REPORT OF THE INQUIRY INTO THE EVENTS LEADING TO THE DEATH OF PC GERALD WALKER AT THE HANDS OF DAVID PARFITT AND THE MANNER IN WHICH THE CASE WAS SUBSEQUENTLY DEALT WITH

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Introduction

On 7 January 2003, in Bulwell, Nottingham, an incident which began as a routine police patrol operation ended in tragedy. A car reported stolen was followed by a police car patrol. It eventually stopped. One occupant of the stolen car fled the scene. A police search of the area was undertaken. The fugitive suddenly emerged, took another vehicle and drove off. A police dog handler, Police Constable (PC) Gerald Walker, attempted to stop him. PC Walker was dragged by the speeding vehicle, fell from it and sustained head injuries from which he subsequently died. The following day the fugitive, David Parfitt, was arrested. He was already serving a two year sentence of imprisonment for robbery, from which he had been released on home detention curfew (HDC) in September 2002. He had also been subject to a drug testing requirement, with which he had not complied. His licence had been revoked and he was listed as wanted on the Police National Computer (PNC).

On 11 December 2003 Parfitt was found guilty of the manslaughter of PC Walker. In the meantime Mrs Tracy Walker, the widow of PC Walker, having learned something of Parfitt's antecedents, early release and failure to comply with the terms of his licence, complained through her solicitor about the failings of the penal system. Following Parfitt's conviction and sentence Hazel Blears and Paul Goggins, Home Office Ministers for the police and probation and prisons respectively, requested that an inquiry be undertaken with the following terms of reference:

> 'To inquire, in the light of Mrs Tracy Walker's complaint of 7 August 2003, into the actions of the Prison Service, Nottinghamshire Probation Area and Nottinghamshire Police, in relation to the events which culminated in, and followed the death of PC Gerald Walker in January 2003 at the hands of Mr David Parfitt. In particular to inquire into any relevant policies and procedures relating to the issue of automatic conditional release licences, their supervision and revocation, and related issues of criminal justice inter-agency working and communication.'

What follows is my inquiry report.

Mr Mick Creedon, Assistant Chief Constable, Derbyshire Constabulary, was appointed to assist me in my task. Together we met with Mrs Walker on 12 December 2003. Mrs Walker explained with great dignity that she wished any lessons resulting from our investigation to be learned from so that the likelihood of others suffering the tragedy that she had suffered would be reduced. We assured Mrs Walker that she would be kept informed about the progress of the inquiry throughout the course of it. Though we would not divulge information until our inquiries were complete, she would have sight of the final report prior to its publication, an outcome to which Ministers were committed. We kept her informed.

Between 12 December 2003 and 3 March 2004 I, or members of my team read the various written and electronic records relating to Parfitt's imprisonment in 2001/2002, his release and supervision subsequent to release, the actions of the police leading up to his arrest, and the correspondence and notes of meetings between Mrs Walker, the Police, the Probation Service and the Home Office during 2003. In addition we interviewed most of the persons who played a leading role in those events. I would like to thank them for their cooperation. It should be emphasised that this was not a statutory inquiry. Nor was it a criminal or disciplinary investigation. It follows that I

had no formal powers at my command and none of the persons with whom I or my colleagues met were obliged to be interviewed or to answer particular questions. We had to warn them that any facts that came to light would be published and might be used in subsequent investigations or proceedings (the full text of the preamble which preceded all our interviews is at Appendix A). Yet everyone we approached agreed to be interviewed and no one refused to answer any question we posed. We received the fullest cooperation from the services concerned at every level.

Parfitt, by contrast, declined to meet with me. Through his solicitor he said that he wished to put these events behind him. I respect, but regret, his decision. The fullest accounts are made up of different viewpoints and past events are best laid to rest when the truth about them is unequivocally established. Had Parfitt been willing to give his version of precisely what happened, then my account would almost certainly have been fuller.

I have not named the persons who figure in the report that follows because I do not think it is in the public interest to do so. They mostly continue to work in the services which employed them at the time of the events that I describe. They and their managerial colleagues know who they are. I cannot see that any benefit would flow from the public at large, and the offenders and victims with whom they have still to deal, learning of their identities through this report and possible mass media attention. It is testimony to their professionalism that though they must reasonably have anticipated that I would uncover failings giving rise to public criticism of policies, procedures or individual exercise of discretion, at no stage did anyone obviously seek by remaining silent to shield their actions or inactions. I believe that the police, probation and prison staff concerned wish, like Mrs Walker, to see in place arrangements which will better protect the public and in future lead victims generally to be dealt with consideration and compassion. The difficulty lies in deciding how that will best be achieved. There are no simple solutions and dilemmas abound. But I hope this report will contribute to that end.

In conclusion I would like to thank Mrs Walker for her patience in waiting to learn the outcome of my inquiry, a process which must have seemed far too drawn out. It is only through her persistence that the account which follows has come to light. My thanks also go to the Police, Probation and Inspectorate team of colleagues who helped me gather the evidence on which this report is based (the members of the Inquiry team are listed at Appendix B) and to the members of the police, probation and prison services who answered the team's many policy questions. Any errors of fact or judgement are entirely my own.

My report is in two parts. Part One describes the events leading up to and following the death of PC Walker and each section of it concludes with a brief summary of my findings regarding the decisions that were taken. Part Two takes up some of the policy issues which are raised by the events described in Part One and includes some suggestions which, if adopted, would, I think, better avoid some of the operational shortcomings identified in Part One. These findings from Part One and suggestions from Part Two are recapitulated immediately after this introduction so as to serve as a form of executive summary.

Rod Morgan
HM Chief Inspector of Probation 3 March 2004

Glossary

ABH	Assault occasioning Actual Bodily Harm
ACO	Assistant Chief Officer (of Probation)
ACR	Automatic Conditional Release
Affray	Offence under the 1986 Public Order Act, where a person 'uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety'
BCU	Basic Command Unit
CARATS	Counselling, Assessment, Referral, Advice and Throughcare Services
CC	Chief Constable
CCTV	Closed Circuit Television
Class A Drugs	In the UK, drugs are classified into three main categories, known as Class A, B or C. Using or dealing in drugs classified as A attracts the highest penalties. These consist of heroin, methadone, cocaine, ecstasy, LSD and amphetamines
CO	Chief Officer (of Probation)
COMPASS	A drug and alcohol advice and information service within Nottinghamshire
CPS	Crown Prosecution Service
CRO	Criminal Records Office
DAO	Drugs Abstinence Order
DAR	Drugs Abstinence Requirement
DAT	Drugs Abstinence Team
DCI	Detective Chief Inspector
DI	Detective Inspector
DS	Detective Sergeant
DTTO	Drug Treatment and Testing Order
ERRS	Early Release and Recall Section
FLO	Family Liaison Officer
GSM	Global System for Mobile Communication
HDC	Home Detention Curfew
ICR	Initial Case Recording System
JSC	John Storer Clinic
LIDS	Local Inmate Data System
LSD	Lysergic Acid Diethylamide, a powerful Class A hallucinogenic drug
MAPPA	Multi-Agency Public Protection Arrangements
MDT	Mandatory Drug Test
MO	*Modus Operandi*
NIS	National Identification Service, New Scotland Yard
NPD	National Probation Directorate
NPS	National Probation Service
OGRS	Offender Group Re-conviction Scale
PC	Police Constable
PCN	Police National Computer
PID	Personal Identification Device
PMS	Premier Monitoring Services
PO	Probation Officer
POP	Prolific Offenders Project
PPU	Public Protection Unit
PSO	Probation Service Officer
PSR	Pre Sentence Report
RP	Relapse Prevention
SCI	Street Crime Initiative
SEU	Sentence Enforcement Unit
SIR	Serious Incident Report
SMU	Signal Monitoring Unit
SOR	Statement of Operational Requirement
SPO	Senior Probation Officer
VDT	Voluntary Drug Testing
YOI	Young Offenders Institution
YOT	Youth Offending Team

Summary of Findings and Recommendations

Part One – The death of PC Gerald Walker at the hands of David Parfitt, Mrs Tracy Walker's Complaint Against the Penal Services and the Conviction for Manslaughter of David Parfitt

With regard to the Death of PC Walker, Parfitt's Antecedents and Imprisonment in May 2002

- On 7 January 2003 an incident occurred in Nottingham as a result of which PC Gerald Walker died at the hands of David Parfitt. Parfitt, then aged 25, was subsequently convicted of manslaughter, for which he was sentenced to 12 years imprisonment in December 2003. At the time of PC Walker's death Parfitt was serving a sentence of two years for robbery. Though sentenced on 16 May 2002 Parfitt had been in custody on remand since 12 November 2001. He was therefore eligible for release on HDC on 11 September 2002 and would automatically have been conditionally released (ACR) on 9 November 2002. Parfitt was conditionally released on HDC, subject to a drug testing requirement. He breached his drug testing requirement and his licence was revoked on 9 December 2002. From that date he was posted on the PNC as wanted for arrest for return to prison. He remained unlawfully at large on 7 January 2003.

- Parfitt had been a persistent offender from the age of 14 and had an escalating history of alcohol and illicit drug abuse. Prior to his convictions for robbery in spring 2002 he had more than 50 convictions recorded against him and had served five custodial sentences. His offences, however, were not the most serious. Most were driving offences and all of his custodial sentences were short-term. However, when drunk he had shown himself capable of resorting to violence and when in a serious predicament or trapped he had repeatedly fled from the authorities. He had repeatedly failed to comply with the terms of successive community penalties and had committed many offences while on bail. His offences of street robbery in autumn 2001, prompted by his relatively recent addiction to heroin and crack cocaine, represented a significant step into more serious offending (paras 3.1-3.16).

With regard to the Decision to release Parfitt early from HM Prison Ranby

- I find that the Prison Service guidance regarding procedure and eligibility for HDC release was properly applied in Parfitt's case. I think it very likely that the HDC Board, which recommended that he be released, was unaware of the security information reports regarding Parfitt's possible further use of drugs not detected through the drug testing programme. However, since there was no evidence that he was continuing to use Class A drugs, knowledge of the suggestion and suspicion that he was continuing to use cannabis or other substances would almost certainly have made no difference to the decision to release him. The evidence available to both the home Probation Officer (PO) and the prison authorities was that Parfitt was no longer using Class A drugs (paras 4.1-4.21).

- I find that Parfitt fell squarely within the target group envisaged by the Sentence Enforcement Unit (SEU) guidance regarding the application of a drug testing licence condition and that the proper procedure was followed in recommending and deciding that he should be subject to this requirement (paras 4.23-4.27).

- I find no evidence that organisational encouragement to governors to release a higher proportion of prisoners eligible for HDC because of the overcrowding at HM Prison Ranby, and in the prison system generally, had a bearing on Parfitt's case. He was not assessed a high-risk or borderline case (para 4.22).

With Regard to the Supervision of Parfitt by the Nottinghamshire Probation Area

- I find that the National Probation Service (NPS) had in Nottingham satisfactory arrangements for both the application and monitoring of Parfitt's HDC by Premier Monitoring Services (PMS). I find that PMS had, with the exception of one breach of their contract obligations, monitored Parfitt's HDC and that Parfitt, with the exception of two occasions when he returned a matter of minutes after he was required to be home, complied with the terms of his HDC as stipulated in his licence (paras 5.4-5.8).

- I conclude, therefore, that the judgement made by the staff at HM Prison Ranby, on advice from Nottinghamshire Probation Area staff, that Parfitt could safely be released early from prison on HDC was in this respect vindicated by his subsequent compliance with the terms of his HDC (para 5.4).

- I find that the drug testing team at the Nottingham Probation Area offices at Derby Road arranged, as they were required to do, for Parfitt to be tested twice a week for the first 13 weeks following his release and that on those 19 occasions when Parfitt did attend during this time, the tests were carried out satisfactorily with his positive cooperation and that the results of the tests were properly recorded (paras 5.48-5.50).

- I find, however, that the first PO to whom Parfitt was allocated for supervision purposes was not familiar, as she should have been, with the terms of the relevant guidance for the supervision of licensees subject to a drug testing requirement (Probation Circular 132/2001) and this despite Nottinghamshire Probation Area having organised briefings and disseminated written commentaries and summaries of that guidance (paras 5.18-5.41, 5.42-5.46 and 5.61-5.63).

- I also find that there was not in place a system – either audit or close supervision – which brought to light the fact that Parfitt's PO was not properly enforcing his drug testing requirement. I find that Parfitt's PO was applying, in contravention of the criteria set out in Probation Circular 132/2001, her own judgement of what compliance and drug use it was reasonable to expect of Parfitt, given his well-established dependence, prior to his imprisonment, on both heroin and crack cocaine (paras 5.45-5.46 and 5.62-5.63).

- I find that by Friday 27 September, that is within two and a half weeks of his release from prison on 11 September, Parfitt had arguably breached the terms of his licence such that a report should have been made by his supervisor to her manager and the SEU in compliance with the criteria set out in Probation Circular 132/2001. By this date Parfitt had failed to comply with a home visit appointment on 18 September, had tested positively for cocaine on 20 September and, on 23 and 25 September, had failed to attend drug testing appointments because, on his own admission, he was feeling unwell as a result of heavy use of heroin the previous weekend. His PO's proper course of action at this point should have been to initiate a licence revocation report to the SEU with possibly, in the light of her positive appraisal of Parfitt, a recommendation that his licence be allowed to continue on the grounds that, despite his breaches, he was also testing negatively and demonstrating a willingness to address his drug use problems. What Parfitt's PO did was on 27 September to warn him in writing about his failed home visit on 18 September and positive drugs test on 20 September. Further, and inappropriately in my judgement, she judged 'acceptable' his excuse for not attending his drug tests on 23 and 25 September (paras 5.53-5.61).

- I find that even if one accepts as reasonable his excuses for not attending his drug tests on 23 and 25 September, Parfitt had fully met the criteria for breaching his licence as set out in Probation Circular 132/2001 by Monday 14 October when he again tested positively for cocaine and, on this occasion, for heroin also. His supervisor inappropriately took no enforcement action either by way of a formal warning or a report to the SEU nor did she do so in response to further failed drug tests on 24, 29 and 31 October prior to her handing over responsibility for the supervision of Parfitt to a colleague on 7 November (paras 5.61 and 5.64-5.70).

- I also find, however, that Parfitt's initial PO was labouring under enormous pressures for which the management of Nottinghamshire Probation Area must take responsibility. She had a mixed resettlement caseload which was arguably too large for her feasibly to attend to each case as closely as was desirable. Her supervisor laboured under similar pressures. Parfitt was assessed a medium-risk case compared to the many high-risk cases to which Parfitt's PO and her Senior Probation Officer (SPO) were quite appropriately giving their first priority. The staffing division of labour between POs and Probation Service Officers (PSOs) which was in place did not allocate to PSOs (particularly the drug testers) the enforcement responsibilities which, given the workloads of their PO colleagues and the fact that offenders subject to drug testing were most in contact with PSOs, they might have been given. In particular they were not given responsibility to recommend to case managing POs that the breach criteria had been met such that further enforcement should be considered or taken (paras 5.11-5.13 and 5.36).

- I also find that the lack of awareness which Parfitt's initial PO had regarding the enforcement rules for drug testing as a licence condition was compounded by an understandable degree of organisational confusion among probation staff generally as a result of the different ways in which the various new and developing drug testing initiatives – Drugs Abstinence Orders (DAOs) and Drugs Abstinence Requirement (DARs) in addition to drug testing as a licence condition – were being piloted in Nottingham and applied by the different bodies (the courts

and the SEU). This was in addition to the more long-standing Drug Treatment and Testing Orders (DTTOs) where the emphasis is more on prevention and drug use reduction than enforcement of abstinence (paras 5.18-5.41 and 5.62-5.63).

- I find, as a consequence, that Parfitt was not precisely informed about where he stood in relation to the enforcement criteria to which he should have been subject. Nor did the drug testers with whom he was having regular contact take any enforcement action regarding him. Nor, when breach action was eventually taken by the PO to whom Parfitt's supervision was transferred on 7 November, was Parfitt told that action was being taken (paras 5.16, 5.53, 6.3 and 7.9-7.10).

- I find that the PO responsible for Parfitt's supervision after 7 November was slow to initiate licence revocation action. There were extenuating reasons for this delay, however. The allocation of the workload at the Derby Road offices was reorganised. He had to cope with a clutch of additional cases with which he was not familiar. Parfitt was one of these cases. The PO was also not assisted by the fact that unqualified staff were not given any responsibility to sort out and initiate enforcement actions against those offenders for which they were outstanding (paras 5.74-5.75).

- I conclude, therefore, that had Nottinghamshire Probation Area staff taken the licence revocation steps that they should have taken at the point when they should have been taken, it is very likely that the SEU and Parole Board would have revoked Parfitt's licence earlier than they did and that he would therefore have been posted on the PNC prior to 9 December with a view to his arrest and recall to prison. Precisely how much earlier this might have happened it is difficult to judge given that notification of Parfitt's early breaches might have been accompanied by a recommendation that his licence be allowed to run, a recommendation to which the Parole Board might have acceded. I think it almost certain, however, that had the Parole Board been notified of Parfitt's breaches occurring in late October his licence would have been revoked by the end of the first week in November, that is one month before his licence was revoked. Had this happened, then Parfitt would still have been subject to HDC, in which case his arrest might more easily have been accomplished. That possibility, however, begs the question as to what priority the Nottinghamshire Police would have given to Parfitt's arrest.

With regard to the Revocation of Parfitt's licence by the SEU and Parole Board

- I find that the SEU dealt with the Licence Revocation Request regarding Parfitt from Nottinghamshire Probation Area reasonably expeditiously (that is, within their five days turn-round target) and that the Parole Board found it to be a straightforward case for recall. Parfitt's licence was revoked on 9 December 2002. Scotland Yard and Nottinghamshire Probation Area were immediately informed and Parfitt's name was posted on the PNC with a view to his arrest, to be taken to the nearest prison (paras 6.1-6.7).

With regard to the actions of the Nottinghamshire Police to monitor Parfitt's behaviour following his release from HM Prison Ranby, to arrest him following revocation of his licence and liaison between the Nottinghamshire Police and Nottinghamshire Probation Area regarding the same.

- I find that on 10 December 2002, the day following notification by the SEU, the National Identification Service (NIS) identified Parfitt on the PNC with a view to his arrest for recall to prison. Whereas the NIS specifically notifies the police area for the address where the offender is thought to be living, in some cases (particularly in cases assessed as high risk of harm) this is not a routine procedure and appears not to have been done in Parfitt's case. Parfitt was not assessed as a high risk of harm case. As a consequence, Nottinghamshire Police HQ did not specifically notify the police section for the address at which Parfitt was supposed to be living and there is no evidence that any officer on that section was ever specifically tasked to arrest Parfitt. I find that these events illustrate serious general shortcomings in the licence revocation/prison recall police notification system.

- I find that the intelligence officer in the Robbery Squad at the Central Police Station, Nottingham, had already been taking an interest in Parfitt, was aware that revocation of his licence had been requested by the Nottinghamshire Probation Area, was regularly checking the PNC and on 10 December became aware that Parfitt was now arrestable for recall to prison. I find that from this point Parfitt became a target for the Robbery Squad and that a Squad officer was specifically allocated the task of locating and arresting him (paras 7.4-7.13).

- I also find, however, that for the Robbery Squad in Nottingham, a Squad that was having to contend with a large number of serious street crimes, Parfitt was not a high priority. Though efforts were made to locate him in the first three days following notification of his licence revocation on the PNC – by visiting his mother's and girlfriend's addresses – there is little evidence that much was thereafter done other than to check his name, and a vehicle that he was thought to be using, on the PNC. Following the incident involving PC Walker on 7 January, and solid evidence that Parfitt was responsible for his life-threatening injuries, this situation changed fundamentally. Arresting Parfitt now became the force's highest priority, intelligence was received and he was located and arrested relatively quickly (paras 7.2-7.3 and 7.14-7.16).

- I find that in Nottinghamshire, as in other parts of the country, there is a good deal of sharing of intelligence and information between the Police and the Probation Services. I find that while Parfitt was subject to supervision, prior to his licence being revoked, the police made inquiries of probation about a robbery for which he was suspected and, as a result of information from probation and PMS, the police eliminated him from their inquiries. I find that the police were able, via probation staff in the Prolific Offenders Project (POP) at the Central Police Station, Nottingham, to learn that Parfitt was failing drug tests and that a request had been made by probation that his licence be revoked. I find that when notification of the licence revocation came through, an SPO sent word to the Robbery Squad to tell them that he should now be arrested (paras 7.3 and 7.7).

- I conclude that there appears to have been established an encouraging degree of cooperation and information sharing between the Probation and Police Services in Nottinghamshire and that, given the overall crime situation and other police priorities in Nottingham, reasonable efforts were made by the Nottinghamshire Police to arrest Parfitt prior to his encounter with PC Walker. Whether the general system for notifying to the police prisoners wanted for recall to prison is adequate, and whether high enough priority is given to the task, I doubt. This is an issue to which I turn to in Part Two

With regard to the Aftermath: the Manner in which the events were subsequently reviewed and the victim, Mrs Tracy Walker, treated.

- I find that the arrangements made by Home Office Ministers to express their condolences to Mrs Walker following PC Walker's death were inept and gave offence, that this was swiftly recognised within the Home Office and that steps were immediately taken by Ministers to ensure that there should be no recurrence in similar tragic circumstances (paras 8.4-8.5).

- I find that the Nottinghamshire Probation Area notified the National Probation Directorate (NPD), as they were required to do, of PC Walker's death and the connection with an offender, Parfitt, under their supervision, albeit they did not do it in writing within 48 hours. I also find that the area undertook a serious incident review (SIR), broadly in line with the recommendations of Probation Circular 71/1998, into the circumstances surrounding Parfitt's supervision on licence, the revocation of his licence and liaison with Nottinghamshire Police. The inquiry was not as searching or accurate as it might have been. As a result, it failed to address some of the critical organisational factors which a more searching inquiry would have exposed. In particular, key probation staff involved in the supervision of Parfitt were not spoken to, workloads and the division of labour between qualified and unqualified staff were not considered, and some of the staff most closely involved in the case were neither consulted nor informed about the findings of the SIR (paras 8.9-8.26).

- I find that the NPD, on receipt of the SIR from Nottinghamshire Probation Area, did not act on any of the policy issues it touched on. They did not do so largely because the relevant department within the NPD, the Public Protection Unit (PPU), had not the capacity to do so. However, they acknowledged receipt of the SIR and, subsequent to their being alerted to the fact that Mrs Walker was dissatisfied with the manner in which Parfitt had been supervised, they arranged for a meeting to take place on 16 July 2003 between her and representatives of the NPS. They determined that Mrs Walker, not then being a formal complainant and, in their judgement, not eligible to be a complainant according to the terms of their National Complaints Procedure (Parfitt was not yet convicted of any offence against PC Walker and his actions against PC Walker did not arise from activities engaged in while he was under the supervision of the NPS), should not be told any details about Parfitt's supervision but should have explained to her the general rules and nature of that supervision while subject to HDC and ACR. They

determined that they did not have the authority to tell Mrs Walker the particulars of the case (paras 8.31-8.39).

- I find that Nottinghamshire Police appointed a family liaison officer (FLO) to Mrs Walker and, at various levels of the organisation from the Chief Constable (CC) to PC Walker's immediate colleagues, gave her every support and as much information as she wished to have and was available to them about Parfitt and the circumstances leading up to PC Walker's death. The FLO, however, kept a less than adequate log of her contacts with Mrs Walker; she did not record the detail of what Mrs Walker was told, by whom and when. However, as a result of what she was told by the police, Mrs Walker was fully satisfied that the Nottinghamshire Police had done all they reasonably could to arrest Parfitt following revocation of his licence on 9 December 2002 (paras 8.1-8.2 and 8.7).

- I find that the Nottinghamshire Police and Probation Area did not jointly determine what information Mrs Walker should or could be given and that, as a result, she gradually got to learn, from several different sources, a good deal of information about Parfitt and what had happened. Further, in the event, the NPD recommendations as to what information Mrs Walker should be given with regard to Parfitt and his supervision were not followed by members of the Probation Service. When the meeting took place between Mrs Walker and the NPS representatives on 16 July 2003, she already had a certain amount of information about Parfitt, his antecedents, his family, the terms of his release, his subsequent supervision and the revocation of his licence. When pressed, one of the NPS representatives provided her with yet more detail, albeit not chapter and verse. Moreover, the NPS representatives gave Mrs Walker misleading and confusing information about the application of drug testing as a licence requirement, which suggested that they were not themselves familiar with the rules governing it. As a result Mrs Walker was further dissatisfied and incensed. She concluded that the Probation Service had something to hide, that they were both defensive and complacent. She determined formally to complain and on 7 August did so, through her solicitors. The level of information which she now had about Parfitt is reflected in the detailed nature of her complaint (paras 8.31-8.39).

- I find that as a result of there being in place no joint strategy between the Police and the Probation Services about what Mrs Walker could or should be told, and because the information she gathered from various sources lacked balance – she was given precise details about police operations but got an incoherent picture about probation dealings with Parfitt – her ire was concentrated on the Probation Service. Members of the Probation Service considered this unfair and trust between some members of the Probation Service and the Police was undermined.

Part Two – Policy Issues Arising from the Events leading up to and following the Death of PC Walker

Conclusions and Recommendations

- *The NPD, together with the Crown Prosecution Service (CPS), should take further steps to ensure that all court reports are written with the benefit of sight of the prosecution papers in the case.*

- *The guidance from Prison Service HQ for HDC decision making should make explicit the need to consider security information report-based evidence and the manner in which that evidence is held should be more accessible to HDC Board members.*

- *In HDC cases information about prisoners' behaviour and participation in programmes while in prison should be built into the Prison Service HDC documentary process and transmitted to home probation supervisors.*

- *The NPD should amend the Probation National Standards so as to remove the requirement that prisoners released on HDC be visited at home within ten days of release.*

- *Pending universal introduction of an electronic case recording system capable of automatically triggering enforcement actions when offenders meet breach criteria, the NPS should give front line PSO staff dealing with offenders greater responsibility for initiating enforcement processes.*

- *The NPD should take further steps to clarify for NPS staff the enforcement criteria and procedures for the different orders and licences involving drug tests.*

- *The NPS should ensure that offenders subject to supervision are always told about the enforcement criteria and processes with respect to their orders and licences and what steps are being taken to enforce their orders and licences when they are non-compliant.*

- *The Murder Investigation Manual should be revised so as to suggest that FLO logs include reasonably full accounts of what victims of serious crime are told, particularly when the information is of a confidential nature.*

- *Decisions to recommend and recall to prison should be taken as quickly as is just and as efficiently as possible. The present system is not as efficient as it might be and the police do not accord prison recalls the priority that they should. The system for communicating and executing prison recalls should be reviewed by the Home Office.*

- *As offenders increasingly become subject to joint police and probation surveillance and supervision, it is important, when they commit serious crimes, for there to be a shared understanding between the agencies as to who is to be regarded as a victim of such crimes, who is to be judged an eligible complainant,*

and at what stage such persons are to be given information, when, by whom and about what. There is currently no shared understanding or procedure. This aspect of policy needs to be subject to a fundamental Home Office review and a joint protocol devised for use by the NPS, the police and other partner agencies.

