REPORT
OF THE
INQUIRY INTO THE
CENTRAL INDUSTRIAL
PRISON
AUGUST, 1988
His Honour A. G. MUIR Q.C.

Volume 1
12 August 1988

The Hon Michael R Yabsley MP
Minister for Corrective Services
Parliament House
SYDNEY NSW

Dear Minister

I was appointed by document bearing date 19 November 1987, pursuant to terms of the Prisons Act 1952, Section 11A to inquire into and report upon the matters there specified relating to the security, good order, control and management of the Central Industrial Prison, Malabar.

I have completed my inquiry and now present my report for your consideration.

Yours faithfully

HIS HONOUR A G MUIR QC
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PART I

Chapter 1

The Nature of the Inquiry

The Minister for Corrective Services at that time announced the Inquiry pursuant to Section 11A of the Prisons Act, 1952, as amended, on 19 November 1987. It is a form of Inquiry limited in nature. The Terms of Reference are quite specific, subject to one matter to which I shall return at pp. 4-5 of the Report. The Terms read:

"APPOINTMENT OF INQUIRY UNDER PRISONS ACT 1952, SECTION 11A

To His Honour Judge Alastair Gibson Muir, QC.

Pursuant to the Prisons Act 1952, Section 11A, I, John Edward Akister, the Minister administering the Act, appoint you to inquire into and report to me upon the following matters relating to the security, good order, control and management of the Central Industrial Prison, Malabar:"
(1) the circumstances of an assault upon Jamie Christopher Partlic, a prisoner, in the Fine Defaulters Yard at the Prison on 7 November, 1987;

(2) the circumstances of any other assault upon any other prisoner at the same time and place as the assault referred to in paragraph (1);

(3) the identity of the prisoners present in the Fine Defaulters Yard at the time of any assault referred to in paragraph (1) or (2);

(4) whether adequate action was taken by the authorities at the Prison —

   (a) to prevent the occurrence of assaults on prisoners in the Fine Defaulters Yard;
   (b) to intervene in order to prevent the furtherance of any assault referred to in paragraph (1) or (2);
   (c) to protect witnesses to any assault referred to in paragraph (1) or (2) from being intimidated or otherwise influenced against giving evidence of the assault; and
(d) otherwise to investigate the circumstances of any assault referred to in paragraph (1) or (2).

You are also to report any recommendations which you wish to make in relation to any matter relating to the security, good order, control or management of the Prison as a result of your inquiry.

Signed at Sydney the 19th day of November 1987

This is the first Inquiry under S.11A of the Prisons Act, 1952. It is into one incident in one prison. Term (4)(a), however, on consideration requires me to look further than 7 November 1987 to a number of matters which occurred over a period from the time of the establishment of the fines yard in 1985 to 7 November 1987. During that time, many decisions were made, many practices developed officially and unofficially, and many things happened. The omission of any one of these would or could have made the assault less likely to occur. I was conscious of problems experienced in other inquiries of this nature, (which I will refer to in the next chapter), so that it was with some initial reservations I embarked on the investigation into this earlier period.
I have no doubt that the approach adopted was correct as it has enabled me now to put forward more complete recommendations to the Minister.

It is useful to contrast the type of Inquiry undertaken by Mr Justice Nagle and myself. Mr Justice Nagle in the Royal Commission into N.S.W. Prisons, was required to examine in a broad way the whole prison system as it then existed. I have been able to put one part of one prison on one day under the microscope and analyse its particular problems.

Mr Justice Nagle was required primarily to examine the conditions of prisoners during their confinement and to some extent the situation of violence as between officers and prisoners. He did not specifically address the problem or violence among prisoners themselves. Accordingly, the Royal Commission did not make any recommendations about violence between prisoners. The Recommendations flowing from this Inquiry about this problem are limited to the problem as it existed in that part of the Central Industrial Prison (C.I.P.) where the assault took place. No doubt they can be of some general application, but it is not possible for this Inquiry to indicate the extent of such general application.
It is clear that the C.I.P. has problems peculiar to it. Many of these have arisen since the Report of the Royal Commission into N.S.W. Prisons was presented on 31 March, 1978. Some occurred because of the changed nature of the prison population, particularly at the C.I.P., others, regrettably, because not all of the Royal Commission's recommendations were fully implemented. There may have been good reasons for the latter in terms of the practicalities of implementation. I have not sought to inquire into these matters nor could I. Accordingly, where comment is made on these issues, no criticism is made of any persons individually or collectively. I am charged to inquire into a number of matters and to make recommendations. In my view, although the direction "to report any recommendations which you wish to make" is wide, it is limited to matters arising from the Terms of Reference.

Within these limits I have found it beneficial to refer in my Report and Recommendations to parts of the Report and Recommendations of the Royal Commission. I emphasise that there is nothing with which I would in any way disagree in those parts of the Royal Commission Report or Recommendations which I have had an opportunity to examine in the context of this Inquiry. The comments I have made since will be seen to result
from a failure fully to implement certain Recommendations and from changed conditions of the prison population or society in general which could not have been foreseen at the time of the Royal Commission.

For example, as the Director of Custodial Services indicated in his statement to me, the behaviour of the prison population in 1987 is much less predictable than in 1978. It appears this is due to the very great increase in the prison population who are there for drug or drug related offences. Indeed, but for the changing nature over the last 10 years of offenders who have come before the courts, it is probable that the prison population would now be very much smaller than it was at the time of the Royal Commission and than it actually is today. The Royal Commission did critically examine predictions of future prison population based on past experience. Alternative forms of punishment have been greatly used since the Royal Commission. This would otherwise have led to a significant reduction in the prison population. With that decrease, certain problems that existed at the time of the Royal Commission would have been resolved. Other problems existing in prisons in 1987, however could not reasonably have been anticipated in 1978.
I considered it appropriate also to refer to the Report of His Honour T.J. Martin QC delivered in July, 1987, into Prisoner Security Classification in the Department of Corrective Services. A number of issues addressed in that Report and made the subject of Recommendations are relevant to this Report.

The prison is a closed community. Almost all the witnesses called were prisoners or prison officers at the time of the assault. A Code was devised for all those witnesses whose safety could be endangered. I have taken some care in determining what should be done with this Code. I have decided to provide it to the Minister as a document separate from my Report and the Appendices with certain recommendations about how it is to be treated. As many of those referred to in it are young men, it could be anticipated that their safety will be at risk for many years, although the risk may diminish as the years pass.

It is of great importance that my recommendations, as to the future use of the Code, be made public to emphasise my concern for the safety of those referred to in it. Were I able to do so, I would make absolute rulings about its use but as that is not possible, I therefore make the following recommendations:
1. The Code should remain in the sealed envelope until dealt with by the Minister.

2. It must not be examined by any person except the Minister and those whom he expressly authorises in writing.

3. No copies should be made.

4. The identity of all persons in the "F Code" should never be made public, subject to what I have to say below.

5. The "S Code", or any part of it, may be made available in the interests of justice should the Minister be satisfied it is necessary, subject to any order of any Court to the contrary.

6. Should the contents of any part of the "F Code" be required in the interests of justice in Court proceedings, those parts should be provided to the presiding Judge or Magistrate to whom application should then be made. If he determines that the identity of a particular individual should be made available, it should be made available only to counsel and solicitor upon the same undertakings
that were given by those who appeared at the Inquiry, namely, that they will not disclose the identity to any person.

7. Should the persons in the "F Code" be required to give evidence for the defence in criminal proceedings, the prosecuting authority should take such steps as the presiding Judge or Magistrate sees fit to obtain the attendance of that person.

8. I commend the security measures taken by those assisting me to the presiding Judge or Magistrate, for the safety of any witness who is in custody at the time he is required as a witness, and I recommend that Senior Assistant Superintendent A. S. D'Silva or Deputy Superintendent F. Kelly from the Department of Corrective Services be consulted to advise on the appropriate procedure to ensure the safety of such witnesses.

9. Leave should be granted to any individual witness to be reminded of his "F" or "S Code" and to reveal his own individual code to any person or make it public.
I also wish to point out that during the hearing non-publication orders were made in respect of some prison officers, apart from the executive officers. This action was taken at the request of senior counsel for the N.S.W. Public Service Asssociation (P.S.A.) and upon my being satisfied that by reason of publicity, officers who gave evidence found it virtually impossible to return to their usual work routine amongst the prisoners. I was satisfied that officers called at an early stage of the Inquiry, were later subjected to extensive and specific abuse and harassment. Those orders, however, do not apply to the Report and where necessary, officers have been identified by name. I shall deal more fully with safety and security problems which arose during the Inquiry in the next Chapter.

The Report is delivered to the Minister in two parts. Part 1 is the complete Report which I recommend not be published or made public until the completion of all criminal proceedings arising out of the assaults on Mr Partlic, F1 and F2. Part 2 constitutes those sections which may be made public forthwith. The reasons why Part 1 should not be made public are set out in Chapter 2 of my Report. In summary, this course is taken to ensure that fair and proper trials of any alleged assailants may take place.
In November 1987, Notices were published concerning the Inquiry in Sydney daily newspapers. The form of Notice, list of newspapers and dates of publication appear in Appendix B of the Report.

On 25 November 1987, the first sitting of the Inquiry was held. Preliminary matters were raised and dealt with at that hearing and further on 30 November 1987. The taking of evidence commenced on 10 December 1987. Thus there was a period of exactly three weeks between the announcement of the Inquiry and the start of the substantive hearings.

Ultimately, 96 witnesses were called during 67 hearing days and 342 exhibits, many voluminous, were received in evidence. The transcript of proceedings occupied 3135 pages. The list of witnesses both in alphabetical and chronological order is Appendix E and the list of exhibits appears at Appendix F of the Report. It can be seen from this that only a fraction of the material ultimately led in evidence could have been known to
those who were appearing in the Inquiry at its commencement. Indeed, the ultimate depth and breadth of the Inquiry could not have been anticipated at that time.

At the hearing on 25 November 1987, the question of an early commencement was raised. Despite the problems this involved, it was thought necessary in the public interest to proceed with urgency. As I then said:

"Necessarily I am anxious to commence the Inquiry and proceed with the evidence. The public has an interest to have the matters disposed of..."


The procedure I adopted was that any person who wished to call oral evidence was required to provide in advance to the solicitor and counsel assisting a statement from the witness. New issues and areas requiring investigation arose during the hearing so that invariably statements were supplemented with oral evidence. Frequently, that further oral evidence involved additional investigatory questioning as well as the testing of material contained in the statement. This was usually done by those assisting the Inquiry.
During the hearing a number of persons were legally represented. A full list of counsel and solicitors appearing is set out in Appendix D of the Report.

Full responsibility for the leading and organisation of evidence was on those assisting the Inquiry. Only a few statements were provided by other legal representatives at the Bar Table.

All documentary evidence (apart from a small amount tendered at the end of the Inquiry by Mr Adams Q.C. and Mr Cowan) was tendered by counsel assisting. Almost all the documentary evidence was produced to the Inquiry by the Corrective Services Commission (C.S.C.) in answer to numerous requests and summonses issued from time to time as the Inquiry progressed.

I have mentioned the procedure because it explains certain difficulties which arose, particularly with respect to the duty of ensuring that all persons who might be liable to adverse findings were made aware of that possibility. Indeed, the problems which arose were well described in another situation by Lord Diplock in *Mahon v Air New Zealand Ltd* (1984) 1 A.C. 808 at 814-815:
"In an investigative inquiry, on the other hand, into a disaster or accident of which the commissioner who conducts it is required, as the judge was in the instant case, to inquire into and report upon "the cause or causes of the crash," it is inevitable, that the emergence of facts, and the realisation of what part, if any, they played in causing the disaster and of their relative importance, should be more elusive and less orderly, as one unanticipated piece of evidence suggests to the commissioner, or to particular parties represented at the inquiry, some new line of investigation that it may be worth while to explore; whether, in the result, the exploration when pursued leads only to a dead end or, as occurred in one particular instance in the present case, it leads to the discovery of other facts which throw a fresh light on what actually happened and why it happened.

The emergence of the evidence piecemeal, which was a consequence of the abandonment under pressure of time of the original proposal that counsel for the parties represented should furnish in advance the written briefs of witnesses for collation and for elaboration where necessary, was not, in the event, compensated for by affording to those counsel an opportunity of giving to the judge at the outset of the inquiry a summary, either orally or in writing, of the salient facts to which the evidence that they proposed to call would be directed."

