

Life Sentences (Northern Ireland) Order 2001

Parole Commissioners' Rules 2009

NOTE: IT IS UNLAWFUL UNDER RULE 22(3) OF THE PAROLE COMMISSIONERS' RULES 2009 TO MAKE PUBLIC INFORMATION ABOUT THESE PROCEEDINGS OR THE NAMES OF ANY PERSONS CONCERNED IN THEM.

Michael Stone A385

Decision of the Panel

1. This case was referred to the Commissioners on 18 July 2018 under Article 6 of the Life Sentences (Northern Ireland) Order 2001 which requires them not to direct the release of a prisoner unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.

2. The Commissioners have been asked to make any recommendations regarding conditions to be attached to the licence if they make a decision to release Michael Stone. If release is not directed, the Commissioners have been asked to make recommendations on:

- Areas of risk management to be addressed prior to next review;
- Any other areas to be addressed prior to next review;
- Timing of next review; and
- Any other matters relevant to the progression of this case.

3. On 17 November 2018, the single Commissioner appointed to consider Mr. Stone's case provisionally directed that he not be released.

A panel of Commissioners was appointed to consider the prisoner's case in accordance with Rule 12(2) of the Parole Commissioners' Rules 2009.

Decision

4. Following consideration of the case, the Panel was satisfied that it is no longer necessary for the protection of the public from serious harm that Mr Stone¹ be confined and has directed that he be released on licence at this time. This decision is binding on the Department of Justice.

5. In reaching its decision, the Panel took into consideration all of the documents before it, the oral evidence of the prisoner and witnesses and submissions on behalf of the prisoner.

Test

41. Article 6(4) (b) of the Life Sentences (Northern Ireland) Order 2001 requires that when a prisoner's case is referred to the Commissioners under Article 6(4) (a) of the Order, the Commissioners shall not direct the release of a prisoner unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.

The Panel are so satisfied and therefore direct that Michael Stone should be **released**.

Reasons

42. This case was initially referred in 2018 but a following the decision of the single Commissioner in November 2018 the process was interrupted as an interested party had taken a judicial review around the issue of the calculation of the prisoner's licence. As it happened the court at first instance found for the applicant and held that the prisoner was not entitled to be considered for release until he had actually served the full length of his tariff in custody. However that decision was recently overruled by the Court of Appeal which delivered its judgement on 20 November 2020 and that the period that the prisoner spent lawfully on licence ought to be included in the relevant part of his sentence. Accordingly the case was referred back to the Parole Commissioners to be determined by the present panel on foot of the original 2018 referral.

¹ Hereinafter called "the prisoner"

43. The full background of the case is set out in previous paragraphs and need not be restated here. However in summary the prisoner was sentenced in 1989 for the infamous Milltown Cemetery murders and three other troubles related murders in respect of which he made a voluntary confession to police. He expressed no remorse and served his sentence in the separated [paramilitary aligned] wing of the prison. The sentencing judge stated that the prisoner was considered to be a “*dangerous and ruthless criminal, willing to offer his services as a killer to loyalist groups throughout Northern Ireland*”.

44. The prisoner was later determined eligible for early release along with hundreds of other prisoners under the Northern Ireland (Sentences) Act 1998. He was duly released on licence under these arrangements on 24 July 2000. Then in November 2006 he was arrested following a further apparently freelance attack on Parliament Buildings at Stormont and was later convicted of two counts of attempted murder and related explosives and firearms offences. He received a further custodial sentence of 16 years of which he would serve 8 years under the sentence remission rules then pertaining². However in any event, as the prisoner’s life licence was subsequently revoked on 06 September 2011 by the Sentence Review Commissioners he remained in custody and has not been released to date, save for some short periods of pre-release testing.

45. On 29 July 2013 the Lord Chief Justice of Northern Ireland determined that the tariff in respect of the life sentence imposed on 03 March 1989 should be 30 years imprisonment.