Part One - The death of PC Gerald Walker at the hands of David Parfitt, Mrs Tracy Walker's Complaint Against the Penal Services and the Conviction for Manslaughter of David Parfitt

1 The Events of 7 January 2003 and the Death of PC Gerald Walker

1.1 At midday on 7 January 2003 the attention of a police officer on mobile patrol in the Bulwell area of Nottingham was drawn to a vehicle reported stolen. The officer called for back-up and kept the vehicle under observation. The stolen vehicle was eventually occupied, driven off and followed by the police. It stopped in the car park of a public house and one of three occupants, a man, ran off. Several officers began a search of the area. The man, subsequently identified as Parfitt, hid in the garage of a house within the area. On being discovered by the female resident of the house Parfitt persuaded her to allow him to call for a taxi on the grounds that he was being looked for by unknown assailants over a drugs debt and was frightened. When the taxi arrived and the driver came to the door of the house, Parfitt ran past him and jumped into the driver's seat. The ignition keys having been left in the taxi, Parfitt started the vehicle. Two persons, the taxi driver and PC Gerald Walker, one of two dog handlers searching the area and who was in the immediate vicinity, attempted to prevent Parfitt from driving off. The taxi driver jumped into the front passenger seat. PC Walker had his arms through the open window of the driver's door. Parfitt accelerated away. The taxi driver, beside him, wrestled with the wheel and sought to take the ignition keys from him. PC Walker hung on to the door and window of the vehicle, his feet dragging alongside. PC Walker shouted, "stop it, you'll kill me, stop it". Parfitt ignored his plea, swerved the car from side to side with the apparent intention of throwing PC Walker off, and continued to accelerate. At a nearby junction, where there are bollards in the central reservation, PC Walker fell from the taxi and was later found lying in the road with serious head injuries. Shortly thereafter and some distance further on the taxi driver managed to grab the ignition key, the vehicle came to a halt and Parfitt ran off.

1.2 The police, on the basis of the other occupants in the stolen car and from a phone call he had made from the house in which he had sheltered, came rapidly to the conclusion that the man for whom they were now looking was Parfitt. They also received an anonymous tip-off as to where he was hiding. The following day, 8 January, police officers went to a house in Bulwell, Nottingham, and found Parfitt in the roof space. He was arrested. PC Walker never recovered consciousness. He was pronounced dead by doctors at the Queens Medical Centre, Nottingham in the evening of 9 January.

1.3 On 9 January Parfitt was charged with murder, theft and taking a vehicle without consent. On 10 January he was remanded in custody by Nottingham Magistrates' Court. Almost a year later, on 11 December 2003, Parfitt was found guilty at Birmingham Crown Court of the manslaughter of PC Walker and motoring offences. He was sentenced to 12 years and one year imprisonment respectively, to be served consecutively.

1.4 When PC Walker attempted to prevent Parfitt from driving from the scene on 7 January it is probable that he did not know who he was. In fact Parfitt was already

serving a sentence of imprisonment from which he had been released on licence. When Mrs Walker subsequently learnt something of Parfitt's history and the manner in which the authorities had dealt with him she sought advice. She formed the view that the criminal justice system had failed her. She complained. On 7 August 2003 her solicitor wrote as follows to the NPD:

> 'We are writing on behalf of our client, Mrs Tracy Walker, the widow and Executrix of Mr Gerald Walker (deceased).
>
> We are writing to make a formal complaint on behalf of our client concerning the contact and supervision of Mr David Andrew Parfitt, date of birth 20 June 1977.
>
> Our client's husband, Mr Gerald Walker, a Police Constable with Nottingham Police was tragically killed in an incident involving Mr Parfitt on Tuesday 7 January 2003. As a result of this incident Mr Parfitt is being prosecuted on a charge of murder. We understand that the criminal trial is due to take place in December of this year.
>
> Our client believes that had there been proper supervision of Mr Parfitt then this incident would not have occurred. We are writing to you to make a formal complaint and request written clarification of Mr Parfitt's supervision whilst he was released on licence.
>
> Mr Parfitt was released from HM Prison Ranby on licence. He was serving a sentence of two years for street robbery. Mr Parfitt was released on a Home Detention Curfew Scheme and was released to his mother's address.
>
> We understand that in August 2002 the Probation Service recommended that as part of Mr Parfitt's licence he be placed on a national pilot scheme and that Mr Parfitt agreed to be placed on the Drug Abstinence Requirement part of the scheme. This required Mr Parfitt to attend the National Probation Service office in Derby Road in Nottingham twice a week for 13 weeks after his release, and after that as and when reasonably required, for drug tests by a mouth swab for Class A drugs.
>
> We understand the conditions concerning the failure to comply with the licence are as follows:
>
> 1 Failure of three tests in six weeks
> 2 Failure of three consecutive tests
>
> Either of these eventualities would result in a revocation of his licence unless either the licensee had arranged imminent treatment at a clinic and/or represented no raised risk of harm to the public.
>
> Mr Parfitt was released on 11 September 2002 and we understand that he attended the Probation Service office for drugs tests until 27 November 2002.

Our client has been advised by [names deleted] of the Probation Service that Mr Parfitt failed a "significant number" of the drugs tests. We do not know the exact details but our client understands that from Mr Parfitt's release date until the end of September he passed the drugs tests. In October he passed and failed drugs tests "in about equal amounts", and from the beginning of November to 27 November he failed all of the drugs tests.

It appears very clear to our client that Mr Parfitt had seriously failed to comply with the terms of his licence and that action should have been taken or at the very least consideration should have been given to revoking his licence at a much earlier stage in, say, October 2002. It is, of course, impossible for our client to know exactly when Mr Parfitt had either failed three tests within a six week period, or failed three consecutive tests, but our client would like a clear explanation as to why Mr Parfitt's licence was not revoked at an earlier stage or consideration given to the decision to revoke his licence. Can you please supply us with the exact dates and results of the tests taken by Mr Parfitt.

Our client understands that on 25 November 2002 Mr Parfitt's probation officer submitted a report, however, this report did not recommend that Mr Parfitt's licence was revoked. Our client would like an explanation as to why this matter was not considered until 25 November 2002 and would also like an explanation as to why this recommendation was made. Our client understands that the reason was, at least in part, because Mr Parfitt had arranged an appointment at the John Storer Clinic on 6 January 2003, which our client understands Mr Parfitt did not attend in any event.

Our client would like an explanation as to why this is considered to be "imminent" treatment. We do not believe that a period of six weeks can be described as imminent on any basis.

Our client understands that on 27 November 2002 a senior probation officer overruled this decision and decided to revoke Mr Parfitt's licence as it was believed that he was getting "out of control". Our client would like an explanation of the basis upon which this decision was made and how this was communicated to Mr Parfitt. Did Mr Parfitt attend for tests on 27 November 2002?

Our client understands that Mr Parfitt was placed on the Police National Computer with a marker on 9 December 2002. Our client also understands that the Senior Probation Officer informed the Robbery Squad of Nottingham Police on a date during the week following 9 December 2002 of the possibility that Mr Parfitt would re-offend. Our client would like an explanation as to the delay between the date on which Mr Parfitt's licence was revoked and the date the police were informed of the risk he represented to members of the public.

Our client would also like an explanation of whether or not:-

1 Mr Parfitt was given any written warnings of the consequence of his drugs test failures.

2 What level of supervision took place between 11 September 2002 – 27 November 2002 and at what level to confirm that decisions that were being made and the exercise of discretion in Mr Parfitt's favour.
3 Why the Sentence Enforcement Unit were not advised that Mr Parfitt represented a risk of serious harm to the public and/or why Nottingham Police were not informed of this risk at an earlier date.

Our client reserves the right to raise further questions following receipt of your response.

We look forward to hearing from you acknowledging safe receipt of this letter.

Yours faithfully'

1.5 Mrs Walker's complaint, combined with the evidence then available to them, decided Ministers that as soon as Parfitt's responsibility for PC Walker's death had been determined by the court, there should be an inquiry, which was announced on 12 December 2003.

2 The offences for which Parfitt had already been sentenced to imprisonment.

2.1 On 16 May 2002, Parfitt, then aged 24 years, was sentenced at Derby Crown Court to two years imprisonment for two counts of robbery, theft of a motor vehicle, driving whilst disqualified and two counts of handling stolen goods. According to the prosecution papers both robberies involved snatching a bag or a purse from women, aged 70 and 51 years respectively, who had just visited a post office to collect their state pension or benefit. Both robberies involved struggles to wrest the bag or purse from the victims, one of whom was knocked or pushed to the ground and sustained slight injuries.

2.2 When sentenced Parfitt had been in custody on remand at HM Prison Nottingham since 12 November 2001. Sentence followed submission of a pre-sentence report (PSR), dated 9 May, prepared by a PO from the Nottingham Probation Area Courts Team. The content of the PSR needs to be considered in some detail because it was one of the key documents subsequently available to the probation colleagues who supervised Parfitt when he was released from prison.

2.3 The PSR was prepared without the benefit of any information from the CPS which meant that though the report writer had a copy of Parfitt's list of previous convictions, he had to rely on the defendant's account regarding his current offences. The report writer also drew on a PSR prepared by a colleague in the previous month (dated 23 April) which had in turn been written on the basis of one brief interview with Parfitt; a second PSR was requested because additional charges were brought. The first PSR contained very little offence analysis because the writer had also not had disclosed to him the prosecution papers and because, following one brief interview, Parfitt 'apparently' refused to meet with him again. Whatever the explanation neither PSR provides much in the way of an account of Parfitt's offences other than to indicate that both robberies were against women, and that one of the robberies was of an 'older, vulnerable woman' (mentioned in the first report). This may or may not have been the same robbery allegedly involving a woman who had placed her purse in her shopping bag, Parfitt's theft of which caused the victim to fall and be injured (mentioned in the second report). No other offence details or explanations were provided, though the author of the second report opined that the choice of an older woman meant that Parfitt had given the offence prior thought and the author of the first report that Parfitt had probably refused to meet with him again because he felt 'shame at his behaviour'. No evidence was offered in support of either opinion.

2.4 According to the second PSR, Parfitt's explanation of his behaviour was that for four years he had been heavily using heroin and crack cocaine. Since he was dependent on state benefits:

> 'crime was the only way he could obtain money to pay for the drugs. He initially chose to do this by stealing from shops. Late last year, however, he resorted to robbery resulting in his arrest and remand in custody'.

2.5 Parfitt reportedly also related his driving offences to his drug habit. Those occurring in November 2001 were said to enable him to get into the city to buy drugs, though he was reportedly hazy about the circumstances relating to particular offences.

He told his interviewers that because of the quantities of drugs he was taking, he suffered withdrawal symptoms quickly, would wake in the mornings with stomach cramps and would then commit offences out of desperation. He is reported as saying: "I didn't think about risk. I didn't think about consequences…. All I wanted was money".

2.6 If this account is true it meant that Parfitt had been using heroin and crack cocaine since 1998 and yet there had been no mention of either drug when he was interviewed at length on two occasions by a Nottingham Alcohol and Drug Team member in May 2000 in preparation for an earlier Crown Court appearance. Neither drug was mentioned at that point (though 'unproblematic' use of cannabis, LSD and amphetamines was) and no earlier PSR, of which there had been many, had made any reference to a drug other than alcohol, Parfitt's excessive use of which had long been acknowledged. It may be that Parfitt's use and dependency on heroin and crack cocaine was not so long-standing. The April 2002 PSR referred to him reportedly saying that he had been 'a raging crackhead' since his release from a 12 month long prison sentence in May 2001.

2.7 Whatever the truth of Parfitt's history of illicit drug use, neither the April nor May 2002 PSR writers could see any alternative to a custodial sentence, which the author of the first report recognised would be 'lengthy', a prospect which the author of the second report viewed with 'concern' on the grounds that Parfitt's 'current insight and motivation might be weakened, so that he returns to the community in a worse, more hopeless state than before'. This author considered that 'repeated custodial sentences have contributed to his drug taking by adding to the instability in his life'. He also reported Parfitt's account that he had first taken crack cocaine while in HM Prison Liverpool and had been offered drugs in HM Prison Nottingham while on remand. This PO officer underplayed aspects of Parfitt's criminal history, which may have contributed to his implicit plea that the court consider not imposing a lengthy prison sentence. He maintained that Parfitt's most recent offence of violence was eight years previously, in 1994; this ignored his threatening behaviour convictions, and a conviction for affray in 2000. Moreover, for the second report writer to maintain that Parfitt's driving offences in recent years arose 'simply because he enjoyed the convenience of driving' scarcely did justice to his use of vehicles while over the alcohol limit and, as we shall see, his involvement in accidents from which he ran off.

2.8 The author of the final PSR also completed a risk assessment for Parfitt. The way in which he completed the form does not entirely tally with the PSR and suggests that he now knew rather more than it revealed. For example, he ticked the boxes in Section C1 indicating that the 'offence involves use of any weapon' and 'is planned and premeditated'. Amongst Parfitt's 'cognitive deficits' he ticked 'denies/minimises/rationalises offending, blames others/external situation for offending' in addition to 'impulsive and risk taking' and 'high level of egocentricity'. In the child protection section he ticked 'survivor of child abuse' and 'subject to poverty'. There is little or no reference to some of these factors in the PSR.

2.9 I conclude that the risk assessment form, as well as the PSR, is relevant when considering Parfitt's release on HDC and the manner in which he was supervised on licence. Among the 'dangers' and 'situational hazards' identified was the trigger

factor of further heavy drug taking and the possibility, given that Parfitt carried out 'desperate offences' and targeted older (50s or 60s) vulnerable women, that he had the 'potential to cause serious harm in the course of robbery'.

2.10 Parfitt's overall 'possible risk of harm' was assessed as 'medium'. His risk of reconviction (using the Offender Group Reconviction Scale (OGRS) assessment tool) was assessed as 82%, that is, very high. It was said that Parfitt planned 'to live with his mother on release' but the court PO requested that the situation be checked prior to his coming out of prison. In answer to the question 'is the offender likely to comply with the terms of the curfew' he wrote 'Mixed response to community supervision in the past', a somewhat favourable interpretation given Parfitt's history of seriously breaching almost every community penalty to which he had been subject.

3 Parfitt's criminal history, background and circumstances.

3.1 Parfitt's PNC record shows him to have been first convicted in 1991 as a 14 year old for actual bodily harm (ABH, against a fellow school pupil), two counts of criminal damage, threatening behaviour, possessing an offensive weapon and theft by shoplifting. He was ordered to attend an attendance centre for 24 hours and pay £30 in compensation. Fourteen months later, now aged 15, he was back in the youth court for aggravated vehicle taking, a series of driving offences (reckless driving, no insurance and driving without a licence), burglary of a dwelling and theft of a cycle. He was sent to a Young Offenders Institution (YOI) for four months. The following year (September 1993), now aged 16, he was back in the youth court, for the theft of a cycle, for which offence he was ordered to pay £500 compensation.

3.2 Parfitt's last court appearances as a juvenile (now aged 16-17) were on three separate occasions in 1994. In January he was convicted again of burglary of a dwelling and theft and failing to surrender to bail. He was for a second time ordered to attend an attendance centre, this time for 22 hours. In September he was for a second time convicted of ABH (he reportedly, unprovoked, punched his victim several times in the face causing injuries requiring five stitches) and again for aggravated vehicle taking with concomitant driving offences (driving while disqualified and no insurance). He was ordered to do 40 hours community service and pay £150 compensation. In November another series of driving offences (two counts of driving while disqualified, two counts of driving without insurance and a minor road traffic offence) led the court to send him again to a YOI, this time for five months, and disqualify him again from driving, this time for two years.

3.3 Almost a year later (November 1995) Parfitt was back in court, this time as an 18 year old adult. For offences of attempted theft of a vehicle, obstructing the police, handling, driving whilst disqualified, using a vehicle without insurance and failing to surrender to custody, Nottingham Magistrates' Court put him on probation for 18 months. For the first seven months of this order he maintained an 'acceptable level of contact and frequency of reporting' but thereafter failed to report and breach proceedings were instituted in October 1996. The breach proceedings were adjourned to test his willingness to comply with the order. In January 1997, at the adjourned hearing, the court was informed that he was now complying with his order. However, given the demands of his employment on his time a conditional discharge of one year was substituted by the magistrates for the 14 month old probation order. Parfitt's progress was not sustained, however. Two months later (in March 1997) he was back in court for failing to surrender to custody and breach of the peace. He was fined £75 and bound over for 12 months. Four months later (in July 1997) he was again in the magistrates' court for offences of criminal damage, threatening behaviour and breach of his binding over order. He was ordered to pay compensation and made subject to a combination order involving 60 hours community service and probation supervision, this time for 12 months.

3.4 Parfitt's next string of convictions were dealt with in March 1999. He was again before the Nottingham Magistrates' Court for a total of 12 offences, 11 of them committed while on bail for breach of the combination order imposed in July 1997 and failing to appear in court proceedings relating to that breach. For two offences of

obtaining property by deception (he ordered products from a mail order catalogue using a false name), driving with excess alcohol, two counts of driving whilst disqualified, taking a motor vehicle without consent (according to the PSR he 'borrowed' a vehicle he was not authorised to take or drive from his place of employment), failing to stop after an accident, two counts of driving without insurance, criminal damage, resisting or obstructing a PC and breach of his combination order, he was sent to prison for a total of five months.

3.5 In June 1999, in what must have been days or weeks of his being released from prison, he was again sentenced by Nottingham magistrates to five months imprisonment for driving while disqualified and with no insurance.

3.6 Almost a year later (May 2000) he made his first appearance before Nottingham Crown Court, where he was convicted of affray, three counts of assault and assault with the intent of resisting arrest. According to the PSR he once again drove while drunk, again crashed into a stationary vehicle, again fled the scene and on this occasion was arrested, taken to hospital but there 'escaped custody and initiated a violent confrontation' with persons within the hospital. Following submission of a specialist report from the Nottingham Alcohol and Drug Service and a suggested programme of treatment, sentence was deferred by the judge for four months. However, within one month he was back in the Nottingham Magistrates' Court for driving while disqualified and no insurance and failing to provide a specimen. The stipendiary magistrate (now termed a district judge) again sent him to prison, this time for four months. Parfitt appealed against this sentence and was released pending a Crown Court hearing on 21 September 2000. The appeal was allowed on the grounds that the magistrate should have joined the fresh motoring matters to the offences for which sentence had been deferred in the Crown Court. On dealing then with the deferred sentence it was reported to the Court that Parfitt had failed to cooperate with the drug team programme. He was sentenced to a total of 15 months imprisonment (reduced to 12 months on appeal) including four months for the motoring offences. On being sentenced, according to the court result slip, he jumped out of the dock and sought to escape, but was chased and apprehended.

3.7 It follows, therefore, that when, at the age of 24, Parfitt was sentenced for the two robberies and driving offences in May 2002 he had since the age of 14 had recorded against him more than 50 offences, including two for actual bodily harm, two for domestic burglary and three for aggravated vehicle taking or reckless driving. He had repeatedly driven with excessive alcohol in his blood, had had two vehicle accidents from the scenes of which he had fled, had twice sought to escape from the police or court when apprehended, had repeatedly failed to comply with the terms of successive community penalties and had committed many offences while on bail. He had a long and escalating history of alcohol and illicit drug abuse and he had already served five custodial sentences.

3.8 From the various PSRs retained on file from earlier court appearances the following background history emerges. Parfitt left school without qualifications in 1993 (aged 15 or 16), but appears consistently to have been employed, initially in a scrap yard and subsequently learning to be a motor mechanic.

3.9 When, aged 18, he appeared in court in 1995 he was still living with his mother. There was talk of his moving in together with a girlfriend. The court deferred sentence for three months to see whether he could establish a settled address, secure employment and commence paying outstanding fines and compensation. In November he was still living with his mother and had reportedly recommenced work. The court placed him on probation.

3.10 Two years later, in August 1997, when subject to a combination order, his supervisor recorded that he was still working in a garage, now running the tyres side of the business. His offences were said to be related to his excessive use of alcohol, which he reportedly acknowledged, and his actions when drunk, for example the threatening behaviour offence in July 1997. He was said to have an established pattern of drinking at least three to four cans of strong lager per day. The PSR recommended that he attend an Alcohol Problems Advice Service, but there are no indications in the subsequent case record that he was either required to do this or did so; that he did not is confirmed in a report prepared for his Crown Court appearance in May 2000. In October 1997 the probation review of his case stated that he was not complying with either part of his combination order, was not in touch with his supervisor and that breach proceedings had been instituted. A warrant was issued and another for failing to attend court in October 1997, but both warrants were recorded by the Probation Service as remaining outstanding in January 1998 and again in July when his probation file was formally closed.

3.11 The PSR for the cluster of offences dealt with in March 1999 indicates again that drunkenness is a constant feature of Parfitt's offending. When drunk he crashed the car 'borrowed' from his place of work into a stationary car on the Broxtowe Estate, Nottingham, ran off and was reportedly apprehended by members of the public. At the time of his court appearance he was now reportedly unemployed, though until January 1999 he was said to have been working as an assistant manager with a tyre-fitting company where the manager reported him to be an 'excellent worker' who he was 'sorry to lose'. The PSR author claimed that he had now addressed his serious drinking and stayed out of further trouble for eight months. For that reason the PSR recommended that he be placed on probation with a condition that he attend a Responsible Road Users' Course. The magistrates did not agree and sent him to prison for five months.

3.12 The PSR prepared for his court appearance for driving while disqualified in June 1999 made identical recommendations to those described above, again rejected by the magistrates in favour of another custodial sentence of five months. He remained unemployed.

3.13 The reports prepared for Parfitt's appearance in the Crown Court in May and September 2000 indicate that he had by that stage moved to an address other than his mother's and is living with a partner, though there are occasional separations. He is continuing to drink heavily. Although disqualified from driving he is being driven to different locations so that he can carry on a mobile car repair business.

3.14 What is clear is that in addition to his persistent, excessive use of alcohol (drinking in the morning, at lunchtime and in the evenings) Parfitt was by now

supplementing alcohol with other drugs, though this is not mentioned in the PSR. A report from the Nottingham Alcohol and Drug Team (based on two lengthy interviews at the John Storer Clinic – the outpatient department for the team) indicated that in addition to his use of alcohol beyond a 'safe' level for six or seven years – that is from approximately age 16 years onwards – he had also been using cannabis, LSD, amphetamines and Benzodiazepines (sedative drugs such as Valium). This use of illicit drugs was reported by the drugs team to be 'unproblematic'. The LSD and amphetamines were reportedly used in his teens at weekends for recreational use. He had allegedly never used illicit drugs intravenously and amphetamines were said to be used by him to enhance the effects of alcohol (said to be as much as 15 Budweisers a night). However, it was on the basis of his reportedly 'realistic' plans to address his alcohol problem and an 'agreed treatment plan' of participating in a Controlled Drinking Group programme at New Castle House (Nottingham Alcohol and Drug Team Day Hospital) that the Court deferred sentence for four months.

3.15 At the deferred hearing in September 2000 Parfitt's participation in this treatment programme had broken down, initially because of his being sent to prison by Nottingham Magistrates' Court in June. Following his appeal and release he then failed to attend as, 'unrealistically' (according to the September PSR report writer), he 'believes that because he has achieved relative stability with the ongoing support of his partner then he has resolved his alcohol problem'. The PSR author recommended that a probation order be imposed with a condition that Parfitt attend a 'Thinking Skills' course. The Crown Court did not agree and sentenced him to a total of 15 months imprisonment, subsequently reduced on appeal to 12 months.

3.16 It was following his release from this sentence that Parfitt committed the two street robberies that led to his two year prison sentence.

Conclusions

3.17 I conclude that Parfitt has been a persistent offender from the age of 14, and has an escalating history of alcohol and illicit drug abuse. Prior to his convictions for robberies in spring 2001 his offending career was not the most serious and he had not been feckless, having spent most of his youth and young adulthood in employment. Nevertheless, he was already a serial motoring offender, when drunk, high or desperate for drugs he had shown himself capable of resorting to violence and when in a serious predicament or trapped he had repeatedly fled from the authorities or the scene. His offences of street robbery in autumn 2001, prompted by his relatively recent addiction to heroin and crack cocaine, represented a significant step into more serious offending.

4 The decision to release Parfitt from HM Prison Ranby on 11 September 2002 on HDC combined with a drug testing requirement.

4.1 Parfitt was charged with robbery and remanded in custody by Nottingham Magistrates' Court on 12 November 2001. He was held at HM Prison Nottingham, where he remained until convicted at Derby Crown Court and sentenced to two years imprisonment on 16 May 2002. It follows that when sentenced he had been held on remand for a little under six months, all of which period counted as part of his sentence. He returned to Nottingham as a sentenced prisoner but on 21 June was transferred to HM Prison Ranby, a category C closed (low security) prison in the north of the county. Apart from a brief two day transfer back to Nottingham on 31 July (see para 4.15), he remained at Ranby until he was conditionally released on 11 September 2002.

4.2 Prisoners serving sentences of one year or more and less than four years are automatically but conditionally released at the halfway point in their sentence, unless they have had days added as a result of disciplinary offences committed while in prison. Parfitt had had some days added but was due to be automatically released on 9 November 2002. He was also eligible for earlier release on HDC at a point 60 days before the halfway point in his sentence, on 11 September 2002.

4.3 HDC came into force on 28 January 1999 following passage of the Crime and Disorder Act 1998. The purpose of the HDC scheme is to manage more effectively the transition of prisoners back into the community. Discretion to release under the scheme lies with the Secretary of State, normally exercised on his behalf by a governor of the prison where the prisoner is detained. Guidance on the operation of the scheme was issued by the Prison Service in Prison Service Order 6700 with effect from 12 January 2000. This was the guidance in operation when Parfitt was considered for release under the scheme in summer 2002.

4.4 Most prisoners serving sentences of three months or more but less than four years are eligible for release on HDC. Exceptions include prisoners who have previously been recalled to prison for breach of early release provisions. Further, the release of certain prisoners, for example sex offenders, must be authorised by the Director General. Parfitt did not fall within any of the exceptional categories. He was eligible for HDC release and discretion to release him lay totally within the discretion of a governor of the prison where he was held.

