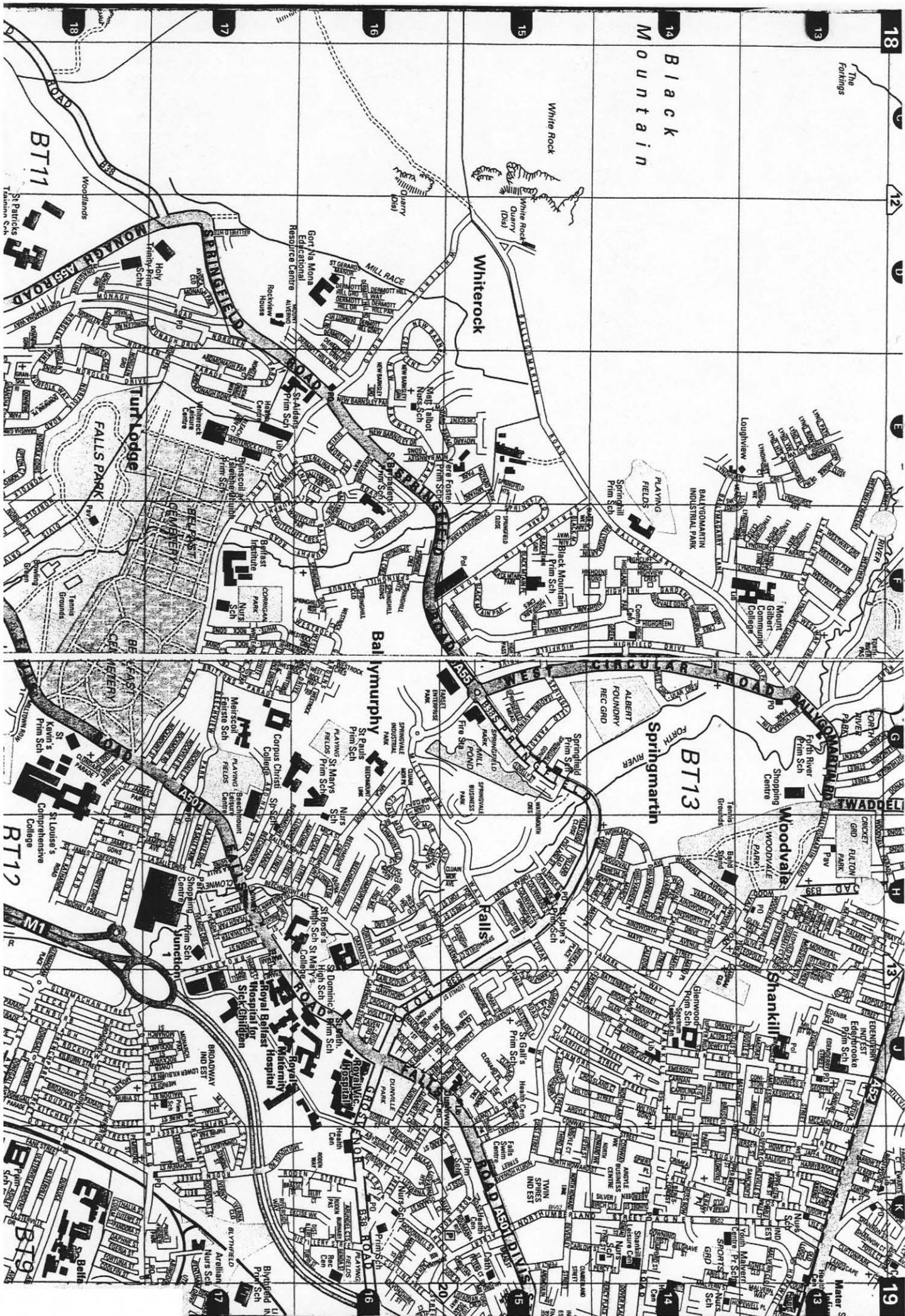
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Park

Woodvale
Community Cal

Lawnview St
PUE
5TH
Cayn

5TH
Cayn





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