



Northern Ireland Affairs Committee

Oral evidence: [Administrative scheme for 'on-the-runs'](#), HC 1194

Wednesday 2 April 2014

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Members present: Mr Laurence Robertson (Chair); Mr Joe Benton; Oliver Colvile; Mr Stephen Hepburn; Lady Hermon; Kate Hoey; Naomi Long; Jack Lopresti; Dr Alasdair McDonnell; Nigel Mills; Ian Paisley; Andrew Percy; David Simpson.

Questions 1-243

Witness: **Norman Baxter QPM**, former Detective Chief Superintendent, RUC GC/PSNI, gave evidence.

Q1 Chair: Mr Baxter, you are very welcome. Thank you very much for joining us. We are at the very beginning of our inquiry into the background to what has become known as the administrative scheme for on-the-runs, so you have either the honour or the disadvantage of being our first witness, but thank you very much for joining us. We have a number of areas we want to explore and a number of questions we want to ask, but it was agreed that I should kick off with a question that is trying to determine exactly what we are looking at. The term “on-the-runs” really seems to be at the centre of the whole thing. Can you tell us what we are to understand by the term “on-the-runs”?

Norman Baxter: Thank you, Mr Chairman, for the invitation to come before your Committee this afternoon. I would like to put it on the record that this Committee is the first body that has approached either me or other members of the police to explain the process that went on within Operation Rapid, and it is a very good opportunity for me to explain what has been in the public domain for some time.

In respect of on-the-runs, in late 2006 or early 2007, I was first introduced to the issue of people who had voluntarily exiled themselves from the jurisdiction of the United Kingdom, commonly now known as on-the-runs, and this was part of an internal police service discussion and requirement, following meetings at a senior level between Government officials and my Assistant Chief Constable and the Chief Constable. Part of my role as head of the Serious Crime Branch was to review individuals who had been identified as being on the run. The on-the-runs were, by and large, a list of people supplied intermittently to the Assistant Chief Constable's Office who believed they were wanted for or suspected of offences within Northern Ireland. Some of those people were unknown to the police; some of them were actually living in the jurisdiction of the United Kingdom, or in Northern Ireland, and clearly not exiled from Northern Ireland. Others were persons who had been circulated as wanted, and who, following a review of evidence and intelligence to the standard of 2007 following the Human Rights Act, were deemed to be no

longer wanted, and then there was a final body of people who were still deemed by the PSNI to be wanted. That is the collective group of who the on-the-runs were.

Q2 Kate Hoey: When we talk about on-the-runs, does that also include people who escaped from prisons?

Norman Baxter: That is correct. A number of people on the list had either not returned following bail, or had escaped.

Q3 Kate Hoey: So you would not be called an “on-the-run” unless you were running away from something.

Norman Baxter: I like to use the term that they “had voluntarily exiled themselves,” because some of them were not wanted by the police. Some of them had, for whatever reason, formed the view that they were wanted.

Q4 Chair: Could I just explore this a little bit further? Circumstances are different in Northern Ireland. Is there then a separate category of people who are called “on-the-runs”, and if so, why is there a separate category of people? There would not be in England, for example.

Norman Baxter: There is no category within the police systems known as “on-the-runs”. There are people who are circulated as wanted by the police. The reason that these people are termed “on-the-runs”, or treated as such within Operation Rapid, was that they had been identified to the British Government or the Chief Constable as people whom the Chief Constable was required to check if they were still wanted.

Q5 Lady Hermon: Who had identified them to the Chief Constable?

Norman Baxter: My understanding was that a solicitor, Mr McGrory, was writing to the Chief Constable. I now find out from the judgment that that was not the case; that names were being supplied by the Northern Ireland Office to the Chief Constable.

Q6 Chair: So it was coming from the Northern Ireland Office to the Chief Constable, but not from a political party, whichever that may be, to the Chief Constable?

Norman Baxter: From Justice Sweeney’s judgment,¹ it appears that Sinn Féin were providing names to the Northern Ireland Office, who were passing them to the Chief Constable.

Q7 Lady Hermon: Until you read the Downey judgment, had you believed otherwise?

Norman Baxter: I believed that the requirement was coming from letters from Mr McGrory, representing his clients.

Q8 Lady Hermon: Was Mr McGrory, at that stage, representing, or did he hold himself out to be representing, all OTRs?

Norman Baxter: I never met Mr McGrory, although Mr Sheridan did. I cannot answer that question.

Lady Hermon: We will keep that one for Mr Sheridan, then.

¹ A link to “The Queen -v- John Anthony Downey, Judgment: Abuse of Process”, Justice Sweeney, 21 February 2014 can be found here: <http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Judgments/r-v-downey-abuse-judgment.pdf>

Chair: We are at the very beginning and we have a lot of questions. If Members could catch my eye, please, we will try to keep some semblance of order.

Q9 Naomi Long: Could I just pursue that point a little further with you? First of all, you submitted on paper a document to the Committee to help us understand the background². Are you happy for me to refer to that document in questioning?

Norman Baxter: I am indeed.