4.5 According to the prevailing guidance prisoners are:

> 'granted HDC only if they have passed a risk assessment and are able to provide a suitable home address which is approved by the Probation Service…. However, for most eligible prisoners HDC *must be viewed as a normal part of his or her progression through the sentence. Prisoners will normally be released on HDC unless there are grounds to indicate the prisoner is unlikely to complete successfully the period on HDC'* (Prison Service Order 6700, paragraph 1.4, emphasis added).

It is clear from the guidance, therefore, that release on HDC is intended to be *normal* or *routine* rather than *exceptional*.

4.6 The process for consideration of HDC release at prison level is as follows. The prison authorities are required to prepare prisoners for HDC consideration. They must draw the scheme to prisoners' attention, seek to ensure that they have a suitable home address, assist them to get suitable accommodation if they have not, comment on their suitability in sentence planning reviews, and so on. Specific forms are used. Form HDC1, the standard suitability assessment, is normally completed by a member of the prison probation team. This either recommends suitability for release or refers the eligible prisoner for further consideration under the enhanced assessment. To HDC1 must be attached HDC2 completed by the prisoner, giving details of the proposed release address and other residents living there. Part 2 of HDC1 is completed by a member of prison staff – usually the prisoner's personal officer or an officer working on his or her wing - having 'regularly day-to-day contact with the prisoner'.

4.7 The prison authorities have discretion as to whether to consult the probation area to which the prisoner is returning. Unless they have decided that there is no need, form PD1 (in the case of prisoners serving more than one year) is sent seeking comments on the prisoner's suitability for release and the proposed release address. Only if this process results in there being made a *prima facie* case for *not* releasing the prisoner is an enhanced assessment embarked on. In such a case a Board is convened and form HDC4 completed. The Board must comprise a governor grade and a seconded PO or a member of the prison throughcare team. An officer with regular contact with the prisoner normally attends the Board if possible. The chair of the Board must complete HDC4 and confirm the Board's decision whether or not to authorise release. The Board's recommendation then goes to a governor of the prison, who is authorised to make the final decision.

4.8 In making their decisions, both the Board and the authorising governor must balance the risk to the public and the potential benefits of incorporating a period on HDC within the sentence. Prisoners who present a 'clear and immediate risk to the public most not be released' (Prison Service Order 6700, paragraph 5.14.1). Further, if there is a 'clear *probability*' that the prisoner will return to offending within the HDC period 'then release must be refused' (Prison Service Order 6700, paragraph 5.15.2). However, governors are advised that 'curfew completion rates are currently high and the deterrent effect of an automatic return to prison should have an impact on failure rates'. They are therefore encouraged to make decisions on the basis 'that the majority of prisoners will be capable of abiding by their curfew period for the period that they are on curfew' (Prison Service Order 6700, paragraph 5.16.1).

4.9 In the case of Parfitt an enhanced assessment was made, all the relevant forms were completed and a Board was convened on 21 August 2002.

4.10 Parfitt gave as his release address his mother's house in Nottingham where she was said to be the only resident. A prison officer completed Part 2 of HDC1. The officer wrote about him:

> 'Only been at Ranby now for less than four weeks. Within that time staff have had no problems. However he has a number of remarks in his 2052 one of which was trying to give a false sample to the Mandatory Drug Test (MDT) staff, for

this he was removed from the drug treatment unit. PARFITT was also nicked for failing an MDT.'

4.11 When interviewed in February 2004 the prison officer had no recollection of Parfitt and reported that it was doubtful he would have known him when he wrote his report on 15 July 2002. He had merely been the nominated 'general' personal officer working the shift in the wing where Parfitt was located. That is, he would have been required as part of his duties to write any personal reports required regarding prisoners on the wing. There would have been close to 100 prisoners on the wing and he might have had to write a dozen reports. The turnover of prisoners was great – perhaps 12 new prisoners each day, and as many leaving. In order to write his report he would have consulted Local Inmate Data System (LIDS), the computer-based prisoner information system, which would have provided details of any adjudications relating to Parfitt, and his file (the 2052) kept on the wing. He would also have spoken to fellow officers in order to get their impressions of him. The officer said that he would not have consulted any security reports on Parfitt – they would not have been available to him on the wing, being held in the Security Office – nor would he have consulted Parfitt's principal file – that being retained in Administration. As to style, he said his philosophy was to report the available facts in as neutral a fashion as possible. He did not personally believe in the HDC policy, but he tried impartially to report what was known about prisoners so as to enable the Board to make sensible decisions.

4.12 Sections 4, 5 and 6 of HDC1 were completed by the parole clerk at HM Prison Ranby. Her task was to collate the various papers required by the HDC Board, summarise the comments of the home probation area and summarise Parfitt's offending and prison behavioural record in the light of his risk prediction scores. There were no sentence planning documents relating to him. The middle manager who chaired the Board at which Parfitt's case was considered, said, when interviewed in February 2004, that it was not surprising that no sentence planning had been undertaken in this case. He had stayed at HM Prison Nottingham for only five weeks post-sentence before being transferred to Ranby, and when the paperwork for his HDC Board had been drawn up in early August he had been there for less than two months. Sentence planning would not normally have been undertaken in so short a period.

4.13 The parole clerk reported to the Board the contents of form PD1 which had been returned by Parfitt's nominated home probation supervisor. His PO confirmed, on the basis of a single telephone call to his mother, that she – who it is clear from prison records had been visiting him in prison – was willing to welcome her son back to live with her now 'he's off drugs'. The parole clerk also more or less accurately summarised Parfitt's offending history – his 52 recorded offences from 14 separate court appearances, his violent offences from the early 1990s, his offences while on bail and his current offences of robbery – though she overstated the number of his previous custodial sentences, putting it at seven rather than the five he had served. She assessed his risk as:

Violence – Raised
Reconviction – High-Medium
Reimprisonment – High/Medium

In addition the parole clerk recorded that he had had one adjudication for unauthorised use of drugs for which he had been punished with 14 additional days and she noted that he had neither attended nor completed 'any courses to address his offending behaviour'.

4.14 Scrutiny of Parfitt's file reveals one aspect of his record in prison prior to his appearance before the HDC Board on 11 August 2002 on which neither the reporting prison officer nor the parole clerk commented. There were several security information reports regarding him.

4.15 In addition to his convictions for use of illicit drugs – cannabis - at HM Prison Nottingham on 8 March 2002, and a second adjudication at Nottingham on 2 August for failing to give a 'fresh and unadulterated sample of urine for testing' (he was transferred back to Nottingham for this adjudication, the incident having occurred in May, prior to his transfer to HM Prison Ranby), for which he was punished with confinement to his cell for seven days and denied canteen facilities for 28 days, Parfitt had also been involved in a further incident at Nottingham on 6 March. He was found by a landing officer with several injuries resulting from what he admitted was an assault by another prisoner. While being treated for his injuries he said, according to the security information report, that the prisoner who assaulted him had previously supplied him with some cannabis and believed now that Parfitt was in possession of cannabis which his assailant presumably wanted. Parfitt subsequently refused to identify his assailant so that no charges were brought.

4.16 On 6 April, during a routine search with a drugs dog of Parfitt's cell at HM Prison Nottingham, a positive response was elicited and, according to the security information report, a 'quantity of cling film wraps were found with traces'. However, the incident did not result in any positive drugs test or adjudication. Since neither the prison officer reporting to the HDC Board, nor, according to its chairman, the Board itself, would have referred to security information reports, these observations and suspicions regarding Parfitt's possible use of drugs at Nottingham were unknown to the Board when the panel considered his case on 21 August.

4.17 The HDC Board comprised a middle manager, the chairman, and a qualified member of the prison probation team. When interviewed the Board chairman had no recollection of Parfitt's case and said that he would not have known the prisoner at the time. He said that in summer 2002 it was his custom to hold an HDC Board every Wednesday, during the course of which an average of 20 cases would typically be considered. Those prison officers responsible for writing personal reports on prisoners would normally not attend – the officer in Parfitt's case said that he had never attended an HDC Board – but the chairman said that he had introduced the 'best practice' of prisoners attending. He said that the amount of time taken to determine each case varied depending on the prisoner's record; relatively straightforward cases would be decided in five minutes while others would take considerably longer. In most cases decisions would be taken simply on the basis of the HDC documentation without resort to prisoners' full files.

4.18 Prison Service Order 6700 requires an HDC Board undertaking enhanced assessments to consider the 'core documents' and note in particular:

- Previous criminal history and any evidence as to the causes of offending behaviour
- Participation in and response to the offending behaviour work in prison
- Response to any periods of release on licence
- Relevant behaviour in prison, for example disciplinary offences
- Any known external factors which may affect likelihood of reoffending
- Home circumstances and stability of close relationships.

4.19 The Board which considered Parfitt's case had all the relevant HDC forms before them and, as we have seen, the hard evidence available to the panel regarding Parfitt was summarised on the documentation. The Board made a positive recommendation, recorded by the chairman, in the following terms:

> 'Despite previous breaches & offences on bail, the prisoner is clean, smart, and has a release plan in place, he is going back to his mother, who remains supportive. He has been on a Voluntary Drug Testing (VDT) programme in prison. A DTTO order should also be included in the licence condition.'

4.20 When interviewed the chairman said that from the record of what he had written he was certain that Parfitt had attended the Board on 21 August. He liked prisoners to be present because, particularly in cases like Parfitt's where drug taking was involved, his experience suggested that prisoners who failed to take a pride in their appearance typically had not the motivation to kick their habit. The fact that he had written 'clean and smart' meant that he had looked at Parfitt and formed a judgement that there were reasonable prospects for him. When interviewed the Board chairman looked afresh at Parfitt's record – both his previous convictions and prison file – and pronounced the case unremarkable and 'not borderline'. He considered that Parfitt did not have a serious history of violence and because many of his previous court appearances had resulted in relatively light community sentences, he concluded that his offences were not serious of their type. Further, he pointed out that Parfitt would regularly have been drug tested (once or twice a month) while at HM Prisons Nottingham and Ranby and had not tested positive for a Class A drug. Finally, he had a home to go to which had been approved and there was an additional recommendation that he be subject to a drug testing requirement. In his judgement Parfitt was a clear case for HDC release, an outcome which, at Ranby in 2002, would, he estimated, have applied to approximately 50-60% of eligible cases (this proved to be an overestimate – see para 4.22). The question was not whether Parfitt was likely to be reconvicted or even reimprisoned at some stage in the future, but rather whether he would be likely to comply with the HDC requirement while it was in place. He considered that the Board's judgement had been fully justified and was a correct decision.

4.21 The HDC Board decision regarding Parfitt was considered and endorsed the following day, 22 August, by the then deputy governor at HM Prison Ranby. When interviewed he, like his Ranby colleagues, had no recollection of the case and doubted he had ever met Parfitt. He looked again at the relevant HDC forms that he had signed and, in the light of Parfitt's record, considered it had been an uncontentious, correct decision. He recalled that the papers relating to the cases considered by the HDC Board on a Wednesday would be placed in two piles of positive and negative recommendations on his desk on a Thursday and that he would typically take about half an hour to confirm 95% the 20-25 decisions. He would not normally consult prisoner files, though they

were available to him should he feel the need to refer to them. Whenever he felt disquiet about a recommendation he would refer it orally to the Board chairman. It was clear to him that he had not done so in Parfitt's case.

4.22 The senior staff interviewed at HM Prison Ranby said that because of the rising prison population there had been general pressure from Prison Service HQ, not least from the Director General, and from the Home Secretary, to increase the proportion of prisoners granted HDC during 2001/2002. The prison population in August 2002 stood at 71,411, then a record high, and Ranby's population was 770, very close to 778, then its operational capacity (the total number of prisoners that an establishment can hold without serious risk to good order, security and the proper running of the planned regime) and 13% over its certified normal accommodation. Which is to say that Ranby was 13% overcrowded. There was variation in the HDC release rate from one prison to another and, initially at least, Ranby had had a release rate lower than other prisons with a comparable eligible prisoner population. As a result the proportion of prisoners released had increased. I have confirmed that this was so on the basis of SEU data, both for individual institutions and nationally. In the 12 months to July 2002, for example, Ranby released 34% of its HDC-eligible assessed prisoners (some prisoners decline to be assessed) compared to 47% for prisons nationally. Moreover, whatever pressures were applied (and media reports during the winter of 2001/2002 suggest that both the Director General of Prisons and the Home Secretary had said they would defend governors who released more prisoners), the proportionate rate at which prisoners were released on HDC did increase both nationally and at Ranby. In the 12 months up to October 2003, for example, the proportion of all eligible prisoners assessed and granted HDC had risen to 57% nationally and 46% at Ranby. However, it should be stressed that there is no evidence that these considerations had a significant bearing on the decision to release Parfitt. He was not, as had been stressed at Ranby, a 'borderline' case.

4.23 There was one additional ingredient of the decision to release Parfitt, namely that he be subject to what the Board chairman mistakenly referred to as a 'DTTO order'. This was incorrect. A DTTO is a sentence of the court. Parfitt was made subject to a drug testing prison licence condition under the Criminal Justice and Court Services Act 2000 s.64. The fact that the Board chairman confused the two provisions (and when interviewed in February 2004 both he and the former deputy governor remained unaware of the distinction) was both understandable – both involve regular drug testing – and heralded the uncertainties or confusions among some of the probation staff who were subsequently to supervise Parfitt on release. The number of prisoners made subject to drug testing as a licence condition was small and remains small. In October 2002 there were only 137, spread across nine pilot sites.

4.24 Drug testing as a licence condition was very new in summer 2002 and has still not been rolled out nationally. The provision, which was initially piloted in three parts of the country – Staffordshire, Nottingham City and Hackney, beginning in July 2001 – is targeted at prisoners who have committed a drug-driven trigger offence and constitutes an additional good behaviour condition by ascertaining whether released prisoners are again taking specified Class A drugs. Six additional sites were added in summer 2002 – Bedford, Blackpool, Doncaster, Torquay, Wirral, and Wrexham, and Mold.

4.25 The inclusion of a drug testing licence requirement is a matter for the Parole Board. Guidance on the operation of the pilots was issued in Probation Circular 132/2001 (11 September 2001) prepared by the SEU, now located in the Home Office (and since re-named the Early Release and Recall Section (ERRS)) but at the time located in Prison Service HQ. Parfitt was made subject to his drug testing requirement as part of the Nottingham City pilot.

4.26 The guidance on offender selection for the pilot states as follows:

> 'it is not the intention that *every* prisoner within the catchment groups should have drug testing conditions applied. Decisions must be taken on a case by case basis… based on individual risk assessments …. For a prisoner to be considered suitable for a drug testing licence condition, he or she must be serving a sentence for one or more of the trigger offences, with drug abuse identified as a contributing factor to the prisoner's offending. The assumption is that most prisoners who meet this criteria *(sic)* should have the addition included in the licence.'

The list of trigger offences set out in Annex A to Probation Circular 132/2001 included, *inter alia*, robbery and taking a motor vehicle or other conveyance without authority, both of which offences Parfitt stood convicted. Further, as we have seen (paras 2.4-2.5), the PSR prepared on him for the Crown Court in spring 2002 made it absolutely clear that his offending behaviour *was* drug-driven, specifically his addiction to, and thus desperate need for the Class A drugs heroin and crack cocaine. It follows that he fell squarely within the criteria for selection for the pilot.

4.27 The drug testing condition of his licence was requested both by Parfitt's home probation supervisor and, on 19 August 2002, by the PO with general responsibility for drug testing orders in Nottingham, who was later to take over the supervision of the licence in November 2002. In recommending Parfitt for drug testing, the latter acted on the advice of the PSO who was principally responsible for carrying out drug tests on prisoners released on licence, and who undertook most of the drug tests for which subsequently Parfitt reported. The drug tester went through the list of prisoners due to be released to Nottingham City looking for candidates who met the criteria for the scheme. Parfitt was selected and recommended for a drug testing requirement to both the parole clerk at HM Prison Ranby and the SEU, whose endorsement was required. Copies of his PSR and list of pre-convictions were provided in support of the recommendation, which was endorsed by the SEU, acting on behalf of the Parole Board. Notification of their decision was transmitted by the SEU to Ranby's parole clerk on 23 August.

Conclusion

4.28 I find that the Prison Service guidance regarding procedure and eligibility for HDC release was properly applied in Parfitt's case. I think it very likely that the HDC Board, which recommended that he be released, was unaware of the security information reports regarding his possible further use of drugs not detected through the drug testing programme. However, since there was no evidence that he was continuing to use Class A drugs, knowledge of the suggestion and suspicion that he was continuing to use cannabis would almost certainly have made no difference to the

decision to release him. The evidence available to both the home PO the prison authorities was that he was no longer using Class A drugs.

4.29 I also find that Parfitt fell squarely within the target group envisaged by the SEU guidance regarding the application of a drug testing condition to his licence and that the proper procedure was followed in recommending and deciding that he should be subject to this requirement.

4.30 I find no evidence that organisational encouragement to governors to release a higher proportion of prisoners eligible for HDC because of the overcrowding at HM Prison Ranby, and in the prison system generally, had a bearing on the case of Parfitt. He was not assessed as a high-risk or borderline case.

5 Parfitt's supervision following his release on 11 September 2002

5.1 Parfitt was released from HM Prison Ranby on 11 September 2002 subject to HDC, that is two months earlier than he would in any case have been eligible for ACR on 9 November 2002. The address to which his curfew applied, from 19.15 in the evening until 07.15 in the morning, was that of his mother. His HDC ceased on 9 November 2002, the halfway point of his prison sentence, and his supervision while on licence was due to expire on 13 March 2003, the three-quarters point in his sentence.

5.2 Parfitt's release was conditional, as stated in a letter dated 23 August from the SEU to the parole clerk at HM Prison Ranby, on his attending the offices of the Nottingham Area of the National Probation Service (NPS) at 206 Derby Road, Nottingham, twice a week for the first 13 weeks of his release (that is, until 13 December 2003) and 'thereafter, as reasonably required' by his supervising officer 'to give a sample of oral fluid in order to test whether you have any specified Class A drugs (heroin or crack/cocaine) in your body'.

5.3 Because the monitoring of HDC has been contracted out by the NPS to commercial security companies, I shall deal first with the issue of Parfitt's compliance with his curfew requirement.

Monitoring of Parfitt's compliance with his HDC by Premier Monitoring Services and his response.

5.4 An HDC licence involves the licensee being electronically tagged and monitored. It is breached if he or she is found to be absent from the curfew address during the required hours, commits or threatens violence against the electronic monitoring contractor or their staff, damages or tampers with the monitoring equipment or withdraws consent from the monitoring arrangements. PMS, who are contracted to monitor HDC licences in Nottinghamshire, found that Parfitt fully complied with the terms of his licence, which duly expired on 9 November 2002. The details are as follows.

5.5 PMS provided us with a copy of Parfitt's Curfew History. Further clarification of its entries has been provided and these together with the History have been compared against the Statement of Operational Requirement (SOR), issued by the Home Office Electronic Monitoring Unit. The SOR represents the standards and requirements the contractors are expected to meet in monitoring compliance with the curfew and any necessary enforcement action.

5.6 On the day of release, as required under the SOR, a visit was made by a representative of PMS to fit Parfitt with a Personal Identification Device (PID) and set up the monitoring system. Two types of Signal Monitoring Unit (SMU) are used; a fixed landline type MU connecting to a normal telephone socket and a GSM-type MU using mobile telephone technology for when a suitable telephone line is not available. It was this second type of MU that was used with Parfitt. According to a Director of PMS, the system:

> ‘uses mobile telephone technology as opposed to standard telephone line to communicate with our monitoring centre. It is quite possible for someone to relocate this unit without losing telecommunication link and because of this the movement detector is set to ‘very sensitive’. This raises every movement of the unit as a tamper; however, the sensitivity is such that the smallest vibration, e.g. someone walking past the unit, will trigger the alert. We are only required to take action to these SMU tamper alerts if they last longer than 60 seconds or are coincidental with a loss of power’.

5.7 This explains the fact that during the two months that Parfitt was monitored no fewer than 79 ’SMU tamper’ incidents are recorded on the Premier log which were ‘automatically cancelled due to short duration’, that is they were less than 60 seconds. The Home Office SOR requires an event to exceed one minute before a telephone call from the monitoring staff is required. Identity checks are made during these calls using personal information records. In addition, five of these longer-than-one-minute incidents can be logged in a week before a visit from the Field Officer is required. If no events are logged that require a visit by the Field Officer, all curfewees must nonetheless be visited, randomly, at least once every 28 days to address any apparent equipment or systems failures (whether or not resulting from damage caused by the curfewee) to ensure that the required level of service can be continuously delivered. Parfitt was visited on 1 October, though not again until 9 November to remove the equipment at the end of his curfew period. We have established that a further home visit scheduled for 11 October was for some reason cancelled and not subsequently rescheduled. This represented a breach by PMS of their contract, but I have no reason to believe that the breach led to PMS failing to detect any breach of the licence.

5.8 There are other, different recorded events, two of which are officially acknowledged and recorded by PMS and summarised by them as technical ‘violations’. On 5 and 11 October Parfitt is said to have incurred ‘unauthorised absences’ from his home of eight and seven minutes respectively. That is, he returned slightly late to his home on those occasions, at 19.23 and 19.22 respectively. As required by the SOR these were followed up by telephone calls. PMS state that ‘no further action was taken in respect of these absences as they did not accumulate to warning or breach level’. This has been confirmed by Home Office staff responsible for the oversight and auditing of electronic monitoring contracts. At our request they scrutinised Parfitt’s curfew history and are satisfied that no significant tampers or violations had occurred and that the curfew history was unexceptional.

Parfitt’s supervision, his compliance with his drug testing and other licence conditions, and the enforcement of those conditions

5.9 Parfitt’s case was allocated in late May 2002, shortly after he was sentenced and while he was still at HM Prison Nottingham, to an experienced PO who, at the time, was a member of the Derby Road-based prisoner resettlement team of the Nottinghamshire Probation Area. An administrative assistant to the team wrote to him on 31 May 2002 explaining the role of the area while he was serving his sentence. The second paragraph stated:

> Your case has been allocated to [x], Probation Officer, but she will not be in touch with you directly until your parole report is requested. In the meantime any queries you may have about your resettlement plan will be dealt with through our duty staff. Unfortunately we are not resourced to visit during the main part of your time in prison but your Probation Officer will endeavour to visit during the final part of your sentence if this will assist in planning the work you will be undertaking when on licence.

The third paragraph continued:

> You may have been expecting your Probation Officer to do more than this while you are in prison. **However, the Probation Service is no longer expected to provide a welfare service to prisoners; our responsibility for you commences at the point of release.** [emphasis in the original]

5.10 In fact, Parfitt's PO did not visit him at any point while he was in prison – she says she had not the time – and, apart from the recommendation that he be subject to a drug testing requirement and had a suitable address to go to for HDC early release purposes, there was no further direct contact between him and his home probation area prior to his release.

5.11 The resettlement team, which was created at the Derby Road offices in 2001, had eight members and approximately 1,200 cases. These comprised offenders both in prison and on licence. The caseload was generic and included cases assessed as low to very high risk of both reoffending and harm. In the early autumn of 2002 the team had serious staffing problems. Although there were two SPOs, one had been on sick leave for five months. One other member of the team was also off long-term sick and another was subject to performance review with a reduced caseload, meaning that the SPO was having to monitor closely that person's work. When interviewed in February 2004 the SPO recalled that the team was "an incredibly busy team working under a lot of pressure". The pressures were such that in July 2002 a plan was formulated by the responsible assistant chief officer (ACO) to reorganise the Derby Road workload so as to give higher priority to high risk of harm cases and to get more offenders onto accredited programmes. This reorganisation took place at the beginning of November 2002 and, as a result of it, Parfitt's case was on 7 November 2002 transferred from the PO who had so far supervised him – she moved into the team concentrating on high-risk public protection cases – to the PO who had originally recommended that he be subject to his drug testing requirement.

5.12 When interviewed in February 2004 Parfitt's first supervising PO said that it was her preferred practice to visit each of the prisoners allocated to her while they were still in prison. Both of the prisons in which Parfitt was held, Nottingham and Ranby, were geographically local to her. But she did not visit him. She recalled that she had not had the time, describing her caseload in summer 2002 as "unmanageable" and her situation as "desperate". She had had approximately 30 cases in excess of her usual heavy workload. Her caseload included many long-term prisoners (those serving four years or more), for whom she said that she was constantly having to prepare parole reports. These prisoners she *had* to visit. She produced her personal diary. During the relevant period, when she might have hoped to visit Parfitt at Ranby, she had had to

make long trips to prisons in the north west to interview prisoners convicted of more serious offences. When she had returned she had had 40 voicemail messages she was required to answer. Later in the autumn, after Parfitt had been released, she had noted in her diary on 19 October 'bad weekend', 'too much', 'impossible'. She had felt unable to cope and said that she could "no longer do everyone else's job as well as mine". Following the "bad weekend" in October she spoke to her SPO and when interviewed recalled "we all had a huge pressure, but the context of a heavy workload had to be seen against constant changes in priorities and philosophy."

5.13 This is the context within which Parfitt's supervising PO: did not visit him in prison prior to his release; spoke on the telephone to his mother to ascertain whether she was willing to have him live with her on release – as opposed to *visiting* her (an occurrence which the SPO confirms was and remains normal); apparently failed, as we shall see, to take in the enforcement requirements of the drug testing provision to which Parfitt was subject; and, as we shall also see, met with him on only three occasions between his release on 11 September and handing over his supervision to her colleague on 7 November. Her successor never met Parfitt.

5.14 Most of Parfitt's contacts with the Probation Service were with one or another of the drug testing team PSOs at the Derby Road office. During the period from 11 September until he last tested on 10 December 2002 he was dealt with by three different drug testers, but he was usually tested by the female drug tester to whom, as a licensee, he was formally allocated. Parfitt's PO and his regular drug tester worked closely together. They had desks in the same office. His drug tester had been employed by Nottingham Probation Area since April 2002, first as a temporary assistant and subsequently as a permanent team member. She had previously gained experience in HM Prison Lincoln working within the CARATs (drugs intervention programme) there. In addition to her drug testing responsibilities, her duties included 'trawling' through the resettlement prisoner caseload to identify suitable candidates for the drug-testing-while-on-licence pilot. It was she who had identified Parfitt as a suitable candidate, a recommendation ultimately made jointly with his PO and, as we have seen (para 4.27), submitted to the SEU and HM Prison Ranby. Her drug testing colleagues had mostly been recruited from outside the Probation Service within the past year and, like other PSOs in Nottinghamshire, their responsibilities and powers were limited. The staff responsibilities guidance in Nottinghamshire gives, as we shall see, critical decision making primarily to POs, which, given their workloads at the Derby Road offices in 2002, they could arguably not exercise to a sufficient degree. This is an issue to which I shall return.