It is clear then that the problems encountered in the procedures in this Inquiry were by no means special to it. Accordingly, flexible and adaptable procedures have been implemented to ensure that all those who may be affected had an opportunity to be heard and make such answer as they thought fit. There was open debate about the recalling of certain witnesses. In the ultimate, the only application pressed was that of Mr Ryan, of
counsel, for the recall of Deputy Superintendent Thompson. Having considered the matter, I determined that Mr Thompson not be recalled.

At other times, when in my view it was necessary to recall witnesses they were recalled, eg Assistant Superintendent Crowley. Any new matter which arose during the hearing was investigated by those assisting the Inquiry. Finally, all at the Bar Table were expressly invited by counsel assisting to call any evidence or tender any material they wished.

I adopted flexible procedures during the hearing to ensure all people involved were aware of the issues which arose and which developed continually during the progress of the evidence. In addition, counsel assisting produced very detailed written submissions not only raising squarely the issues for attention but detailing the source of the issues by transcript reference and exhibit number. Written submissions were received from all major interests represented throughout the Inquiry, including a number of detailed submissions in reply to those of counsel assisting and other counsel. All counsel and solicitors agreed that final submissions be made in writing. After receipt of the submissions of counsel assisting on 9, 10 and 11 May
1988, no person sought to have any witness called or recalled or to tender any evidence. Even so, it was thought appropriate to draw to the attention of all counsel and solicitors appearing that it was still open to them to present material or evidence after all the submissions in chief from other counsel had been received. This was done by a notice transmitted by facsimile device to all legal representatives on 25 May, 1988. No application was made to call further evidence.

As pointed out in Chapter 1, there were some difficult matters of confidentiality involved in the hearing of the evidence. Firstly, I placed great importance upon the hearing proceeding in public. Only toward the very end, and then for parts of two days, did I order the hearing to be closed. One occasion was when certain prisoners were giving evidence and, prior to their arrival, a former prisoner was present at the hearing posing the real risk of the identities of those witnesses being made public. The ban on that evidence, subject however to certain non publication orders and use of Code references, was lifted the next day. The second occasion was when the submissions seemed likely to involve particular allegations concerning one of the alleged assailants.
As was noted by Mr Justice Sheppard in Toohey v. Lewer (1979) 1 N.S.W.L.R. 673 at 682, it is the practice in N.S.W. to conduct Royal Commissions as public inquiries subject to there being some occasions when, for reasons usually of public policy, part of the proceedings have been conducted in camera. Although this Inquiry is not a Royal Commission, it has many of the powers of a Royal Commission. I considered it to be in the public interest that the hearing proceed in public, a view I expressed frequently during the course of the hearing. Indeed, apart from the two occasions just referred to, there was no application by any person to have the Inquiry proceed in camera and on no other occasion was it so conducted.

Nevertheless, there were substantial problems concerning confidentiality which had to be resolved during the course of the Inquiry. These were three and I set them out, although the order does not reflect their degree of importance. The emphasis on one or other of them changed from time to time during the hearings:

1. The public interest in ensuring the safety of those who gave evidence, both as regards the individual's right to protection and as regards the need to show publicly the security available so that other
witnesses would come forward. This also involved non publication orders in relation to the location during the assault of certain witnesses and any significant distinguishing features about them.

2. The public interest in the fair trial of any alleged assailants and the consequent need to keep confidential the identity of any such person, together with the need to ensure that evidence or material before the Inquiry which might show or indicate criminal or violent disposition was subject to non publication orders.

3. The rights of certain persons not represented before the Inquiry, against whom allegations may have been made which were on the periphery of the Inquiry, to have their reputations left as they were before the Inquiry.

In order to achieve this, counsel assisting devised a dual Code, one for all witnesses who may be in any danger as a result of giving evidence, the "F Code" and one for all people who may fall into categories 2 and 3 above, the "S Code". This meant that it could occur that one person had both an "F" and an "S" number. Thus when they were referred to by certain other witnesses,
those witnesses could not know that the person had given or might give evidence because that witness was only shown the "S Code". The Code system worked well as many witnesses with security problems were prepared to give evidence. Without expressing numbers, there were certainly an adequate number of eye witnesses to be able to say, with confidence, that anyone who saw the incident and did not give evidence would not have been able to add anything of substance to the evidence.

The success of the Code may also be illustrated by the fact that during the course of the hearings new eye witnesses came forward even during April 1988, some four months after the hearing commenced. Although some of the eye witness evidence was of poor quality, the number of witnesses was important for the pattern of activity by prisoners and officers which became apparent.

Mr G Stanton, of counsel, who appeared in the proceedings, provided a comprehensive analysis of the rights of an accused to a fair trial and the need to ensure that any trial should not be prejudiced by this Report. A little later I shall set out the relevant points of that submission which I accept. I should indicate, however, that I accept the conclusions rather on the basis of the competing public interests of the
right of the public to the information gleaned by the Inquiry and the right of the public in the fair trial of all of its citizens. This is the true balancing process which has been referred to by the High Court in cases such as Bunning v Cross (1978) 141 C.L.R. 54 and Alister v The Queen (1984) 154 C.L.R. 404. Mr Stanton and Mr Stewart, of counsel, have submitted:

"The purpose of this joint submission is to seek one of three alternatives: —

1. To prevent this Commission making findings of fact in which are expressly and impliedly critical of either man in the circumstances of the terms of reference numbered 1, 2, and 3.

2. To prevent this Commission from making any findings until the completion of criminal proceedings.

3. In the alternative to prevent the publication of such findings as the Inquiry may make either indefinitely or, until all criminal proceedings in relation to the prosecutions currently on foot are completed.

Throughout the course of this inquiry His Honour has constantly made Orders for non-publication and that certain evidence be received in confidence. No criticism is made of the course of action which has been adopted. Indeed Counsel have actively supported such rulings when they have been made. It is our submission that at the completion of the report His Honour recommend to the Executive that such non-publication be adopted."

Mr Stanton referred to Attorney General v Times Newspapers (1974) A.C.273 at 301 in which Lord Reid said:
"The purpose of the Law is not to prevent publication of such material but to postpone it. The information set before us gives us hope that the general lines of a settlement of the whole of this unfortunate controversy may soon emerge. It should then be possible to permit this material to be published. But if things drag on indefinitely so that there is no early prospect either of a settlement or Trial in Court then I think that there will have to be a reassessment of the public interest in a unique situation."

Mr Stanton continued:--

"The fears originally expressed by Lord Reid may well be realised unless some restraint is imposed in this matter. The minimum position in this matter seems to be that there be no publication of material the obvious subject of criminal proceedings until same have been completed, thereby eschewing any prejudgment or the chance of any prejudgment."

As Mr Stanton points out Lord Reid was dealing with civil litigation. A fortiori, his Lordship's approach is applicable to pending criminal litigation. I turn now to consider the three alternative courses proposed by Mr Stanton and Mr Stewart.

I have earlier set out the Terms of Reference of the Inquiry. It is sufficient, for present purposes, to refer to the following words in the Terms of Reference:--

"appoint you to inquire into and report upon.... the circumstances of an assault upon Jamie Christopher Partlic..."
It should be noted that the words "inquire into and report upon" are the precise words of Section 11A of the Prisons Act under which I am charged to inquire and report.

In my view it would be quite unrealistic to provide to the Minister a report with no findings concerning the actions of the persons whom I would otherwise find to be the assailants. Further, it would be unrealistic and indeed impractical to refrain from making any such findings until the completion of the criminal proceedings. Allowing for the appellate procedure and even possible retrials, such proceedings may not reach finality for some years. It would be impossible for me to pick up the threads of the tapestry and complete it with any degree of detail or even with any certainty that the picture then presented was accurate. More importantly, however, it would mean, as would the first option, that I was presenting at this time an unfinished tapestry. The Minister may not be able to act with confidence in his decisions for the security, good order, control and management of the C.I.P. with such a picture. I do not think that such an approach is the correct one.
In saying this, I am aware of the authorities to which Mr Stanton has referred and to the approach of the Court of Appeal in *Edelsten v Richmond* (1987) II N.S.W.L.R. 51 and *Oades v Hamilton* (1987) II N.S.W.L.R. 138. Indeed, I discussed these cases with counsel assisting before the hearing commenced. Counsel assisting communicated with Mr Stewart, whose client may have had an interest such as was referred to in those cases, to ensure that he was aware of these authorities. Mr Stewart, very properly in my view, raised no objection at that time or subsequently. Mr Stanton did not then appear for a person who may have had such an interest. However, since 6 January, 1988, he has appeared for such a person and no objection has been raised by him. I consider this approach to be quite proper.

It is clear from their joint submission that the interests of their respective clients have been protected thus far by the procedure adopted. The question is whether that procedure is adequate for my Report or whether additional safeguards are required?

In my view, additional safeguards are required. The public interest in the fair trial of any person who may be accused of the assault is so vital that there must be some additional safeguards. Failure to provide such
additional safeguards could result in a situation where, because of publication of material otherwise not admissible at trial, including my findings, a fair trial may become impossible and the prosecuting authority may feel that there could be no trial. In such circumstances it seems to me that I should accept the third option. Counsel assisting has advanced this course and no other counsel has urged any other course.

As to the third category of persons referred to above (p.18) there are no findings adverse to any person who has not had an opportunity to be heard. I therefore see no need to make any recommendation as to this category of material. It is not in my Report.
PART II — TERMS OF REFERENCE (1), (2) AND (3)

Chapter 3

The Circumstances of Assaults upon

Jamie Christopher Partlic and Other Prisoners in the

Fine Defaulters Yard at the

Central Industrial Prison on 7 November 1987

(Due to certain pending proceedings, this Chapter is heavily abbreviated from that appearing in the Confidential Report)

Shortly before 5.40pm on 6 November 1987, Jamie Christopher Partlic was received at the C.I.P. He had been conveyed from the Kogarah Local Court to the C.I.P. Mr Partlic had accumulated fines in the total sum of $1197.00 for various offences and was detained pursuant to warrants of commitment with a default period of four days imprisonment with hard labour.

In addition, Mr Partlic had been granted bail on a charge of failing to comply with a community service order. That bail was conditional upon an acceptable person lodging the sum of $1000.00 cash. Mr Partlic was to appear at the Kogarah Local Court on 10 November 1987, in relation to that charge. The bail conditions having not been met, Mr Partlic was detained also
pursuant to a warrant upon that charge. Having been lawfully detained and conveyed to the C.I.P., Mr Partlic was received into the Fine Defaulters Yard within that prison.

The C.I.P. was built early in the 20th Century. It comprises six wings located around a large open square area. An understanding of the physical structure of the C.I.P. is necessary to better appreciate the circumstances of 7 November 1987. A plan of the C.I.P. (Part of Exh 1) appears between pp. 53 and 54 of this Report.

The fines yard was located in 6 Wing. It comprised the ground floor of one side of the Wing. A corrugated iron wall separated the yard from the Square. Access could be had to the yard through an office leading through to that part of 6 Wing housing sentenced prisoners. A lockable grille door was at the entrance to the yard from the office. A lockable door in the corrugated iron wall was not usually used as a means of entry to the yard. The landing above the fines yard comprised cells containing sentenced prisoners. A mesh wire fence fully enclosed the landing above the yard.
The fines yard contained thirteen cells. Two were occupied by sentenced prisoners who worked in the reception room of the C.I.P. Nine were available for fine default prisoners. One was occupied by the laundry and fines yard sweeper and his assistant. Both were sentenced prisoners. One cell was used as the laundry store room for the C.I.P.

Mr Partlic was placed in a cell in the fines yard. Initially he shared it with another prisoner, but that person was released mid-evening upon payment of his fine. Thereafter, Mr Partlic spent the evening of 6 November 1987 alone.

With one relevant exception, prison activities unfolded in the usual manner on the morning of Saturday 7 November 1987. The exception was the absence of the regular 6 Wing officer, Mr Duffus, through injury. He was replaced by a prison officer, Mr Wetzler.

At 7am breakfast was served to the prisoners, who remained in their cells until 8.30am. At that time, all prisoners left their wings and entered the Square to permit routine cleaning of the wings and an opportunity for officers to search cells. Apart from protection prisoners, from 10am until 3.30pm prisoners could return to their wings, remain in the Square or visit other
wings. The other exceptions to this practice were the fine default prisoners who upon release from cells, were required to remain in the fines yard.

By early afternoon it was apparent that a number of sentenced prisoners were drinking alcohol in the form of gaol brew based on orange juice. The distinctive smell of this variety of gaol brew was detected by officers upon prisoners and generally in the vicinity of 4 Wing. Some were entering and leaving that wing. Some were visibly affected and were unsteady on their feet. Indeed, an officer in the activities area was heard to comment during the afternoon: "The whole gaol is drunk".