On 10 September 2013 the Northern Ireland Prison Service calculated that the prisoner’s “*parole referral date*” would be 06 September 2017. By letter dated 20 September 2017 the Prison Service (in effect the Department) made a formal statutory referral of the prisoner’s case to the Parole Commissioners, intimating that the tariff expiry date would be 21 March 2018. It was this position which was recently confirmed by the Court of Appeal.

² This predated the Criminal Justice (NI) Order 2008

46. Therefore the present process concerns the eligibility of the prisoner for release on life licence in respect of his original sentence. When the Court of Appeal considered these issues in the recent appeal from the judicial review, they observed that the provisions of the original early release scheme which the prisoner had the benefit of were of considerable concern to many in the community but they were;

“...unique and extraordinary. They were the outcome of a political process supported by a referendum. They undoubtedly produced a windfall for the prisoners affected”.

47. The Panel is mindful of the extreme gravity of the offences and the number of victims involved in this case and the deeply held sentiments of their grieving relatives. The Panel is also cognizant that the prisoner was afforded the benefit of the “*windfall*” previously referred to and that he was one of only a limited number of individuals who had their new found liberty revoked following significant breaches of the conditions of their licence. It has been recorded in the dossier that the prisoner has long held the view that the Stormont episode was not a genuine attempt at violence, but rather some type of “*performance art*”. However, it is accepted that he had real munitions and intent and the trial judge had no hesitation in rejecting the “*performance art*” defence. It is also clear that although the prisoner has not only served the entire 16 years of the sentence imposed in the custodial setting, his maintaining of the position that the offences were not serious has perhaps represented an element of impediment to his release in previous referrals.

48. The prisoner’s views on the Stormont case was cited as concerning by the Panel in April 2018, and again by the single Commissioner in the present review, combined with the fact that the prisoner expressed a view that these actions had some positive political outcome. As set out in para 16 *ibid.* the previous Panel discussed their entitlement to caution in their approach to this prisoner given the seriousness of his crimes, his calculated breach of a previous licence by reoffending, the lack of offence related work in custody for paramilitaries, and his inability to pursue a more usual pre-release programme “*for reasons of his own safety*”. The 2018 Panel proceeded to indicate that additional testing, and some assurance that his rigid thinking in relation to his Stormont offence has moderated, would potentially go some way towards satisfying a future Panel that risk had reduced sufficiently for his release to be directed.

49. This case has now been referred back to the Commissioners after considerable interlocutory delay and the Panel notes that the prisoner has now fully served his tariff of 30 years³ which in fact expired on 21 March 2018. On our calculation the prisoner is therefore almost 3 years post tariff. It is also clear that the additional sentence which was imposed for the Stormont offences in 2006 has been served in full and is not part of our remit.

50. The prisoner in this case has served the entirety of his sentence in separated wings of the prison estate which are reserved for prisoners serving sentences for terrorist and politically motivated offences. The prisoner has maintained that he was not aligned to any particular group and he has maintained that he has refused welfare assistance from paramilitary prisoners' organisations. It was acknowledged by the previous Panel that he remained in separated conditions largely for his own safety. The present Panel have heard evidence from a variety of sources that there remains a constant threat to the safety of the prisoner. For this reason, he cannot seemingly avail of the normal arrangements for progressing through the staged pre-release testing via Burren House. It was suggested to the Panel that in order to proceed to Burren House the prisoner's security categorization would have to be reclassified as D whereas it currently is A. In any event the prisoner's deteriorating health would preclude him from participation in a working out type scheme.⁴

51. In considering the statutory test for release in the case of a life sentence prisoner the Panel are obliged to apply the statutory test as set out in para 41. *ibid*. It is clear that the role of the Parole Commissioners is limited to the consideration of the test and that the continued protection of the public is paramount. Accordingly the Commissioners have no role in the determination of the retributive or deterrent elements of the sentence for the index offences. Similarly the Panel takes no account of the possible media interest in the case. The test to be applied by the Panel is set out in the judgement in *Re Foden Judicial Review [2013] NIQB 2* that the correct approach regarding the assessment of risk is to apply the statutory test after having considered appropriate licence conditions. For reasons given below, having taken into

³ Including time spent on licence

⁴ See para *infra*.

account the evidence in the dossier, the Panel is satisfied that with the imposition of appropriate licence conditions it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.