5.15 When interviewed in February 2004 all three of Parfitt's drug testers explained the process to which, following his release, he was required to submit. In Nottingham the Cozart Screening Device is employed. This tests saliva. A wooden paddle is inserted in the mouth of the testee, underneath his or her tongue. It is left there until it turns blue, indicating that sufficient saliva has been obtained. The paddle is then placed in an alcohol solution, which is then analysed. After approximately three to four minutes the result is shown. The results indicate whether the testee has tested positive for cocaine or opiates or any other drug, such as painkillers or other medicines, which are opiates based. Cannabis is not indicated. Nor are the levels of cocaine or opiates used, merely their presence. Samples are not sent for laboratory

analysis unless the testee disputes the result. Views as to the accuracy of results vary and we were informed that sometimes, when samples are sent for laboratory analysis, the result is the opposite of that first indicated. Offenders who become aware of this are more likely to challenge results. The results of tests are entered shortly thereafter on the electronic case recording (ICR) system and, if the test result is positive, the offender's case manager is notified by e-mail. Parfitt was tested 19 times during the autumn of 2002, on ten occasions positively. This, according to the first interim evaluation report on the Nottingham drug testing pilot, is a typical outcome. He never disputed the results of his tests. On the contrary, as the records show, he clearly discussed his use of drugs with the testers. This, the evidence suggests, is also normal. One of his testers estimated that the overwhelming majority of drug testees admit to their testers what they have taken. It follows that the results are generally not a surprise.

5.16 The drug testing process takes no more than five to ten minutes, though the contacts between testees and drug testers will be longer. In Nottingham the drug testers said they were encouraged not just to test offenders but to discuss their drug using habits with them and offer support. They did not provide treatment but 'would point them in the right direction'. Prior to their departure testees are also reminded about the date and time of their next test. It appears, however, that the drug testers did not systematically warn testees regarding the enforcement criteria, or the precise stage that testees were reaching in relation to those criteria, of which they maintained they were aware. That responsibility appears to have been retained firmly with the case manager POs. Parfitt seems never to have been told by the staff with whom he in fact had most contact, the drug testers, where he stood in relation to breach proceedings. Further, when he reached that stage, he was not informed that a licence revocation request was being made.

5.17 Finally, by way of context, what guidance did Probation Circular 132/2001 on *Drug Testing as a Licence Condition* provide the Nottinghamshire staff regarding offender compliance, breach and enforcement, and how familiar were the staff who tested and supervised Parfitt with the criteria and procedures set out in the Circular, and their relative responsibilities in relation to it? These questions are best answered in relation to both national and local policy guidance and, for reasons that will become clear, guidance not just in relation to drug testing as a licence condition.

National Policy and Guidance

5.18 The *National Standards for the Supervision of Offenders in the Community* approved by Ministers and published in 2000 (revised 2002) provide the overall requirements for levels of contact and enforcement of offenders supervised, including those on post-release licence. For licences, such as that under which Parfitt was supervised, the main elements are:

- A first appointment with the offender after release shall be arranged for the day of release or the next working day;
- Arrangements shall be made then for a further minimum of weekly contact during the first four weeks following release, making a total of five contacts in the first four weeks. One of the contacts will normally be a home visit, which

will be arranged to take place within ten working days of release unless the offender is resident in approved premises (i.e. a probation hostel)
- Contact shall be arranged to take place at least fortnightly for the second and third months following release, and thereafter not less than every four weeks.

5.19 These are minimum requirements. They are requirements on the Probation Service to arrange appointments and consider whether reasons for failing to attend can be deemed acceptable or not. Failures to attend an appointment, or any other failure to comply with any other requirement of a licence, should be deemed unacceptable unless the offender provides an acceptable explanation. It is the responsibility of the offender to keep these appointments and failure to do so without an acceptable reason requires the Probation Service to take enforcement action that may lead to recall. The number of failures to attend or comply before breach action must be taken is limited. For those on licence, where breach action is not taken after one unacceptable failure to comply, the offender must be given a formal written warning of the consequences of a further failure. Where it is proposed not to take breach or recall action after a second unacceptable failure to comply, then an officer of at least ACO level must confirm this course of action and give the offender a formal written warning. No more than two written warnings may be given within the total licence period before commencing breach action. Thus the supervising officer should commence recall action no later than the third unacceptable failure to comply. Breach action is taken by reporting to the SEU which works to the Parole Board. Discretion as to whether the offender should be recalled lies with the SEU and Parole Board. It is proper for the supervising officer to provide details of the offender's circumstances and response and views as to whether recall is appropriate so that the SEU and Parole Board are fully informed when the Board takes its decision.

5.20 Guidance on drug testing as a condition of a licence was provided, as we have seen, in Probation Circular 132/2001 and no further guidance has been issued regarding this. However testing on licence is one of three drug testing arrangements that was being piloted from the autumn of 2001.The other two were DAOs and DARs. Probation Circulars relating to these were issued in October 2001 and November 2002. The latter have relevance to the enforcement of drug testing requirements generally.

5.21 Probation Circular 132/2001 was issued jointly by the Prison Service, SEU and the NPD Policy Unit. It announced the piloting of drug testing as a licence condition and Chief Officers (COs) were asked to note and bring the contents of the Circular to the attention of relevant staff. Paragraph 2 states that 'the purpose of drug testing is to enhance public protection by identifying those with a history of drug related offending who are misusing drugs'. The policy approach would seem, therefore, to introduce drug testing more as a public protection than a rehabilitation initiative, placing a greater emphasis on enforcement. Testing was introduced to operate as an external control. Positive tests, above a certain defined frequency level, were expected to lead to breach action. This is in contrast to DTTOs where the policy context is that results of positive tests are to be reported through routine review court hearings with less of a presumption of breach action.

5.22 Parfitt, as we have seen (paras 4.23-4.27), fell squarely within the category of prisoners for which drug testing as a licence condition was designed and the SEU had approved the requirement in his case. The Circular advises that the appropriateness of the licence condition should regularly be reviewed like any other licence requirement. No frequency of reviews is advised though they are encouraged 'where the licence period is lengthy'. The agreement of SEU is required for any amendment to the wording of the condition. Parfitt was not subject to a lengthy licence period and therefore no review of his licence took place.

5.23 The concluding section of the Circular deals with the breach of a drug testing licence condition. It draws attention to the relevance of the procedures set out for dealing with a reported breach in the NPS *National Standards* published in April 2000. These standards are in addition to the specific enforcement of drug testing, though this is not explicitly stated in the Circular. Paragraph 22, states clearly that:

> 'A breach report should be sent to the Sentence Enforcement Unit under the following conditions:
>
> - The offender has failed to attend or fails to cooperate with two appointments for drug testing and fails to provide a satisfactory explanation *(The Probation Service should issue a warning letter after the first missed appointment.)*
> - The offender fails three consecutive drug tests **or** two non-consecutive drug tests over a six week period. The decision whether to breach the licence will be made in the light of the overall progress made by the offender and the breach report should identify any positive evidence of progress which would mitigate breach action *(The Probation Service should issue a warning letter after the first failure.)*'

The reasoning behind what may, at first sight, appear to be the illogical alternative of three consecutive drug test failures *or* two non-consecutive failures within six weeks, is that the effects of drug taking may stay within the body for three to four days and thus *two* consecutive positive tests within the same week might reflect a single use incident. There is no discretion over whether a breach report should be sent to SEU if these conditions are met. Discretion and judgement should be applied as to whether or not the report supports revocation of the licence and recall. The discretion to recall lies with the SEU and the Parole Board.

5.24 An issue arises as to the interplay between breaches of a drug testing condition and breaches of other conditions. Paragraph 23 of Probation Circular 132/2001 advises that:

> 'In addition to the above, where an offender who has a drug testing condition breaches another condition on the licence, such as good behaviour condition, the breach report should include information on the offender's compliance with drug testing'.

This implies, though it is not explicit, that breaches of all licence conditions, under whatever condition, including drug testing, should be treated cumulatively. This means that, in accordance with the *National Standards*, breach action, by means of a report to SEU, should occur at the latest on the third failure, for whatever reason. SEU will consider whether recall action is appropriate. This interpretation we have confirmed with NPD policy staff.

5.25 Probation Circular 144/2001 does not relate to drug testing as a licence condition but to DAOs and DARs. The Circular is relevant to this inquiry insofar as similarities and differences between drug testing as a licence condition compared to DAOs and DARs are understood by probation staff. Probation Circular 144/2001, paragraph 9, states that 'separate guidance applies to these provisions – Probation Circular 132/2001', referring to drug testing as a licence condition. This makes explicit that Probation Circular 144/2001 does not relate to drug testing on licence. The Annex to the Circular states in relation to a DAO:

- 'existing National Standards apply to the enforcement of DAOs and the requirements in respect of attendance and behaviour
- the enforcement standard on positive tests for the pilots will be different from that for DTTOs. Offenders on DAOs are less likely to have serious chaotic drug problems than those on DTTOs and the sole requirement of DAOs is to abstain from drug misuse
- three consecutive failed tests or two non consecutive failed tests within any six week period during the course of the order should automatically lead to breach'.

The Circular further states that these requirements also apply to DARs, and this policy on enforcement of DAOs and DARs is fully consistent with the required enforcement of testing on licence. It should also be noted that the guidance acknowledges that the enforcement standard differs to that for DTTOs.

5.26 Probation Circular 73/2002 was issued in November 2002. As with Probation Circular 144/2001 it does not relate to drug testing as a licence condition but to DAOs and DARs. The distinction is not explicit in the body of the Circular but it is clearly titled *Enforcement of Drug Abstinence Orders and Drug Abstinence Requirements* and deals with requirements enforced by the courts, not the SEU. Its relevance to this inquiry is the extent to which national debate preceding Probation Circular 73/2002, if there was confusion in local understanding, may have contributed to the decisions of local probation staff.

5.27 Probation Circular 73/2002 was issued because of changes to the enforcement of DAOs and DARs. Experience of the pilots for DAOs and DARs had resulted in large numbers of offenders being brought back to court for breach, and in many cases the orders being allowed by the courts to continue. The aim of abstinence was difficult to achieve with many offenders and Ministers agreed to revise the enforcement requirements so that consideration of breach action could be mitigated by the offender's general response and commitment to treatment. As early as March 2002, only four months after the start of the pilots in Nottingham, the national interim evaluation report was commenting that the breach conditions are potentially over-

punitive for those offenders who are motivated to change and need support over a period of time to achieve abstinence. There was debate around this issue, compounded in some parts of the country by long waiting times for drug treatment, which led to the publication of Probation Circular 73/2002. This revised the earlier guidance regarding the enforcement of DAOs and DARs. The revision did not change the requirement that enforcement action continue to be mandatory on the first occasion that an offender is in breach of a DAO or DAR by virtue of submitting three consecutive or two non-consecutive positive tests in a six week period. However, if, in this eventuality, the court allowed the DAO or DAR to continue then:

> 'the responsible officer would have discretion to disapply the duty to breach the offender for failure to comply with the DAO/DAR solely on the grounds of the submission of positive drug tests subject to the following conditions:
>
> - the offender has been assessed as a problem drug user; and
> - he or she has consented to undergo an appropriate drug treatment programme as part of their supervision plan; and
> - he or she has not commenced that treatment programme for reasons outside of his or her control but there is a realistic timetable for such commencement.' (paragraph 10)

Before deciding to exercise discretion the responsible officer must get written confirmation from the treatment provider that there is a delay in the offender accessing treatment. The decision *not* to apply breach action should be put in writing to the offender and should not be more than three months duration. If this stage is reached then if the offender tests positive on three consecutive or two non-consecutive occasions within six weeks, breach action must then be taken.

5.28 Probation Circular 73/2002 also discusses issues regarding the interplay between a positive test and an unacceptable failure under *National Standards* (paragraphs 15 to 19). It is clear from this section that the two elements are to be counted cumulatively and not separately. One qualification is that:

> 'a single positive test in combination with an unacceptable failure will not be grounds for breach *except* when that positive test occurs within six weeks of an unacceptable failure under the National Standards'.

5.29 Consideration was given by SEU as to whether some local discretion should be allowed for drug testing as a licence condition similar to that introduced for DAOs and DARs through Probation Circular 73/2002. It was decided not to make any change because it was considered that the discretion held by the SEU and Parole Board whether to revoke the licence offered sufficient flexibility for application in individual cases.

5.30 The national policy and guidance in 2001/2002 can therefore be summarised as follows:

- long-standing and well understood *National Standards* applying to the general enforcement of licences

- an approach, within DTTOs, where positive drug tests in themselves do not lead to breach but judgement is exercised by the court as to offenders' overall response
- a stricter approach being applied to the enforcement of drug testing on licence though with discretion at SEU and Parole Board level being exercised as to whether to recall
- an early debate at national level about the appropriateness of offenders subject to DAOs and DARs having their orders strictly enforced culminating in local discretion being introduced in November 2002 for breached offenders whose orders the courts had decided should be allowed to continue.

Local, Nottinghamshire Probation Area, Policy and Guidance

5.31 For most aspects of probation practice it is necessary for national policy and guidance to be supplemented by local advice to staff. This is especially important for central policy issues such as the enforcement of supervision of offenders and developments such as piloting new arrangements. In December 2000 the Nottinghamshire Probation Area issued a *Compliance and Enforcement Policy* to staff. It relates to both community sentences and post-custody licences and pre-dates the piloting of drug testing. The *Policy* states that:

> 'the primary purpose of enforcement, whether through prosecution or breach action or by other means, is to SECURE and MAINTAIN cooperation and compliance, to ensure successful completion. This is reiterated throughout National Standards 2000'.

One section deals with the recognition in *National Standards* that there will be occasions when it is appropriate to depart from them. The guidance, in accordance with *National Standards*, requires that such departures be authorised. For example a decision not to take breach action on the third failure for a licence must be made by the appropriate line manager and the need for the reasons for the departure must be clearly recorded.

5.32 'General Principles' are given to guide the use of discretion. They cover the specific example of offenders who may have a 'Chaotic Lifestyle'. The guidance is:

> 'Where an offender's lifestyle is such that it is expected that they might find difficulty in fulfilling the demands of National Standards this should be identified in any proposal, and the requirements should be managed flexibly enough to allow an offender to meet the Standard. SPOs are expected to use this category sparingly, where often it can be a catch all excuse for drug dependent offenders, and where if overused will cast doubt on Service credibility.'

5.33 With regard to determining unacceptable and acceptable absences the guidance acknowledges that in the final analysis decisions rest with staff, that no list of 'reasons' can be complete, and appropriate guidance is offered. This includes the expectation that offenders should attend all planned sessions at pre-arranged times unless they have a good reason not to, in which case they should contact the supervising officer beforehand to arrange an alternative. Staff are also reminded that

where an offender makes contact to rearrange attendance it remains important for the them to achieve the minimum number of contacts in any given period of the licence and on the third unacceptable failure enforcement action must be taken.

5.34 The guidance issued in December 2000 is comprehensive, dealing with the requirements of *National Standards*, the extent of discretion and judgement, and the respective responsibilities of staff. The examples given of what may constitute acceptable and unacceptable absences strike an appropriate balance between the aims of supervision, achieving compliance by offenders and ensuring consistency. The policy and guidance do not specifically address, however, the role of PSO front line staff in determining acceptability of absences. Further, the requirement that SPOs monitor judgements on acceptability and review these with ACOs gives no guidance on the frequency or extent of the monitoring required.

5.35 In November 2001 Nottinghamshire issued specific guidance for *Drug Testing as a Requirement of Post Custodial Licence*. This sought to make understandable to staff the position in Probation Circular 132/2001, paragraph 22, (and quoted above in full) that a breach report should be sent to the SEU if the offender fails three consecutive drug tests **or** two non-consecutive drug tests over a six week period and that drug testing failures should be counted along with other failures to comply. Staff briefings were held to reinforce the guidance.

5.36 The respective roles of drug testers and case managers are covered in the guidance. It is clear that drug testers arrange appointments after the first drug testing appointment, issue warning letters when tests are positive and alert the case manager that the abstinence requirement has been breached. What is less clear is the role boundary regarding referrals to, and liaising with treatment providers. Thus statements that this is work which drug testers will do is bound up with references to 'in consultation with the case manager' and 'subject to the approval of the case manager'. There is no reference to PSOs having responsibility for following through enforcement action after a failure to attend or test positively.

5.37 In November 2001 the Nottinghamshire Probation Area also issued guidance to staff titled *Drug Testing as a Requirement of Community Rehabilitation and Community Punishment Orders*. Much of the guidance is identical to that for licences. On the question of action following a positive drug test the guidance states the drug tester will provide 'the written warning '*on the first occasion*' and draw the case manager's attention to the situation via ICR notification' (emphasis added). Thus drug testers are not given the responsibility to invoke specific enforcement action on a second or subsequent failed test. This is possibly because such an event should trigger breach action and this was presumably seen as only appropriate for a PO to undertake. Similarly with licences *National Standards* require that any formal written warning after a second failure should be issued by an officer of at least ACO level.

5.38 The Nottinghamshire guidance relating to DAOs and DARs appropriately discusses the possible range of factors in an individual offender's risk of reoffending and reminds staff that courts can be expected to take a balanced view when breach action is taken. The implicit message is that it is for the court to take the final judgement and that breach action should be instigated when appropriate. A similar

message is correct in relation to licences, with final judgement being with the SEU and the Parole Board.

5.39 In July 2002, shortly before Parfitt's release, the area issued *Drug Abstinence Orders/Requirements – National Standards Monitoring Checklist*. This document, on a single sheet of paper, was intended as an *aide-memoire* for staff. It is clear and consistent with relevant Probation Circulars. No separate document was produced for licences and though the *aide-memoire* states that the same framework applies to licences it may, given its heading, have been overlooked by some staff.

5.40 A *Brief Practice Guidance – Determining Unacceptable and Acceptable Absences* was issued to staff by Nottinghamshire in September 2002. It gives, in a brief form, guidance that appears in the *Compliance and Enforcement Policy* December 2002 and subsequently included in the *Compliance and Enforcement Service Policy Reviewed and Revised* July 2003. It draws attention to 'many reviews of cases where there has been a serious re-offence, have shown a series of absences which have been deemed 'acceptable', that have clearly indicated deterioration in the lifestyle and problem solving skills of the offender'. The guidance covers the basis on which absences should be judged, for example, failure to attend when it is judged that the offender could have negotiated in advance: this is deemed unacceptable. It is also stated that SPOs will monitor judgements on acceptability and review them with ACOs. SPOs will in particular review cases where there is a pattern of acceptable misses and offer advice as to their frequency or scale.

5.41 Finally, whatever the formal advice to staff regarding the increasingly complex diversity of drug testing provisions, informal advice may have created confusion. I have already referred to the debate reflected in and, in turn, stimulated by, the reports of the national evaluation of the drug testing pilots (see para 5.27). It was suggested to us, for example, that at a meeting of the national management steering group in September 2002, attended by representatives from the SEU and the NPD, the SEU representative had advised that, contrary to the strict terms of Probation Circular 132/2001, probation staff might show some flexibility regarding making licence revocation requests with respect to drug tests. This is not inconsistent with what we have been told directly by the SEU, namely that minor breaches of a licence with a drug testing requirement are sometimes dealt with over the phone (see para 6.7), the cases not being put before the Parole Board.

What Nottinghamshire Probation Area Staff Knew and Did

5.42 Establishing what someone knew some time ago, as opposed to what they know now, is always difficult unless respondents are fairly clear that they do not presently know something which they have never known. The HM Prison Ranby staff involved in Parfitt's release were clear, as we have seen, that they did not know the detail of the arrangements for drug testing as a licence condition. The chairman of the HDC Board mistakenly referred to Parfitt being placed on a DTTO (para 4.23). By contrast the Derby Road drug testing staff with whom we have spoken were clear that they knew what Probation Circular 132/2001 requires and knew at the time when Parfitt was released. They had received training in the provision and were familiar with the terms of the Circular. The Circular was posted on the Nottingham Probation Area computer

system ‘Digest’. That the drug testers were familiar with the Circular is unsurprising: it was central to their role.

5.43 This was not the case with Parfitt’s PO, however. When interviewed in February 2004 she was shown PC 132/2001. She said it was the first time she had seen it. When asked what information she had received in 2001/2002 about drug testing as a licence condition she replied “None, I didn’t know anything about it”. Though she had recommended that Parfitt be subject to the requirement she said:

> “I didn’t know about it, I didn’t know how it would work out. I asked X [the drug tester who identified Mr Parfitt as suitable for the scheme and who was principally responsible for testing him] but there wasn’t anyone else to ask. It was a pilot, a new thing, I didn’t know.”

In fact she had, according to minutes shown to us by the resettlement team SPO, attended a meeting of the resettlement team on 15 September 2001 at which another SPO, generally responsible for drug testing programmes, had briefed the staff present about drug testing as a licence condition. Those present at the meeting were told that they would need to identify suitable prisoners due to be released after 1 November 2001. That, however, was almost a year prior to Parfitt being released and it is clear that, whatever she had been told, Parfitt’s PO, who had a general caseload of licensees the overwhelming majority of whom would not have been involved in drug testing, had not taken the information in and was unfamiliar with Probation Circular 132/2001 and the enforcement criteria it set out. The PO to whom Parfitt’s supervision was transferred on 7 November likewise said that he had never seen Probation Circular 132/2001, though it is clear from the enforcement actions that he took in November that he had a broad understanding of the criteria to be applied. When interviewed in February 2004 he said that he had learned about the Circular “second hand” and believed that he had also been briefed about the pilot by his SPO.

5.44 If Parfitt’s first PO was not familiar with Probation Circular 132/2001 nor was her team SPO. When interviewed in February 2004 and shown the Circular he said he was not familiar with it, though he recalled that he had been involved in briefings and discussions regarding it in autumn 2001 when the pilot scheme had been introduced. His staff, he said, had been given information about the pilot by other managers (including the briefing which he and Parfitt’s PO had attended on 15 September 2001) through a series of staff conferences in October 2001, through the internal information ‘Digest’, and by means of e-mails. He said that he was as satisfied as he could be that information had adequately been distributed to his staff and that there had been a good deal of discussion and questions from staff about the pilots when they had started. Nevertheless his supervision of his team was not, it would appear, informed by close familiarity with the enforcement provisions of the Circular and in any case his own workload meant, according to his own account, that the focus of his supervisory attention was on the cases assessed as high risk of harm being dealt with by the resettlement team. He aimed to hold monthly supervision sessions with each of his staff and in practice achieved about ten a year. As already mentioned (para. 5.11) he was also having to manage the team in the absence of his sick SPO colleague. In the notes of supervision meetings with Parfitt’s PO there is no reference to Parfitt, who was not considered a high risk of harm offender.

5.45 Asked how he would know whether the offenders being supervised by members of his team were being supervised according to *National Standards*, the resettlement SPO described an audit process involving scrutiny of randomly selected cases. This gave him a picture of general team performance. He could not recall whether the audit process picked up drug test failures in 2002, though he confirmed that it does now. He said that he would, in addition, look at some selected cases, but these would be those cases assessed as high risk of harm, of which Parfitt was not one.

5.46 The resettlement team SPO described Parfitt's first PO, who still worked as part of his team in February 2004, as very skilled at assessing high-risk cases. He had no doubt about her competence. But he recalled that in October 2002 the team's workload had been very heavy, Parfitt's PO had personally reported difficulties managing her caseload in October 2002, all of which was part of the background for the restructuring of the Derby Road organisation and workload at the end of that month. Because of staff shortages some offenders were not at that time being supervised properly or as well as they had previously been supervised. His attention, and those of his team, was principally focused on high risk of harm offenders – sex offenders, offenders involved in firearms offences, professional criminals, "those involved in serious violence – people at the top end of the scale" – groups into which Parfitt did not fit. He had never discussed Parfitt's case with his PO, but when shown the record of Parfitt's breaches of his licence he readily agreed "Yes, it should have been tighter."

Parfitt's supervision and his compliance with his licence

5.47 Parfitt may have complied with the terms of his HDC, but he did not comply with his licence. On 25 November the Nottingham Probation Area applied for it to be revoked and this was done by the Parole Board on 9 December. His name was then placed on the PNC, authorising his arrest and recall to prison. The events leading up to this conclusion were as follows.

5.48 When Parfitt was released from HM Prison Ranby on Wednesday 11 September 2002, he reported the same day to the Derby Road office, met his supervising PO and was drug tested. Thirteen weeks from this day takes us to the second week in December 2002 during which, on 10 December, he was tested for the last time. By then, however, his licence had been revoked – on 9 December. During those 13 weeks it is recorded on the sheets summarising his test results that he was given 21 appointments for drug tests, of which he missed three – on 23 September, 25 September and 5 November. That is, he appears from this sheet not to have been given two appointments each week for the first 13 weeks; only one appears to have been fixed for the 7th, 8th, 10th, 11th and 13th weeks. His case record indicates, however, that his summary sheet is incomplete. The record shows that he was also told to attend appointments on a further five occasions – 8, 10 and 29 October and 7 and 19 November. I conclude, therefore, that if one takes a flexible view of what constitutes a week (that is, roughly two tests overall during each Sunday to Saturday period of seven days as opposed to strictly 0-7, 8-14, 15-21 and so on days from release), then Nottinghamshire Probation Area did arrange 26 or an overall two tests per week, during the first 13 weeks following his release.

5.49 Parfitt was tested, however, on only 19 occasions, failing to attend on seven occasions, the majority of which absences were judged 'acceptable' – two because he was allegedly unwell, one or two (there is some ambiguity) because he was working or caught in traffic and once (after revocation was sought) because he had an appointment with COMPASS, a local drugs treatment agency.

5.50 I draw this conclusion because it is apparent from the Nottinghamshire Probation Area contact notes for Parfitt that there was at least one mix-up over appointments early on, that the continuous case notes contain frequent, apparently contradictory statements (namely, that Parfitt both 'failed to attend' for a test *and* that he tested positively) and that the summary sheet for Parfitt's drug test results is neither complete nor accurate (for example the missed appointments for 8, 10 and 29 October are not included, whereas those for 23 and 25 September and 5 November are). Interpreting the records is made difficult by the adoption of confusing terminology, namely, that a positive drug test is described as an 'absence', as also is a failure to attend. This confusion results from the fact that the electronic case recording system in use in Nottinghamshire – ICR – had no facility to record a failed drug test so, in order to show a failed test, it was recorded as an unacceptable absence. The case notes would then be updated to show a failed drug test, so giving the impression, incorrectly (to anyone not familiar with how the inflexibility of the software system had been adapted for the drug testing pilots), that the testee had both failed a drug test *and* been deemed to have been unacceptably absent.