At a time between 1-2pm two prisoners entered 6 Wing. One had no right to be there at all. There is a conflict of evidence and thus submissions as to the time when they entered the Wing, but I am satisfied it was shortly after 1.30pm. Thereafter they were seen by a large number of prisoners to be punching a punching bag in the fines yard for a period of time.

The grille door to the fines yard from the office instead of restricting access as intended had been left unlocked and these prisoners were thus able to enter the yard at will.
After that period and in the fines yard, Mr Partlic and two other prisoners were assaulted. Mr Partlic sustained very severe injury.

Shortly before 2.07pm, Mr Wetzler rang the Deputy Superintendent's office for assistance. He spoke to Senior Assistant Superintendent Plunkett. At no stage did Mr Wetzler activate his emergency pager which he said he had with him. Mr Varvaressos, the 6 Wing assistant, did not have his emergency pager with him. While Mr Wetzler rang the Deputy Superintendent's office, Mr Varvaressos rang the Clinic for medical or nursing assistance.

At about 2.07pm, Deputy Superintendent Thompson, Mr Plunkett and Assistant Superintendent Crowley entered 6 Wing in response to Mr Wetzler's request for assistance. Mr Crowley entered the yard and left almost immediately to call an ambulance. Nursing staff from the C.I.P. Clinic were already in attendance.

At 2.20pm, Mr Plunkett contacted Mr John Horton, the Director of Custodial Services, who was the duty officer at the Malabar complex on the day. The assault was reported and Mr Horton directed Mr Plunkett that the Malabar Emergency Unit (M.E.U.) was to be notified, the police were to be advised, and that all prisoners present were to be interviewed. In that discussion, it
was stated that a particular person was believed to be the assailant. Although essentially an emergency and riot response group, the M.E.U. carried out investigations of incidents of this type within prisons. The M.E.U. headquarters was located in Katingal.

Mr Partlic was carried unconscious by stretcher to the Clinic. There, he was examined by nursing staff and Dr Paisley of the Prison Medical Service. An ambulance was called at 2.30pm and arrived at the C.I.P. at 2.59pm. Dr Paisley determined that Mr Partlic should be conveyed to Prince Henry Hospital for X-rays. In view of his semi-conscious condition, Dr Paisley wished to exclude fractures and a possible internal head injury. On the evidence, no breach of the duties of a prison medical officer under Reg 101, Prison Regulations, 1968, was committed.

Mr Plunkett notified the M.E.U. of the assault upon Mr Partlic at 2.40pm. At 2.52pm, 2 M.E.U. officers attended the C.I.P. to commence their investigation of the assault.

The level of visible drunkenness amongst prisoners was apparent at this time. Officers on the Square saw and smelt it. The officers at the C.I.P. gate also knew of it. It was their assumption that the arrival of the
M.E.U. officers at the C.I.P. shortly prior to 3pm was for the purpose of checking prisoners drunk on the Square. The M.E.U. officers entered the C.I.P., spoke briefly to Mr Thompson and then visited the Clinic to see Mr Partlic.

The fermenting troubles on the Square gave way to actual violence at about 3pm. A scuffle developed in the vicinity of 3 Wing and an officer was assaulted. Prison officer resources were directed towards meeting this difficulty. The M.E.U. officers in the Clinic were recalled to Katingal to stand by in case a riot broke out in the C.I.P.

Shortly after, a prisoner took a fit on the Square near the Clinic. Again, prison officers were distracted from other duties to assist. Later Mr Partlic left the C.I.P. by ambulance at 3.20pm, arriving at Prince Henry Hospital at 3.30pm.

Mr Crowley returned to 6 Wing at about 3.30-3.45pm. He spoke to Mr Wetzler who was sitting in the office making a list of the fine default prisoners in the yard at the time of assault. While both were in the office, the sound of hosing came from the fines yard. Both thought that someone was washing down the scene of the assault. Neither intervened to stop this action. Seemingly, both
thought that the area was already washed and it was too late, although neither checked that this was the case. The evidence disclosed that a fine default prisoner washed down the assault scene of his own volition.

M.E.U. officers returned to the C.I.P. at 4.20pm. Although Mr Thompson informed the M.E.U. at 3.30pm that a stand by for riot in the C.I.P. was no longer necessary, the M.E.U. senior personnel determined that it was preferable to leave the stand by in place until lock-in time. Thus the M.E.U. returned to the C.I.P. at 4.20pm.

Following breath testing of several prisoners between 4.30pm and 5pm, M.E.U. officers questioned the fine default prisoners. It was shortly after this that a prisoner eye witness gave an account of the assault. The first fine default prisoner to disclose his observations to the authorities was F1. He made a statement to the M.E.U. at 5.15pm. F2 made a statement at 7.20pm and F3 and F4 gave statements later in the evening at 9pm.

Superintendent Cook was not on duty on 7 November 1987. Mr Thompson was the senior executive officer on duty in the C.I.P. Having been informed of the assault, however, Mr Cook attended the C.I.P. in the early
evening. At 6pm, he was informed by Prince Henry Hospital that Mr Partlic had suffered a brain haemorrhage. Although Mr John Horton had directed that the police be notified of the assault as early as 2.20pm the matter was not reported to Maroubra police until 6.11pm. Aspects of the investigation are considered in Chapter 19 of the Report in relation to Term of Reference (4) (d). Suffice to say for present purposes that the delay in reporting to police flowed from inadequate communication between the C.I.P. executive officers and the M.E.U. and slowness on the part of the M.E.U. in recognising the seriousness of the assault from the objective matters learned by them during the course of the afternoon.
Pages 34-53 are not printed by reason of abbreviations mentioned at p.25.
Term of Reference (3) calls for a finding as to the identity of prisoners in the Fine Defaulters Yard at the time of the assaults on 7 November 1987.

Upon the evidence, the following prisoners were in the yard or adjoining cells during the course of the assaults upon Mr Partlic, F1 and F2:

**Fine Default Prisoners**

Jamie Christopher Partlic

F1
F2
F3
F4
F5
F8
F10
F11
F12
F13
F14
F15
F16

_Sentenced Prisoners_

- 
- 

_Location of Other Prisoners_

F6 was on the telephone in the office adjacent to the fines yard during the assaults.

F7 had left the yard for a visit shortly prior to the assaults.

F9 was in the office for the duration of the assaults. Just as the assault upon Mr Partlic finished, he entered the yard and went straight to his cell.
S22 and S23 were sentenced prisoners who worked in the C.I.P. reception room. They were housed in cells in the fines yard. At the time of the assaults, both were at work in the reception room and were not in the yard.

A number of sentenced prisoners were on the landing overlooking the yard at the relevant time. As these persons were not in the yard, no finding as to their identity is required.
PART III - TERM OF REFERENCE (4)(a)

Introduction

Term (4)(a) of the Terms of Reference relates to the established conditions in 6 Wing of the C.I.P. at the time of the assaults.

Nevertheless to answer the question posed, namely whether adequate action was taken by the authorities at the prison to prevent the occurrence of assaults on prisoners in the fines yard, it is necessary to consider the nature of the prison itself in which the yard is located and the development of conditions prevailing as at 7 November 1987.

The C.I.P. is a maximum security prison. It houses, for varying periods, a very substantial proportion of prisoners sentenced in this State and prisoners who are unsuitable for other institutions. The use of the C.I.P. as a classification prison explains its varied population.

In 1984, 6 Wing had been chosen to house fine defaulters who resided in various areas throughout the prison. It is necessary to look in some detail at the history of
the fines yard, the use of a third officer in 6 Wing and the special grille gate or door which was erected between the Wing office and the fines yard.
Prior to 1984, prisoners serving periods of custody for fine default resided in various areas throughout the C.I.P. In 1984 Mr Moonen, a First Class Prison Officer, now an Assistant Superintendent, was the wing officer in charge of 6 Wing. As a result of violence to fines prisoners Mr Moonen suggested to the then Superintendent, Mr Duff, that it would be appropriate to have an area where fines prisoners were housed separately. The evidence indicates that in general, fines prisoners were more vulnerable to violence and intimidation than main stream prisoners.

Mr Moonen originally suggested that the bottom rear of 6 Wing could be used to house fines prisoners. This area was known as the baker's yard and contained 14 cells, one of which was used as an office. He referred to the fact that there was an officer on duty in the area (31 Post) and said, "An officer is on duty in the baker's yard seven days a week and makes sure not to admit prisoners not housed in the back of 6 Wing". Mr Moonen
suggested in his report that fines prisoners have no access to other parts of the prison except for restricted access to certain special areas.

There was a servery for 6 Wing located in the 6 Wing yard. Mr Moonen suggested that a second servery could be built on the fines yard on the other side or, "An extra sweeper could be employed to dish up the food and deliver it on a barrow to the baker's yard." A second sweeper was employed for the purpose.

In his report of 16 January 1985, Mr Moonen envisaged that the yard would be exclusively for fines prisoners and "some young offenders otherwise in 1 Wing". 1 Wing at that time was used as a protection wing.

Mr Moonen kept the matter constantly under review, and on 9 February 1985, he requested that a second telephone be placed in the office on the fines yard side of the 6 Wing office. The aim of this was to avoid fines prisoners entering the Square to use telephones available to the general prison population.
On 13 February 1985, Mr Moonen noted that the fines yard had been operating as an independent unit from 4 February 1985 and that at that time the regular 6 Wing sweepers were carrying out the duties in the yard. These sweepers were mainstream sentenced prisoners. He requested the appointment of one extra sweeper to be "recruited from the fines yard".

Mr Moonen emphasised the importance of that to his concept of the separate area. He did, however, allow for an initial period of a few weeks during which one of the regular 6 Wing sweepers could train the fines yard sweeper. Mr Moonen was quite adamant that in all other respects there should be no access by sentenced prisoners to the fines yard. He allowed as an exception sentenced prisoners who were young and vulnerable.

In July 1985 Mr Moonen provided a progress report to the C.I.P. authorities. He noted that close to 2,000 persons passed through the fines yard each year. He noted that the practice at that time was as follows:

"Occasionally, the fines yard is used to house so-called young offenders, otherwise housed in the Programmes Unit (IW) on protection. It is the opinion of some executive staff that the Fines Yard offers young offenders sufficient protection and a much better environment ... Furthermore, the yard is used for some mentally disturbed or feeble minded prisoners, who are not ill enough to qualify
for the MPU (Malabar Psychiatric Unit) but who are not able to cope with the normal gaol routine and are subject to stand-over tactics."

In that report he noted that there were two sweepers who were not paid but were rewarded for their work by extra facilities such as a black and white television. There was apparently no shortage of applicants for the positions and at that time they were recruited from the fine default prisoners.

At the time when Mr Moonen made his recommendation, he had a good deal of experience as the wing officer of the Reception Wing. He became the wing officer of that wing in January/February 1983. At that time, the Reception Wing was 2 Wing and it was in mid 1984 that 6 Wing became the Reception Wing.

Initially the fines yard was separated from the Square by the standard bars and gate. It was found that sentenced prisoners were still able to stand over fines yard prisoners requiring them to hide things and keep things illegally in their possession. It was then that cladding was placed across the area facing the Square.
During Mr Moonen's time there was no grille door between the office and the yard. It was erected later. Mr Moonen was of the view that three officers in the wing were adequate to ensure that no sentenced prisoner entered the fines yard. Those officers were the 6 Wing officer, the 6 Wing assistant (4 Post) and the fines yard officer (31 Post).

During Mr Cook's period as Superintendent, it was also during his period as Superintendent that the laundry store room for the whole prison was placed in a cell, set aside for the purpose, in the fines yard. Mr Cook indicated that it was his view that the placement of the laundry store room would not increase access by sentenced prisoners to the fines yard. Such an increase, however, was inevitable.

Mr Cook believed the purpose of the separate yard was to stop movement in both directions. Fines prisoners would be kept in the yard and sentenced prisoners would be kept out. Mr Cook believed the access for sweepers to the fines yard was at the wing officer's discretion. This was at odds with Mr Moonen's concept.
A laundry store room was kept in each wing prior to placement of the store room in the fines yard. Mr Cook said that the fines yard was the only possible place to put the laundry store room. He described the turnover in population and laundry difficulties and said that thousands of items of laundry went missing prior to the central placement of the laundry store room in the fines yard. Mr Cook believed that the C.I.P. was an appropriate place to house fine defaulters provided they were separated in a secure area, particularly for their protection. I should point out here that if the fines area is to remain in the C.I.P., reliable security will depend in part upon the quality of the prison officers who man it and their numbers. If it cannot be guaranteed that they will be of sufficient quality and number, then the only solution is to establish an area for fines and vulnerable prisoners in a building outside the C.I.P. My conclusions about this matter are set out in my Recommendations.