52. In consideration of the statutory test the Panel must first consider the issue of the risk of serious harm. This task is made more difficult by the absence of professional assessments in the form of PBNi or psychology reports in cases concerning TRO prisoners. Clearly, given the absence of current risk assessments, the factors informing risk are likely to be static and focussed around the very grave index offences and further offending. Indeed, according to the MARA report received on 13 January 2021 in respect of these proceedings,

“PSNI colleagues have articulated the view that given the nature of the offences for which Mr Stone was convicted and his history of offending (including that whilst released on licence), they believe that he still presents a significant risk of harm to the public”.

This assessment in itself appears to reflect the static nature of the risk factors arising from the gravity of the offending as there is no detailed information to indicate the evidential basis of the assessment. In his summing up, counsel for the prisoner submitted that it was accepted by the NIO that there was no information that the prisoner currently represented any threat to national security and that the MARA assessment was at odds with the stated position of the prisoner Governor who had written in December 2018 that *“The Department’s position in respect of Mr Stone is that we have no reason not to support release”*. The letter referred to was compiled following an extensive series of temporary releases and can be reproduced here for reference:

“RE: A385 – Michael Stone – PCNI hearing – 15.01.19

Dear Sir / Madam,

The Departments position in respect of Mr Stone is that we have no reason not to support release.

Mr Stone has availed of pre-release testing and adhered to all conditions set.

It has not been possible to replicate Burren from a custodial setting. The only option is for Mr Stone to continue on monthly periods of 48 hour UTR’s, which have already proved successful to date.

As Mr Stone is recorded as a TPMO, probation services for Northern Ireland will not be supervising this individual in the community unless he requests specific assistance, and do not engage with him in custody either”.

NIPS psychology services have also confirmed they have nothing to offer this individual. All documents and reports have been supplied to assist you in making your decision”.⁵

53. It was submitted by counsel for the prisoner that this was effectively the position of the Department in 2018 and that there had been no material change since, therefore he was aghast at the content of the MARA report. On enquiry from the Panel chair, counsel for the Department stated that the Governor did not speak for the Department but that the letter suggested there was no reason why release was not supported at that stage as he had been compliant in prison. It was reiterated that the Department’s present position in opposing release is informed by the MARA report. However there was no evidence from any source that there had been any adverse material change to the risk presented since 2018 other than the passage of time since the last Panel decision.

54. The Governor’s letter is also informative about the lack of input from PBNI in cases involving TRO prisoners. Notwithstanding that this appears to be the accepted position, the Panel notes that the MARA report now states:

“PBNI’s role within the arrangements is in respect of resettlement and social welfare. PBNI have noted that Mr Stone has refused offers of contact with probation whilst in prison they are therefore not in a position to comment on risk”.

Thus PBNI are unable to comment on risk due to their restricted role with TROs. There are, as far as the Panel is aware, no interventions offered to deal with terrorist related offending, and the prisoner stated that none had been offered. It would thus seem incongruous to oppose release just on the basis that there has been no contact when there is no prospect of any interventions in the future custodial setting for TROs.

55. Following the oral hearing the Department made an application to submit an update from PSNI. This update dated 14 January 2021 refers to the HM Prison and Probation Service: - Risk of serious Harm Guidance 2020 and states that:

⁵ Dossier :Page 9(c)(1)

“The criminal Justice system has defined risk as: - The risk of serious harm: - the probability that a further offence will be one of “serious harm”

Police believe Mr Stone still meets this threshold and presents a significant risk of “serious harm” to the public”.

56. The Panel admitted the additional report which appears to qualify the MARA report by the addition of the words “*serious*” harm. However as with the MARA report the update gives no further information whatsoever on the basis of the assessment. In any event the Panel in considering this case concludes that the prisoner does continue to represent a risk of *serious harm* to the public. This is based on an objective assessment of the index offences comprising 6 murders and the very serious offending in 2006 which resulted in the revocation of the prisoner’s life licence in this case. There is no PBNi or psychology assessment and therefore the Panel must reach its conclusions based on the entirety of the information in the dossier and the evidence presented to the oral hearing. The fact that the prisoner had no remorse for the offending is well canvassed in the dossier, and was clearly a factor in the lengthy tariff imposed.