5.51 The results of the drug tests which *were* conducted are best considered alongside Parfitt's supervision. In addition to his 19 drug tests he met his first PO on three occasions, briefly (probably for 15 minutes or so) on the day he was released, at much greater length just over a week later (his supervisor thought for about two hours, on 20 September) and again briefly (probably for about 15 minutes again) on 2 October. The duration of supervision meetings is not recorded in the Nottinghamshire Probation Area case note system but the above estimates square with Parfitt's PO's recollections when she was interviewed and are consistent with the case notes. The lengthy meeting on 20 September was used to gather information and draw up a supervision plan. Parfitt never met the PO to whom his supervision was transferred on 7 November and whose application resulted in his licence being revoked on 9 December.

5.52 As I have noted above Parfitt fully cooperated with the drug testing arrangements during those appointments, the majority, which he attended. The tests were undertaken satisfactorily and it is recorded that he accepted the results. It is also clear from the notes that he volunteered information about his drug use beyond that which he might have been expected to give: that is he admitted using drugs even when a test was negative. In this sense he must be taken to have been a compliant licensee and was clearly regarded as such.

5.53 His first two tests following release, on 11 and 16 September, were negative, though on Tuesday 16 September he admitted to the drug tester that he had used drugs – the record does not say which – 'a little over the weekend', that is, his first weekend out of prison. The drug tester recorded that she reminded him of the dangers of so doing because of his DAR. She recorded that they also discussed his possible

involvement with COMPASS, the local treatment agency which provides a drop-in centre and conducts assessments and gives advice on appropriate treatments such as acupuncture and structured pre-detoxification programmes, for a drug relapse programme. It is recorded in the log that Parfitt completed his induction interview and that his PO planned to do his supervision plan with him on the next occasion she saw him.

5.54 On Wednesday 18 September Parfitt's PO attempted, unsuccessfully, to satisfy the national standard that he be visited at home within ten days of release. She did not attempt to do the visit herself – she had not the time – but arranged for a community service supervisor to call at Parfitt's address at a pre-arranged time, a routine arrangement within the resettlement team at the time. The supervisor visited and found no one at home, an absence which Parfitt's PO recorded as 'unacceptable' – a clear breach of his licence.

5.55 Whatever the intrinsic value of a home visit when a licensee is on HDC, the fact that Parfitt was not at home when he should have been becomes significant given the events immediately following. On Friday 20 September Parfitt tested positive for cocaine. His tester recorded that he 'was a bit the worse for wear when he came in'. The record indicates that he was tested at 14.00 and met with his PO at 14.30, though when interviewed his PO recalled that it had been the other way round. Her brief case note makes no mention of either his use of cocaine or his failure to be at home for the home visit two days previously, though she recorded that he 'admitted he was drinking only had a couple in fact had had two cans of super strength'. She also recorded 'Does [not] want to get into crack and heroin' (she explained when interviewed that the omission of 'not' was an error). She remembered that she "had a go at him", went through a "gains and losses" assessment with him and concluded that he "was already struggling".

5.56 A document in Parfitt's file, his Initial Licence Supervision Plan, comprises the principal note on which his PO made her notes of this extended interview. They include the words 'Go on – No drink – I'm not touching Smack + Crack' – which suggests that though he had already used cocaine, he had indicated to his PO that he wanted to abstain from both drugs. The Plan also indicates (under Section 4 – Level of Offender Motivation) that his PO felt the need to find out what he had done in prison, which suggests that at this stage she did not know (when interviewed she confirmed that at no stage had she been told anything by the Prison Service about his response to custody). On the back of page 2 of the Plan are the notes of the 'gains and losses' analysis in which there is a reference to using drugs, of his being offered them, enjoying them but also feeling guilty about doing so. It is not clear whether this refers to his historic or current use of drugs. The rough notes on page 3 of the Plan also include the suggestion that Parfitt be referred to the John Storer Clinic, which he had attended unsuccessfully prior to his prison sentence.

5.57 The 20 September interview was crucial. Parfitt had already, within nine days of his release, breached his licence twice. He was using Class A drugs again, both by his own admission and according to a test. He was drinking alcohol, a major offence trigger throughout his criminal career. And he had failed to meet a home visit appointment. Yet the Initial Licence Supervision Plan states that his risk of harm to

others is assessed as 'low' when the Risk Assessment made prior to his sentence was 'medium', particularly should he get back into use of heroin and cocaine.

5.58 Not until Friday 27 September was Parfitt formally warned in writing about his first two breaches. He was told that if he failed to comply again with a licence condition that his case would be referred to a senior manager and that he might then be issued with a final warning, or recalled to prison. He was informed the date and time of his next appointment. In fact, as we shall see, by 27 September he had further breached his licence though on these occasions his PO judged his excuses to be 'acceptable'. Moreover, at no point later did he receive any other formal warning about his behaviour from Nottingham Probation Area staff.

5.59 The warning signs during week ending 20 September were immediately added to. Parfitt failed to attend his drug test on Monday 23 September. His PO wrote to him on the same day asking him to contact her with an explanation and reminding him that his next appointment was on Wednesday 25 September. On Tuesday 24 September in the afternoon Parfitt telephoned the Derby Road offices to say that he had not attended the previous day because he had mistakenly thought his appointments to be on Wednesdays and Fridays, an excuse which was somewhat implausible given that he had attended a test the previous Monday. He said he would come in tomorrow, Wednesday 25 September. He failed to do so. He spoke to his usual drug tester on the telephone in the morning and, according to the log, said:

> 'that he was feeling really unwell as he had been smoking heroin really heavily doing rattle. Says that he has really "messed up". Started hanging around with old mates. One of his mates was picked up for something and remanded. Says that he can get off with drugs on his own without "pills". Given appointment for Friday@12.00'

5.60 On Friday 27 September Parfitt attended his drugs test (a friend having earlier rung on his behalf to say that he had missed his bus and might be a bit late) and tested negative for both opiates and cocaine. His usual drug tester nevertheless recorded that he had acknowledged that he was using again and needed help. She said that she would refer him to both the John Storer Clinic and to COMPASS. He did not meet his PO but on the same day he was sent the formal warning relating to his failed home visit and failed drug tests on 18 and 20 September respectively. His excuses for failing to attend his drug tests on 23 and 25 September were surprisingly accepted, and without medical certification.

5.61 Surprising because, as we have seen, Parfitt's reason for not attending on those two occasions was because he had been feeling ill *because* he had been 'smoking heroin really heavily' over the weekend. Given that failure to provide a sample is in other settings quite properly interpreted as the equivalent of a positive test outcome, it is difficult to see why his *admission* that he had not attended *because* he had used heroin heavily was considered 'acceptable' and not taken to constitute two further breaches of his licence. Had they been so interpreted then the criteria for breach as set out in Probation Circular 132/2001 (and even more so given a cumulative view of breach according to *National Standards*) would already have been met and a report

could have been sent to the SEU by the end of this week, the end of the second following his release.

5.62 Because Friday 27 September, given the above interpretation, marks a threshold point in Parfitt's post-release supervision, this is a suitable point at which to attempt to understand his PO's thinking. When interviewed she said the following:

> "I wasn't familiar with the enforcement procedure [for the drug testing requirement]. I understood that so long as he made efforts to get treatment, there was no need to recall him."

In relation to later relapses in October she said:

> "I think people have relapses. I wouldn't necessarily have had a chance to action anything at that time because of the workload. I may not have been in the building when he reported for testing or he may not have seen me, but he was still coming in."

When pressed about the fact that during the whole period of Parfitt's supervision she had recorded only one of his several absences as 'unacceptable', she replied that as far as national standards were concerned, he was still turning up. She was prepared to give him a long time because she wanted positively to work with him.

5.63 From this it is clear that a combination of factors were influencing the PO's actions and inactions. She was aware, both now and later, that Parfitt was using Class A drugs again and was sometimes testing positively, though she would not necessarily learn of the details on the days when those details became apparent. But she shared an office with his principal drug tester and she acknowledged when interviewed that she received e-mails from her. However, she was not aware of the enforcement requirements set out in Probation Circular 132/2001 and her view of drug testing seems to have been that it was a source of information to weigh in the balance of the offender's overall response, rather than a mechanical enforcement trigger for revocation of the licence. When interviewed and asked whether she discussed lifestyle issues with Parfitt and how he was funding his use of Class A drugs, she responded that that it didn't follow that use of drugs was funded by crime and that in any case "My focus was how to get him to stop – not to consider how he funded it." She agreed that her duty was to consider the risk to the general public. But his misuse seemed to occur at the weekends, and if he had some money he blew it. "The positive aspect was that if he had a binge he was telling me about it." Parfitt was still cooperating by attending the probation offices to be tested. He was testing negatively as often as he was testing positively. He was honestly, in her view, acknowledging his habits and difficulties. He was expressing a willingness to address his drug addiction through treatment. Her view was that for so long as he was broadly cooperating and seeking treatment he would not be recalled. Further, against the setting of 'national standards' for the supervision of licences, his PO's apparent benchmark, he was complying with his supervision. Finally, she was clear that she had not been particularly worried about him. His relapses were worrying and she agreed that at some stage she should have discussed his case with her SPO. But in the wider scheme of things Parfitt's case had at the time not been worrying, not compared to the dozen or so high risk of harm

cases – "mega-risk cases" – with which she had also to deal. In retrospect she agreed that it could be said that she should have begun breach proceedings, but given her priorities, overall workload and general understanding at the time, he had benefited from the discretion and limited time which she thought it appropriate and possible to allocate.

5.64 Parfitt attended both of his drug test appointments in the following week – on 30 September and 2 October - and tested negatively on both occasions. Further, things appeared now to be looking up. On the Monday he told his usual drug tester that he now had a job, working as a driver's mate delivering sunbeds. She said that he was to attend the John Storer Clinic on the following day, Tuesday 1 October. However, when he came to be tested on the Wednesday there was no mention in the record of his having gone to the John Storer Clinic, though he was said still to be working.

5.65 The following week, the fourth since his release from prison, Parfitt again failed to attend a drug test appointment, for Tuesday 8 October. He was written to on the same day again asking for an explanation and told that his next appointment was for Thursday 10 October. In fact he rang late on the Tuesday afternoon to say that he was stuck in traffic. It was suggested that he come in later to see a late night duty member of the Drug Abstinence Team (DAT). For reasons that are not entirely clear he could not or did not make even this later appointment and, in another telephone call at midday the following day, he again gave as his explanation being stuck in traffic. His PO decided that this was an acceptable explanation. However, he did not attend his appointment on Thursday 10 October and the case notes appear to provide no explanation either offered by Parfitt, or evaluated by his PO, other than a statement that on 14 October she judged his absence on 10 October to be 'acceptable'. When interviewed about this she agreed that she should have done something about this 12 day period of non-attendance, but she pointed out that there were many things that she would have liked to do something about; her workload meant that she was unable to do so.

5.66 The following week, the fifth following his release from prison, Parfitt was tested twice, on Monday 14 and Wednesday 16 October. On the Monday he tested positive for both cocaine and opiates. He had also, according to his regular drug tester's notes, been drinking. He admitted to using 'a few lines of Charlie' (snorting cocaine) on Saturday night with friends. He said he did not want to return to prison, had given up his job because it interfered with keeping his appointments and he accepted an appointment with COMPASS for Tuesday 22 October the following week. He was sent written confirmation of this and other appointments. To his PO, seen briefly on the same day, he admitted that he had had four pints the previous Friday night and more alcohol, as well as cocaine and heroin on Saturday and Sunday when, his mother being out of the house working over the weekend, his friends had come round and he had relapsed into his usual pattern. His PO recorded that he 'got negative' when she warned him about his behaviour. She also recorded that it was necessary to consider 'RP' (relapse prevention) for him and it was at the same meeting that she found 'acceptable' his non-attendances of the previous week. This was the meeting which followed her 'bad weekend' and her reporting that her caseload was 'impossible' to her SPO.

5.67 By Monday 14 October, Parfitt had unequivocally fulfilled the criteria for breach according to Probation Circular 132/2001. That is, he had twice tested positive within a period of six weeks. At this point, therefore, a breach report should have been sent to SEU. That it was not done appears to be attributable to the fact that his PO was overwhelmed by her caseload and that she was unaware of the enforcement criteria and procedure for a drug testing licence condition. However, she did not use the opportunity presented by her interview with her SPO to inform him of what was now a pattern of failure by Parfitt. Nor, apparently, did his regular drug tester tell him that, according to the rules, breach proceedings should now be instituted with a view to his being recalled to prison.

5.68 The COMPASS appointment never took place apparently because Parfitt claimed to have had the opportunity on the Tuesday of seeing his daughter (so one of his drug testers recorded on the 24th – 'a rare opportunity'). This failure to fulfil his appointment was subsequently deemed by his second PO to be 'acceptable' and was rearranged for a later date. However, on the same day, 22 October, Parfitt again tested positive for opiates and, we confirmed by interviewing one of their representatives on 6 February 2004, attended a brief 15 minute assessment with a COMPASS worker who provided an outreach service at the probation offices that day. A second test in this sixth week after his release, on Thursday 24 October, was also positive, this time for opiates and cocaine. One of his drug testers recorded that Parfitt was going to the John Storer Clinic the same day because he wanted 'to get his life back on track'. In fact his plans in this regard were unlikely to have been realised; the John Storer Clinic, for which COMPASS provides an initial assessment stepping stone, is a high level treatment centre for which there was and is a long waiting list for appointments.

5.69 The following week Parfitt had two further drug testing appointments. He either failed to attend that on 29 October or tested positive for opiates (both, contradictory, outcomes are stated) and tested negative for cocaine but positive for opiates on Thursday 31 October. His usual drug tester who tested him on the latter occasion said he was 'OK' and 'still using bare minimum'. She must have formed this judgement purely on the basis of what he told her since, as we have seen, the saliva drug testing method does not discriminate between the levels of substances within the testee's system. She also recorded that he had been to COMPASS the previous day (something we have confirmed) and that they would support him in detoxification while he waited for his John Storer Clinic appointment on 6 January 2003. She also recorded him saying that when his 'tag came off' – his HDC was due to finish on 9 November – he planned to move in with his girlfriend who he claimed was now drug free. Whether the drug tester knew that this girlfriend was a new girlfriend (as later became apparent) and not the mother of his child is not clear, but though she recorded on the ICR system what he had said she does not appear to have brought the matter specifically to his PO's attention.

5.70 Two drug tests were scheduled for the eighth week of the licence, Tuesday 5 and Thursday 7 November. He failed to attend the first appointment (he was recorded as having arriving unacceptably late, by an hour and 15 minutes) and though he attended the second appointment, he tested positive for both cocaine and opiates, both of which failures were judged by his regular drug tester and, subsequently, by his new PO as 'unacceptable'. It is also notable, we have confirmed, that though he also failed to

attend a COMPASS appointment on 5 November he did attend a lengthy, 45 minutes, appointment with COMPASS on 6 November. At this appointment, a COMPASS worker recorded, Parfitt turned up with an ad hoc notion of detoxification at home. The worker thought Parfitt had some strange ideas but was "dead set" on his plan because he claimed that his new partner would be supporting him. The worker opined that the plan was unlikely to succeed and that he would therefore like to see him again in the near future. It was his opinion that users "normally have two failed attempts with home detoxification before they realise that they cannot get by alone". Parfitt did not make a further appointment with COMPASS on this occasion.

5.71 Parfitt's HDC tag was removed on 9 November and, according to his regular drug tester's note relating to his drug test appointment the following week on 12 November, he was now staying with his girlfriend, a change of address which he had not formally notified to either of his POs. This was a further contravention of his licence which at no stage appears formally to have been noticed or noted in his file and the subsequent application for revocation. His first PO said, when interviewed, that she was unaware about him changing his address – in fact, he did not while she was responsible for him – and that had she known that this was his intention she would have wanted to conduct a check on his intended address. There is no evidence that his second PO knew about the change of address, or conducted any check on the suitability of his new one.

5.72 Though the case record states that Parfitt failed to attend appointments on the 12 and 14 November it also states that he tested positive on both occasions for cocaine and opiates. It is clear that the latter is correct. Both failures were recorded as 'unacceptable' breaches.

5.73 In the tenth week of his licence Parfitt apparently had appointments for drug tests on 19 and 21 November. On the 19 November he failed to appear again but rang twice and spoke to both his regular drug tester and an administrator. He claimed to be working and stated that the job was taking longer than he had anticipated. This absence, his regular drug tester decided, was an 'acceptable unforeseen emergency'. On 21 November he attended and again tested positive for both cocaine and opiates, a situation which his regular drug tester recorded was 'unacceptable' but a 'situation pretty much the same'.

5.74 On 25 November Parfitt's new PO, who had formally taken over the case two and a half weeks earlier on 7 November but had never had a meeting with him, took enforcement action. He wrote to his SPO initiating a Licence Revocation Request. His delay in taking this action appears to be due to the following factors. Parfitt's second supervising PO was, like his first, an experienced, qualified officer who had worked at the Derby Road office for some time. It was now decided that he should take responsibility for 'drug abstinence' cases, that is DAO and DAR as well as drug testing as a licence condition cases. He worked alongside five PSO drug testers. At the beginning of November 2002 he picked up many additional cases as a result of the Derby Road reorganisation. These additional cases included Parfitt, one of several that he took over from the previous supervising PO who was now to concentrate on high risk of harm 'public protection' cases. This meant that he had to familiarise himself with a clutch of new cases, the overall number of which he considered should

in ordinary circumstances be manageable. He was not familiar with Parfitt's ICR record, but he knew something of him because he had been a party to the original review that had determined that this was a suitable case for the drug testing licence condition.

5.75 On 14 November, that is one week after taking over supervision, he e-mailed the first PO to discuss several cases, including Parfitt. The previous day, 13 November he had initiated a licence revocation entry on the ICR system regarding Parfitt, but deleted and replaced the entry on 25 November even though the text of the entry was almost identical. That is, for some reason he aborted a process he had started. When interviewed Parfitt's first PO recalled apologising to her colleague that the cases were in such a mess. A discussion took place about recent breaches and reported explanations for them, deciding which should be regarded as 'acceptable' and which 'unacceptable'. The second PO had by now also been made aware by Parfitt's regular drug tester of his positive drug test results, but he concluded that the electronic case record details were incomplete (when interviewed he used the phrase "missing things"). He thinks that he did discuss Parfitt with his first PO and recalls that it was "in his head" to instigate revocation proceedings but various eventualities held him up. There was a family bereavement that necessitated his being away from the office. On one day the computer system was down. He was probably waiting for confirmation of various records details. His SPO, who he subsequently liaised with regarding Parfitt, was not then working full-time at Derby Road. The SPO was also responsible for the POP at Nottingham Central Police Station; this connection meant that he was familiar with the police involved in that project, a factor which, as we shall see, was later relevant when Parfitt's licence was revoked. On consideration of the record the PO agreed that Parfitt had met the breach criteria at the point that he took over the case. But for the reasons given it was not until 25 November that he finally took revocation action.

5.76 His formal written recommendation was that the revocation process be suspended for two months pending Parfitt's assessment appointment with the John Storer Clinic on 6 January 2003. In fact, however, it is clear that he had doubts about this course of action. His additional e-mailed note to his SPO stated:

> 'I haven't sent off the application yet, although that I am aware that he has had a lot of positive drug tests. He is down to attend the JSC in January, but I think that maybe it has gone too far to delay recall. Can you let us know what you think?'

His SPO agreed that matters had gone too far and that the John Storer Clinic appointment was too far ahead. He noted that Parfitt had repeatedly failed to attend COMPASS appointments and that 'his sustained relapse into drug use is raising his risk of reoffending'. He thought that a request for revocation of the licence was the appropriate course. Revocation was applied for. Parfitt's PO, in an e-mail to his SPO on 27 November, thanked him for his response, accepted the likelihood that Parfitt would be recalled by the SEU, but explained his reservations:

> 'I think there needs to be a flexibility in dealing with people on licence who consistently test positive but do turn up'.

From this it is clear that though he was now following the criteria set out in Probation Circular 132/2001, his thinking about the case was similar to that which had informed Parfitt's first PO, was being applied by some courts and, following Probation Circular 73/2002, was now permissible following a court decision to allow a breach proceedings case to run on, in relation to DARs and DAOs.

5.77 The grounds given by Parfitt's PO for revocation of his licence were:

- 18 September – failure to be at home for a pre-arranged home visit
- 5 November – unacceptably late for an appointment
- and 10 positive drug tests on 20 September (cocaine plus), 14 October (cocaine and opiates plus), 22 October (opiates plus), 24 October (cocaine and opiates plus), 29 October (opiates plus), 31 October (opiates plus), 7 November (cocaine and opiates plus), 12 November (cocaine plus), 14 November (cocaine and opiates plus) and 21 November (cocaine and opiates plus).

5.78 This is technically a full account, if we set aside Parfitt's 'acceptable' failures to attend on 23 and 25 September because he was unwell through consuming a lot of heroin over the weekend and assume that the judgement of 'acceptable' for his failure to attend his appointment on 8 October because he was stuck in traffic applied also to his failure to attend on 10 October. The list of Parfitt's ten positive tests for either opiates or cocaine or both is accurate and constitutes a full account. However, no reference was made to the fact that for two weeks he had apparently moved, without asking for or being given permission, from his mother's address to which he was released to his girlfriend's.

5.79 Though he found Parfitt to be 'clearly in breach of the drug testing requirement of his licence' such that there was a 'raised risk of reoffending', Parfitt's PO nevertheless maintained that 'Parfitt recognises the negative implications of his drug usage and is making efforts to reduce and eliminate his reliance on drugs', is 'in regular contact with a drug advice agency' with whom he has an appointment arranged for 6 January 2003, is 'actively seeking employment' and 'has a settled home background'. He requested that revocation of Parfitt's licence be suspended for two months 'pending his assessment for treatment'.

5.80 His SPO did not agree. He found Parfitt's use of drugs to be in a 'consistently active phase' which had lasted 'for an extended period of time'. The appointment with the drugs agency was some time ahead (in January 2003) and he had 'previously failed appointments arranged for him with COMPASS' (another drugs agency). Given the serious nature of Parfitt's index offence, his 'sustained relapse into drug use' and the raised risk of re-offending, he considered that the licence should now be revoked.

5.81 The Licence Revocation Request was signed off by a Nottinghamshire Probation Area ACO and dispatched to the SEU by post on 28 November 2002.

Conclusions

5.82 I find that the NPS had in Nottingham satisfactory arrangements for both the application and monitoring of Parfitt's HDC (by PMS) and for drug testing him in

accordance with the terms of his licence. I find that PMS satisfactorily, with the exception of one breach of their contract obligations, monitored Parfitt's HDC and that Parfitt, with the exception of two occasions when he returned a matter of minutes after he was required to be home, fully complied with the terms of the HDC as stipulated in his licence. I conclude, therefore, that the judgement made by the staff at HM Prison Ranby, on advice from Nottinghamshire Probation Area staff, that Parfitt could safely be released early from prison on HDC was in this respect vindicated by his subsequent compliance with the terms of his HDC. I also find that the drug testing team at the Nottinghamshire Probation Area offices at Derby Road arranged, as they were required to do, for him to be tested twice in approximately every seven day period for the first 13 weeks following his release and that on those 19 occasions when Parfitt did attend within the first 13 weeks, the tests were carried out satisfactorily with his positive cooperation and that the results of the tests were properly recorded.

5.83 However, I find that the first PO to whom Parfitt was allocated for supervision purposes was not familiar, as she should have been, with the terms of the relevant guidance for the supervision of licensees subject to a drug testing requirement (Probation Circular 132/2001) and this despite Nottinghamshire Probation Area having organised briefings and dissemination of written commentaries and summaries of that guidance. I also find that there was not in place a system – either audit or close supervision – which brought to light the fact that she was not properly enforcing Parfitt's drug testing requirement. I find that Parfitt's PO was applying, in contravention of the criteria set out in Probation Circular 132/2001, her own judgement of what compliance and drug use it was reasonable to expect of him, given his well-established dependence, prior to his imprisonment, on both heroin and crack cocaine.

5.84 I find that by Friday 27 September, that is within two and a half weeks of his release from prison on 11 September, Parfitt had arguably breached the terms of his licence such that a report should have been made by his supervisor to her manager and the SEU in compliance with the criteria set out in Probation Circular 132/2001. By this date Parfitt had failed to comply with a home visit appointment on 18 September, had tested positively for cocaine on 20 September and, on 23 and 25 September, had failed to attend drug testing appointments because, on his own admission, he was feeling unwell as a result of heavy use of heroin the previous weekend. His PO's proper course of action at this point should have been to initiate a licence revocation report to the SEU with possibly, in the light of her positive appraisal of Parfitt, a recommendation that his licence be allowed to continue on the grounds that, despite his breaches, he was also testing negatively and demonstrating a willingness to address his drug use problems. What Parfitt's PO did was on 27 September to warn him in writing about his failed home visit on 18 September and positive drugs test on 20 September. Further, and inappropriately in my judgement, she judged 'acceptable' his excuse for not attending his drug tests on 23 and 25 September.

5.85 I find that even if one accepts as reasonable his excuses for not attending his drug tests on 23 and 25 September, Parfitt had fully met the criteria for breaching his licence as set out in Probation Circular 132/2001 by Monday 14 October when he

again tested positively for cocaine and, on this occasion, for heroin also. His supervisor inappropriately took no enforcement action either by way of a formal warning or a report to the SEU nor did she do so in response to further failed drug tests on 24, 29 and 31 October prior to her handing over responsibility for supervision to a colleague on 7 November.

5.86 However, I also find that Parfitt's initial PO was labouring under enormous pressures for which the management of Nottinghamshire Probation Area must take responsibility. She had a mixed resettlement caseload which was arguably too large for her feasibly to attend to each case as closely as was desirable. Her supervisor laboured under similar pressures. Parfitt was a medium-risk case compared to the many high risk of harm cases to which his PO and her SPO were quite appropriately giving their first priority. The staffing division of labour between POs and PSOs which was in place did not allocate to PSOs (particularly the drug testers) the enforcement responsibilities which, given the workloads of their PO colleagues and the fact that offenders subject to drug testing were most in contact with PSOs, they might have been given. In particular they were not given responsibility to recommend to case managing POs that breach criteria had been met such that further enforcement should be considered or taken. Finally, the lack of awareness which Parfitt's initial PO had regarding the enforcement rules for drug testing as a licence condition was compounded by an understandable degree of organisational confusion among probation staff generally as a result of the different ways in which the various new and developing drug testing initiatives – DAOs, DARs and drug testing as a licence condition – were being piloted in Nottinghamshire and applied by the different bodies (the courts and the SEU) with the discretion to do so.

5.87 I find, as a consequence, that Parfitt was not precisely informed about where he stood in relation to the enforcement criteria to which he should have been subject. Nor did the drug testers with whom he was having regular contact take any enforcement action regarding him. Nor, when breach action was eventually taken by the PO to whom Parfitt's supervision was transferred on 7 November, was he told that action was being taken.