Mr Cook thought that the use of fines prisoners as sweepers was unsatisfactory. A sentenced prisoner had been the sweeper after the establishment of the fines yard. This person was young and vulnerable and had been
the victim of assaults in prison. Mr Cook agreed that the appointment of sweepers in the fines yard was a more sensitive appointment than in other wings.

Mr John Horton, the Director of Custodial Services, said that it was preferable to use a fines sweeper in the fines yard but he would not totally exclude "selected benign" prisoners. He said that the placing of the laundry store room in the fines yard must lead to increased access by sentenced prisoners.

It was suggested in evidence that the risk of increased access by sentenced prisoners was aggravated when laundry turnover suddenly increased in July 1987. This led to laundry being issued on two days per week, Sundays and Wednesdays. This was possibly because of an increase of inmate population. An examination of the Superintendent's Journal does not show that there was a sudden increase of population at that time. An examination of the Deputy Superintendent's Journal does reveal a very slight pattern of increase in prison population turnover.
The legislation governing fine default imprisonment in New South Wales was amended substantially in late 1987. That legislation is considered in Appendix K to the Report. Shortly, the legislation introduces a scheme of driver's licence cancellation, motor vehicle registration cancellation and performance of community service in place of fine default imprisonment. The legislation commenced on 1 January 1988, but practical implementation of the scheme is occurring progressively.

Despite this new scheme, it cannot be overlooked that a significant number of persons may well serve terms of imprisonment in New South Wales prisons for fine default. I have acted upon this basis in making Recommendations concerning conditions for imprisonment of fine defaulters. In addition it is important to note the suggestion by the N.S.W. Council for Civil Liberties to the effect that:

"If it is considered appropriate to incarcerate fine defaulters, then these defaulters should be housed during week-days in the periodic detention centres or at places other than prisons".

This proposal was based upon Recommendation 43 of the 1987 Report of His Honour T.J. Martin, Q.C. Attention should also be drawn to Recommendation 42 in His Honour's Report which states that fine defaulters should not be sent to prison because they are too poor to pay, that there should be greatly extended time to pay, that
there should be community work as the sanction for default and that Courts should have power to remit the fine in whole or in part. At the present time only the Executive Government can remit the fine. Of course I support the proposals but with regret I repeat that it cannot be overlooked that a significant number of persons may well serve terms of imprisonment for fine default in New South Wales.
A view of the fines yard taken from the vicinity of the office doorway and the grille door.

A view of the fines yard looking towards the Square. The open door visible was usually locked and was so on 7 November, 1987.
Chapter 6

The Function and Use of 31 Post

When the fines yard was established there was an officer to supervise the yard. He was 31 Post. By November 1987, only two officers were regularly on duty in 6 Wing. 31 Post had been moved to 1 Wing.

Very early in the hearing the significance of 31 Post became apparent. Mr Thompson, the Deputy Superintendent, was cross examined by Mr Cooley, of counsel, then appearing for the P.S.A.:

"Q. What I am suggesting to you is that if there had been an officer appointed to 31 Post on the day of this particular incident it is unlikely that it would have occurred? A. I disagree."

Mr Thompson also said that he was most concerned about the absence of 31 Post from the fines yard and representations were made to the C.S.C. to try and obtain more officers.

31 Post was originally situated at the gate to the activities area. Prior to the creation of the fines yard at the beginning of 1985, 31 Post had been moved to supervise the rear yard of 6 Wing. This gave 6 Wing a permanent complement of three prison officers.
Certainly, by the time Mr Moonen devised his concept of a separate fines area, 31 Post was permanently stationed in 6 Wing. It was partly because of the three officers in that wing that Mr Moonen devised the idea of a secure place for fines prisoners.

It was clear that the P.S.A. would be relying upon the removal of 31 Post as a reason for the assault occurring. The inference would be that responsibility for the movement of 31 Post out of 6 Wing should be placed with the C.IP. executive officers or the C.S.C. It is, therefore, necessary to examine the movements of the post.

Sometime in early 1987, 31 Post was moved from 6 Wing to 1 Wing. Mr Thompson told the Inquiry that there had been a number of assaults on prison officers and prisoners in 1 Wing in early 1987. At that time, 1 Wing was the only protection wing in the C.IP. There had been a large increase in the population of 1 Wing reaching a figure of 121. He received a verbal report from Mr Laing, the 6 Wing officer that Mr Laing considered 31 Post could be more usefully employed in another area.
Mr Thompson had discussions with Mr Cook and it was decided to place 31 Post under the control of the wing officer of 1 Wing. 31 Post was told verbally each day to report to 1 Wing. Apparently there was no written order to this effect. It was not suggested in evidence that there was such an order, and no written order was ever located.

With the opening of 5 Wing as a second wing for protection prisoners, 31 Post was moved back to 6 Wing on 28 June 1987. The population of 1 Wing was then about 40 prisoners. This increased to a high figure and more assaults occurred in the wing and in the adjacent front yards. 31 Post was again ordered to report to the 1 Wing Officer daily and work under his direction. A written order dated 18 September, 1987, so directed.

The duties of 31 Post when in 6 Wing were to control the telephones for the fines prisoners, make enquiries by telephone from the general office as to balance of fine and date of release, and to pass fines prisoners to the visiting section, reception room or Clinic. The telephone for the fines prisoners was situated within the wing office on the fines side. The officer would be given the name and number of the person and then the officer dialled the number, confirmed the person would
accept the call from the prisoner, hand the telephone receiver to the prisoner and the prisoner was allowed to talk for 5 minutes. The officer would remain in the office for the security of documents in the office or in case the prisoner should re-dial another number.

Officers did complain about the removal of 31 Post although the time of complaints is somewhat unclear. These complaints were made by Mr Campbell, Mr Howard and Mr Luff.

Mr Campbell's complaint was made on 31 December 1986 and Mr Thompson responded to this complaint in February 1987 having said that 31 Post was moved out of 6 Wing on the first occasion about March 1987. The evidence does not explain these inconsistencies. The tenor of the complaint by Mr Howard was that the removal of 31 Post took away a useful training position for young officers and caused some concern as to security.

The initial move of 31 Post occurred when the population of 6 Wing was very low, possibly as low as 27. Mr Cook said that Mr Laing told them that he did not think it was necessary for 31 Post to remain in 6 Wing as he did not have enough to do.
Two factors led Mr Laing to suggest the move of 31 Post from 6 Wing. The first was the low population. It was less than 30 at times including the fines yard prisoners. The two upper landings were closed and not used. Mr Laing said that the second matter was the work in the wing for 31 Post. Mr Laing said there were no other reasons for his recommendation for the removal of 31 Post.

The initial impression given by Mr Thompson was that the wing state of 6 Wing remained low and therefore 31 Post could be done without. This in fact was not the case, but Mr Cook and Mr Thompson almost certainly were justified in moving 31 Post because of the acute pressures in the two protection wings. Mr Thompson said that he did not consider there was any risk whatsoever in moving 31 Post from 6 Wing to 1 Wing. Nevertheless, Mr Thompson took steps to have the grille door erected at the fines yard end of the office shortly after the first movement of 31 Post. The door was fitted with the approval of Mr Cook. If the door had been correctly used, it was certainly a useful security precaution. As will be seen however, it ultimately failed its purpose.
31 Post returned to 6 Wing in July 1987. Further problems occurred in 1 Wing, and Mr Cook and Mr Thompson were involved in the decision to place 31 Post back in that wing in September 1987. An informal arrangement for 31 Post to go to 6 Wing from time to time was made between Mr Thompson, Mr Davis and Mr Duffus. They were the wing officers of 1 Wing and 6 Wing. Mr Cook was not aware of this but agreed that it was undesirable in hindsight to have such an informal arrangement. The detail of the arrangement is described below.

Mr Davis, described the duties of 31 Post in 1 Wing. 31 Post fulfilled a number of duties in 1 Wing, part of which was to man the booth which is in the open area of the C.I.P. outside the front yards. There can be little doubt that 1 Wing, being a protection wing, needed a large complement of officers. All prisoners from that wing had to be escorted to any place where they wished to go such as the Clinic or the Deputy's Office. Further the yard of 1 Wing was an irregular shape making observation of all parts of it difficult. The prisoners in that wing, of course, have no access to the Square so their recreation area is confined to the yard of 1 Wing. When 31 Post was removed from 6 Wing the second time it was not with the consent let alone the encouragement, of the resident wing officer of 6 Wing.
When Mr Duffus took over 6 Wing, 31 Post was in 1 Wing. At one stage Mr Duffus asked Mr Thompson if there was a chance of getting the post back and he did in fact get 31 Post back for "a short while". This period was from July to September 1987.

The decision to remove 31 Post took place in Mr Thompson's office in discussion between Mr Thompson, Mr Davis and Mr Duffus. Mr Duffus raised the possibility of 31 Post returning to help in 6 Wing at weekends. 1 Wing was quieter and 6 Wing was busier on weekends.

Mr Thompson did not make any reference in either his record of interview or his evidence to this informal arrangement. Further, the order of 18 September 1987 made no reference to this arrangement. This informality was unsatisfactory. There was a real risk that relieving wing officers in either wing on weekends would not know of the arrangement. Mr Duffus did ring up and ask for the informal assistance from 31 Post and he says that 31 Post did come over on three occasions out of the four that he requested it. On the fourth occasion he did not come over because there was some trouble in 1 Wing.
Mr Duffus said that it would have been preferable to have the week end duties of 31 Post written into the Statement of Duties but that he was grateful to get 31 Post back at all. Both Mr Cook and Mr Horton also commented that the informality of the arrangement was unsatisfactory.

It was not Mr Duffus' practice to leave a note for relieving wing officers to let them know about the informal arrangement on weekends. This probably does not have very much significance in contributing to the assault because Mr Duffus had been rostered as the 6 Wing officer on 7 November 1987, but had injured his hand that morning and reported sick. Further, Officer Reynolds did in fact go to relieve on 31 Post in 6 Wing on that day. In those circumstances, even if it had been Mr Duffus' practice to leave a note, there would have been no communication of this practice to Mr Wetzler, the relieving wing officer.

The arrangement however, was a most significant matter in general and its significance was increased when it was learnt, during the course of the Inquiry that Mr Reynolds as 31 Post had, for a period, been assisting in 6 Wing and the fines yard on 7 November 1987.
Mr Duffus' claim that 31 Post had attended in 6 Wing on weekends in the period September to November 1987, was denied by Mr Davis although Mr Davis did agree that the discussion had taken place with Mr Thompson and the arrangement had been agreed to. He stated however, that he had never been requested to grant the assistance.

Mr Davis' understanding was that 31 Post was under his control and he was to return to 6 Wing on Saturday or Sunday if Mr Duffus requested additional help. This was to be done by Mr Duffus telephoning Mr Davis. Mr Duffus' understanding was put to Mr Davis and he disagreed with it as follows:

"Q. 'Was the proposal this: 31 Post on a Saturday and Sunday would go to 1 Wing and do the let go there and go across to 6 Wing, then come back to 1 Wing to relieve for the lunch hour, go back to 6 Wing in the afternoon and then go to do the lock-up for 1 Wing?' Mr Duffus answer was, 'Yes.' That is not your understanding of it?

A. No."

Mr Davis did not leave any communication for the relieving wing officer in 1 Wing to advise him to send 31 Post across to Mr Duffus if he requested it. Mr Davis did work in 1 Wing on 3 weekend days in the period September to November 1987.
Mr Davis was on duty in 1 Wing on 7 November 1987 and he said that he had no request for 31 Post to go to 6 Wing on that day. It is difficult to understand that evidence of Mr Davis in the light of the evidence of Mr Reynolds. That evidence was to the effect that from approximately 1.30 until 1.55pm on 7 November 1987, while acting as 31 Post, he attended the 6 Wing and fines yard office for the purpose of assisting with telephone calls for fines prisoners. Those actions are, of course, directly within the arrangement referred to by Mr Duffus.

Prior to Mr Reynolds' record of interview there had not been the slightest suggestion from any witness that there had been a third officer on duty in 6 Wing at any time during the day on 7 November 1987. In particular at no time did Mr Wetzler or Mr Varvaressos indicate that situation. Mr Reynolds' evidence came to light when during the course of inquiries by the investigators, Assistant Superintendent Kelly spoke to Officer Michael Howard, who gave a statement on 22 March 1988. He indicated that he learnt certain details of the assault from Mr Reynolds.