57. The Panel has heard directly from the prisoner that he now accepts that he broke the law and that he is a mass murderer. He said he will have to live with the consequences of this. On the basis of all available information it is impossible for the Panel to assess this recent expression of remorse for its genuineness, but it does at least represent a movement in position on the part of the prisoner. In any event, based on careful consideration of all the available evidence the Panel have reached the conclusion that the prisoner continues to represent a risk of serious harm as based on the past history he has clearly demonstrated a capacity for inflicting serious harm [within the legal definition], when he had decided to take that course. This is also amplified by the deliberate breaches of licence by re-involving himself in violent paramilitary type activity at Stormont in 2006. Whilst the MARA report states that the prisoner is considered a significant risk of harm, the supplementary PSNI report affirms the PSNI view that the prisoner remains assessed as a significant risk of *serious* harm. However in reaching its determination on the statutory test, the Panel is satisfied on a balance of probabilities that the prisoner continues to represent a risk of serious harm, at this point in time, albeit the level of risk appears to be declining.

58. This brings us to the second limb of the statutory test; whether the risk of serious harm can be safely managed in the community with the addition of appropriate licence conditions. In considering the risk the Panel has taken into account the length of time the prisoner has spent in custody and his behaviour in the prison setting. The prisoner has been in custody for a total of 27 years, and has completed his tariff around three years ago. There have been virtually no disciplinary or security issues in the custodial setting and there are no indicators of addictions, violent activity or ideation, or mental illness. The prisoner has apparently made constructive use of his time in developing his art and has produced a large number of works. He told the Panel that his work has attracted some commercial interest and that he would pursue this if he was released. It is common case that no offence specific or risk reduction programmes were ever offered to the prisoner nor are they available for TRO prisoners in any event.

59. The relevant index offending and the Stormont offences were evidently of a paramilitary nature and the prisoner has served his sentence in the segregated conditions associated with paramilitary prisoners. According to a security report dated 20 July 2018 prisoners are only accepted for separated conditions if they meet all the relevant NIPS criteria, including that the prisoner is a member or supporter of a proscribed organisation involved in the affairs of Northern Ireland. According to the report, the prisoner was considered to have fully met this criteria, although it is stated that in his case this was based on “*confidential information*”.⁶ However he has given evidence that he remained in the separated wings for his own safety as his life would be at risk in the general prison population. Furthermore in an updated Security Report dated 14 June 2019 it is stated as follows:

“No further information is held to indicate that he is a “high profile member of a loyalist paramilitary organisation.”

60. This issue was considered by the single Commissioner in his decision dated 17 November 2018 when he referred to the Security Report dated 20 July 2018 which recorded that the prisoner “does remain a high profile member of a loyalist paramilitary

⁶ Dossier: 7J:8

organisation.” However he went on to clarify that a letter from the NIO dated 01 August 2018 stated that the PSNI has confirmed that it does not hold any information indicating that the prisoner is involved in terrorism or linked to a terrorist organisation. It is noteworthy that the 2019 Security Report concludes with the following clarification:

“The previous report was entered in error however in the prison environment Mr. Stone does remain high profile and the separated conditions he is managed under are fully justified.”

In his decision the single Commissioner accepted that the information had been erroneous and that he accepted the submissions on behalf of the prisoner that he was not a member or supporter of any such group. In addition the prisoner reiterated in his evidence that he always sought a low profile, declining any financial assistance from prisoner’s welfare groups and refusing any offer of political lobbying on his behalf outside the prison. The present Panel has no reason to doubt these assertions.

61. It is also significant that the NIO are presenting no evidence that the prisoner is involved in terrorism or that he represents any threat to public safety or security in the UK. In a letter dated 8 December 2020 the NIO stated as follows:

“LIFE SENTENCE PRISONER – MICHAEL STONE A385

I refer to the above named prisoner.