5.88 I find that the PO responsible for Parfitt's supervision after 7 November was slow to initiate licence revocation action. There were extenuating reasons for this delay, however. The allocation of the workload at the Derby Road offices was reorganised. He had to cope with a clutch of additional cases with which he was not familiar. Parfitt was one of these cases. He was also not assisted by responsibilities not being given to PSOs to sort out and initiate enforcement actions against those offenders for which they were outstanding.

5.89 I conclude, therefore, that had Nottinghamshire Probation Area staff taken the licence revocation steps that they should have taken at the point when they should have been taken, it is very likely that the SEU and Parole Board would have revoked Parfitt's licence earlier than they did and that he would therefore have been posted on the PNC prior to 9 December with a view to his arrest and recall to prison. Precisely how much earlier this might have happened it is difficult to judge given that notification of the early breaches might have been accompanied by a recommendation that his licence be allowed to run, a recommendation to which the Parole Board might

have acceded. I think it almost certain, however, that had the Parole Board been notified of Parfitt's breaches occurring in late October his licence would have been revoked by the end of the first week in November, that is one month before this actually happened. Had this happened then Parfitt would still have been subject to HDC, in which case his arrest might more easily have been accomplished. That possibility, however, begs the question as to what priority the Nottinghamshire Police would have given to his arrest.

6 The decision by the Parole Board on 9 December 2002 to revoke Parfitt's licence and notification of that decision

6.1 On 9 December 2002 a panel of the Parole Board, acting on reasons set out for them by the SEU (then within Prison Service HQ, but now within the Home Office), acceded to Nottinghamshire Probation Area's request that Parfitt's licence be revoked; both the area and Scotland Yard's NIS were informed by fax of the decision on the same day at 15.22. The implication of the latter communication was that his details were now posted on the PNC as a 'wanted' person.

6.2 The SEU received the Licence Revocation Request regarding Parfitt on 2 December. The SEU clerk who handled the request decided the same day that the evidence supporting the breach was in order, thereby justifying recall. She referred the case for checking to her supervisor. On 3 December her supervisor considered that the clerk's statement of the reasons was 'fine' but queried whether Parfitt had received 'a warning for failing to be present for a home visit on 18 September and being late for an appointment on 5 November'. The following day, Wednesday 4 December, the clerk both phoned and faxed Parfitt's PO in Nottinghamshire with several queries regarding four offenders with whom they both were dealing, of which Parfitt was one. The fact that questions relating to four offenders were being raised by SEU with the same PO suggests that the latter was clearing a backlog of cases, which the transfer of many offenders to him in early November (see paras 5.74-5.75) makes it likely he was. The clerk raised the question as to whether warnings had been issued to Parfitt. She did so because, as the Head of the Unit said when interviewed in February 2004, she was "an extremely conscientious case worker" who would have wanted to be absolutely sure about all the facts involved just in case she was questioned about it by the Parole Board panel.

6.3 On the same day the PO faxed a written response to the queries, including those relating to Parfitt. He confirmed that he had been sent a formal warning on 27 September as a result of the failed home visit on 18 September (he attached a copy of the warning letter) 'but not apparently for being late on 5 November'. In fact the warning letter sent to Parfitt regarding the failed home visit was, as we have seen, the only written warning he had ever been sent. It was possibly because of this that the PO, for good measure, provided some of the latest intelligence on Parfitt, namely that he had again tested positive for opiates and cocaine on 26 November but negative for both drugs on 3 December, information which had not been available to him when he drew up the Licence Revocation Request. He did not mention that Parfitt had a further appointment for a drug test in the 11th week of his licence, on 29 November, but had not attended, a failure judged 'acceptable' because he was attending an appointment with COMPASS, one which he kept. He also did not mention with regard to the negative test on 3 December that the drug tester had judged the outcome to be a 'really good result.… is managing detox at home, and has been clean for two days this result is really encouraging'. It is just as well because two days later Parfitt again tested positive for cocaine, though negative for opiates. In the event, whatever may have been the process deficiencies in formally warning Parfitt, the Parole Board found the case straightforward.

6.4 The case was dealt with by the Parole Board on 9 December. This means that it was processed within the five working days target that the SEU and Parole Board set themselves. 2 December was a Monday, the case could not be dealt with on Friday 6 December because only lifer cases are dealt with by the Parole Board on Fridays, which meant that it could not be put before a panel until the following Monday. The Parole Board panel recommended that Parfitt be recalled to prison. The chairman of the panel ticked the recall box, signed the front sheet and made no comments in the space available, thereby indicating that he accepted as valid the reasons and evidence given. The SEU clerk, acting for the Secretary of State, faxed Nottinghamshire Probation Area (directed to the ACO who had countersigned the request) saying that the Secretary of State had accepted the Parole Board recommendation, had used his powers under section 39 of the Criminal Justice Act 1991 and had revoked the licence. The revocation order was also faxed to the NIS, New Scotland Yard, to be posted on the PNC with the request that Parfitt be arrested and taken to the nearest local prison. A clerical error was made on this form: it bore an address for Parfitt which was incorrect – the area of Nottingham where his mother lived being inserted as the name of the street *and* the area. I have no evidence that this clerical error subsequently impeded efforts to locate and arrest him.

6.5 There is currently no communication by the SEU to the police force covering the area where the offender is known or thought to be living. This means that no clear responsibility is given to the local force to go out and arrest somebody. These issues have been of concern to the SEU for some time. The SEU Head of Unit told us that it is intended that a representative of the police will be joining the 'Recall Forum' (a body on which the SEU, NPD and the Prison Service are currently represented) so that this issue is addressed.

6.6 Licence Revocation Requests can be expedited by making an *immediate* recall request. When interviewed the Head of SEU said that in Parfitt's case a *standard* recall request had been appropriate. An *immediate* recall request is appropriate only where the prisoner on licence is considered dangerous, thereby placing others at risk in the event of any delay. These factors did not apply in Parfitt's case at the time of the recall request.

6.7 When asked how much discretion the Parole Board and SEU had about *not* recalling an offender in breach of drug testing licence conditions, the Unit Head said that where the infringement was relatively slight the SEU would probably agree that the licence could continue; in such circumstances the matter would not even be put before the Parole Board. Such cases were often sorted out over the telephone. However, in Parfitt's case, given his number of positive tests, she would have wanted to put it before the Board even if, hypothetically, there had been a strong recommendation from the Nottinghamshire Probation Area that recall not take place.

Conclusion

6.8 I find that the SEU dealt with the Licence Revocation Request regarding Parfitt from Nottinghamshire Probation Area reasonably expeditiously (that is, within their five days turn-round target) and that the Parole Board found it to be a straightforward case for recall. Scotland Yard and the area were informed on the same day that the

decision was made and Parfitt was posted the next day on the PNC with a view to his arrest to be taken to the nearest prison.

7 The actions of the Nottinghamshire Police to monitor Parfitt's behaviour following his release from HM Prison Ranby, to arrest him following revocation of his licence, and liaison between the Police and the Nottinghamshire Probation Area.

7.1 Parfitt had convictions for two street robberies. He was also a user of heroin and crack cocaine. Both aspects of his lifestyle and offending career had a particular resonance in the Nottingham context which it is necessary, at the outset, briefly to explain.

7.2 Nottingham is a particularly troubled city from a policing standpoint. According to the recent Inspectorate of Constabulary report on the *Nottingham City Basic Command Unit* (January 2003) and the account, when interviewed in February 2004, of the CC, it has the following features:

- One of the highest levels of crime in England and Wales (approximately 50% above the average for its Basic Command Unit (BCU) family) in terms of recorded crimes per police officer.
- Compared to similar urban areas, very high domestic burglary and vehicle crime rates per 1,000 population.
- An above-average incidence of robbery, including many armed robberies.
- A low detection rate relative to comparable areas.

The CC described Nottingham City as having metropolitan problems but lacking metropolitan resources. Crack cocaine had become a scourge in the City in 2002. Use and distribution of the drug had doubled the number of homicides and resulted in several murders the CC described as assassinations. As a consequence his detective force had been diverted from dealing with volume property crime which, numerically, was the principal problem for most residents. It was in order to meet these challenges more effectively that three Nottingham divisions had been amalgamated in 2002 to form the present Nottingham City BCU, but much modernisation remained to do, including the creation of a single, integrated intelligence system.

7.3 The Police and Probation Services in Nottinghamshire, in common with their counterparts in other parts of the country, work increasingly closely in partnership, sharing information about offenders and operationally acting jointly with respect to persistent or dangerous offenders. In Nottingham there is a POP located in Nottingham Central Police Station. This is similar to many persistent or prolific offender projects elsewhere and comprises a small, multi-disciplinary team made up of police, probation, health and employment service staff whose attentions are focused on offenders subject to court orders or licences whose offending is repeated, who are judged to be at risk of further, persistent offending and who, by means of a sticks and carrots regime, are subject to intensive surveillance and supervision. They are also given fast track or additional support to assist them to address those factors underlying their offending, most typically their use of Class A drugs. In Nottingham most of the offenders targeted by the POP are on licence and are seen four times a week and at home. Parfitt was not an offender targeted by the POP. However, the existence of the Nottingham POP meant that there was in the Central Police Station a computer through which the probation ICR case record system could be accessed by

the probation staff located there. Further, the co-location of probation staff on police premises meant that it had become increasingly normal for intelligence to be transmitted and liaison to take place between the Police and Probation Services about particular offenders in which both services had an interest or for whom they had a responsibility. This was to some extent the case with respect to Parfitt.

7.4 Nottingham is also one of many urban areas in the country in which street robbery is a major concern. In 2002/2003 Nottingham was one of ten areas, most of them metropolitan areas, subject to a national Street Crime Initiative (SCI) specifically designed to combat robbery. It is not surprising, therefore, that when released Parfitt, a convicted street robber and user of Class A drugs prior to his sentence in 2002, should at some stage have attracted the attention of the Nottingham Robbery Squad, established in April 2002 when Nottinghamshire joined the SCI. The Squad's offices are also at the Central Police Station. Once established the intelligence officer in the Squad undertook data analysis of offenders drug tested at the Central Police Station and convicted of certain offences. This showed that certain drug-using offenders were very likely to reoffend and the Squad paid close attention to advice from the intelligence officer when deciding which offenders to target. The intelligence officer maintained a database of known robbery suspects and in September 2002 the base threw up the name of Parfitt.

7.5 On 21 September, 12 days after Parfitt was released from prison, a robbery took place close by his mother's address, where he was required to reside as a condition of his licence. The robbery also involved a *modus operandi* (MO) similar to that of the robberies which Parfitt committed in September 2001 (see para 2.1). The victim was a woman who, when her handbag was demanded of her by the offender, refused to give it up and was knocked unconscious to the ground. The police had a description of the offender and on 25 September the Robbery Squad intelligence officer rang the Derby Road probation offices to see whether the suspect's description tallied with Parfitt's. His call, which was taken by an administrative assistant and recorded on the ICR log of all incidents and contacts relating to Parfitt, asked whether the latter had a beard or moustache. The administrative assistant put the question to both Parfitt's PO and his regular drug tester. They both confirmed that he was clean-shaven, though at that point they had not seen him for four days. The administrative assistant returned the intelligence officer's call and relayed this information. She recorded the intelligence officer as saying in response 'that Parfitt had been under observation that morning, had been seen leaving his home and 'appeared to be "stubbled"'. He also said that since 'the MO for the offence described above fits David's previous offences, so it seems likely that he is their man'. According to probation records and the probation personnel we have interviewed, however, there was no follow-up from the police to this exchange. When interviewed, the intelligence officer explained that, following a check with PMS as to whether Parfitt had complied with his curfew, he was eliminated from their inquiries for this offence.

7.6 The Robbery Squad intelligence officer continued to show an interest in Parfitt, however. Through his probation contacts, both at the Central Police Station and the Derby Road probation offices, he learned that he was subject to drug testing (like his probation colleagues, he referred to it as an 'abstinence' requirement). Moreover, at some stage during October and November he also learned, through the same contacts,

that Parfitt was returning positive drug test results. Whereas it did not seem to be a consideration for Parfitt's first PO (see para 5.63) that if he was again using heroin and cocaine that he must be paying for it, probably through the commission of further offences, this *was* the working assumption of the intelligence officer. When interviewed he recalled speaking to a member of the Probation Service about his suspicions and being told that they were not sure that Parfitt had yet failed enough tests to be recalled. The detective inspector (DI) in the Squad also recalled the intelligence officer identifying Parfitt as a potential threat because he was failing his drugs tests. Further, he said he specifically remembered overhearing the intelligence officer badgering someone within the Probation Service over the telephone to get Parfitt recalled to prison. None of the probation staff we have interviewed mentioned such a conversation taking place and there is no record of such on the probation ICR system (on which, as we have seen, police liaison calls have been recorded). What is clear, however, is that towards the end of November 2002 the intelligence officer was made aware that a Licence Revocation Request with respect to Parfitt had been submitted to the SEU. From this point onwards the intelligence officer began checking the PNC once or twice each day to see whether he had had his licence revoked and could now be arrested. The DI recalled that the intelligence officer had been frustrated at the long time it appeared to be taking for the recall authorisation to come through. When on 10 December Parfitt's name was listed as wanted on the PNC, the intelligence officer was almost immediately aware of the fact and alerted his colleagues at a team briefing. The DI confirmed to us that though he was not suspected of a robbery, Parfitt became a Squad target from this point. An officer responsible for Parfitt's home area was in attendance at this meeting.

7.7 It is also clear that the SPO who supervised Parfitt's second PO, and who countersigned the Licence Revocation Request, attempted to alert the Robbery Squad to the fact that Parfitt was now wanted. The SPO had been involved in setting up the POP (see para 5.75) and had got to know the Squad intelligence officer. Further, following an earlier case in which the Probation Service had reportedly not informed the police about the release of a particular prisoner who was causing concern, the DI stated that an agreement had been reached between probation and the police that this SPO would regularly liaise with the police and transmit such information. The SPO accordingly contacted the Central Police Station at some point (there is some doubt about the precise date – see para 8.23 below), was unable to make contact with the intelligence officer, but left a message with a PSO based with the POP to pass on to the intelligence officer. According to the SPO he left a message saying that Parfitt was now wanted. The PSO recalled that she was asked to pass on a message but could not remember what it was or whether she did so – she assumed that she must have done – and the Nottinghamshire ACO who was subsequently to undertake an internal review of all these events (see paras 8.9-8.25) wrote in March 2003:

> 'the senior probation officer took steps to alert police colleagues of the urgency of the arrest in terms of the imminent likelihood of reoffending in relation to robbery and car crime'.

7.8 There are two reasons why the fact that the Robbery Squad was aware, and probably had their awareness underlined, of the revocation of the licence very soon after it had been revoked, is particularly important for this Inquiry. First,

circumstances on the probation side subsequently suggested that Parfitt could have been arrested at the Derby Road probation offices when he visited them on 10 December, the day after his licence had been revoked. Secondly, on the police side, no one seems to have been tasked to arrest Parfitt through *mainstream* police channels. I will deal with both of these issues in detail.

7.9 When the Licence Revocation Request for Parfitt was finally signed and dispatched to the SEU on 28 November 2002, he was not told by anyone within probation of the fact and, as far as he was concerned, he was still required to submit himself for drug tests twice a week. He continued behaving much as before. He had two tests scheduled during the 11th week of his licence, for 26 and 29 November. He attended on 26 November and again tested positive for both cocaine and opiates. He did not attend on 29 November, a failure judged 'acceptable' because he attended an appointment with COMPASS, something we have confirmed. The following week, the 12th of his licence, there were two further appointments, on 3 and 5 December. On 3 December he tested negative, a result which, as we have seen, his regular drug tester found very encouraging (see para 6.3). On 5 December, however, he again tested positive for cocaine, though negative for opiates.

7.10 On Tuesday 10 December, the 13th week of his licence and the day after the Parole Board had recalled him, Parfitt came again to be tested, oblivious of the fact that he was now liable to arrest and recall to prison. He again tested positive, this time for both cocaine and opiates. That he was oblivious of his predicament is apparent from what his regular drug tester recorded on the log:

> 'David went on a binge at the weekend with a friend who was released from prison. He knows that he needs a lot of help to stay clean and is looking forward to the JSC appointment. Knows of next appmt'.

He failed to keep his appointment on Thursday 12 December and nothing further is recorded regarding him on the probation file. He was not seen again by probation and he did not attend his appointment on 6 January 2003 at the John Storer Clinic.

7.11 The obvious question which anyone reading the probation record must ask themselves is: why, if his licence had been revoked, did someone in the Probation Service not call the police on 10 December to say that Parfitt was on their premises and available to be arrested? This question would certainly have been asked by anyone, for example a police officer at the Central Police Station, unfamiliar with the shortcomings of the probation ICR recording system (see para 5.50). According to the log, an entry was made by Parfitt's regular drug tester at 15.44 on 9 December to say that notification had been received from the SEU that his licence had been revoked. However, as we have seen, entries are placed chronologically in the ICR *as if* they have been made on the date of the contact noted. It is possible to discover *post hoc* when entries have actually been made, however: we have ascertained that the above entry was made not on 9 December, but 20 December. It follows, therefore, that the staff at the Derby Road offices were not in a position to inform the police that Parfitt was with them and available to be arrested on 10 December because they did not know at that point that he was liable to be arrested as a result of the Parole Board decision.

7.12 When, then, did probation staff learn of Parfitt's recall? We have ascertained that the ACO who had signed off the Licence Revocation Request was informed by fax on the same day, 9 December, that the Parole Board made their decision. However, Nottinghamshire Probation Area HQ have no record of that fax being received. The posted copy of the revocation was received on 12 December and posted on to the Derby Road office where it was received on 13 December. Within Nottinghamshire Probation Area, however, the system is that HQ, who receive the notification, do not enter the recall on the ICR system. They send the recall notice by post to the office where the offender's file is held, in this case the Derby Road office. Though the revocation note was received at Derby Road on 13 December, it was not entered on the ICR system until 20 December. This account, as we shall see (para 8.22), does not entirely square with what the ACO subsequently wrote in a review of these events.

7.13 Turning now to the police side, we have seen that, when notified by the SEU that an offender has been recalled to prison for breach of licence, the fact is faxed to the NIS office at Scotland Yard to be entered on the PNC. It is not a standard requirement for the NIS specifically to inform the police force covering the address at which the offender is thought to be living, but this is said often to be done, by fax. The sending of faxes for this purposes is not logged and the faxes are not retained. In Parfitt's case there is no trace of any fax being sent by the NIS or received by Nottinghamshire Police. Which is not to say that it was not done. However, it seems probable that it was not done because neither is there any trace of Nottinghamshire Police HQ informing the police section covering Parfitt's mother's address, where he was thought, according to probation records, mistakenly, still to be living. The Police HQ system is that they do inform the relevant section if they are specifically informed by the NIS. This means that neither on 10 December when the NIS placed Parfitt's name as wanted on the PNC, nor thereafter, was anyone in the police section covering Aspley given the task of looking for or arresting Parfitt in the period between 10 December and 7 January when PC Walker, not knowing with whom he was dealing, sought to detain him. The efforts that *were* made to detain Parfitt were made by the Robbery Squad, because the intelligence officer within the Squad already had his attention focused on him and was regularly checking the PNC to see when his name came up. The Detective Sergeant (DS) in the Robbery Squad told us that from the time that Parfitt came to their notice until he was arrested his name was 'on their board'. Once it was known that his licence had been revoked he became what the DS described as a 'target package' as opposed to being merely a 'target person'. The DS recalls that he allocated the 'package' to one of his officers. The police section for that address were made aware that the Robbery Squad were dealing with the matter and the Squad intelligence officer also issued a Force-wide bulletin identifying Parfitt as being wanted.

7.14 On 11 December Robbery Squad officers twice visited Parfitt's mother's address, where he was supposed to be living, with a view to arresting him. He was not there. If Parfitt did not already know that his licence had been revoked, he most likely inferred as much now: this no doubt explains why he did not attend his drug test on 12 December. On 12 December Squad officers again visited Mrs Parfitt's home. They also visited Parfitt's girlfriend's home, the address at which they had presumably discovered he was now living. He was not there either. On 13 December two officers

from the Squad again went to Parfitt's girlfriend's house, on this occasion, they recall, with the intention of speaking to her about him. Parfitt was there and did what he had done several times before. He fled. He escaped through the back of the house and drove off in a car, colliding with other cars in the process. The police officers in attendance were able, however, to get the registration number of the vehicle, on which many PNC checks were subsequently made.

7.15 Thereafter there are no specific attempts recorded to arrest Parfitt prior to the events of 7 January 2003, though the Robbery Squad officers involved, several of whom we have interviewed, told us that attempts were made. The constable to whom the 'package' of Parfitt had been allocated, for example, found a reference to Parfitt in her notebook for 6 January 2003 when Mrs Parfitt's mother's address was again visited. Police notes of sightings and other activities are kept largely for evidential reasons and, thus, negative calls at addresses are not routinely recorded. The DS said that after Parfitt escaped custody on 13 December, he recalled some of the team working on their rest day specifically to try and arrest him following receipt of intelligence that he was staying in a hotel in the Bulwell area of Nottingham. There is no recorded evidence of this, however, a surprising omission if new intelligence, rest days and overtime were involved. Furthermore, the DI for the Squad said that though Parfitt had been discussed at team briefings he was a 'relatively low priority considering the other work the team had at the time'. The Squad was dealing with what the intelligence officer estimated had at the time been 50-60 robberies committed on the City Division each week. The Squad comprised only a DI, two DSs and ten constables and Parfitt, it needs to be stressed, was neither suspected of a further robbery nor considered by the Probation Service to present high risk of harm.

7.16 On 7 January everything changed. It was clear from the outset that PC Walker's injuries were very serious, possibly fatal. As soon as it became clear that the fugitive for whom the police were now searching was Parfitt, he changed from being a low priority to the Nottinghamshire Police's highest priority. Further, whereas tip-offs to the police may not be forthcoming to execute a licence recall, the known search for a suspect wanted for the killing of a police officer stimulates intelligence and action. The police received intelligence that Parfitt was hiding in the roof space of a house in the vicinity of his girlfriend's address. They went to the premises and found him. He was arrested and, when PC Walker died on 9 January, he was charged with his murder.

Conclusions

7.17 I find that on 10 December 2002, the day following notification by the SEU, the Criminal Records Office (CRO) identified Parfitt on the PNC with a view to his arrest for recall to prison. Whereas in some cases the CRO specifically notifies the police area for the address where the offender is thought to be living (particularly in cases assessed as high risk of harm) this is not a routine procedure and appears not to have been done in Parfitt's case. Parfitt was not a high risk of harm case. As a consequence, Nottinghamshire Police HQ did not specifically notify the police section for the address at which he was supposed to be living and there is no evidence that any officer on that section was ever specifically tasked to arrest him. I find that these events illustrate serious general shortcomings in the licence revocation/prison recall police notification system.

7.18 I find that the intelligence officer in the Robbery Squad at the Central Police Station, Nottingham, had already been taking an interest in Parfitt, was aware that revocation of his licence had been requested by the Nottinghamshire Probation Area, was regularly checking the PNC and on 10 December became aware that he was now arrestable for recall to prison. I find that from this point Parfitt became a target for the Robbery Squad and that a Squad officer was specifically allocated the task of locating and arresting him.

7.19 However, I also find that for the Robbery Squad in Nottingham, a Squad that was having to contend with a large number of serious street crimes, Parfitt was not a high priority. Though efforts were made to locate him in the first three days following notification of his licence revocation on the PNC – by visiting his mother's and girlfriend's addresses – there is little evidence that much was thereafter done other than to check the PNC for his name and a vehicle that he was thought to be using. Following the incident involving PC Walker on 7 January, and solid evidence that Parfitt was responsible for his life-threatening injuries, this situation changed fundamentally. Arresting Parfitt now became the force's highest priority, intelligence was received and he was located and arrested relatively quickly.

7.20 I find that in Nottinghamshire, as in other parts of the country, there is a good deal of sharing of intelligence and information between the Police and the Probation Services. I find that while Parfitt was subject to supervision, prior to his licence being revoked, the police made inquiries of probation about a robbery for which he was suspected and, as a result of information from probation and PMS, the police eliminated him from their inquiries. I find that the police were able, via probation staff in the POP at the Central Police Station, Nottingham, to learn that Parfitt was failing drug tests and that a request had been made by probation that his licence be revoked. I find that when notification of the licence revocation came through, an SPO sent word to the Robbery Squad to tell them that Parfitt should now be arrested.

7.21 I conclude that there appears to have been established an encouraging degree of cooperation and information sharing between the Probation and Police Services in Nottinghamshire and that given the overall crime situation and other police priorities in Nottingham, reasonable efforts were made by the police to arrest Parfitt prior to his encounter with PC Walker. Whether the general system for notifying to the police prisoners wanted for recall to prison is adequate, and whether high enough priority is given to the task, I doubt. This is an issue to which I turn to in Part Two

8 Aftermath: the manner in which the events were subsequently reviewed and the victim, Mrs Tracy Walker, was treated.

8.1 Whenever a death occurs as a result of a crime or a road traffic accident an FLO is appointed by the police to support the family of the deceased in whatever way they require. The shortcomings of FLO provision was highlighted in the Report of the Stephen Lawrence Inquiry (1999, Chapter 26) and several recommendations made. An FLO was appointed in this case to support Mrs Walker. The death of police officers in the line of duty is fortunately rare. Whenever it occurs there is a great deal of publicity and, naturally, considerable anger and emotion among police colleagues; they have lost a member of the police family. It follows that the spouses of police officers killed in the line of duty become special victims. This was so in the case of Mrs Walker. Her husband's friends and colleagues were keen to give her every support, which has continued. This included senior members of the force, in particular the CC.

8.2 On the day, 7 January 2003, that PC Walker was fatally injured, the FLO introduced herself to Mrs Walker in the evening and had regular contact with her thereafter. The FLO kept a log of her contacts with Mrs Walker. However, with the exception of a detailed note which Mrs Walker asked her as a witness, to make of what was said at a meeting she had with John Denham, Minister in the Home Office with responsibility for the police, on 12 February 2003, the FLO recorded scarcely any details of precisely what issues had been raised in the various meetings she attended with Mrs Walker (to be fair to the FLO the police *Murder Investigation Manual*, Association of Chief Police Officers/Forensic Science Service, Chapter 9, section 7, does not advise how detailed the records of visits should be – this is an issue to which I return in Part Two). As a consequence it is very difficult to establish precisely what Mrs Walker learned about Parfitt and the events leading up to the death of her husband, when and from whom. Mrs Walker had meetings and telephone conversations with many different people and, quite understandably, she does not precisely recall what was said at each of them.

8.3 PC Walker was pronounced dead on 9 January and his full ceremonial funeral took place on 24 January at St Barnabas Cathedral, Nottingham. On 31 January a Detective Chief Inspector (DCI) met with Mrs Walker and provided her with a full account of how her husband had been killed, explaining that the man then charged with his murder, Parfitt, had previous convictions, had been released from a prison sentence on licence and had had his licence revoked. The FLO merely recorded in her log that all Mrs Walker's questions were answered.