Q10 Naomi Long: On page 2, in the first paragraph, you said that in Serious Crime Branch, it was your delegated responsibility to review those wanted for serious crime, and to ensure the persons circulated as wanted persons were indeed persons against whom the police have intelligence of sufficient gravamen to keep them on that list.

Norman Baxter: That is correct.

Naomi Long: Is that something that was done routinely for everyone who fell into that category, or was Operation Rapid purely dealing with those who were brought to your attention, seeking clarification? That is my first question.

Norman Baxter: We have a statutory responsibility to ensure that we investigate crime efficiently and effectively. Part of that is to constantly review wanted persons, and there is an ongoing review of wanted persons conducted with PSNI. The reason that that is in that paragraph is because I wanted to make quite clear that in doing this, I was doing it as part of the normal policing role, although the only difference was that these names were raised independently of the normal internal PSNI reviews that are frequently carried out.

Q11 Naomi Long: If this is part of the normal role, would you routinely contact people who are on that list to tell them they have been taken off that list?

Norman Baxter: No.

Q12 Naomi Long: Would you normally refer those individuals to someone else, in order for them to tell them that?

Norman Baxter: No.

Q13 Naomi Long: So this was not routine, in the sense that these particular individuals who were brought to the Chief Constable—and you were then asked to do this assessment as part of Operation Rapid—were receiving information that routinely would not have been made known to other people who were removed from the wanted list.

Norman Baxter: I did struggle with that at the time. My understanding from legal advice is that under Article 3,³ a citizen is entitled to know if the state wants them for any offence if they request this from the state. Therefore, when a request was made by these individuals, we were led to believe that it was our statutory responsibility to respond in some form.

² A link to the Operation Rapid terms of reference can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Operation-Rapid-Terms-of-Reference.pdf>

³ A link to the *European Convention on Human Rights* can be found here:

http://www.echr.coe.int/documents/convention_eng.pdf

Q14 Naomi Long: Further to that, when people were referred, it has already been referenced by Kate Hoey that some of these people had escaped from custody, either through not returning if they were released on bail, or through escaping from the prison system. Are you aware that anyone in that category would have received a letter to say they were no longer wanted, given that you are either in custody or not in custody, and if you have been in custody and have evaded custody, you are clearly in breach?

Norman Baxter: I would like to state at this point that the police did not send any letters.

Naomi Long: No, I understand that.

Norman Baxter: Most certainly, anyone who we identified as on the run was not recommended not to be circulated. They remained circulated.

Q15 Naomi Long: So that category of individual would not have been people who you would have been removing from your list of wanted persons as part of Operation Rapid.

Norman Baxter: Absolutely not.

Naomi Long: Thank you.

Q16 Ian Paisley: Thank you, Mr Baxter. It is good to see you in front of the Committee; you are very welcome.

Norman Baxter: Thank you.

Ian Paisley: Can I ask you a couple of questions? You said something very, very interesting in your opening remark: you said that this was the first opportunity that you had had to actually speak publicly, or to give evidence, about this case.

Norman Baxter: That is correct.

Ian Paisley: You will know that the Downey case was adjourned in December, so that the prosecution could get additional evidence. Are you telling us that the prosecution did not come to you or speak to you; that they did not seek additional evidence from you or clarification from you? Were you given any access to the material that the prosecution held, so that you could be of assistance in the process of law?

Norman Baxter: The answer to that is a quite clear “no”. I did receive a phone call from an Inspector Corrigan, who was doing some disclosure work for the prosecution in London in relation to documents. He clearly relayed those conversations back, because some of them are in the judgment. I did offer to Inspector Corrigan that I would willingly attend to give evidence, to explain the decisions—particularly around the John Downey case—but I never received any such request.

Q17 Ian Paisley: So apart from that one telephone call, the prosecution did not bother coming to the expert on this case? You have been in prosecution cases yourself many times in your experience as a police officer. Did you find that bizarre?

Norman Baxter: I was quite surprised, particularly if you look at paragraph 10 of the judgment, where Mr Justice Sweeney adjourned the hearing to enable investigations to be conducted. I have to say at this stage, Mr Chairman—and I want to be careful what I say here—I do not believe the investigations were conducted thoroughly, because clearly, in the disclosure process,

documents from the Government, and in particular the Attorney General's Office, were not submitted to Mr Justice Sweeney.

In particular, I would refer to a meeting that took place on 9 June 2006.⁴ If I could be given the opportunity to refer to it, at that meeting between representatives of the PSNI, the Home Office and the Attorney General's Office, a discussion occurred around who would look at people who committed offences in England or outside the Northern Ireland jurisdiction. It was very interesting that a lady, Mrs *Pettifer*[14.41.18], who represented the Home Office said that it would not be appropriate for the Home Office to ask the Metropolitan Police if anyone was wanted. I happen to agree with that. The PSNI at that meeting was concerned with their role in asking the Metropolitan Police, but most importantly, Mr McGinty said that the duty to check in England would fall to the Attorney General's Office, and action 4 of that meeting was that Mr McGinty was to confirm with the Metropolitan Police if individuals were wanted, why they were wanted, and what evidence exists in relation to this incident.