The PSNI has confirmed that it does not hold any information indicating Michael Stone is involved in terrorism or linked to a terrorist organisation. Or any other information which if disclosed would be damaging to national security (this could include information obtained by the use of sensitive sources or techniques, if its disclosure would be damaging to national security), and which we assess might have a bearing on the question of whether Michael Stone’s release could threaten the public with serious harm.

The Secretary of State will therefore not be submitting any material to the Parole Commissioners in relation to this case.”

Indeed the position adopted by the NIO in its letter of 8 December 2020, is fully consistent with its position expressed previously (letters of 9 April 2015, 3 October 2017, and 1 August 2018).

62. Accordingly there is currently no evidence before the Panel that the prisoner would be likely to become re-involved in paramilitary activity if he was released into the community at this point. This report does seem to be at variance with the updated PSNI assessment and the MARA report presented for this review although neither assessment refers to prospective paramilitary offences in their assessment of risk, nor provides any evidence of likely future involvement.

63. However there are several relevant issues raised in the decision of the previous reviews which need to be considered at this point. It was of concern to the previous reviews that the prisoner had adhered to the indefensible position that his offending in 2006 was not really serious violence. The Panel which considered the case 2018 was surprised that the prisoner had maintained this ridiculous stance and were of the view that the Commissioners can only be so satisfied that the test for release has been met; *"...after further testing and supervision in the community has been completed and Mr. Stone is able to evidence a change in his attitude towards his past offending behaviour and his future risk"*.

Dealing with the latter point, it is now clear from the evidence of the prisoner at the oral hearing, [whether based on robust legal advice or otherwise], that he is now accepting that this offending was serious and wrong and that he has had to live with the consequences. He was also of the view that after the Stormont incident he lost all credibility with loyalist paramilitaries. Given that he has served the entire 16 years in custody this issue should have been rendered academic a long time ago and the Panel notes that the prisoner has at least belatedly articulated a more pragmatic view of the events of 2006.

64. The second area of concern for the previous Panel and repeated by the single Commissioner was the desirability of further pre-release testing and progression through Burren House and staged release into the community. According to the minutes of the case conference on 19 September 2018 the PCNI recommendations were considered regarding replicating the Burren House process from the prison for the prisoner. It is recorded that the emphasis in Burren House is to find work and for work placements to occur. It also states that:

“Mr. Stone’s health does not permit him to consider work placements. Burren house cannot be replicated without this key component, however, pre-release testing will continue, and Mr Stone will be eligible to apply for Christmas Home Leave”.

65. In a separate letter dated 21 December 2018 the Governor also addresses the previous PCNI recommendation regarding progress to Burren House:

“In relation the PCNI recommendation to replicate Burren House this has not been possible from custody. Burren is a working out unit; the emphasis is on individuals attending work placements and or training courses to assist them in attaining work placements. Mr Stone’s poor health does not permit him to avail or consider such placements and Burren cannot be replicated from custody without this key component. As mentioned in our direction for release, the only option for NIPS is to continue with Mr Stone’s monthly 48hr periods of UTR on an indefinite basis”.

66. The same letter sets out in detail the number and nature of temporary releases as follows:

“ATR/ UTR’s

09.01.18; 14.02.18; 12.03.18; 18.04.18; 23.05.18; 31.05.18; 25.06.18

Progressed to 24hr UTR’s

9.07.18 – 10.07.18

9.08.18 – 10.08.18

03.09.18 – 04.09.18

Progressed to 48 hr UTR’s

10.10.18 – 12.10.18

05.11.18 - .7.11.18

03.12.18 – 05.12.18

The letter goes on to state that:

“In addition Mr Stone has been granted Xmas home leave from 24th December to 2nd January 2019

A case conference was held yesterday, 20th December, of which I chaired, and I have agreed to a further period of 48 hour release in January if his Xmas home leave is successful, and prior to his PCNI hearing set for 15th January 2019.”