8.4 On 12 February Mrs Walker had her meeting at Nottingham Police HQ with John Denham. He offered his condolences to Mrs Walker and apologised for aspects of the Home Office and Ministerial response to PC Walker's death (not least that flowers sent to the funeral had mistakenly cited George rather than Gerald Walker) and any appearance given that the death of another police officer in Manchester, whose funeral the Prime Minister had attended, had been made to seem more important. In response to Mrs Walker's question as to what he proposed doing when Parfitt's trial was over, the Minister told her that a full review would be undertaken of the conduct of the prison governor, the Probation Service and the Police in relation to Parfitt's

release on licence and his subsequent recall for failing to keep to its conditions. The FLO sat in on this meeting and afterwards, as noted above, Mrs Walker asked her to record precisely what had been said. She did so.

8.5 Following this meeting the Minister immediately caused a review to be undertaken within the Home Office as to how it currently responded, and should in the future respond, to the death of police officers in the course of their duties so as best to avoid the error and distressing impression that had been given to Mrs Walker that the death of her husband had not been considered as important as other police deaths. This review was completed in March 2003.

8.6 In late May/early June Mrs Walker repeatedly pressed the Home Office by telephone as to the progress made with the inquiries which the Minister had indicated would be made into the release, supervision and recall of Parfitt whose trial, she was disturbed to learn, would not now take place until December 2003. She dealt with a police chief superintendent, at that time seconded to the Police Standards Unit, who in turn contacted the NPD for advice regarding her questions relating to probation. These questions were dealt with by members of the PPU within the NPD, the same unit to which SIRs are returned. Mrs Walker was increasingly irritated by the lack of information and answers forthcoming from the Home Office. When interviewed she said that the Home Office seemed to her to be more concerned about the error that had been made over the name attached to the flowers sent to her husband's funeral than the reasons for her husband's death and the events leading up to it. When we interviewed the seconded police officer within the Home Office he told us that initially he and Mrs Walker had talked at cross purposes. Having been charged to undertake the Home Office review of the manner in which the Home Office deals with the spouses of officers killed in the line of duty, he imagined that Mrs Walker's concern was principally with the less than satisfactory arrangements in PC Walker's case. Whereas in fact she was focused on getting answers to her questions regarding Parfitt, and how he came to be at large so that her husband was killed at his hands.

8.7 By this stage Mrs Walker was satisfied, on the basis of accounts given to her by senior members of the Nottinghamshire Police (accounts based on an internal review of actions taken to arrest Parfitt), that the police had done all they reasonably could to detain him as soon as he became arrestable following breach of his licence. But she still wanted her questions answered regarding his release from prison and supervision while on licence. She recollected that she had by now learned from the Nottinghamshire Police that Parfitt had been electronically tagged when released, had been subject to a drugs abstinence licence requirement and had failed tests.

8.8 Mrs Walker was made aware by the Home Office, and appreciated, that nothing could be said to her about Parfitt which might prejudice his forthcoming trial. This was not a problem to her; she was naturally keen that the man who had caused the death of her husband should successfully be prosecuted. But it was agreed, the Probation Service having by now reviewed their own actions regarding Parfitt, that she should have a meeting with two representatives of the Probation Service, one from the Nottinghamshire Probation Area and one from the NPD. In a letter, dated 2 July 2003 from the Director of Policing Policy in the Home Office, she was informed that the Probation Service:

> ‘fully recognise your wish to know more, and intend to write to you in the near future to arrange a meeting with you in Nottingham. Of course it may not be possible for them to share certain details with you, but I am assured that at the meeting the officers will seek to answer some of the questions you have raised with police colleagues. In addition, they would want to explore with you the contact they could offer to you and your family after the court process is concluded’.

Shortly thereafter the Head of the PPU in the NPD wrote to Mrs Walker to arrange the meeting, which took place on 16 July 2003. At this point we should consider the nature and results of the internal reviews conducted by Nottinghamshire Probation Area and Police.

Nottinghamshire Probation Area’s Serious Incident Report

8.9 Whenever offences of murder, attempted murder, arson, manslaughter, rape and other serious offences, or offences likely to attract significant media interest, are committed by offenders or defendants under Probation Service supervision, the local Probation area is required (by Probation Circular 71/1998, dated 29 October 1998) to notify the NPD of the fact and subsequently to undertake a management review of the circumstances surrounding the case. In January 2003 the report of this management review was termed a Serious Incident Report (SIR – the terminology, following Probation Circular 54/2003, dated 28 October 2003, has since changed to Full Reviews). Notifications of incidents should take place within 48 hours of the offender or defendant being charged and the justification for the subsequent review is that ‘such cases may reveal deficiencies in practice, policy or legislation’. The purpose of the review is to ‘enable local services to make an objective assessment of their involvement in the case, both in terms of the management of the individual case and the procedures which the service has in place’. The primary recipient of the review should be local management, but a copy is required to be sent also to the NPD. Reviews are to be carried out by someone of chief officer grade not involved in the line management of the case. The Circular then provides a checklist of guidance for the preparation of reviews and the questions to be asked and answered within them.

8.10 The Parfitt/Walker incident was notified to the NPD and an SIR was subsequently prepared. The ACO who undertook the review and wrote the SIR had at the time been an ACO for more than a year and prior to her report on the Parfitt case estimated that she had already written half a dozen SIRs. Her responsibilities included prisons, approved premises, child protection issues and high-risk work. She had no line management for the resettlement and drug testing teams at Derby Road.

8.11 Within what, when interviewed in February 2004, the ACO estimated were 24-36 hours of Parfitt’s arrest and his involvement in the incident leading to the death of PC Walker becoming known, the ACO obtained Parfitt’s file and informed the NPD of the incident (she did this, the relevant NPD records show, on 27 January, by letter, but the Head of the NPD Unit concerned believes that notification by telephone was received earlier). Probation Circular 71/1998 does not offer guidance as to *how* reviews are to be conducted; it concentrates on *what* issues are to be examined. When

interviewed the ACO explained *her* approach as follows: she would not normally interview staff for SIR purposes – "the information within the record would normally be sufficient". In the Parfitt case, however, she decided to interview Parfitt's second PO, and his SPO, in order to clarify some points. Parfitt's first PO and her SPO were not interviewed. Furthermore, the ACO said she would not name members of staff in an SIR because "it goes out of the Nottinghamshire area". She did not name any names in her report. Her report was completed on 9 April 2003 and submitted to the NPD. The PPU within the NPD acknowledged receipt of it on 21 April.

8.12 The SIR states on the front sheet that the 'relevant sentence at the time of the incident' was 'HDC'. That was of course factually incorrect. Though Parfitt *had* been released on HDC he had satisfactorily completed it and, at the time of the incident leading to PC Walker's death, was subject to ACR, to which he would by that date have been subject even had he not been released on HDC. How accurate is the reportage of the other events and factors described in the ACO's report? We can answer that question by considering the five sections into which the SIR is divided: 'background', 'probation involvement', 'conduct of the licence', 'conclusions' and recommendations'.

8.13 The 'background' sketched in the SIR is an accurate, adequate and incisive brief summary which picks up one feature of Parfitt's career which earlier commentators had failed to notice, namely, that by virtue of his conviction as a juvenile for ABH against another juvenile he is a Schedule 1 offender (Children and Young Persons Act 1933). However, given that none of his subsequent offences, have, as the author correctly observes, 'targeted young people', she does not consider that this repeated omission from appraisals would have increased the assessment of his risk of harm. Coverage of 'probation involvement' goes into greater detail and is also accurate and adequate in that it highlights most of the salient features of Parfitt's offending history and non-compliance with successive court orders. Interestingly, however, the SIR author fails to mention his failure to take up the drug intervention programme, which his deferred sentence in summer 2000 had given him the opportunity to attend.

8.14 It is the crucial 'conduct of the licence' section of the report that is seriously incomplete and professionally uncritical. For example, in relation to Parfitt's failure to attend two drug tests in the third week following his release – on Monday 23 and Wednesday 25 September – the ACO omits all reference to the missed 25 September appointment and simply repeats, and implicitly endorses, the PO's decision to find 'acceptable' his excuse that he was 'confused by the appointment dates and had been ill'. Yet she picked up and noted that he 'was in contact with his officer on the 24th by phone when he said he was withdrawing from heroin'. As I have concluded earlier in this report (para 5.85), a positive drugs test would *not* have been acceptable, had Parfitt attended either of his appointments on 23 or 25 September, and it would have constituted his second and third consecutive test failures, which would then have necessitated a report to the SEU and likely recall to prison. It is therefore difficult to see how the ACO could reasonably endorse the supervising PO's acceptance of 'self-certification' that he could legitimately not attend these appointments because he was 'withdrawing from heroin'. It is worth noting in this regard that the HM Inspectorate of Probation's most recent area inspection report of October 2003 on Nottinghamshire

found that staff there rather too readily accepted offenders' explanations for their non-compliance.

8.15 When interviewed the ACO accepted that Parfitt's first PO should have known about the guidance for drug testing as a licence condition. It seems surprising, therefore, that she made no reference in her SIR to the requirements of Probation Circular 132/2001 and, by neglecting to interview the officer who for the first two months of his licence supervised Parfitt, failed to establish whether that officer had been familiar with these requirements. That is, she neglected to establish the adequacy of her organisation's training, monitoring and management performance frameworks. As we have seen (see para 5.84) the officer concerned was not familiar with the relevant enforcement criteria.

8.16 The core reasoning in the ACO's account and analysis becomes clear if we connect her 'conclusions' with her reportage of what happened in early November when Parfitt's supervision was formally transferred from his first to his second PO; the former was a member of the 'resettlement team' and the latter a member of the 'DAR section'. At no stage in her report does the author refer to Probation Circular 132/2001 concerning drug testing as a prison licence condition; she talks of a DAR, that is, strictly, a drug abstinence requirement within a community rehabilitation or community punishment court order under the Criminal Justice and Court Services Act 2000 s.49. Parfitt was *not* subject to a DAR and, when interviewed, the ACO explained that she did not *literally* mean a DAR – she maintained that she fully understood that drug testing as a licence condition is different from a DAR – but both were generically known in Nottingham as DARs, as was, and is, the team that supervises them. That is, DARs, DAOs *and* drug testing prison licence conditions were *all being piloted in Nottingham City* and, it appears, *all* were colloquially being thought of as *drug abstinence* provisions despite the fact that the orders or conditions were being enforced by different authorities according to slightly different criteria. Furthermore, the 'conclusions' in her SIR include the statement:

> 'Had Mr Parfitt not been on a DAR licence condition, normal national standards would have applied to the case, i.e. fortnightly reporting, rather than the twice weekly reporting and testing he was subject to. This clearly affected the view taken by the supervising officer before transferring the order in November. Decisions should have been referred to a manager for enforcement at a much earlier stage, before transfer, or for national standards variation approval.'

8.17 Why 'clearly affected the view taken by the supervising officer' – an officer who the ACO had not spoken to? The ACO makes an assumption which may or may not be warranted. The implication is acceptance of the proposition that either Parfitt's first PO, not being part of the DAR team, or his second PO, who was a member of that team, was not attuned to the specific requirements of drug testing as a prison licence condition, or that *culturally*, and thus, *operationally*, they failed to distinguish the specific provisions of drug testing as a prison licence condition and drug testing as a court order. For, as the ACO notes:

> 'In the course of supervision, too many allowances were made for drug testing failures. This should be set in the context of the local Magistrates' Court

enforcement of similar DARs, where evidence of treatment or genuinely seeking of treatment was treated as realistic and significant mitigation'.

8.18 For whereas, as we have seen (paras 5.20-5.30), the guidance on drug testing as a prison licence condition provided strict compliance criteria which, if breached, permitted probation supervisors little discretion (other than deciding whether offenders' reasons for breach were 'acceptable' or not 'acceptable') and *required* a report to the SEU, with discretion whether to recall to prison or not lying with the Parole Board, supervisors of DARs and DAOs appear operationally to have been used to less onerous drug testing requirements and greater tolerance by the courts of positive test results in allowing orders to run on. When interviewed and asked whether Parfitt's first PO should have been aware that tolerance of the number of positive drug tests lay outside the national criteria for DARs, the ACO said "Yes, she should". But she did not ascertain whether the officer did know of the relevant enforcement criteria, or whether she chose to ignore them or, for pressure of work reasons, had not the time to implement them. The ACO made assumptions, describing Parfitt's first PO as someone who was skilled at dealing with dangerous offenders, someone who could "deal with complexity" but "could not deal with volume".

8.19 Further, though in interview she acknowledged the upheaval that had resulted from the restructuring of the workload at Derby Road, she failed to acknowledge the consequences of the workloads of the resettlement team that had preceded the restructuring and said nothing of the failure of the performance management system or the possible inappropriateness of the division of labour between POs and PSOs. When asked in interview what she now thought of her SIR, she said that that the recommendations had been made on the knowledge she had at the time. In fact she failed, for whatever reason, to gather the knowledge that was available to her by not interviewing the staff directly involved. Nor, surprisingly, did she share her report and findings with those same staff. When we interviewed them in February 2004 they said they had only recently been made aware of the SIR and its contents.

8.20 There are two further conclusions to which the ACO came to in her SIR that are important. First, whether it was reasonable for Parfitt's second PO, once he had taken over supervision on 7 November, to have taken two and a half weeks before submitting a report to the SEU? Secondly, whether probation staff should have contacted the police when, the Parole Board having revoked his licence on 9 December, Parfitt came to the Derby Road probation office to be tested on 10 December?

8.21 According to the ACO's account, once responsibility for Parfitt's supervision was transferred on 7 November 'the senior probation [officer] intervened when he reviewed the case and thus accelerated the enforcement of the licence conditions by recall'. This conclusion does not strictly accord with the facts as we have established them (see para 5.76) and in any case, if true, does not provide any analysis as to why it was necessary for the SPO to intervene to expedite the licence revocation. According to our evidence from the new PO and his SPO, the SPO had no involvement in the case of Parfitt until the PO consulted him on 25 November, that is two and half weeks after taking over the case. At that point the system *required* that the SPO be involved and, given that it took three days before the request was signed

off by an ACO, the process can scarcely be said to have been expedited. It follows, therefore, that the SIR fails once again to analyse the adequacy of the performance management systems in place. When interviewed and asked why Parfitt's second PO never met him, the ACO said she did not know. She said that she believed it was because he had taken on a lot of new cases and had been carrying out 'desk top' analysis in order to prioritise the cases. When asked if she thought that the PO had been sufficiently supported she said "We are doing the best with what we have got". The lack of discussion about the allocation of responsibilities between POs and PSOs does not persuade me that that statement is justified.

8.22 On 9 December the Parole Board made its decision and, as we have seen, informed the Nottinghamshire Probation Area as well as the NIS at Scotland Yard. As far as the vexed issue as to whether probation staff should have informed the police when Parfitt came to be tested at the Derby Road offices the following day, the ACO correctly concludes that they could not have done; the Derby Road staff did not know that Parfitt's licence had been revoked at that stage. Yet there are nevertheless discrepancies in her account about the timing of events, when they did learn of the revocation and what they then did. Her account is as follows:

> 'I can confirm that the notice of recall was not received at Head Office until 12th December 2002. The ICR entry relating to the recall notice was not made until 17th December 2002 although it was inserted automatically in calendar position at the 9th December'.

8.23 There are two elements in this statement worthy of note. First, as we have seen (para 7.11), the ICR entry was not made on 17 December, it was made on 20 December, something the ACO now agrees is correct: she made an error. Secondly, this paragraph does not appear to square with the preceding paragraph in the SIR where it is stated that notification of the recall was received on 13 December. By this, the ACO now explains, she means 'was received at Derby Road'. However, if the recall notification was not received at Derby Road until 13 December how can it be reported by the ACO in her SIR that the SPO who countersigned the Licence Revocation Request in Parfitt's case had contacted the Robbery Squad on 11 December 'to alert police colleagues of the urgency of arrest in terms of the imminent likelihood of reoffending in relation to robbery and car crime'? The ACO is unable clearly to explain where this reportage comes from but she now suggests that the SPO was telephoning the Robbery Squad not because at that stage he *knew* that the licence had been revoked but because he *believed* it would shortly be so. This, however, is not what the SPO told us when interviewed: he said that he left a message with the Central Police Station to say that Parfitt had been recalled (see para 7.7). These discrepancies in the SIR may in themselves not be important. But they display a lack of attention to detail which, in the circumstances, and even acknowledging the benefits of hindsight, scarcely demonstrated awareness of the sensitive issues that might be raised.

8.24 The SIR concluded with two recommendations:

> 'That a protocol is drawn up for communicating with police when warrants are not acted upon to identify priorities with urgent cases. This is a matter which

will require influencing the approach taken by the police over this issue. A timescale for this is problematic, but progress should be reported on to the PPU [Public Protection Unit] by the end of May 2003.'

'That the senior probation officer identifies any learning needs in relation to the enforcement of DARs and agrees an action plan with the ACO on how to meet these needs by the end of May 2003.'

8.25 The second recommendation is straightforward and follows from the ACO's conclusion that enforcement action should have been taken earlier regarding Parfitt's failed drug tests. The first recommendation is odd, however. It implies that the reason why Parfitt was still at large when PC Walker was killed was because a warrant for his arrest was not acted on. Putting aside the issue that a licence revocation involves no warrant – an understandable error on the part of the ACO given that the CC himself confessed when interviewed that he was unaware that no warrant is involved in such cases – no evidence is advanced to support the implied contention and Parfitt's Licence Revocation Request was not, as we have seen, treated as urgent by those probation staff involved in the case (see para 6.6). The unexplained context is that there was concern within the Nottinghamshire Probation Area generally about the low priority which it was considered the police were attaching to the execution of warrants generally. That issue, not least in relation to particular serious cases, was being discussed in 2003 by the relevant committee of the Nottinghamshire Probation Board. Further, when we met with the CC he confirmed that during 2002 he had instituted measures, referred to as *Operation Roman*, to give a higher priority and make more efficient the execution of breach and other warrants, responsibility for which had been returned to the police by the Chief Executive of the magistrates' court, arrangements previously having been contracted out. I shall return to the ACO's important recommendation that there be a protocol between Probation and Police Services regarding the prioritisation of breach arrests in Part Two.

8.26 The NPD, on receipt of the Nottinghamshire SIR on the Parfitt case, did nothing with regard to the *policy* issues within it. For example, with regard to the ACO's suggestion (see para 8.17) that uncertainty had arisen in the minds of Nottinghamshire case managers because of the manner in which the courts deal with DARs, the NPD did not send advice to the nine areas piloting DAOs, DARs and drug testing as a licence condition, reminding them that there were important distinctions between the different initiatives. They did not do so because, according to the Head of the Unit, the PPU within the NPD had little capacity to respond to the 150-200 SIRs received each year. HM Inspectorate of Probation has commented on this issue in a recent thematic report (*Protecting Children from Potentially Dangerous People* HMI Probation and HMI Constabulary, 2002, paragraphs 77-80) and will do so again shortly in a further thematic review of the SIR (now termed Full Report following Probation Circular 54/2003) system.

Nottinghamshire Police Internal Review

8.27 There is for the police no requirement equivalent to that placed on probation areas to undertake management reviews of actions taken whenever serious crimes are committed by offenders for whom they have specific responsibilities (in the case of the police, breach warrants or recalls to prison, for example). As part of their murder

inquiry regarding Parfitt, the Nottingham Police nevertheless reviewed what they had done to locate and arrest him between 10 December when he was identified on the PNC and 7 January when PC Walker sought to apprehend him. The review was undertaken by the DI in the Robbery Squad and the contents of it were divulged to Mrs Walker by the DCI who 'answered all her questions' when they met at the end of January and subsequently. The police review was not a review in the probation SIR sense of the term. It merely identified the few unsuccessful operational actions taken, which I have earlier described (paras 7.14-7.15), in an attempt to find and arrest Parfitt. The shortcomings of the recall notifications system generally were not touched on and though the contents of the DI's account were subsequently shared with the Chief Inspector of Constabulary, the Chief Constable, when interviewed, told us that he had never seen the report

Meeting between Nottinghamshire Probation Area Chief Officer and Chief Constable, 21 May 2003

8.28 The two reports produced within their separate organisations provided the background for a meeting that took place on 21 May 2003 between the CO of the Nottinghamshire Probation Area and the CC. The meeting was sought by the CO. No record was taken of what was said at it. When interviewed, however, both parties recalled the meeting.

8.29 The CO recalled that he expressed concern that Parfitt's forthcoming trial would almost certainly generate media criticisms about the enforcement of his licence by Probation and the delayed execution of the warrant by the police. As we have seen, the reference to warrants in this context reflected a misunderstanding on the part of probation in that execution of licence revocations is not triggered by the issue of warrants. Probation nevertheless considered that the two issues raised similar questions regarding police priorities. The CO suggested that they jointly prepare for that criticism by putting in place plans that would make future serious incidents less likely. He showed the CC the SIR which his ACO had written. The CC read the Probation SIR in the CO's presence and returned it to him. The CO said that he asked the CC whether he was under an obligation to produce an equivalent to the Probation SIR and, if so, whether he had done so. The CO understood the CC to say that he was under such an obligation and had met it. However, he neither produced the report nor subsequently shared it with the CO. The CO gained the impression from the CC that the police senior management team's top priority was now to support Mrs Walker, that she was a frequent visitor to the police top corridor and that whatever policy attention was now being given by the police was devoted to the inactions of the Probation Service rather than those of the police. This, from the CO's standpoint, had subsequently served to undermine somewhat the trust between the Police and Probation Service.

8.30 The CC's recollection of the meeting is slightly different. On that day he was preoccupied by a report just received from Her Majesty's Chief Inspector of Constabulary on the Nottingham BCU, the unit within his Force which, because of the high level of serious crime within it and its reorganisation, was his major operational headache. He recalls being shown the probation SIR and speed-reading it, but he confesses to not taking in the detail and not fully comprehending the CO's concern or purpose for the meeting. Furthermore, he would not have said he was under an

obligation to produce a summary of the actions the police had taken to arrest Parfitt once his licence had been revoked, because there was no equivalent obligation to that placed on probation. He does, however, recall explaining that at that stage Mrs Walker was still *largely* concerned with the manner in which her husband's death had been responded to by the Home Office and that she was not yet preoccupied with any detailed questions relating to the Probation Service's handling of the case. As for the DI's review of the actions taken by the Nottinghamshire Police to arrest Parfitt prior to 7 January, he had been given an oral report and was satisfied that the Force had done all that they reasonably could, but he had not actually seen or read the DI's report.

Mrs Walker's Meeting with Probation Service Representatives, 16 July 2003

8.31 On 16 July 2003 Mrs Walker, accompanied by a police dog handler friend and colleague of her husband, met with an ACO from the Nottinghamshire Probation Area and a member of the NPD. Both the latter were familiar with the locality and had good relations with the police. The ACO was selected by the Nottinghamshire Probation Area CO because he had had no involvement in Parfitt's supervision, had not written the SIR, and had previously conducted a similar meeting with the family of someone who had died in a probation hostel.

8.32 Prior to the meeting the NPD Head of the PPU had conversations with the Nottinghamshire Probation Area CO and her colleague within the NPD. Her thinking as to the line that should be taken in the meeting with Mrs Walker was as follows. There were general principles at stake. First, though Mrs Walker had yet to make any formal complaint against probation, she could not technically be regarded a victim, and thus a complainant, according to the NPS complaints system criteria. Mrs Walker was not a victim of the offences for which Parfitt had been serving his two year sentence of imprisonment. And, as far as the death of PC Walker was concerned, Parfitt was not yet convicted, and thus the presumption of innocence applied. Secondly, there was no direct causal connection between the circumstances of PC Walker's death and the supervision of Parfitt. Parfitt had had his licence revoked on 9 December, almost a month earlier. The Probation Service was no longer responsible for him. He had been recalled to prison. For almost a month it had been the responsibility of the police to ensure that he was taken there. Thirdly, even if Mrs Walker was technically a victim and there *was* a direct causal link between her husband's death and Parfitt, this did not mean that she could be told the details of his circumstances and supervision. Individual offenders had rights not to have certain personal details disclosed to victims, though this was a difficult, grey area. The advice of the Head of the PPU to her NPD colleague and the Nottinghamshire Probation Area CO was that at the meeting Mrs Walker should have explained to her the general rules about the execution of sentences (why, for example, Parfitt had *apparently* been released from prison early), national standards for the supervision of licences, probation procedures, and so on. But she should not be told the detail of this individual case, not because the Probation Service was being defensive, but because principles were at stake. Where possible victims of offenders subject to supervision, or possible victims of offenders who *had* been subject to supervision, entitled to know the details of that supervision, it would make the task of the NPS untenable. This approach was regarded by the seconded chief superintendent within the Home Office

as legalistic. He was familiar with the practices of police FLOs with murder victims; here the practice tended to be to provide as much information to victims as possible.

8.33 The meeting between Mrs Walker and the NPS representatives on 16 July 2003 lasted one and a half hours. The two probation representatives do not seem to have agreed their respective roles. According to the note written shortly after the meeting by the ACO, and in the light of our interviews with all the parties involved, I conclude that the following issues were discussed and information exchanged.

8.34 Regarding Parfitt's release from prison when he had *apparently* served only four months of a two year sentence, it was explained to Mrs Walker that he had been on remand, the manner in which sentences are calculated, HDC and ACR, and so on. Mrs Walker described Parfitt as a serial offender and remained angry that he had been released early. She said that she knew that a close relative of his was serving a prison sentence for a serious drugs offence. She said she intended to complain about his release. Mrs Walker and her friend recalled, and the NPD representative confirmed, that the latter had undertaken to contact the Prison Service, this issue being outside the province of the Probation Service, in order that Mrs Walker be able to put her questions regarding these prison-related matters.

8.35 Regarding Parfitt's supervision, Mrs Walker was already aware that he had been subject to a drug testing requirement and had failed some tests, but she did not know precise details. The ACO explained the general requirements of national supervision standards and a drug testing licence condition. When pressed by Mrs Walker and her friend he admitted that Parfitt had failed about half his tests. Mrs Walker, presumably on the basis of what she now knew were the requirements of two drug tests per week for the first 13 weeks, pressed the ACO for confirmation that Parfitt had failed 13 tests. The ACO declined to confirm this. In his note of the meeting the ACO gives a somewhat inconsistent account of what followed. He states that he declined to confirm the number of positive test results, but then provided a fairly detailed account of what he told Mrs Walker, namely, that Parfitt:

> 'began to get + tests in October and a sequence of them in November… that on 25/11 the SPO had intervened and requested revocation. This was countersigned in HQ three days later.'