There is a legal basis for that. The PSNI operate under the Police Act 2000, which is a sole jurisdiction of Northern Ireland. I am sure you have read in the judgment questions as to why I did not refer to Mr Downey being wanted for the Hyde Park bombing, and I want to make quite clear that was not a mistake; it was not a "catastrophic mistake", but it was a legal requirement. I had no jurisdiction to pass information about a person wanted in another jurisdiction to that individual. Indeed, to do so would be prejudicing the investigation; it would be perverting the course of justice. Therefore, in those discussions in 2006, the Attorney General—who was the Attorney General for Northern Ireland and England—recognised that it was their responsibility to check offences in the mainland.

Q18 Ian Paisley: So you are saying, Mr Baxter, that there was a failure of the prosecution to do its job in the Downey case.

Norman Baxter: What I am saying is that it was a failure on two fronts. First of all, the Attorney General gave an undertaking at the 9 June 2006 meeting that they would check if people were wanted in England. Secondly, a police officer in Northern Ireland could not give details about an offender in another jurisdiction. Who would I be to pass on details to a suspect that they are wanted in another jurisdiction?

Q19 Ian Paisley: Do you think, if you had been able to provide that evidence to the judge in the case, it may have turned a different way?

Norman Baxter: I think it was very important for the judge to understand that the PSNI were working within the legislation. For me to send a letter to Mr Downey saying that he was wanted in London would not only have been unlawful, but would have been betraying the victims at Hyde Park.

Q20 Ian Paisley: When did you first learn that the Northern Ireland Office, or Mr Jonathan Powell, or other people were actually sending letters to—let me use the word—"fugitives"?

Norman Baxter: On the date that the judgment was made public.

Q21 Ian Paisley: That was the first time that you actually learned that there was this process that resulted in a letter being sent.

⁴ The minutes of the OTR meeting on 9 June 2006 can be found here:

[http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-\(flag%2017\).pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-(flag%2017).pdf)

Norman Baxter: Sorry, I will correct my answer. The first time I knew that Mr Downey had a letter from the Northern Ireland Office was the day following his arrest, when a senior member of C2—our Serious Crime branch—contacted me to query the origin of this letter, because the Metropolitan Police had contacted them out of bewilderment as to where it came from. In relation to an ongoing process, an administrative scheme, the first time I was aware of that was the day the judgment was published.

Q22 Ian Paisley: So you, as probably the second most senior officer involved in this, only became aware that letters were going from the executive branch of Government to fugitives during the judgment, and during that process of the trial. If that is the case, you can understand why I as a politician, other politicians, and the general public are so outraged that, if it was a secret to you at that level, it must have been a huge secret to the rest of us.

Norman Baxter: I would go further than that, Mr Paisley, and say that not only was it secret, but it was not constitutional for the Northern Ireland Office to be receiving material from the Attorney General, who is the independent law officer of the state, and be sending letters warning suspects that they were wanted in the United Kingdom.

Q23 Ian Paisley: Can I turn to the information that you did send? Mr Downey—setting aside the atrocity of Hyde Park—has his fingerprints all over the murder of two gallant UDR soldiers in Enniskillen, and all over the massacre of the Enniskillen bombing. Why was it the case, in your view, that material did not come from the police to say that he actually was wanted?

Norman Baxter: I am not sure, in terms of the Poppy Day bombing, that there is any evidence to link Mr Downey to it, but I am aware that a fingerprint that is alleged to be from Mr Downey was identified on a tape from the murder of the two UDR officers. At the time of the review, that fingerprint could not be found in Fingerprint Branch. Op Rapid took steps to notify HET, the Historical Enquiries Team, whose responsibility it was to investigate historic murders, and subsequent to that, I understand that fingerprints were found in 2008.

The document I forwarded you for your information indicates that, to have reasonable grounds to arrest, there must be evidence that is real and in existence at the time of the arrest. My report to Mr Sheridan was drafted, I think, on 10 May.⁵ That did not exist, so therefore on that day, Mr Downey could not have been arrested for that offence. However, subsequently to that, when the fingerprint was found, the power of arrest on reasonable grounds—

Q24 Ian Paisley: How much later, just in terms of sequence?

Norman Baxter: I understand it was discovered within a year. I have not seen the files; I am going by an email that I have just seen today, indicating it was discovered in spring 2008.

Q25 Chair: Could I just clarify what you said, Mr Baxter, that the letter sent to Mr Downey did not come from the police in Northern Ireland?

Norman Baxter: No, the police sent no letters out. Our role within the legislation is to communicate with the prosecutors, so therefore, under the European Convention, it should have been the Attorney General who was responding back to a person to tell them that they were not wanted. Therefore, when we carried out our review, I reported to the Assistant Chief Constable, who sent a form of words. In the case of Mr Downey, it was the form of words that I had drafted.