67. The January hearing did not take place, due to the legal challenge.⁷ It does appear from the evidence that pre-release testing was stopped in 2019 following the judicial review and there has been none since. In the ordinary course of events, eligible life sentence prisoners who are post tariff are expected to progress through several stages of pre-release before being granted their life licence. Stage one comprises ATR's and UTR's; stage two progresses to overnight 48 hour periods and then there is a progression to the working-out unit, in which prisoners work in the community and return to the supervision at Burren House in the evenings. It is evident that the prisoner was progressing very well without any breaches in the first phases of pre-release testing before the legal challenge and in fact it is apparent that he availed of temporary releases, without any problems or adverse incidents during every month of 2018. It is also clear that, due to a combination of his declining health and the systemic security issues for this type of prisoner, he was never going to be able to progress to Burren House or any equivalent to phase three testing in any event. In the words of the Governor in his letter of 21 December 2018, *ibid*;

“The only option for NIPS is to continue with Mr Stone’s monthly 48 hr periods of UTR on an indefinite basis”.

68. Therefore it is clear that the prisoner in this case was on a progressive trajectory towards release which would in all likelihood circumvent the standard phase three Burren House elements of the process. Indeed the Panel chair in 2018 remarked that he expected that the prisoner would be spending more time in the community than in prison by the time of the next review. All of the relevant releases were to the prisoner’s wife’s home and it was never contemplated that pre-release testing would involve accommodation in a hostel or other approved accommodation. Counsel for the prisoner submitted to the Panel that given the progress on temporary release, the prisoner would probably have been released before this stage, but for the judicial review. The Panel do not resile from this proposition, given the ample evidence of sustained and successful pre-release testing over 2018 and which was planned for 2019. It is clear from the notes of the case conference⁸ and the Governor’s letter that Burren House would not be an option in this case. Moreover if the present Panel had

⁷ McGuinness No.2 [2019] NIQB 10

⁸ 19th September 2019

possibility of a deterioration in his mobility and capacity is a protective factor in any case and the Panel have taken this evidence into account in considering whether the prisoner can be safely managed in the community if he was released.

71. It is uncontested that the prisoner has been in custody for over 27 years and during this time he has attracted only one minor adjudication which was discussed elsewhere in this decision. Although there is no Probation report there is nothing in the dossier to suggest that there are any underlying issues around addictions to alcohol or substances that would represent any of the typical risk factors for the deterioration of behaviour or compliance whilst on licence. The Panel has heard the submissions from counsel about the prisoner's behaviour in prison and it is clear that there have really been no adverse issues at any stage throughout the sentence. The fact that the prisoner has been compliant with his sentence for so long [with the only exception being the lockup incident] has added credibility to the argument that he would comply with licence conditions if released.

72 .Due to the nature of the offences and the fact that the prisoner has remained in separated conditions in prison there is no psychology assessment available, although it appears that the prisoner would not have consented to or co-operated with such an assessment as outlined in previous PCNI decisions. The Panel believe that such an assessment may have been helpful, but nonetheless, there is no evidence that the prisoner is suffering from any underlying mental illness or psychotic condition which would be relevant to the risk of further offending in this case. According to the healthcare report which confirmed the physical diagnosis, there is no record of any referral or assessment to Mental Health or psychiatric services during the present sentence. The prisoner gave evidence to the Panel and previous Panels in a logical and coherent way and he presented as someone who had a clear insight into his offending and the process in which he was now involved. In any event the Governor's letter clarifies that "*NIPS psychology services have also confirmed they have nothing to offer this individual.*"

73. In considering the application of the statutory test as set out in the Foden case, the Commissioners are obliged to consider whether the prisoner can be safely managed in the community with the application of appropriate licence conditions. Any

prisoner who is released on licence will be subject to the standard licence conditions together with such additional conditions as are considered appropriate and proportionate in any given case. However the prisoner has been notified in this case that he is classified as a TRO.⁹ The background to this was that on 8 September 2020, the Minister of Justice published new guidance under Article 50 of the Criminal Justice (Northern Ireland) Order 2008. This guidance gave effect to new Multi-Agency Review Arrangements (MARA) which have been established to manage the risks posed to the public by Terrorist-Related Offenders, and to support their rehabilitation. The organisations represented in the arrangements are: - the Department of Justice; Northern Ireland Prison Service (NIPS); Probation Board for Northern Ireland (PBNI); and Police Service of Northern Ireland (PSNI). These organisations have a statutory duty to give effect to the guidance in exercising their functions to contribute to the effective assessment and management of risks posed by terrorist-related offenders. Following commencement of the MARA arrangements, the prisoner was written to confirm his classification as a Terrorist-Related Offender (TRO) and was provided with a copy of the guidance.