Mr Reynolds was rostered on 5 Post on the day in question. He described his movements:
"I was rostered on 5 post that day and one of the duties was to relieve 31 Post in 1 Wing. Whilst relieving 31 Post in 1 Wing I was informed by Col Davis, I am pretty sure, that the Dep's office want me to go to 6 Wing to do the phone calls. I went to 6 Wing. When I got there I am pretty sure I saw the off sider upstairs doing something. I let myself into 22 Yard, I went into the Wing Office and informed the Wing Officer Ray Wetzler I was there to do the phone calls. I then went into the fines office, got out the phone book and then opened the grille gate and went out into the fines yard and yelled out for any phone calls. I did not notice anything unusual in the yard at the time."

In addition to the record of interview, Mr Reynolds made a statement to counsel assisting the Inquiry on 23 March 1988. He said that as 5 Post relieving 31 Post, he took up the duties of 31 Post some time shortly before 1.30pm. This was when he was at 1 Wing. After about 5 or 10 minutes, he arrived at 6 Wing. He would have remained there for about half an hour, that was the usual time, but as there were no phone calls, he indicated that he may have left 5 minutes early, possibly about 1.55pm. As observed with respect to Term of Reference (1), there is some significance in that time.

Mr Reynolds was not certain whether Mr Wetzler had telephoned either directly or through the Deputy Superintendent's office for someone to assist with the telephone. He had the impression, however, that Mr
Wetzler had rung for someone to assist. During the whole of the period Mr Reynolds was in the fines yard office, his recollection was that Mr Wetzler was seated in the 6 Wing Office.

Mr Reynolds had a recollection that Mr Crowley signed the 6 Wing search book while he was there. However, he had relieved Mr Varvaressos on 4 Post between approximately 12.45 and 1.15pm. He was not sure whether he saw Mr Crowley in 6 Wing when he was relieving as 4 Post or as 31 Post. Given Mr Crowley's evidence, it seems more probable that Mr Crowley signed the book when he visited the wing while Mr Reynolds was there as 31 Post. This would mean that Mr Crowley arrived at 6 Wing a little earlier than he recalls arriving. Time and officer movements are considered in more detail in chapters 3, 14, 15 and 16 of my Report.

Mr Reynolds said he left about 1.55pm. He spent some time at 11 Post and then some time talking to Mr Howard and a Square officer. By that time, the assault had not only taken place but Mr Thompson had been notified and was on his way to the fines yard to assist. After Mr Reynolds
The unusual situation which comes out of the evidence concerning 31 Post is why a number of officers up until the 23 March 1988, gave the impression that it was the absence of 31 Post which had placed the heavy work load on the officers in 6 Wing, and that had been a major cause of the lack of control which led to the assault. Of course it is recognized that the 31 Post officer was relieving only for a limited period on the day.

The location of Mr Reynolds as 31 Post immediately prior to the assault only became known after Mr Wetzler and Mr Varvaressos gave evidence.

A further unusual matter is why, when Mr Thompson was asked by counsel for the P.S.A. about the removal of 31 Post, he did not indicate the informal arrangement which had taken place between himself, Mr Davis and Mr Duffus. He merely agreed that the post had been taken away in September and not put back in 6 Wing since that time.
The erection of the fines yard gate and access to the fines yard

The fines yard gate or door was erected on 4 March 1987. It was erected about the time when 31 Post was first removed across to 1 Wing, possibly a little later, and it seems likely that its creation was to try and assist security in the fines yard in the absence of a third officer. Mr Coombes, the officer who supervised its construction, said that his directions were to make a lockable gate.

The door is described as a grille gate, although it is more accurately a door. It is affixed to the inside wall of the office and opens inwards. Because of the thickness of the office cell wall, it is impossible to see the grille door from the yard until one is at the very end of the yard, near the office.

Unlike the traditional gates in the C.I.P., the grille door does not simply have vertical bars, but rather it has vertical and horizontal mesh. At the area of the lock there is a piece cut away which enables access to
the sliding bolt from both sides of the door. The access hole was there from the outset, although Mr Laing was mistakenly of the view it was made later. It is clear in such circumstances, that the door is not secure (ie cannot be opened by a prisoner) unless the padlock is in position and locked. The leaving of this particular door "on the bolt" is not sufficient to secure it. This is in contrast to the position where, in some circumstances, a cell door may be secured by sliding the bolt across. Mr Cook and Mr Thompson discussed the matter of the grille door when 31 Post was taken away. Its purpose was "to keep everybody out and keep everybody in.". Mr Cook believed that the door was to be kept "locked" at all times.

There were directions given to the wing officers to keep it locked although it seems no express direction was given to Mr Wetzler. Given his limited capacity as an officer, an express direction should have been given. This is not meant as a criticism of the executive officers. An officer of 16 years experience should not require a specific direction which merely reflects common sense.
There can be no doubt that the practice as perceived by the executive officers was that the door was to be kept locked at all times. Even if there had been no express direction, basic common sense would indicate that where there is a door in the prison with a bolt and a padlock, the bolt and the padlock are there for a purpose. Unless there was an express direction to the contrary, the simple conclusion follows that the lock should be used at all times.

Mr Duffus said that it was his practice to keep the door locked. He did concede that it would be possible for visitors to 6 Wing and other sentenced prisoners from 6 Wing to go into the fines yard, but this did not happen while he was there. The only occasion when Mr Duffus had allowed a sentenced prisoner in there was to deliver some magazines to a fines prisoner. Mr Duffus told the Inquiry that although sweepers from other wings entered the fines yard to get laundry, he did not find that the placement of the laundry store room in the fines yard made it more difficult to keep the fines prisoners separate from the main population. This is self evidently incorrect.
It goes without saying, of course, that prisoners who were resident in the fines yard, including the fines yard sweeper and his assistant and the two reception prisoners, had access to the fines yard. Apart from access by these sentenced prisoners however, there was a good deal of evidence from prisoners, both fines and sentenced, that sentenced prisoners did have some access to the fines yard. Prison officers, generally, gave evidence contrary to this. The difficulty with the evidence from the prisoners about access of sentenced prisoners to the fines yard was the great variation as to the extent of use testified to by various prisoners.

I do not think it necessary to set out the diversity of evidence. It is sufficient to say that on some occasions at least, it appears that sentenced prisoners, who should not have been there, did enter the fines yard. This was known to some prison officers. It was not reported. It should have been. It may be that officers who observed these movements were unaware that it was not authorised. Seemingly, the executive officers were unaware of it. Perhaps a sign should have been placed over the door forbidding visitors to the fines yard and directing that the grille door remained locked. There is, of course, room for doubt as to the
utility of such a sign. There was no compliance, as a matter of practice, with the sign above the entrance to 6 Wing which forbade wing visits. The sign appears on a photograph contained in this Volume of my Report.

Mr Thompson said the rule governing access to 6 Wing and the fines yard was that:

"Before a prisoner from another wing could gain entry, he would have to request permission from the officer in charge of the wing. In respect of the fines yard, this had an additional grille gate situated at the end of the office which should be kept locked at all times. No prisoner other than residents of the fines area should be allowed past this point without being accompanied by an officer".

Mr Horton expressed a view consistent with that of Mr Cook and Mr Thompson that the door should be kept locked at all times when there was not actually someone passing through it. This was so even when officers were in the office because of the volatility of the prison system which could call the officer away urgently. Having the door "on the bolt" was not sufficient. With two officers on duty in 6 Wing, the grille door was "essential". With three officers it was "not as essential" but helpful.
In assessing the weight of the prisoners' evidence however, the variety and inconsistency makes it difficult to come to any firm conclusion about access of sentenced prisoners to the fines yard. The evidence leaves open a view that from time to time such prisoners did visit the fines yard. On the material available, it seems unlikely that it was a regular occurrence. The frequency and purpose of such visits cannot be determined clearly on the evidence. It may well be that it was less frequent than the prisoners assert, but more frequent than the officers suggest. It may be the practice fluctuated depending upon who was on duty as wing officer. It may be that the door was left on the bolt more frequently when officers were in the office and felt it was safe to leave the door unlocked.
The C.I.P. was described in Chapter 3 of the Report in the context of Terms of Reference (1) and (2). There is a detrimental inter-relationship between the physical characteristics of the prison and deficiencies in procedures of control and security which manifested themselves on 7 November 1987. Related deficiencies in prison routine and practice have also been disclosed by the evidence. I will deal with these matters, the risk they created and their contribution to the occasion of the assault in this Chapter. A number of recommendations will flow from the matters considered in this part of the Report.
The **Physical Characteristics**

The **Square** is the large open area in the centre of the prison around which its six wings are located. Its size and location are set out on the plan of the prison which appears between pp. 53 and 54. It measures approximately 50 metres by 60 metres.

Superintendent Cook stated that the **Square** was the largest open central area of any prison in the State. It is not, however, the only open area of its type in N.S.W. prisons. A similar area is located in the centre of the M.R.P. and the M.R.C. and an open area replaced the circle at Parramatta Gaol. The **Square** has changed since the opening of the prison in 1914. Originally, it contained a central kitchen and communal block. In recent times the buildings have been removed and the **Square** has been an open area, initially grass and more recently asphalt.

The population of the C.I.P. varies from approximately 350 to nearly 600 prisoners. On 7 November, 1987 there were 467 prisoners in the prison. The authorised staff strength of the prison is 168. The staffing provisions
of the C.I.P. provide that if the population exceeds 400, one extra Square officer is made available and if the population exceeds 450, a second extra Square officer is made available. These officers patrol as a group inside the Square.

**The Use of the Square**

A large number of prisoners spend a substantial part of each day in the Square, particularly in the morning. At 7.00 am the prisoners are woken and breakfast is served. They return to their cells till 8.30 am. At that time all prisoners leave their wings and enter the Square remaining there till 10.00 am to permit the cleaning of the cells and wing areas. The cleaning is done by prisoners who are the wing sweepers. The exceptions to this are the protection and segregation prisoners in 1 and 5 Wings, the front yards and the fines prisoners. All of these remain in their sections of the prison throughout the day. At 10.00 am prisoners may return to their wings and there is a degree of movement from wing to wing. Many prisoners remain in the Square after this time.
At 11.30 am lunch is served and the prisoners can remain in the wing for lunch or be in the Square. There is no muster or lock-in in the middle of the day. At one stage there was a lunch time lock-in. The prisoners may move about the Square and their wing until 3.30 pm. At that time the evening meal is served. At 4.10 pm the evening muster takes place. The prisoners are expected to be in their wing for that purpose. At 4.30 pm the prisoners are locked in their cells for the night and the prison is secured. It can be seen then that the prisoners have general access to the Square, effectively from 8.30 am until 3.30 or 4.00 pm each day. The remainder of the time they are locked in their cells unless they have specific work duties which keep them outside. There are only a few prisoners in this situation.

The Square is a problem area. There is evidence generally to this effect apart from the specific difficulties which arose on 7 November, 1987. The area is used for the playing of sport by the prisoners. There is an obvious problem for officers working in an open area with prisoners using cricket balls and footballs. Superintendent Cook referred to this difficulty:

"There are three or four officers who walk around together, not one at a time. They can not see everything going on. It is too big. You can not see what is going on. They are there from 8.30 to
10.00 and there are 350 prisoners running around, and it is a big tax on them. There are a lot of problems in the square."

Although Mr Cook was addressing specifically the period between 8.30 and 10.00am each day, his observations also apply to the balance of the day.

The position after 10.00am each day varied according to circumstances. Mr Cook described the situation after 10.00am as follows:

"The gaol population fluctuates. Some people like sport and others do not. There could be 150 all wanting to play football or cricket one week and use the weights, and the next week there could be 25 and the rest wanting to watch T.V. I would say 70% go back to their cells, a good percentage."

There was another occupational hazard. Prison officer Baker referred to the risk of being tripped by prisoners if an officer attempted to run or move quickly across the Square. The officers are always at risk in this area. There is an understandable feeling of vulnerability. In practice, officers tend to patrol the perimeter of the Square. However, it is not possible to avoid the centre area at times. The evidence revealed that female officers perform Square duty from time to time. It is important to be aware that two of the three officers on duty in the Square at the time of the assault were female.
With these general problems in mind it is necessary to examine specifically the events of 7 November, 1987. There were three officers on duty in the Square at the time of the assault. The most senior officer in the Square was Officer Janina Mokrowiecki. With her were Officer Paul Baker, a Probationary Prison Officer of 10 months experience, and Probationary Prison Officer Rhonda Gottaas.