⁵ A link to the report by Norman Baxter to Peter Sheridan dated 10 May 2007 can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Report-by-Norman-Baxter-to-Peter-Sheridan-10-May-2007%20.pdf>

That went to the Director of Public Prosecutions, who sent the letter to the Attorney General and copied that letter to Mr Sheridan. I have seen a copy of it. Following that, the Attorney General somehow passed that information to the Northern Ireland Office. They then amended the letter, changed it, and added the sentence that he was not wanted by any police force in Northern Ireland.

Q26 Chair: So did it specifically say, “not wanted by any police force in Northern Ireland”.

Norman Baxter: I think it is “any other police force.”

Q27 Chair: They did not speak to the Metropolitan Police, presumably.

Norman Baxter: Presumably not. Mr Chairman, I also find in the judgment that in 2006, the Attorney General had written to Mr Downey advising him that he was wanted in London, which is also very bizarre.

Q28 Chair: That he was wanted in London?

Norman Baxter: Yes, they wrote in 2006. That was a letter that we in the PSNI did not know about.

Chair: Thank you.

Q29 Lady Hermon: Thank you, Mr Baxter. Could I just ask you to clarify what you have just said? It is my understanding that you have told the Committee that the letter that was sent from ACC Sheridan somehow was amended at the Attorney General’s Office, or somewhere else down the line, before it went out to Mr Downey.

Norman Baxter: Yes.

Q30 Lady Hermon: Who do you think amended it?

Norman Baxter: The Northern Ireland Office. I presume it was the Northern Ireland Office.

Lady Hermon: Yes, you presume it was the Northern Ireland Office.

Norman Baxter: I do not understand why the Attorney General was passing his law officers’ role to the Executive.

Q31 Lady Hermon: Just picking up, then, from the reference to the Northern Ireland Office, you will recall that when you last came before this Committee, it was in a completely different context; that was the Omagh inquiry in 2009, and you very kindly came to give us evidence on 11 November 2009.⁶ During your evidence, I was alarmed by the fact that you had suggested that in fact there was tampering with the police at that stage. I asked you to clarify what was meant by “tampering”, and in your reply—I will just read back to you your reply on 11 November 2009—you said, “I can assure the Committee that there was an extremely unhealthy interest by officials in the Northern Ireland Office about prioritising individuals who were on the run and about ensuring that they were cleared to return to the North.” That was what you said. I unfortunately interrupted you at that stage, but would you like to continue to give us more details, in particular about what you meant by an

⁶ A link to the transcript of the oral evidence by Norman Baxter, former Head of the Serious Crime Branch, Police Service of Northern Ireland to the Omagh bomb inquiry of the Northern Ireland Affairs Select Committee on 11 November 2009 can be found here: <http://www.parliament.the-stationery-office.co.uk/pa/cm200910/cmselect/cmniaf/374/374.pdf>

“extremely unhealthy interest by officials in the Northern Ireland Office”? Could you say at what rank these were, or at what level?

Norman Baxter: I have to be very conscious that this is public.

Lady Hermon: Yes, obviously.

Norman Baxter: Many, many people who have been affected in the Troubles are listening, so I will be circumspect in some of what I say here. What I was referring to on that occasion was contact from within the Northern Ireland Office to Mr Sheridan’s staff officer in respect of some quite high-profile Sinn Féin members who were clearly wanted, and had substantial evidence against them.

Q32 Lady Hermon: That was quite separate from on-the-runs, was it?

Norman Baxter: They were on-the-runs.

Q33 Lady Hermon: So these are senior Sinn Féin members who were on the run.

Norman Baxter: Yes.

Q34 Lady Hermon: Outside the jurisdiction of the United Kingdom?

Norman Baxter: Outside the jurisdiction.

Q35 Ian Paisley: Who were they? Can you tell us?

Norman Baxter: Owen Carron and Rita O’Hare are two that come to mind, two people where there is, or was, substantial evidence to support a prosecution, and the messages I was getting from the ACC staff officer were, “Can you not get these people off the list? Can you not find them a way back to the jurisdiction?”

Q36 Lady Hermon: So an ACC staff officer was, you felt, putting pressure on you.

Norman Baxter: No, I had the support of Mr Sheridan. There was no political influence. The calls made absolutely no difference, but the point I was trying to make in the context was that the Northern Ireland Office had crossed the boundary of what was constitutionally correct. They should not be contacting police officers to put them under pressure.

Mr Chairman, I will give you another example, only this was Downing Street on this occasion. Shortly after Operation Rapid was established, we identified two on-the-runs, a Vincent McAnespie and a Gerard McGeough, who were both wanted for the attempted murder of a Mr Brush in Ballygally. They were arrested—I have a note here—on 8 March, sometime around tea-time, and taken to the serious incident room, the crime suite, at Antrim. At 9.10 p.m., I received a phone call from the duty ACC at headquarters that Gerry Adams had telephoned Downing Street demanding their release. Downing Street rang the Chief Constable’s Office, looking for their release, and I got a phone call informing me of the suggestion that I should release them. That in my mind, of course, is attempting to pervert the course of justice, and that was conveyed back to headquarters.