74. Whilst the MARA report of 14 January 2021 indicates that the partners are not supportive of release, the report concludes that *“should the Panel determine that Mr Stone is suitable for re-release on licence, in line the Article 50 guidance MARA partners have identified that licence conditions are required to support his effective management in the community. These conditions are outlined overleaf at Annex A.”*

The Panel has carefully reviewed the recommended licence conditions which it considers both appropriate and proportionate in this case. Moreover the Panel has considered the impact of these bespoke licence conditions when combined with the series of protective factors as outlined in preceding paragraphs. In summary these include:

1. The successful previous temporary releases;
2. His positive behaviour record in prison.
3. The age and failing health of the prisoner;
4. His reduced mobility;
5. His prospective domestic relationship and accommodation;

⁹ Terrorist-Related Offender

6. His expressed rejection of criminal and activity and violent activities;
7. His expression of the unacceptability of taking life;
8. His recognition of the “outlandishness” of his previous stance with regard to the Stormont 2006 attack and acceptance it was unlawful and he deserved to be punished;
9. His disassociation from terrorist organisations; and,
10. His expressed commitment to licence conditions;

Summary

75. Taking all the aforementioned evidence into consideration the Panel is satisfied that the prisoner remains a risk of serious harm given the gravity of his offending and his previous capacity for murder and violence. However according to the statutory test the Parole Commissioners shall not direct release unless they are satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined. Having carefully considered all the evidence and submissions, the Panel is now satisfied, on a balance of probabilities, that the risk can be safely managed with the imposition of a series of robust licence conditions, including the conditions recommended in Annex A of the MARA report. Accordingly the Panel has determined that the statutory test for release has been met. Given the background to this case, the number of victims, the media interest and the potential risks to the prisoner the Panel acknowledge that a comprehensive level of oversight will of necessity be applied in this case. Indeed the Panel will expect that its decision will be carefully considered and that those tasked with monitoring the prisoner will do so with the professionalism and level of diligence which would be appropriate to a prisoner with a history of convictions such as the index offences. This should be continued as long as is considered necessary and proportionate for the protection of the public from serious harm.

76. The Panel has referred to the fact that when released, the prisoner will then be subject to the MARA licence regime and that this will provide a substantive layer of supervision and protection for the public in this case. These organisations have a statutory duty to give effect to the guidance in exercising their functions to contribute to the effective assessment and management of risks posed by terrorist-related offenders. Accordingly the Panel will proceed on the basis that we will include the standard licence conditions along with additional MARA conditions which are

recommended in in this particular case. For his part the prisoner should be left in no doubt about the level of monitoring he will be subject to and he must be ever mindful that the authorities have the powers to recall him to custody should the risk become unmanageable due to his lack of commitment compliance or otherwise. Finally the Panel are mindful of the registered victims in this case and would request that any information will be communicated with the requisite sensitivity and discretion.

77. Indeed the Panel have taken note of the victim representations contained within the dossier. The Panel is thus recommending that a licence condition is included prohibiting contact with the victim's family, nor encouraging others to do so. The Panel notes the representations regarding the prisoner not being able to leave Northern Ireland but note that this falls within the remit of the newly established Multi Agency Review Arrangements (MARA). Their role includes considering applications from TROs to travel and to reside outside of NI and it will be for them to determine these matters. A licence condition referring such requests to MARA is included.

Recommendations.

The Panel recommends that the following licence conditions be imposed on Michael Stone. The MARA partners may seek to request further conditions or amend the foregoing conditions as they deem necessary.

On your release you must report to the probation officer or PSNI station as so nominated at the time and place designated.