Officer Gottaas had commenced training as a prison officer in August, 1987 and had been working as a prison officer at the C.I.P. for two weeks as at the relevant day. The concern expressed by Mr Cook (see Appendix M) as to the inexperience of many officers working in the Central Industrial Prison is illustrated by the officers on duty in the Square at the time of the assault. It should be said that although Mr Baker had limited experience as a prison officer, he was a man apparently in his 40s and demonstrated a degree of common sense in relation to his duties. He was impressive as a witness before this Inquiry.
A number of other officers were on duty in the vicinity of the Square at the time of the assault. These included Mr Korossy, the Armed Reserve located above the main entrance to the prison. He had a view over the Square from that elevated position. In addition, there were various wing officers and officers manning wing gates at different points of the boundary of the Square. Executive officers would move about the prison and the Square from time to time. On 7 November 1987, Assistant Superintendents Crowley and Hussey performed these duties.


Mr Baker vividly described a number of persons effectively staggering out of 4 Wing in the early afternoon of that day. On his evidence, there were five prisoners visibly intoxicated in the Square essentially at the one time. This does not include those affected but not visibly so. He said he had never seen so many in one day. It occurred to him that the common element was that they all seemed to be coming out of 4 Wing. He spoke to the 11 Post Officer and asked him to ring 4 Wing when he saw the first intoxicated
person. Mr Baker was informed that the 4 Wing staff were aware of the problem and had been in touch with the Deputy's Office.

The drunken atmosphere in the prison was observed by other officers as well.

Officer Ross gave evidence that at about this time one of the officers in that area commented "the whole gaol is drunk". When M.E.U. Officers Markham and Sinclair attended the C.I.P. shortly before 3.00pm, an officer at the gate enquired as to whether they were in the prison to investigate the drunken prisoners on the Square. The level of prisoner drunkenness on the Square had been noted in various parts of the prison, even in some areas distant from the Square itself.

The attention of the Square officers was attracted to the fines yard by a gathering of prisoners at the gate in the corrugated cladding between the fines yard and the Square. It appeared that a number of prisoners were looking through the gap at the lock in the gate into the fines yard. The Square officers attended but did not look into the yard themselves. There was a call over
the public address system for the Square officers to attend 6 Wing and the officers responded to this call. Officer Gottaas gave evidence that Mr Thompson was critical of the speed of their response. The evidence does not clearly point to any delay in response. If there was such delay, however, it may have flowed from restrictions upon sudden or quick movements by officers in the Square.

A question must arise as to the appropriateness of having two female officers of the three officers on duty in the Square. Indeed, Mr Baker gave evidence that this was a relevant concern in his mind in determining the ability of officers to intervene.

The failure of the Square officers to look through the gate between the Square and the fines yard was an unfortunate response. While passing by, Mr Ross, who was going to duties elsewhere, was attracted by noise and looked through this gate. This was at the end of the assault. In fairness to the Square officers,
however, it must be said that their ability to respond quickly must have been affected by the number of prisoners in the Square and the volume of noise being generated by them. A further factor may have been their location in the Square. There is some evidence from Officers Baker and Gottaas that, at least for some part of the time when the assault was occurring, they were on the far side of the Square near 2 Wing.

Mr Horton saw some advantages and some disadvantages in the Square. He said:

"(It) poses a problem in the sense that every wing and every yard feeds onto the square. The population of the C.I.P. can often be in excess of 500. It is possible that they could congregate in that one open area. In one sense that makes them difficult to manage; in another sense it is a fairly open area and that makes it fairly easy to regain control, if in fact a situation gets out of control, rather than, for example, similar areas full of buildings, which would make it more difficult to regain control."

Whatever the advantages, the disadvantages were a significant factor in the events leading to the assault.

**Intoxicated prisoners on the Square**

There has been a practice of delaying action to restrain or test intoxicated prisoners in the gaol particularly if they are on the Square.
A number of officers gave evidence that an attempt to isolate an intoxicated prisoner for the purpose of breath testing either in the Square or the wing was likely to create a disturbance if not a riot. It was said that it was not practical to attempt to call a drunken prisoner over the public address system under the pretence of a visit or other subterfuge with the intention of isolating him for the purpose of the breath test. Some officers thought that such a procedure could be effective. Mr Cook explained the appropriate practice in dealing with drunken prisoners as follows:

"If (the officer) has got a suspicion that a person is drunk, or on something, and he comes to me and says "Joe Blow in running around the Square and is off his tree, can I put him on a breathalyser?" I know as soon as he puts him in the cell he will refuse and start scuffling and before you know it you will have half the Yard or half the Wing wanting to fight. We find it far better if we can possibly do it to try and get the prisoner to go to his cell without any force or anything like that, just ask him to go to his cell. If he refuses we do not pursue it, and after the lock-in we get the M.E.U down to put a breathalyser on."
It appears that the cautious attitude adopted by officers in relation to isolation and breath testing of apparently intoxicated prisoners stems in part from the practical difficulties in the Square. There has been
evidence of a substantial reduction in the quantity of gaol brew found in the C.I.P. since December, 1987. There is also evidence, however, that there will always be some imaginative prisoners who manufacture gaol brew from almost any ingredients available. The problem it seems will continue to some degree.

A question arises concerning the possible re-introduction of the lunch time lock-in. It is certainly inappropriate to have prisoners affected by alcohol moving freely about the gaol. Indeed, Regulations 100A, 100F and 100J, Prisons Regulations, 1968, as amended probably require prompt intervention by the prison authorities. Certainly, if officers stand by and wait, they do so at some risk. A muster or lock-in at 11.30am for a period would give an opportunity for officers to isolate and breath test any prisoners apparently intoxicated and observed in that state during the morning. According to present practice, such a prisoner will not be isolated and tested until after 4.00pm. By that time there may be little utility in carrying out a breath test given the change in blood alcohol concentration due to the passage of time.
It may be sufficient for the purposes of isolating prisoners who are affected by alcohol or drugs to simply have a lunch time muster rather than a lock-in. In view of the extremely restricted period prisoners are let out of their cells - 8.30am to 4.30pm - it is important that such a procedure not be used to reduce their hours out of the cells. Rather there should be a proper assessment of how the recommendation of the Royal Commission that there be a maximum overnight lock-in of ten hours might be implemented. Further the use of common dining areas as recommended by the Royal Commission may be able to be used to isolate prisoners if the common dining areas were restricted in size to a small number of inmates. This, in my opinion, is clearly a preferable course to a mid-day lock-in.

**Alteration to the Square**

I believe it is necessary to review the physical character of the Square. Change is required so that prisoners in it can be adequately controlled. One option is to reduce the size of the Square. I did not receive evidence as to specific alternatives. That was beyond the scope of this Inquiry. However, one available alternative touched upon in evidence was reduction in the size of the Square by creation of holding yards of the type existing in the M.R.C. These
yards provide a measure of security for officers in the sense that the prisoners are contained in fenced yards with the officers outside the yards, separate from the prisoners. They are smaller than the Square but considerably larger than the wing yards. Mobility of prisoners, which is dealt with in detail elsewhere, is much more controlled. At the same time, prisoners would have an open space available for sport and exercise.

The Square in its present form is not as it was originally conceived in 1899. Buildings were located there until comparatively recent times. If industry on a proper scale was reintroduced to the C.I.P., it may be appropriate to make use of part of the present Square for that purpose. Exercise areas exist in the wing yards, the activities area and a grassed sports field is available within the Malabar Complex for use by prisoners.

Cogent reasons exist for a thorough re-examination of the use, structure and management of the Square in the C.I.P. and I so recommend.
Chapter 9

Mobility of Prisoners in the Central Industrial Prison

The Theoretical Position

Like many aspects of the C.I.P., the Square should not be viewed in isolation. It does not have a static prisoner population. Apart from prisoners passing time in the Square, other prisoners use it to travel to other parts of the prison. All yards and wings open directly onto it. The problems of the Square were compounded by the great degree of prisoner mobility within the C.I.P.

It is apparent from the evidence that prisoners could move readily in and between different areas of the C.I.P. on 7 November 1987. This was a significant factor contributing to the assaults upon Mr Partlic, F1 and F2 in the fines yard.
The ease and frequency of wing visits was a matter of concern in the Inquiry. It is necessary to examine the evidence as to written rules and actual practice prior to 7 November 1987. On 2 March, 1982 the then Superintendent, Mr Glenn, made a Local Order which provided relevantly as follows:

"Until further notice inmates are not permitted to enter a wing unless they are officially accommodated in that wing".

Local Orders are made by the Superintendent pursuant to Rule 67, Prison Rules, 1976, as amended. Officers are required by Rule 2 to make themselves conversant with such Orders.

Prior to that Local Order, a system existed in the C.I.P. whereby prisoners were confined to the yards in their own wings. They were not permitted to go into other wings, the Square or even go out of the yard without a written pass from the wing officer. This system ceased operation in about 1979 or 1980.

Mr Glenn's Local Order of 2 March, 1982 was theoretically still current as at 7 November 1987. The sign over the gate to 6 Wing "No Visitors Allowed in Wing" reflected this Local Order. It is apparent from
the evidence, however, that the Local Order was not complied with. Many officers did not even know it existed.

The Practice

A number of the C.I.P. executive officers gave evidence concerning wing visits. Mr Cook returned to the C.I.P. as Deputy Superintendent in October, 1984. At that time, Mr Glenn's Local Order was still in place. Mr Cook felt that Mr Glenn's Local Order had never been enforced. According to Mr Cook's experience, in practice the wing officer had a discretion to allow visits.

Mr Cook said that wing officers relied upon personal knowledge of prisoners. He stated that wing sweepers got preference in visiting other wings, although it was still for the wing officer to make the final decision as to whether they should be let in. The system required prisoners to carry and produce an identification card containing their photograph. This system replaced one where the prisoners were identified by numbers sewn on their clothes. The identification cards were not particularly successful as prisoners kept passing them around. Mr Cook observed that the number system had
worked "rather well" but that it was one of the recommendations of the Royal Commission into N.S.W. Prisons that it be replaced: see Recommendation 133 of the Royal Commission.

Deputy Superintendent Thompson gave evidence as to wing visit practice as follows:

"Written instructions are that no prisoner from another wing will go in any other wing, but occasionally sweepers were sent over to get surplus plates, mugs, things like that, and occasionally they would want to have words with another sweeper in the wing. Because these prisoners actually worked in the wings and were working all the while, wing officers would sometimes allow them into their particular wing as long as they reported first and only went to see that prisoner in his cell."

Each officer gave a slightly different description of the practice. This is a further illustration of the danger in regulating prison practice without clear and simple written rules. Mr Glenn's written order was clear and simple. It was not followed. It was regrettable that all knew that the clear and simple written order was not enforced but opinions differed as to the rule of practice said to be applicable.

Apart from other executive officers, a number of the more senior prison officers gave evidence concerning wing visits. Mr Crossingham, the relieving wing officer in 4 Wing, said that the wing officer had authority to
allow a non-resident prisoner to visit another wing. He would exercise his discretion to allow such a visit if the non-resident prisoner was a quiet co-operative inmate and was required to go in because of work. Generally this was the attitude of a number of other officers who gave evidence. Mr Laing, the permanent wing officer in 2 Wing, who had over 10 years experience, considered the absolute prohibition on visits unenforceable.

Mr Duffus, the permanent wing officer in 6 Wing, also understood wing visits to be permissible within the discretion of the wing officer. Initially in evidence he said that he was unaware of any written rule prohibiting wing visits. However, he later commented that he may have seen Mr Glenn's 1982 Local Order. According to Mr Duffus, his criteria for allowing wing visits were that the prisoners were not trouble makers and were well behaved in the wing.

Mr John Horton, the Director of Custodial Services, said that there should be no sweeper entry to the fines yard and it certainly should not be in the discretion of the wing officer.
Officer Varvaressos gave evidence of the discretionary practice of a wing officer allowing visits:

"Q. If you have got someone who does not live in the wing you have to check with the wing officer or are there times when he is not there and you have to decide yourself? A. Not necessarily. I do not have to check myself with the wing officer. I can send the prisoner to the wing officer to get permission.
Q. You let the prisoner in and you say "Go and check with the wing officer about whether you can do what you want to do in the wing?" A. Yes."

This practice is clearly inappropriate unless perhaps the prisoner was well known to the wing assistant and had proved himself so trustworthy that the officer could be certain the prisoner would in fact check with the wing officer.

So I find that as at 7 November, 1987 there was a written rule as to wing visits and a practice which was contrary to that written rule. The practice was nowhere stated in writing. The practice was apparently passed on by word of mouth. The predominant view was that wing officers had a very wide discretion in relation to wing visits. It is likely that on many occasions the view
was taken that it was easier to let the prisoner enter rather than argue about it. The lack of written rules and a clear understanding of any practice did nothing to discourage officers from this unsatisfactory approach.

**Mobility on 7 November 1987**

It is appropriate to examine the events of 7 November, 1987 against this background. It is clear that the gaol brew on that day was in 4 Wing. The evidence of this is considered elsewhere.