Q37 Ian Paisley: Who made that call?

Norman Baxter: I do not know who the personality in Downing Street was, but as a police officer, that is totally illegal and unconstitutional.

Q38 Kate Hoey: What did you do?

Norman Baxter: We continued interviewing them, and Mr McGeough was subsequently convicted and sentence for attempted murder.

Q39 Kate Hoey: So you ignored the call.

Chair: Order, order. With people interrupting, I do not think we can all hear the answer. Mr Baxter, can you continue the story as you were telling it, please?

Norman Baxter: In answer to that subsidiary question, I ignored the telephone call. Of course, I recorded it, but Mr McGeough was successfully prosecuted. I bring that to the attention of the Committee simply to explain that, in parallel to what we were conducting as ethical and within the law, there was a political process ongoing that was undermining police investigations. I give that one example. There are other examples that, in a public forum, I am not prepared to go into.

Chair: I have a lot of people wanting to get in. I will move it on, and we will come back to everybody as we can.

Q40 David Simpson: You are very welcome, Mr Baxter, and what you have told us thus far has certainly been a revelation to us. It is certainly very interesting. I would like to start off just by asking one simple question—I think maybe you have touched on it—on the confidentiality or the nature of all of this. What is your understanding of the confidential nature of the whole scheme? Who was supposed to know, and who was not supposed to know?

Norman Baxter: It depends what you are speaking about, Mr Simpson. If you are speaking about the operational review of wanted persons, it was quite openly known within the PSNI, and I understand that Mr Sheridan briefed the Chairman and Vice-Chairman of the Policing Board.

David Simpson: Can I just touch on that point? Probably we will wait until Mr Sheridan comes, as regards the Policing Board. We will touch on that when he comes.

Norman Baxter: That is fine. It was common, but if you are speaking about the Northern Ireland Office administrative scheme—

David Simpson: Correct.

Norman Baxter: —then there was absolutely no knowledge within the PSNI.

Q41 David Simpson: No knowledge at all?

Norman Baxter: I have spoken to several people. No one knew the NIO was sending letters.

Q42 Lady Hermon: No one?

David Simpson: No one knew within the PSNI that the NIO were sending these letters out.

Norman Baxter: Yes. I have spoken to the former Chief Constable, and obviously you are going to speak to him. He will have his reply to that.

Q43 David Simpson: The Downey case itself was raised in the debate last week in the House of Commons. You can answer this if you want; if you do not, I will understand. On the case itself, and the letter that was produced to the judge, do you believe the outcome of the case would have been

different had there not been political interference from certain politicians giving evidence to that case that would have maybe swayed the judge?

Norman Baxter: The best way I can answer that is that if Mr Justice Sweeney had received full disclosure, particularly of the minutes of that meeting in 2006, that would have removed this idea of a “catastrophic error”, which there was not. It is quite possible there would have been a different judgment. It is difficult to answer, but certainly he was not in possession of all the facts.

Q44 David Simpson: This is taking into consideration that you had said earlier—I think Ian touched on it—that neither you nor anyone else were called by the courts to get extra evidence. The judge had adjourned it, and you yourself and others were not called in order to give that evidence

Norman Baxter: If you read the judgment and you see the extent of evidence that Mr Hain and Mr Powell were provided the opportunity of giving, I personally felt that there was a deficiency on the prosecution’s side to respond to that and explain. I think it is in one of the latter paragraphs that Mr Justice Sweeney says that there were inexplicable, or unexplained, answers. We were never given the opportunity to explain that we were operating within the legal system in Northern Ireland, within what we were allowed to do, and that we were communicating with law officers, and that, somewhere after that, a political process interjected.

David Simpson: There are others who want to get in, so I will probably come back. Thank you very much.

Q45 Oliver Colvile: Thank you very much indeed for coming to see us. We are very grateful to you for your time. What I am about to ask you may be totally and utterly useless, and you may feel I am an idiot, but there we go. When were you aware that the Northern Ireland Office was receiving names from Sinn Féin? Did you learn that at the time when you were operating, or have you done that subsequently, later on, further down the line?

Norman Baxter: My recollection is that following a meeting with Mr Sheridan in January, I understood that the solicitor was writing in with names. The ACC’s Office were sending names to me, so I assumed they were coming from the solicitor. In fact, my team was briefed—it is in the judgment—that we would be carrying out an investigation to see if they were wanted, to respond to the solicitor. I think, in the judgment, I realised that the names were coming from Gerry Kelly rather than from the solicitor.

Q46 Oliver Colvile: Did you, at any stage, look at the names and think to yourself, “There is something very odd about this, in that these people seem all to come from the Sinn Féin side, or the republican, nationalist side. Why is it that there is nobody from the Loyalist side being looked at in all of this”? Did that ever occur to you?

Norman Baxter: No, it did not, because the issue is, where would the Loyalists be on the run to?

Q47 Oliver Colvile: Do you feel, and did you feel at the time, that you were being played with, and have you subsequently got to the view that you think you were being told only a certain amount of information?