Mrs Walker expressed her complete dissatisfaction with the 'failure' of the Probation Service to revoke Parfitt's licence earlier and stated her intention to complain. The ACO recorded that he rehearsed again 'all the issues about national standards, DAR standards and discretion'. Mrs Walker's dissatisfaction was not dispelled.

8.36 When explaining to Mrs Walker the nature of the drug testing pilot to which Parfitt had been subject, the ACO recalls that he told her that it was his understanding that there was discretion about breach proceedings being implemented if there was evidence that the offender was actively seeking treatment and an opportunity was available in the near future; he thought this situation applied in the case of Parfitt. This account, as we have seen (paras 5.19-5.42) was misleading and confusing; it suggested that the ACO was not familiar with the standards regarding the application of drug testing as a licence requirement. The NPD representative came to the meeting

armed with the Probation Circulars relating to drug testing, but she was aware of neither the detail of how they applied to Parfitt or his level of compliance with them. Mrs Walker recalls being told that after the 'allowance' of three drug test failures the Probation Service had discretion whether or not to institute breach proceedings. She gained the impression that the Probation Service representatives considered that Parfitt's case had been handled in an acceptable manner.

8.37 Regarding liaison between probation and the police and the subsequent actions of the police, the ACO informed Mrs Walker that the SPO had alerted the Nottingham Robbery Squad when confirmation of Parfitt's revocation was received, and 'that in spite of this David Parfitt was still at liberty when he killed her husband'. Mrs Walker said that she did not wish to discuss the police. She expressed her 'complete' satisfaction with police efforts to arrest Parfitt and referred to the 'considerable efforts' made by the Nottinghamshire Police to arrest him on 12 and 13 December 2002.

8.38 The purpose of the meeting was to provide an explanation of the duties and actions of the Probation Service and dispel Mrs Walker's perception that it had not met its responsibilities. In this it failed comprehensively. Mrs Walker now knew rather a lot about Parfitt's supervision and the revocation of his licence, but not chapter and verse. She was now even more dissatisfied. She felt that the Probation Service was not forthcoming with information, was defensive and yet was complacent about their handling of Parfitt's case. She said that references were made to the *sub judice* rule and she felt this was being used as a smokescreen to prevent her getting answers to her legitimate questions.

8.39 The outcome of the meeting was that Mrs Walker shortly thereafter rang Nottinghamshire Probation Area to confirm that she intended to lodge a complaint against them. The ACO arranged for her to be sent a complaints procedure booklet. Mrs Walker said that on account of what she regarded as the defensive nature of the service, she wished any further contact to be through her solicitors. The NPD representative contacted the Prison Service to inform them of Mrs Walker's concerns and rang Mrs Walker to tell her she had done so. Mrs Walker says that she never heard anything from the Prison Service. Three weeks later, on 7 August 2003, Mrs Walker, through her solicitors, submitted a detailed, formal complaint against the Probation Service, the full text of which is reproduced at paragraph 1.4 above.

Actions Taken by the Probation Service following Receipt of Mrs Walker's Complaint

8.40 Following receipt of Mrs Walker's complaint of 7 August consideration was given within the NPD as to how her complaint should be dealt with and investigated. The Head of the PPU sought legal and other advice from, among others, the Prison and Probation Ombudsman. Her initial view (see para 8.32) was confirmed by those she consulted. Under the existing NPS complaints system criteria Mrs Walker was not an eligible complainant. It was held that only offenders, victims and victims' families are legitimate complainants and in relation to the offence for which Parfitt at that stage stood sentenced and conditionally released, Mrs Walker fell outside the criteria. She was not a victim of his crimes committed in autumn 2001 and the presumption of innocence applied to the charge of murder, the trial of which had yet to take place.

Further, it was considered that though she did not have any right of access to detailed information about Parfitt's supervision and that the Probation Service had no authority to provide it to her, nevertheless steps should eventually be taken to investigate the concerns she had raised about probation practice. There was also concern that disclosure and possible publication of the fact that Parfitt was already serving a sentence of imprisonment at the time of the incident involving PC Walker would prejudice his trial. In which case it was decided that whatever independent investigation was undertaken should take place after the trial had been completed.

8.41 It follows that, other than acknowledgements of her complaint and being told that an investigation would take place when Parfitt's case was concluded in December 2003, Mrs Walker had no further contact with the Probation Service and was given no further information by the service.

Conclusions

8.42 I find that the arrangements made by Home Office Ministers to express their condolences to Mrs Walker following PC Walker's death were inept and gave offence, that this was swiftly recognised within the Home Office and that steps were immediately taken by Ministers to ensure that there should be no recurrence in similar tragic circumstances.

8.43 I find that the Nottinghamshire Probation Area notified, as they were required to do, the NPD of PC Walker's death and the connection with an offender, Parfitt, under their supervision, albeit they did not do it in writing within 48 hours. I also find that the Area undertook an SIR, broadly in line with the recommendations of Probation Circular 71/1998, into the circumstances surrounding Parfitt's supervision on licence, the revocation of his licence and liaison with Nottinghamshire Police. The Inquiry was not as searching or accurate as it might have been. As a result it failed to address some of the critical organisational factors which a more searching inquiry would have exposed. In particular, key probation staff involved in the supervision of Parfitt were not spoken to, workloads and the division of labour between POs and PSOs were not considered, and some of the staff most closely involved in the case were neither consulted nor informed about the findings of the SIR.

8.44 I find that the NPD, on receipt of the SIR from Nottinghamshire Probation Area, did not act on any of the policy issues touched on in it. They did not do so largely because the relevant department within the NPD, the PPU, had not the capacity to do so. However, they acknowledged receipt of the SIR and, subsequent to their being alerted to the fact that Mrs Walker was dissatisfied with the manner in which Parfitt had been supervised, they arranged for a meeting to take place on 16 July 2003 between her and representatives of the NPS. They determined that Mrs Walker, not then being a formal complainant and, in their judgement, not eligible to be a complainant according to the terms of their National Complaints Procedure (Parfitt was not yet convicted of any offence against PC Walker and his actions against PC Walker did not arise from activities engaged in while he was under the supervision of the NPS), should not be told any details about his supervision but should have explained to her the general rules and nature of that supervision while subject to HDC and ACR. They determined that they did not have the authority to tell Mrs Walker the particulars of the case.

8.45 I find that Nottinghamshire Police appointed an FLO to Mrs Walker and, at various levels of the organisation from the CC to PC Walker's immediate colleagues, gave her every support and as much information as she wished to have and was available to them about Parfitt and the circumstances leading up to PC Walker's death. The FLO, however, kept a less than adequate log of her contacts with Mrs Walker; she did not record the detail of what Mrs Walker was told, by whom and when. However, as a result of what she was told by the police, Mrs Walker was fully satisfied that the Nottinghamshire Police had done all they reasonably could to arrest Parfitt following revocation of his licence on 9 December 2002.

8.46 I find that Nottingham Police and Probation Area did not jointly determine what information Mrs Walker should or could be given and that, as a result, Mrs Walker gradually got to learn, from several different sources, a good deal of information about Parfitt and what had happened. Further, in the event, the NPD recommendations as to what information Mrs Walker should be given with regard to Parfitt and his supervision were not followed by members of the Probation Service. When the meeting took place between Mrs Walker and the NPS representatives on 16 July 2003, she already had a certain amount of information about Parfitt, his antecedents, his family, the terms of his release, his subsequent supervision and the revocation of his licence. When pressed, one of the NPS representatives provided her with yet more detail, albeit not chapter and verse. Moreover, the NPS representatives gave Mrs Walker misleading and confusing information about the application of drug testing as a licence requirement, which suggested that they were not themselves familiar with the rules governing it. As a result Mrs Walker was further dissatisfied and incensed. She concluded that the Probation Service had something to hide, that they were both defensive and complacent. She determined formally to complain and on 7 August did so, through her solicitors. The level of information which she now had about Parfitt is reflected in the detailed nature of her complaint.

8.47 I find that as a result of there being in place no joint strategy between the Police and the Probation Services about what Mrs Walker could or should be told, and because the information she gathered from various sources lacked balance – she was given precise details about police operations but got an incoherent picture about probation dealings with Parfitt – her ire was concentrated on the Probation Service. Members of the Probation Service considered this unfair and trust between some members of the Probation Service and the Police was undermined. It is with a view to making such a damaging consequence less likely in the future that I turn to certain policy issues in Part Two of this report.

Part Two – Policy Issues Arising from the Events leading up to and following the Death of PC Walker

Introduction

9.1 My terms of reference are simple, but broad, incorporating a chronology that is open ended – 'events culminating in…' and 'following'. The detailed account in Part One concerns an offender, a young man now aged 26 with a lengthy criminal career, an event, the tragic death of PC Walker at the hands of Parfitt, and victims, Mrs Walker and her children. Three criminal justice services – police, probation and prisons – are involved, together with the central government department, the Home Office, with responsibility for those services. In the course of my account a large number of policy issues have been touched on. It would not be sensible to address all of them, nor to deal with them in depth. To do so would be to try the patience of all concerned and delay what, from the outset, I have been determined should be a report presented to Ministers relatively speedily. I propose in Part Two, therefore, merely to highlight some aspects of policy and practice which the account in Part One has thrown into sharp relief and which arguably need to be addressed. When I first met Mrs Walker she expressed the hope that something positive might come out of her husband's tragic death. I share that hope. What lessons might we learn from the story I have told?

Court reports written without benefit of prosecution papers

9.2 When sentenced for two robberies against relatively vulnerable older women in May 2002, Parfitt was the subject of two court reports (PSRs), in neither of which was there an adequate offence analysis of what precisely he had done (para 2.3). The reason was that the POs who wrote those reports had not had sight of the relevant prosecution papers. Yet subsequent to his being sentenced, both while in prison and following his release, those responsible for making decisions about Parfitt had largely or entirely to rely on his PSR to gauge the nature of the offences he had committed. This is wholly unsatisfactory and has repeatedly been commented on in successive reports from HM Inspectorate of Probation. Though, in Parfitt's case, I do not think the availability of a fuller picture of his offending behaviour would have materially affected the decision that he be released early, it might have sharpened the attention of those who were responsible for his supervision once he was released. *The NPD, together with the CPS, should take further steps to ensure that all court reports are written with the benefit of sight of the prosecution papers in the case.*

HDC Appraisals undertaken without benefit of Security Information Reports

9.3 The advice given to the HDC Board when deciding whether Parfitt should be released, and the decision of the Board, were almost certainly without knowledge by the persons concerned that there existed security information reports relating to Parfitt. I concluded that had the reports in this particular case been known to the decision makers they would almost certainly not have reached a different decision. One can easily imagine circumstances, however, where the content of security reports would and should affect the decision to release on HDC.

9.4 I have no way of knowing how widespread are the arrangements, as they were at HM Prison Ranby, whereby the prison officer with day-to-day knowledge of the prisoner has no ready access to security reports and the HDC Board is unlikely to

have them brought to their attention. *The guidance from Prison Service HQ for HDC decision making should make explicit the need to consider security information report-based evidence and the manner in which that evidence is held should be more accessible to HDC Board members.*

The Transmission of Prison-based information about prisoners being considered for release and being released to the Probation Service

9.5 Neither when seeking advice from the home probation area pending Parfitt's consideration for HDC release, nor following his release, was any information transmitted to the home probation area about his conduct in prison or his involvement in training, offending behaviour programmes, or other interventions. In Parfitt's case there was little information to transmit, though the fact that he had been adjudicated for drug-related offences, and that he was subject to some security information report-based suspicion regarding use of illicit drugs, might have made his probation supervisors more conscious of the possibility that he would return to more intensive and serious illegal drug use on release.

9.6 The failure to transmit information about offenders to the Probation Service from the Prison Service and *vice versa* is a hardy perennial in prisoner rehabilitation and resettlement debates and in Inspectorate reports. It is a key aspect of the proposition that we need an integrated case management system across the services. The absence of integrated case management is a key rationale for the proposal in the Carter Report (*Managing Offenders: Reducing Crime*, December 2003), and the Home Office response to the Carter Report (*Reducing Crime – Changing Lives: The Government's plans for transforming the management of offenders,* January 2004), that there be created a National Offender Management Service. Creating an integrated service, however, will not of itself guarantee that important information is transmitted from prison to probation and *vice versa*. Nor need, or should, transmission of information wait on the creation of an integrated case management system. *In HDC cases information about prisoners' behaviour and participation in programmes while in prison should be built into the Prison Service HDC documentary process and transmitted to home probation supervisors.*

The Home Visit National Standard for prisoners released subject to HDC

9.7 All prisoners released on licence, including those on HDC, are subject to NPS supervision *National Standards* which include the requirement that they be visited at home within ten days of release (Standard D 13). In the case of Parfitt (see para 5.54) this requirement was met by a community service supervisor being given his address and bare personal details and asked to knock on his door at a pre-arranged time. There was no expectation that she would enter the house, should he be at home, which he was not. Given that he was known, because of his HDC, to be residing at the address, and was being checked daily by PMS, the exercise had no value other than to enable the probation area to tick a *National Standards* box. The attempt was a waste of scarce NPS resources. *The NPD should amend the Probation National Standards so as to remove the requirement that prisoners released on HDC be visited at home within ten days of release.*

Probation Caseloads and the division of labour between POs and PSOs

9.8 These are huge, complex topics about which angels fear to tread. Whereas terms like *overcrowding* and *operational capacity* have some generally recognised meaning within prisons, there are no equivalent terms of art regarding caseloads in a probation setting. Moreover, workload measurement within the Probation Service has yet to advance beyond the primitive stage. It is clear that Parfitt was allocated to a case manager PO with a very large caseload indeed, though I doubt her caseload was, and is that unusual. The annually published *Probation Statistics* show that though the situation has improved somewhat since 1998, nevertheless average probation caseloads have grown significantly in the last 15 years. Moreover, the raw statistics fail to represent the extent of the workload increase. The *nature* of probation work with offenders has become more intensive and the standards applied to that work have risen. In recent years the staff profile within the Probation Service has also greatly changed, POs now being slightly in the minority. In different probation areas there are now considerable differences in the division of labour responsibilities between POs and PSOs.

9.9 My impression is that Nottingham Probation Area lies at the traditional end of this changing spectrum. That is, POs in Nottinghamshire retain the key responsibilities for managing offenders. I will not venture into that debate save to observe the following. If, as was the case when it came to the supervision of Parfitt, the case manager has a very large, arguably excessive, caseload (see paras 5.11-5.12), and the nature of the requirements attached to the offender – in Parfitt's case a drug testing licence condition – is such that the case manager rarely meets the offender, then it is arguably in the interests of the PO for those PSOs who *are* regularly meeting the offender – in this case the drug testers – to be given greater responsibility. The PSOs should (a) communicate to the offender the criteria which will be applied to his or her supervision; and (b) initiate enforcement processes in the event of breach. This need not rob the case manager of the responsibility to make the enforcement decisions which ultimately, it may be argued, should continue to remain with qualified POs (for example, the recommendation to the SEU and Parole Board as to how they should exercise their discretion regarding recall). Ideally, of course, the local electronic case recording system will trigger enforcement action, but that seems at present to be a distant prospect.

9.10 The story of Parfitt's supervision provides a telling illustration regarding the above. His drug testers were more familiar with the detailed requirements off his drug testing licence than was his case manager. Further, whereas his case managers saw him rarely, if at all, his drug testers saw him once or twice each week. They knew when he failed to attend a drug test and they recorded his positive tests. They informed his case manager by recording these events on the electronic case management system. But his case manager apparently had not the time, because of the size and nature of her caseload, to pay close attention to these details in what was, in the greater scheme of things, not assessed a high risk of harm case. Could not there have been in place a system whereby his regular drug tester, on seeing that on the face of the record the criteria *required* by the Probation Circular for a report to the SEU were met, had responsibility to initiate the process? The decision as to whether to follow through and, crucially, whether to recommend to the Parole Board as to how *their discretion* should be exercised, could remain with the PO. But the system I propose would seem to square better in this instance with the day-to-day reality of

offender contact and make more efficient use of the information arising from it. *Pending universal introduction of an electronic case recording system capable of automatically triggering enforcement actions when offenders meet breach criteria, the NPS should give front line PSO staff dealing with offenders greater responsibility for initiating enforcement processes.*

Clarification of Supervisors' scope for Discretion in the Enforcement of Court Orders and Licences involving Drug Testing

9.11 It is clear that some probation staff in Nottinghamshire, at all levels in the organisation, are unclear about the scope for case managerial discretion regarding enforcement criteria and procedures in the case of offenders subject to orders or licences involving drug tests. This is a proliferation of orders and licences (drug testing as a licence condition, DAOs, DARs and DTTOs) and the manner and agency of their enforcement differ. Separate Circulars have been issued by the NPD and, if Nottinghamshire is typical, areas issue their own advice to staff. Yet there remains confusion, terminologically and substantively. *The NPD should take further steps to clarify for NPS staff the enforcement criteria and procedures for the different orders and licences involving drug tests.*

Making Clear to Offenders Compliance and Enforcement Criteria with respect to Orders and Licences

9.12 When released from prison on HDC Parfitt was told, in writing, that he was required to live at a particular address, to be at that address during given hours and to report for drug tests at particular NPS offices twice a week. However, it is also clear that after his electronic tag was removed he moved to another address and had previously informed his regular drug tester that he intended doing so. But he did not formally notify his supervisor that he was doing so and when his licence was revoked he was living at an address other than that to which he was released without his case manager being aware of the fact. As a consequence, when his licence was revoked, the police first attempted to locate him with a view to his being arrested and returned to prison by visiting an incorrect address.

9.13 Parfitt declined to be interviewed by me so I have been unable to ask him what he says he was told about the enforcement criteria for his licence. However, it seems clear that though, when he first tested positive for drugs and failed to be at home for a pre-arranged home visit, he was warned that further breaches of his licence might result in actions being taken to recall him to prison, he received no further formal warning and was never told at what point a licence revocation request was imminent. Further, he was not told that a Licence Revocation Request had been submitted.

9.14 It is apparent that in Parfitt's case part of the reason why he was not warned about his non-compliant behaviour was because his case was receiving insufficient attention from his case managers and because one of them was confused about the enforcement criteria applying to his licence. Further, there are undoubtedly competing arguments about the wisdom of fully explaining to offenders the criteria likely to be applied in response to their non-compliant behaviour. To tell an offender on licence with a drug testing requirement, for example, that a Licence Revocation Request will be submitted only after they have tested positive on three successive occasions, or

twice within a six week period, might tempt them into thinking that abstinence was not required or necessary. Likewise, it has been suggested to me by the police, that to tell an offender that revocation of their licence has been requested, may increase the likelihood that they will abscond. These are difficult issues. However, my view is that adult, responsible, trusting relationships are unlikely to be developed between offenders and their supervisors unless there is as much transparency and honesty between them about their mutual obligations and responsibilities as possible. *The NPS should ensure that offenders subject to supervision are always told about the enforcement criteria and processes with respect to their orders and licences and what steps are being taken to enforce their orders and licences when they are non-compliant.*

Police Family Liaison Officer logs.

9.15 An FLO was appointed to assist Mrs Walker and she kept a log, as the *Murder Investigation Manual* (Association of Chief Police Officers/Forensic Science Service) required her to do, of the contacts she had with her. Her contact and visit notes, however, were cryptic. As a consequence it proved impossible to reconstruct what Mrs Walker was told about Parfitt and his supervision, by whom, when and in what detail. This detail is sometimes very important. *The Murder Investigation Manual should be revised so as to suggest that FLO logs include reasonably full accounts of what victims of serious crime are told, particularly when the information is of a confidential nature.*

The Need to Reduce Delay and Make More Efficient Licence Revocation Requests and the implementation of Recall Decisions

9.16 In Parfitt's case, as we have seen (paras 5.75-5.81), once his case manager had decided to submit a Licence Revocation Request, he consulted his SPO and it was necessary for their resulting decision and recommendation to be signed off by an ACO. I see no reason for the latter endorsement. If the purpose is quality assurance, it is too late: other procedures would serve that purpose better. The requirement that an ACO be involved is a bureaucratic cause for delay.

9.17 In Nottinghamshire, if Parfitt's case is typical, papers relating to Licence Revocation Requests and Recall Notifications are transmitted between team offices and HQ, and sent to the SEU, by post rather than fax or e-mail. SEU informs us that some areas submit requests by post, others by fax. Where the post is used, the result is unnecessary delay in submitting cases and learning of, and acting on, decisions.

9.18 The SEU, as we have seen, fax both the NIS, New Scotland Yard, and probation areas, with their decisions to recall. The NIS, however, in addition to posting the information on the PNC, do not always send specific notification to the police for the area where the offender is thought to live. When the NIS does send a fax the local response can be very rapid indeed. In Nottinghamshire we came across one example of a specific NIS fax resulting in the arrest of the offender for prison recall in less than 20 minutes. Further, in the case of prison recalls, as opposed to court decisions, there is no piece of paper, or warrant, the execution of which, within the police, a specific section, unit or officer, can discernibly be made responsible and accountable for. The absence of a piece of paper does not aid prioritisation.

9.19 Within Nottinghamshire Probation Area, if Parfitt's case is any guide, it may be more than a week before notice of licence revocation is entered on the electronic case record system (para 7.11). This delay means that all staff concerned with the case may be unaware of the decision that has been made.

9.20 Short and medium-term prisoners subject to HDC and ACR are seldom assessed as high risk of harm cases. But they are the offenders statistically most likely to reoffend and be reconvicted (see *Prison Statistics*, Chapter 9). Further, a high proportion of them use Class A illicit drugs. If, as in the case of Parfitt, they revert to drug use there is a reasonable likelihood that they are reoffending to fund their drug habit. It follows that the *decisions to recommend and recall to prison should be taken as quickly as is just and as efficiently as possible. The present system is not as efficient as it might be and the police do not accord prison recalls the priority that they should. The system for communicating and executing prison recalls should be reviewed by the Home Office.*

How Victims of Offenders subject to NPS Supervision should be defined and what they should be told, by whom and when

9.21 Mrs Walker was told by the police, in accordance with developing FLO practice, as much as she wanted to know and, the police knew, about the circumstances leading to her husband's death and about Parfitt, his antecedents, release from prison, probation supervision, revocation of his licence and unsuccessful police attempts to arrest him in the weeks between 9 December 2002 and 7 January 2003. She initially had no contact with the Probation Service and when she did have a meeting with probation representatives on 16 July 2003 they told her more about Parfitt's supervision on licence than the NPD considered wise or proper. When Mrs Walker formally complained against the NPS, the NPD determined that she was not an eligible complainant according to the criteria laid down by the NPS complaints system. They also judged that they had no authority to answer her detailed questions regarding Parfitt's supervision. The consequence was that Mrs Walker, over a period of several months and from various sources, was given a partial, haphazard, ill coordinated, incoherent and disturbing account of what had happened. She was understandably angered. This was no way for the victim of a serious crime to be treated.

9.22 The Police and Probation Services increasingly share confidential intelligence and information with each other in order better to prevent reoffending and protect the public. Some of these partnership arrangements are *ad hoc*, as in the POP at Nottingham Central Police Station and the Nottinghamshire *Sherwood Project* (*Tackling serious and persistent offending in Nottinghamshire*, 2004, HM Prison Service, Nottinghamshire Healthcare, Nottingham City Drug Action Team, Nottinghamshire County Drug and Alcohol Action Team, Nottinghamshire Probation Area and Nottinghamshire Police), a partnership which is specifically focused on drug-using prolific offenders. Others are permanent, as in the Youth Offender Teams (YOTs). It follows that when serious events result from the actions of offenders subject to joint police and probation surveillance and supervision, it will become more and more important for there to be a shared understanding between the agencies as to who is to be regarded as a victim of such crimes, who is to be judged an eligible

complainant, and at what stage such persons are to be given what information, when, by whom and about what. There is currently no shared understanding or procedure. There is, for example, no equivalent to the 'Chapter 8' reviews (sometimes known as 'Part 8') which now take place between the different agencies involved when a child dies and abuse or neglect are known or suspected to be a factor in the death (see *Working Together to Safeguard Children*, DoH/Home Office/DfES, 1999). There are difficult, complex issues to be resolved in this regard. *This aspect of policy needs to be subject to a fundamental Home Office review and a joint protocol devised for use by the NPS, the police and other partner agencies.*

Appendix A: Interview preamble

The following was read or shown to all Inquiry interviewees preparatory to any questions being asked

This inquiry is being carried out by a joint Probation and Police team, with assistance from HM Prisons Inspectorate. The Inquiry has been requested by Home Office Ministers and is led by Professor Rod Morgan, HM Chief Inspector of Probation.

The purpose of the inquiry is to inquire into the actions of the Prison Service, Nottinghamshire Probation Area and Nottinghamshire Police before and following the death of PC Gerald Walker in January 2003 at the hands of David Parfitt. In particular the focus is to inquire into any relevant policies and procedures relating to the issue of automatic conditional release licences, their supervision and revocation, and related issues of criminal justice inter-agency working and communication.

The Chief Officers of all agencies involved have promised full cooperation by their staff to assist this inquiry.

It is important to recognise that the inquiry is not a criminal or disciplinary investigation. It is an inquiry to ascertain the relevant facts and make recommendations for future policy and practice. However, any facts that come to light may be part of later investigations.

All relevant staff who had dealings with David Parfitt from the three main agencies, Prison, Probation and Police, will be seen to discuss their involvement.

Interviews will not be taped or contemporaneously recorded, but a note will be made and this will be shared with you.

Some of the questions you may not wish to answer or are unable to answer at this time. You are not under any obligation to stay throughout the interview but we hope you feel able to cooperate fully.

Relevant Trade Union and Police Federation officials have been informed of the inquiry. Anyone seen in relation to this can have their union representative or a friend present if they wish.

Appendix B: Inquiry Team

Rod Morgan	HM Chief Inspector of Probation
ACC Mick Creedon	Derbyshire Constabulary
D/Supt Jack Russell	Derbyshire Constabulary
Stuart McPhillips	NPS Regional Manager North-East Region
John Hutchings	Assistant Chief Inspector of Probation
Sharon Davidson	Head of Criminal Justice Joint Inspectorates Secretariat
Martin Edgerton	Criminal Justice Joint Inspectorates Secretariat
Simon Heath	Criminal Justice Joint Inspectorates Secretariat
Insp Mark Gahagan	Derbyshire Constabulary
DS Simon Tunnicliffe	Derbyshire Constabulary
DC Nigel Thorpe	Derbyshire Constabulary
DC Neil Pashley	Derbyshire Constabulary
DC Paul Bullock	Derbyshire Constabulary
DC Steve Pilbeam	Derbyshire Constabulary
DC Janette Robinson	Derbyshire Constabulary
DC Mandy Shunburne	Derbyshire Constabulary
Graham Walton	Holmes Administrator
Becky Spears	Holmes Indexer