Assistant Superintendent Crowley was relieving the 4 Wing officer for a period early in the afternoon that day.
Mr Varvaressos claimed he was permitted to allow a non-resident prisoner to enter a wing and roam about in it, on the apparent understanding that the prisoner would seek out the wing officer for approval to remain. That the practice within the C.I.P. as to wing visits was so unclear that Mr Varvaressos either believed that this was the rule, or is able to assert that he so believed, is unacceptable.

Alterations to the Rule after 7 November 1987

Following complaints from Mr Laing, Mr Cook finally introduced a new written Local Order. This Local Order, dated 12 January, 1988, cancelled Mr Glenn's Local Order of 2 March 1982. It then declared:

"Prisoners are not permitted to enter a wing unless they are officially accommodated in that wing or receive permission from the respective wing officer."

This rule legitimized the practice of some years in the C.I.P. It failed totally, however, to provide assistance as to the criteria for wing visits. Officers were in no better position than before its introduction in determining who to let in and who not to let in. It did nothing to prevent or restrict the type of mobility in the C.I.P. on 7 November 1987.
Further, it is undesirable for wing officers to have discretion which can lead to inequality of treatment of prisoners particularly where safety and security are involved.

Mr Horton, the Director of Custodial Services, was asked questions concerning the C.I.P. Local Orders as to wing visits. He spoke of the absolute prohibition:

"In practical terms, just as a result probably of some of the more detailed things that have emerged as a result of this Inquiry, it has probably been difficult. In theoretical terms, one would assume that it would be relatively simple to stop people from going into a wing where they did not belong. I have had experience with similar matters in other gaols, in fact the staff there, after some pressure, have been able to create that situation, where people only enter their own wings. Q. Are you able to express an opinion about what sort of limits there should be on visits from one particular wing to a different wing? A. My own personal view is that they should not happen. I go further than that and say that the prisoners should not have access to the wings in normal circumstances, in normal weather. His Honour: They should not have that, even their own wing? A. No, I believe when they are out they should be out and occupied in some way, whether that be education or activities or whatever."

Mr Horton noted that it was the universal practice, in most of the small maximum security prisons, that prisoners remain out of their wing during the day. He observed that the larger prisons over the years have tended to travel in the same direction as the C.I.P.
Thus, there is an argument for refusing daily access to the wings even for residents. In this event, it is clear that wing visits should not be allowed. In the event that wing visits continue in any form, despite my firm view that they should not, clear guidelines are necessary as to the criteria for allowing such visits. A written record of visitors, including the time in and the time out, may also be of assistance. It would allow a wing officer at any one time to know who the non-residents are in his wing.

There are compelling reasons for a review of the current wing visit practice enshrined in Superintendent Cook's Local Order of 12 January 1988.
Chapter 10

Alcohol in the Central Industrial Prison

The General Use

It appears alcohol has been present in prisons for many years. Its popularity in N.S.W. prisons in recent times has been said to fluctuate depending upon the availability of drugs. Others disagree with this relationship. In 1987 there was an increase in the use of what is known as "gaol brew" and "home brew" in N.S.W prisons, principally, it seems because of the increased control of drugs by the Corrective Services Commission.

There was evidence from a number of witnesses, officers and prisoners alike, as to the widespread use of alcohol in the C.I.P. as at 7 November, 1987. Deputy Superintendent Thompson said in evidence:

"I don't think a day goes by without finding some fermented liquor. They are sometimes found in a prisoners' cells or hidden about the gaol."

Senior Assistant Superintendent Plunkett said that brew has "always been a problem" and that officers were "finding plenty" as at 7 November, 1987. Assistant
Superintendent Hussey said that 2, 3 and 4 Wings have had brew problems in recent times. These were the three wings in the C.I.P. which were used for general sentenced prisoners. Evidence as to the general use of brew at this time was also given by Officers Laing, Crossingham and F17. Doctor Paisley of the Prison Medical Service said that he had seen intoxicated prisoners once or twice and had heard of more.

The Use on 7 November 1987

The relevance of gaol brew to the events of 7 November, 1987 is obvious.

One officer was in the vicinity of 3 and 4 Wings. He described a smell "like oranges" by which he knew they were "having a turps or two". The smell was easy to detect.

The brew consumed was in 4 Wing. It had been concealed in a disused clothes drier at the far end of the wing. The prisoners were consuming it in a cell which had been secured on the bolt by other prisoners so that the inmates could not be
observed by officers. This would indicate in normal circumstances that the cell door had not been properly secured after the let-go.

It was Officer Ross who recalled that an officer in the activities area that afternoon commented that "the whole gaol is drunk". Although something of a factual exaggeration, it is clear that this comment reflected the atmosphere then prevailing in the prison as observed by Mr Ross and other officers. Mr Laulu smelt gaol brew, "an orange juice type of smell, very strong".

It would not have required a great deal of investigation to determine that the drinking was occurring in 4 Wing. Numerous officers and prisoners saw prisoners coming out of 4 Wing in an intoxicated state and others overheard conversations about the brew in the wing. It was described as a "powerful brew".
The ease with which prisoners, could have access to alcohol in the prison prior to and on 7 November, 1987 is an important issue before the Inquiry.

The ingredients for gaol brew were readily available in the prison prior to and as at 7 November, 1987. There seems to have been very little control over the issue of fruit, in particular oranges, and sugar. These were recognized as main ingredients in gaol brew. As at 7 November the evidence indicated that access to and storing of fruit by prisoners was unrestricted. It also seems that prisoners had full and ready access to sugar for the purpose of manufacturing brews. The prison Catering Manager, Mr Winter, said that gaol brew based on oranges was the most palatable form of gaol brew.
Officer Laing described the position as follows:

"Prior to the withdrawal of the oranges many times at 8.30 I had seen 30 or 40 oranges upstairs cut in half and in garbage bins, and I have conducted, searched and found five litre containers of brew."

Other more bizarre ingredients were used from time to time to make brew. These included telephone disinfectant, window cleaner, Brasso, after shave, cleaning fluid, as well as bread and different forms of vegetables. The reasons put forward by executive officers for the use of window cleaner and telephone cleaner in the prison were not particularly persuasive.

Containers for the manufacture of brew were also readily available. Mr Laing gave evidence that garbage bags were used at one time. More recently, large plastic laundry detergent bottles were used.

The prison thus contained ample raw materials for brew, the means of its production and storage, and a willing group of consumers.
Procedure for Prevention

What steps were taken to detect the brew in the prison?

Standard practice required that the wing officer and offsiider search six cells in each wing each day. These cells were meant to be randomly selected. It is likely that these regular searches did not always take place although no doubt some wing officers ensured that they did occur. The wing officer's search register was intended to record the fact that a daily search had occurred.

Reference to the 6 Wing search register shows that, at times, searches were not carried out for reasons given such as inclement weather. There is room for suspicion, however, that officers at times would record that a search had been carried out when in fact it had not. It will be remembered that Mr Wetzler recorded that the required search had occurred on 7 November, 1987 whereas Mr Varvaressos could not recall if any such search had taken place. The unreliability of the search register system was known to the executive officers in the prison.
If executed properly, the daily cell search procedure should have detected brevs. Two particular problems were raised in evidence with regard to cell searching. Mr Cook observed that the searching had to take place between 8.30 and 10.00am, this being the period when the prisoners were out of their wings. This period was apparently inadequate to permit a thorough search of six cells and the carrying out of other tasks while prisoners were out of the wing. There were additional duties in 6 Wing to be carried out during the period because it was the reception wing.

A second problem was that of cell decoration. Recommendation 131 of the Royal Commission into N.S.W Prisons was as follows:

"Subject to the requirements of security, no restriction should be placed on the nature and quantity of cell decorations."

It would seem that the second part of this recommendation has been acted upon without sufficient regard to the opening qualification. Mr Laing referred to the difficulty in carrying out cell searches where there were a large number of property items in the cells. He said it took on average 30 minutes to search a cell occupied by two prisoners given the number of items of property in such a cell.
There was evidence of a perceived difficulty in proof of possession of a gaol brew in circumstances where a cell was occupied by more than one prisoner. In such cases, officers were unable to prove exclusive possession by one or other prisoner. Apparently this evidentiary difficulty has resulted in a failure to prosecute in such cases, and officers would not even always report these breaches. Rather they destroyed the brew and left it at that. Such an evidentiary difficulty should not be elevated to a universal principle. There may be difficult cases but each one must be looked at on its own facts. Officers should be appropriately trained in the gathering of evidence of this type. The picture emerges that there was a large amount of brew in the prison which was not detected and was thus consumed by prisoners.
A number of steps have already been taken by the prison authorities to meet the gaol brew problem. Mr Horton directed the withdrawal of oranges. Mr Winter, the Catering Manager, stated that this step had been taken in consultation with the dietitian. Mr Cook directed that as from 21 December, 1987 prisoners would only be allowed to retain two pieces of fresh fruit in their possession or cell.

Giving evidence shortly after these changes in procedure, Mr Laing observed a significant improvement. He said that fresh fruit and oranges had been stopped, and tins of fruit were drained of liquid before being given to prisoners. He estimated the decrease in the occurrence of gaol brew as over fifty percent. Mr Cook also observed a very substantial reduction in the incidence of gaol brew following these steps. He estimated that alcohol was cut by 70-80% as a result. Some fruit was still issued, bananas and apples. It would appear from this evidence that there has been a very great improvement in this area following the introduction of these measures.
It is reasonable to ask why such steps were not taken at an earlier point of time. It seems that they were simple changes which have been introduced without significant disruption in prison procedures. Nevertheless there was significant support for prisoners' rights and their right to fresh fruit. It seems this made it difficult to bring about the changes until after the tragic incident on 7 November 1987. It can be said, at least, that the prison authorities acted promptly following the assault.
6 Wing seen from the Square.
The corrugated iron fence is the fines yard.

The C.I.P. main entrance gate known as the "bird cage".
Chapter 11

The Emergency Alarm System in the Central Industrial Prison

The System

In 1985 or 1986 an O.P.S.M. Security System was installed in the C.I.P. There was a central alarm box which was located in the C.I.P. Gate. Small alarm activators, colloquially known as "beepers", were issued to all wing officers and wing assistants on a daily basis. Each morning, officers were meant to sign for the beeper for their particular position on an issue sheet. To activate the beeper in an emergency, a button was pressed which recorded the call at the C.I.P. Gate.

It might be thought that the introduction of such an alarm system would eliminate the need for a telephone call from the area experiencing the emergency to the Main Gate, thereby reducing the response time. In practice, this was not the case. Assistant
Superintendent Hussey, the executive officer responsible for the Security Alarm System, described the usual procedure for operation of the system as follows:

"If an alarm is activated in one of the locations, the Officer-in-Charge of the Gate will check the keyboard to see what location it is coming from, notify the Dep's Office by phone that a certain sector has gone off in one of the locations. The Senior Assistant Superintendent or whoever answers the phone, may be the Dep's sweeper or the Clerk will pass on to the Deputy or myself, who-ever is in charge in the Senior Assistant Superintendent's Office, that an alarm has gone off in a certain area. My job is to phone that area straight away and check if everything is OK."

Thus two telephone calls follow the activating of the alarm, the second call being to the wing where the alarm has sounded. If the telephone is not answered, Mr Hussey said that he would immediately leave the Office himself and go into the Square obtaining assistance from Square officers, and attend the location of the alarm.

The reason for this cumbersome approach to the alarm system flows from certain difficulties experienced in its operation. Evidence was given by a number of prison officers of a problem with false alarms. Mr Crossingham described the reason for this procedure:

"The reason that that is done is because like sometimes the pager itself activates by itself in the Gate without us touching the button. That is the main reason why the Gate Keeper rings back to check to see if there's trouble or not."
Q. Does that mean that so far as you are concerned it is quicker to make a call direct to the Gate?
A. It would be, yes."

Assistant Superintendent Hornigold said that another difficulty arose when the batteries went flat and officers did not realise it. Mr Hornigold did not know of the problem of false alarms. Apart from these problems the alarms were sometimes bumped or prisoners might try and activate them.

Prior to 7 November, 1987 Mr Hussey had raised with Mr Hornigold the possibility of obtaining pouches in which the beepers could be contained. The purpose of this was to reduce the possibility of accidental activation of the beepers. Mr Hornigold had not taken any steps to acquire these pouches before 7 November 1987. He expressed the view to Mr Hussey that pouches were not a good idea for officers as "it takes time to get it out of the pouch". No further action was taken in this respect and no order for pouches was made. There appears to be some misunderstanding as to the use of the pouches. Mr Hussey suggested that the beeper could be activated in the pouch. If this be the case, then the reason for inaction in this respect was erroneous.
Against this background, it is appropriate to examine the lack of use of beepers on 7 November, 1987 in 6 Wing. Officer Wetzler maintained that he had obtained the beeper on the morning of that day. The beeper issue sheet does not disclose a signature by Mr Wetzler but there is no signature by any officer for a beeper on that day. It would appear that the practice of signing for beepers at the time of issue was generally ignored by officers. The absence of a signature by Mr Wetzler on the relevant day in these circumstances takes the matter no further.