Norman Baxter: I am satisfied that, within the briefing I got, the Government was receiving names and a solicitor was involved. I think that was correct.

Q48 Oliver Colvile: Did you think to yourself at that time that there was a political agenda being played out?

Norman Baxter: I certainly knew that, in the collapse of the legislation, this subject that had emerged was clearly an issue that followed on from that, which was why I was very clear in my mind that there would be no political interference or direction in relation to on-the-runs, or the review of these wanted people. The police is a disciplined organisation. The request came from the Chief Constable, and I had the delegated responsibility and carried it out within the law.

Q49 Oliver Colvile: Did you have a view as to why it was the legislation collapsed?

Norman Baxter: The legislation collapsed because, first of all, I believe it was immoral. It was totally unhelpful to victims. I would pursue terrorists to the ends of the earth to put them in prison. I think, in a democratic society, everybody should be pursuing terrorists and criminals to put them in prison.

Q50 Mr Hepburn: How many cases did you actually review?

Norman Baxter: I think, in my period of time, it was somewhere in the region of 180.

Q51 Mr Hepburn: And how many of those 180 did you clear because there was a lack of evidence to prosecute?

Norman Baxter: I do not have those figures with me. I would say maybe two thirds.

Q52 Mr Hepburn: So, for a third, you deemed that there was still enough evidence to prosecute were they to come back into the realm of the United Kingdom.

Norman Baxter: On the date that the reviews were conducted, but bear in mind that the Historical Enquiries Team was conducting reviews of murders and new evidence may have emerged, which is why there was a caveat put to Mr Sheridan that, should new intelligence or evidence emerge—if continuity is preserved—they are liable to arrest. These were not “get out of jail” cards. These were something that I struggled with in terms of wording, because I did not want to give anyone a piece of paper that would give them any comfort. I know they are called “comfort letters”, but, from my perspective, they were only valuable on the day they were printed. I did not send letters, but my recommendation to Mr Sheridan was only relevant on the day it was made.

Q53 Mr Hepburn: So, when you gave the recommendations, there was not enough evidence to carry out a prosecution. That might come along later on, but there was nothing at that time.

Norman Baxter: Not for a prosecution, but to form reasonable grounds to suspect. If I could refer you to that document, it goes through the various discussions as to why that was.

Q54 Mr Hepburn: Out of those people they actually cleared, how many since then have had new evidence come to light whereby there are grounds for prosecution?

Norman Baxter: I do not know. I retired in 2008.

Q55 Mr Hepburn: I will ask that elsewhere. You said that the PSNI were not aware of any letters going out.

Norman Baxter: They were not aware that the Northern Ireland Office was sending letters. My understanding is that the Attorney General was going to fulfil the Article 3 obligation by writing to people to tell them they were not wanted.

Q56 Mr Hepburn: Would you say that this review that was being conducted was widely known?

Norman Baxter: It was known within the police service.

Q57 Mr Hepburn: But it was not a secret.

Norman Baxter: It is in the Eames-Bradley report.⁷ What was secret was what was going on in parallel with it.

Q58 Mr Hepburn: It just strikes me that there were 200 letters that went out. If these people were multiple killers and everything, and they were released in a population the size of Northern Ireland, say West Yorkshire, there would be public uproar. So what you are saying is that you were quite happy to send these letters out because there was not enough evidence to suggest that they had committed any crimes.

Norman Baxter: We live in a democracy that holds people to be innocent until proven guilty. I am not sure of the point of your question. We, under the arrangement that the Chief Constable made with the Attorney General's Office, reported to the Director of Public Prosecutions whether we felt, at that point in time, there was sufficient intelligence or evidence to form reasonable grounds to arrest, which is a requirement under the Police and Criminal Evidence Order and the 1984 Prevention of Terrorism Act.

Q59 Mr Hepburn: At a later date, after those letters had gone out—which obviously was done by a different agency—if there had been evidence found, those letters would have been null and void. So, basically, the letters were going out saying, “We have got nowt on you at the minute”?

Norman Baxter: You would be right if the process had been followed, but you are wrong because the executive arm of the state—namely, the Government—sent the letters out. I am not a constitutional expert, and I am pleased to see that the Committee has employed the services of constitutional experts, but what happened was that the Government sending out the letter had a totally different legal weight than if the police or the Attorney General had sent the letter out. One is a political promise, and the other is a legal determination.

Q60 Mr Hepburn: Would the conclusion in the letters have been any different if the police had sent them out?

Norman Baxter: There was a different effect, in my view, in the court. Mr Downey would not, in my view, have had the passage out of the trial in London. If you read Mr Justice Sweeney's judgment, it was a political promise that he felt the Government of the United Kingdom should honour. If it had been a law officer's letter, couched in the terms that, if new evidence or intelligence appeared, he would be liable to arrest, we would not be having this discussion today.

Q61 Chair: In your opinion—and I am not going to ask you to name anybody—did anybody receive a letter where you felt there was evidence to at least take the case further?

Norman Baxter: I do not know, because we did not see any letters.