You Must:

- Keep in touch with the probation officer as instructed by the probation officer;
- Receive visits from the probation officer as instructed by the probation officer;
- Permanently reside at an address approved by the probation officer and obtain the prior permission of the probation officer for any change of address;
- Undertake such work, including voluntary work, as approved by the probation officer, and obtain the prior permission of the probation officer for any proposed change;
- Not travel outside the United Kingdom, the Channel Islands or the Isle of Man without the prior permission of the probation officer, except where you are deported or removed from the United Kingdom in accordance with the Immigration Act 1971 or the Immigration and Asylum Act 1999;

You must not:

Behave in a way which undermines the purposes of the release on licence, which are to protect the public, prevent re-offending and the rehabilitation of the offender;

Commit any offence.

Additional licence conditions

Where, as a consequence of the additional conditions set out below, more than one organisation is engaged in an approval role, the necessary approval must be sought by submitting an application to Multi-Agency Review Arrangements (MARA) at MARA@licencesupervision.org.uk

Pursuant to Rule 3 (2) (a)

You shall permanently reside at **[INSERT APPROVED ADDRESS]** and obtain the prior permission of the Police Service of Northern Ireland (PSNI) for any change of address (either permanent or temporary). All applications to change address must be submitted to MARA@licencesupervision.org.uk at least 30 days in advance of any proposed change or absence¹. *This condition will be monitored by PSNI.*

Pursuant to Rule 3 (2) (d)

You must not engage in any paramilitary activities nor participate in any organisation that supports, directs, authorises or controls such activities. You shall not engage in any conduct in support of terrorism including making public statements to that effect, nor encourage others to do so

This condition will be monitored by PSNI.

Pursuant to Rule [3] (2) (c)

You must not seek to approach or communicate with any of the families of the victims of your crimes nor encourage any others to do so.

This condition will be the subject of monitoring by PSNI.

Pursuant to Rule [3] (2) (d)

You may only use one mobile phone, which may have internet access. The make, model, IMEI number, telephone number and access code of this phone must be provided to the PSNI. You may not use any other internet enabled communications device. Use of the device is subject to the following conditions: The internet search history and any communications held on internet based applications must not be deleted on your specified device. Any application that has automated deletion functionality must not have this setting activated.

You must provide the device to the PSNI upon request and provide any PIN or lock code for the purposes of examination/download.

The device must not be solely accessible by fingerprint or facial recognition technology.

Location settings must remain enabled on the device at all times.

In respect of the single mobile phone which you elect to use, the details of the make, model, IMEI number, telephone number and PIN number should be communicated in writing to:

Multi-Agency Review Arrangements (MARA) via email to:

MARA@licencesupervision.org.uk

You must also include in this correspondence the number of the existing landline at your approved address. This information should be communicated within seven days from the date of your release.

This condition will be the subject of monitoring by PSNI.

Pursuant to Rule [3] (2) (d)

You must attend all appointments with the PSNI, as instructed by the PSNI.

This condition will be the subject of monitoring by PSNI.

Pursuant to Rule [3] (2) (f)

You must confine yourself to the address – **[INSERT APPROVED ADDRESS]** – between the hours of 10.00pm and 7.00am unless otherwise authorised by the PSNI for a period of 120 days; and thereafter for as long as deemed necessary by the PSNI.

Pursuant to Rule [3] (2) (g)

You must return to your approved address each evening on or before 10.00pm and not go outside the walls of the building at the curfew address in which the electronic

monitoring unit is installed before 7.00am in the morning and during these hours be subject to electronic monitoring for a period of 120 days; and thereafter for as long as deemed necessary.

Pursuant to Rule 3 (2) (h)

You shall not leave Northern Ireland without the prior permission of the Police Service of Northern Ireland (PSNI). All applications to travel must be submitted to MARA@licencesupervision.org.uk at least 7 days in advance of any proposed travel outside of Northern Ireland¹⁰.

This condition will be monitored by PSNI.

¹⁰ Please refer to MARA –APPLICATIONS TO TRAVEL - POLICY AND GUIDANCE