Mr Wetzler could not recall if at lunch time, when relieved by Officer D J Cook, he gave the beeper to Mr Cook, he kept it himself, or he left it in a drawer in the 6 Wing office. Mr Cook himself could not recall if he obtained the beeper from Mr Wetzler during lunch or not. It would defeat the purpose of the beeper if it was taken away from the wing during the lunch breaks. Assistant Superintendent Crowley could not say whether Mr Wetzler or Mr Varvaressos had their beepers that day.
Mr Varvaressos did not have a beeper and apparently cared little for them. Mr Wetzler did not give a beeper to Mr Varvaressos. Given that it was the wing officer who usually collected beepers for himself and his assistant, this may suggest that Mr Wetzler did not collect one himself on that day. Alternatively, it may mean he did but did not give one to Mr Varvaressos. In the ultimate, it makes little practical difference. Mr Varvaressos had no faith in the system and would not have utilized it.

Mr Wetzler did not use the beeper to raise the alarm with the C.I.P. Gate. When asked why not, he answered:

"At that time when I went around to see what happened I could see there was no requirement for that to be utilized. It was quicker for me to get on the phone and ring the Deputy's Office and the Sister rather than bringing the beeper system into operation which takes a considerable time."

Mr Wetzler's opinion as to the use of the beeper in these circumstances was not shared by Officers Laing and Duffus. Mr Laing said "definitely the pager system" should have been used. Mr Duffus said that he would have used the beeper and not the telephone. He explained this saying "you have not got enough time if something is happening".
It will be recalled that Mr Wetzler in fact rang the Deputy's Office for assistance from the telephone in the 6 Wing office. It was necessary for him to travel around the landing, down the stairs and into the office to do this. Immediate and convenient access to the telephone was not available in the position where he asserts he first saw the incident.

It is perhaps a moot point as to whether the use of the beeper would have led to a quicker response from the executive officers who attended the fines yard after the assault. The manner of use of the beeper system at that time involved a call from the Gate to the wing. However, it was certainly the opinion of two experienced prison officers that the beeper system was a preferable method of raising the alarm than use of the telephone in these circumstances.

Problems with the System

The following general observation may be made concerning the emergency alarm system in the C.I.P. It appears that the system inspired little confidence among officers. There is an apparent assumption that an alarm is a false alarm. The use of the telephone to check the genuineness of the alarm involves consumption of
valuable time in an emergency setting. If the system is to be of any use it must be reliable and trusted by the officers.

The introduction of pouches for beepers, if suitable, is one practical step that may assist. Mr Hussey acknowledged that if the alarm system was more secure, it may not be necessary to verify by telephone the genuineness of the alarm.

Urgent steps are required to rectify the apparent deficiencies in the current emergency alarm system. It should be seen as a vital part of a network of security procedures designed to protect prison officers and prisoners in the C.I.P.
Chapter 12

The Appointment and Retention of the Fines Yard Sweeper

Pages 129 to 155 inclusive are not printed.
The gathering and storage of information about prisoners is crucial to the proper administration of a prison system. Decisions are made daily concerning their placement and employment. The safety and security of prison officers and other prisoners must be paramount considerations in this decision making process. Informed decisions are essential. A prisoner living in a closed custodial community is under the constant scrutiny of prison officers. All aspects of his behaviour may be noted. Any incidents involving breaches of prison discipline are expected to be reported. Special forms are prepared and distributed
to officers for this purpose. It is expected that these forms would be completed and ultimately placed with the prisoner's prison file. It is obvious that this procedure is intended to allow storage of information concerning a prisoner, not only for the purpose of dealing with any breach of prison discipline before the Superintendent or the Visiting Justice, but for future use in classification, parole, placement and employment decisions.
Pages 158 to 180 are not printed.
It is a matter of very great concern that a body of material which led the Director of Custodial Services was not known to the authorities in the C.I.P. in the second half of 1987. It appears that there is no system and certainly no adequate system for gathering and storing material of this type in relation to prisoners. If there is such a system it certainly was not working.

The key file for this purpose would appear to be the prison or warrant file. This type of file, in relation to all prisoners held at the Malabar Complex of Prisons, is retained at the administrative office at the Complex. This is in an office outside the C.I.P. The file is
available to officers upon request. Prison officer report forms in relation to disciplinary matters are expected to be linked up with the prison file. It is apparent from this Inquiry that this does not always occur.
It appears that much information is transmitted by word of mouth. Some such information is reliable, some is not. Some is mere gossip or rumour. The importance of recording significant information cannot be overstated. A reliable and lasting record is created and is available for significant decision-making within the prison system.

Three matters concerning prisoner information need to be addressed in this Report.

1. Information Concerning a Prisoner's Offence or Alleged Offence

Evidence was given by a number of officers that knowledge of the circumstances of the offence or alleged offence of prisoners may affect their ability to treat inmates equally in the system. Fairness on the part of officers is, of course, to be encouraged. It is unrealistic, however, to administer a prison turning a blind eye to the conduct or alleged conduct which has placed the prisoner in custody. A practical and
workable method must be found to transmit such information from the courts and police to prison authorities.

This proposal is neither novel nor radical. His Honour T J Martin QC in his 1987 Report emphasised the need for such a system to assist, inter alia, in classification, placement and programming of prisoners: Report of the Inquiry, pp. 10, 22, 29, 35-36, 43, 62-64, 66, 78, Recommendations 13, 25-28. His Honour noted (p 63) that an agreement was reached in 1981 between the C.S.C. and the Police Department whereby a document entitled a Police Information Sheet accompanied each commitment warrant from a Local Court to a prison. The Sheet was designed to include basic known facts about the prisoner which were relevant to classification together with information concerning any outstanding charges against the prisoner. It appears that this was done for a time but then discontinued by all but a limited number of police stations. His Honour presumed that the reason for this was pressure of work on staff.

I acknowledge the heavy demands already made upon police officers and prison officers. The requirement to prepare, despatch and store additional documentation concerning prisoners is not lightly suggested,
however, information concerning a prisoner's criminal record, offence or alleged offence is of fundamental importance to all aspects of management and security of the prison system. It is indispensable. As will be seen, I have sought in the main to recommend provision of copies of documents already in existence concerning prisoners. This is designed in part to limit the additional tasks required of police officers and prison officers alike. It is vital that new procedures be implemented and continued and not fall into disuse as has happened at times in the past.

In earlier times the gaol recorder would play a part in transmitting such information. A copy of the prisoner's antecedents would be placed on his prison file. The gaol recorder system no longer operates and this method of obtaining information is not available.

It is the invariable practise for police to prepare a short statement of the allegations for the purpose of bail applications in the Local Court.
There seems no reason why a copy of the bail statement of facts could not be transmitted to the gaol authorities with a person who is remanded in custody for use by them on questions such as placement, protection, segregation and employment. It must be borne in mind that they are mere allegations at that point and not established facts. Nevertheless it is information which may prove necessary, in particular if the alleged offence involves events occurring a very short time before the prisoner first comes into custody. Although these are matters which relate more to the administration of the M.R.C. than the C.I.P., it is clear that information of this type is necessary for all purposes.

There are prisoners serving a short sentence in the C.I.P. while on remand for more serious offences. There may be fine default prisoners serving commitment warrants while on remand for other matters. Mr Partlic, of course, was in this position although the facts of his remand matter would not be relevant for present purposes. This type of information is of importance for the administration of the C.I.P. Mr Horton indicated that the C.S.C. was in the process of bringing on line the police computer. This will provide the Commission
with the formal prior convictions and antecedents of prisoners together with the nature of the current offences or allegations and the prisoner's associates.

2. Possible Means of Improving Information Storage and Retrieval System

The prisoner information storage and retrieval system does not appear to be operating efficiently, if at all, at present. Consideration should be given to a practice whereby a report is made by M.R.C. authorities to the C.I.P. authorities upon a prisoner being sentenced. The report could briefly contain an assessment of an individual prisoner's conduct and employment in the M.R.C. Such a system might also apply to all transfers of prisoners. Care must always be exercised in using past information when assessing decisions for the future. A policy based on ignorance, however, is clearly unacceptable in the administration of a prison system involving the safety of prison officers and prisoners.
It appears that wing diaries of the type used in the M.R.C. are not used in the C.I.P. Officers are not encouraged to make a daily running record as to incidents in the wing which may be significant. The daily journals and logs of the Superintendent, Deputy Superintendent, Assistant Superintendents and the night Senior Prison Officer record certain incidents only in very brief form. Essentially, they are a daily record of the administration of the prison with emphasis upon certain procedural matters.

The problem of adequate methods of communication are not new. They have been addressed before, especially in chapter 32 of the Royal Commission and Recommendations 231 and 232 which read:

"231 1. A study should be undertaken into the feasibility of a computerized central filing and records system.

232 2. In any event, a systems analyst should examine and report upon the present deficiencies in the manual records system of the department."
It appears that the C.S.C. has commenced the task of computerising various details about gaols and prisoners. His Honour T J Martin QC recorded in his 1987 Report that he was told that the task was "difficult, complex and lengthy": Report of the Inquiry, p 71. His Honour's Recommendations 25-28 related to computerisation of criminal records of prisoners.

The problems of records emerging during the present Inquiry indicate that the Recommendations of the 1978 Royal Commission require urgent implementation.

3. Information Concerning Incidents at the Clinic

The Prison Medical Service is within the Department of Health. This has not always been so. Prior to July 1968 it was within the prison administration. Medical records kept in such a situation would be available to the prison authorities. In a divided system they are not so available. This has a great advantage in terms of confidentiality of the prisoner's medical history. The same confidentiality exists as for records of any other individual. Incidents may arise, however, which relate to behaviour rather than the medical condition of the prisoner. In the hearings it was indicated that a prison officer must always be present to observe and
protect during prisoner attendances at the Clinic. It was apparent, however, that notations of misbehaviour were recorded usually by nursing staff in the records of the Clinic under the control of the Department of Health. Generally speaking, no note was made by the prison officer. Any notes of incidents of misconduct made in records under the control of the Department of Health therefore were not available to the prison authorities. They should be made available.

The common law recognises a distinction between observations of a client by a legal practitioner and communications between client and legal practitioner. The former are not confidential, the latter are. These distinctions can properly be applied to medical situations in prison. The Regulations contain provisions, however, which reflect the special circumstances prevailing in a prison. Regs. 103 and 104D, Prison Regulations, 1968, as amended, require prison medical officers to report certain matters relating to the health of prisoners and the prison population to the governor of the prison.

Incidents of misconduct in the Clinic stand outside communications between medical staff and patient for the purpose of treatment. There is no reason why they
should not be notifiable by Clinic staff to the prison authorities. A possible approach is to place a "misconduct book" or "incident book" in the Clinic for noting prisoner's misconduct. The book could be completed by the officer on duty or Clinic staff and be regularly perused by the prison authorities.

Conclusion

Again I can only refer back to the views of Mr Justice Nagle expressed at the opening of Chapter 32 of the Report of the Royal Commission:-

"Keeping adequate and accurate records about prisoners is an important element of any prison system. The records should be readily and speedily available. The compiling of records concerning the prisoner begins from the moment he enters the prison system and continues during the whole of the time he is within the system and, to an extent, after he leaves it. Records affect almost every decision made about a prisoner during his confinement. They begin with details of the prisoner's criminal record, supplied by the Police Department."
These views have been echoed by His Honour T.J. Martin QC in his 1987 Report and I endorse them.

The maintenance of proper records not only assists correct prison decision-making but facilitates scrutiny of these decisions when required. The following observations from the Report of the Royal Commission (p.422) apply with equal force to the present Inquiry:

"The Commission's own inquiry was dependent to a large extent on the Department's records. The state of those records did not make this task an easy one and exemplifies the absolute dependence which any outside scrutiny of the Department's activities or its treatment of prisoners has on adequate records. It is the only means by which decisions made concerning individual prisoners may be ascertained and their justification assessed. The importance of records in the prison system cannot be over-emphasized."

Unless correct and full information about prisoners is communicated to decision makers, erroneous decisions must continue to be made with the consequent risk to security and safety of prisoners, prison officers and members of the public.