Q62 Chair: You did not know who was being written to.

Norman Baxter: No.

Q63 Nigel Mills: The document you gave us last night⁸, on page 3, has a paragraph 3 at the top that says, “This review will be conducted under terms of confidential reporting, in order to prevent a

⁷ A link to the “Report of the *Consultative Group on the Past*”, 23 January 2009 can be found here: http://cain.ulst.ac.uk/victims/docs/consultative_group/cgp_230109_report.pdf

misinterpretation of the purpose of this review.” Who were you trying to keep it confidential from, and what misinterpretation were you fearing might be drawn?

Norman Baxter: That is an internal classification. The review would be conducted under a confidential heading.

Q64 Nigel Mills: But what misinterpretation did you fear—that we were perhaps engaging in some process that we should not be engaging in?

Norman Baxter: What we were doing was extremely sensitive, and the misinterpretation could be that we were trying to undermine the process of law. To be quite truthful, I am not sure what the ACC meant in those terms of reference.

Q65 Nigel Mills: The irony is that that misinterpretation is now quite widely held, regarding how this process ended up.

Norman Baxter: That is certainly true, but there is also comment—which is quoted in the judgment—about a press release that was drafted to be released in the event that there was some public knowledge of it, which said that we were conducting a review of persons. I do not think you should read into that that we were trying to hide it from the public.

Q66 Nigel Mills: Do you now feel, having seen the damage, all the political shenanigans that were going on and the history of promises made about the on-the-runs, that you were duped a bit in this process; that what you were doing was part of something that was meant to be something more than a factual statement?

Norman Baxter: I feel disappointed, for two reasons. I am disappointed that my Government would do this, and I am disappointed in the pain and suffering that this has caused to victims. My own professional view is that we carried this out in accordance with the direction of the Chief Constable within the law, but the spin-off effect of this has been horrendous for victims, and it has totally undermined confidence in justice.

Q67 Nigel Mills: Were you not surprised at the time that this work was not sent to the Historical Enquiries Team, who were in existence by the time you were doing this work?

Norman Baxter: This is two different pieces of work. The crime department are responsible for the management and maintenance of the computer system that flags people as being wanted. The Historical Enquiries Team, which is quite independent from crime operations, were responsible for the investigation of historical terrorist crime. It sat in crime operations.

Q68 Nigel Mills: The reason for asking is that this issue has come up that these forms of words that you were quite careful in devising said, “We have nothing on you today, but if we find something tomorrow, then you can still be prosecuted”, effectively. This leaves the question of whether, if the Historical Enquiries Team went through the files and perhaps put two and two together, or found something that was always there but had not quite been realised, that would count as new evidence, which meant in your view that you could reactivate the prosecution, or would count as stuff that has effectively been cleared off.

Norman Baxter: I think it would. It certainly would create new intelligence.

⁸ A link to the Operation Rapid terms of reference can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Operation-Rapid-Terms-of-Reference.pdf>

Q69 Jack Lopresti: After devolution of policing and justice, were you aware of the degree to which the Department of Justice had not been advised of the extent of this scheme?

Norman Baxter: I retired in November 2008, so I have no knowledge of that.

Q70 Jack Lopresti: On a slightly different tack, then, you spoke about political interference from Whitehall from time to time when you had apprehended, or were in the process of investigating, people who were suspected of pretty awful crimes. Could you give us an idea of on how many occasions, in your experience, there was that political interference, as far as calls made and pressure put to bear on you and your colleagues?

Norman Baxter: I would need some time to think about that, because there would be a number of occasions.

Q71 Jack Lopresti: In your opinion, are they clearly illegal attempts to interfere with the judicial process?

Norman Baxter: I would say that there was a culture within the Northern Ireland Office to ensure that republicans were not prosecuted.

Jack Lopresti: We will come back to you with, perhaps, another question to do with the specific numbers. That would be of some use to the Committee.

Q72 Mr Benton: Sorry if I might appear to duplicate stuff that you have referred to already, but, as you will appreciate, it is a very difficult subject and we are covering a very, very wide range of things. I realise that you left in 2008. What I find quite extraordinary is the claim that the Minister for Justice was totally unaware of the scheme, and I wondered if you had an observation on that, if you left before devolution of policing and justice. It seems remarkably strange to me that there was no dialogue on such a momentous thing. I would like your observations on that.

Norman Baxter: I am afraid that would be outside the remit of what I could comment on. I had retired prior to 2010, and it is a matter of judgment around the interpretation of the senior Civil Service code. I have no expertise in that.

Q73 Mr Benton: One of the purposes of the inquiry is to try and establish who, when and in what way people acted ultra vires. Some of your earlier comments suggest to me that it is not just a question of people acting ultra vires; it is also a question of abrogation of duty, looked at in your terms. Would you like to elaborate a bit further on that? That would be applicable to you.

Norman Baxter: I would refer to, in the judgment, a phone call from Mr Sweeney to the ACC staff officer, querying whether the police had checked the PNC computer. That is a breach between the Executive and the police. That is political interference in policing. Is that a criminal offence? I suspect not, although there is an offence of malfeasance in public office. It just should not happen. It is very, very hard to gauge the motivation of the person, but in terms of the phone call from Downing Street seeking the release of a prisoner, that is certainly across the line in terms of interfering with investigations.

Q74 Dr McDonnell: Thank you for your evidence and your deliberations so far, Mr Baxter. You mentioned to us earlier that you thought there had been 180, give or take one or two, and that two-thirds were cleared, but what I want to probe was whether your involvement was post-2006, post-the collapse of the on-the-run legislation, or was there something before that?

Norman Baxter: There clearly was something before that, because of the meeting in June 2006⁹, but I was unaware of that. I became involved in January 2007.

Q75 Dr McDonnell: Remind us what the meeting in June 2006 was.

Norman Baxter: That was the meeting with the Home Office representative, the Attorney General and the PSNI on 9 June 2006 to discuss an on-the-run case. There clearly was some process. We know from the judgment there was a process in 1999.

Dr McDonnell: The June meeting was after the collapse of the legislation in the early part of 2006.

Norman Baxter: I am not sure of the date of the collapse.

Q76 Dr McDonnell: The collapse was February or March in 2006. What I was trying to establish was whether your Operation Rapid just starts then, or whether Operation Rapid goes back to 2003 or 2004.

Norman Baxter: Operation Rapid started, I think, on 7 February 2007. We were totally unaware of all of this background.

Q77 Dr McDonnell: Are you aware of any cases pre-2006?

Norman Baxter: No. I do not know of any that there would have been, but there clearly were, because of the meeting on 9 June 2006.

Q78 Dr McDonnell: Were these people who were eligible—I suppose this is not a question you can answer easily—only Sinn Féin-endorsed people, or were there any others who were not Sinn Féin-endorsed going through the system?

Norman Baxter: Reading the judgment, they seem to be all Sinn Féin-endorsed, because they seem to have been given by Gerry Kelly. My understanding at the time was that Mr McGrory was writing it, and therefore they could have been INLA; they could have been anyone, other than loyalists, obviously.

Dr McDonnell: Okay, Chair, I am done for the moment. Thank you.

Q79 Naomi Long: I have a few questions and clarifications. Obviously, when you refer to the Attorney General, because of the timing, this was the UK Attorney General and not the Northern Ireland one, because it was prior to devolution.

Norman Baxter: Yes, and that is a key point, because it was a joint Attorney General. He had jurisdiction in London.

Q80 Naomi Long: I just wanted to check something else: it was reported in the judgment that the administrative scheme came to a halt in 2004, but Mr Downey's casework on that continued, obviously, because the letter was issued in 2007. Who would have been doing the checks if the PSNI were not? You said Operation Rapid came about on 7 February 2007. Is that correct?

Norman Baxter: Yes.

⁹ The minutes of the OTR meeting on 9 June 2006 can be found here:

[http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-\(flag%2017\).pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-(flag%2017).pdf)

Q81 Naomi Long: So who were doing the checks on the wanted list prior to that? In that period between 1999 and 2004, and indeed beyond 2004, who was involved in checking the wanted list at that point?

Norman Baxter: I do not know the answer to that, because I did not know that was happening.

Q82 Naomi Long: There were also 10 cases, according to the Secretary of State, that were referred by the prison service in Northern Ireland for consideration—so they did not come through Sinn Féin—and four that were referred by the Irish Government. That is in a written statement from the Secretary of State, last week, I think. Do you have any insight as to how or why the prison service would be raising such a request with the police, or indeed anyone else?

Norman Baxter: I have no idea why.

Q83 Naomi Long: Were you aware that any cases had come through either the Irish Government or the prison service.

Norman Baxter: I was not, until the judgment.

Q84 Naomi Long: Earlier, you mentioned the fact that there was a press release. It was referenced in the judgment, obviously, but you also mentioned that there was a press release prepared, if it came into the public domain, to explain what the scheme was about. Are we to take from that that, throughout the operation of the scheme, it was meant not to be in the public domain?

Norman Baxter: No. The reason for that is simple: that in all policing operations, there is a community impact assessment, and there is a media policy to manage misperceptions or correct perceptions. That was simply standard. All police work is confidential, and there are aspects of this that are confidential because evidence has not emerged to support prosecutions. Mr Chairman, could I make clear that Operation Rapid was not about closing cases? It was simply about looking at individuals, and, as I pointed out earlier, at least two people were arrested within Operation Rapid.

Q85 Naomi Long: The other issue that you have raised was with respect to the basis on which you were able to advise that Mr Downey was not wanted by the PSNI at that point in time in 2007, and that was on the basis that fingerprint evidence that is available now was not then. Is that correct?

Norman Baxter: No, I cannot confirm that, because, first of all, I do not have the files here, but there are wider issues. Indeed, if I could respond to a comment by the judge, he indicated that I had got a file from Chief Inspector Graham and simply forwarded it onto the ACC. I had, in fact, a three-hour meeting with Chief Inspector Graham, where we went through Mr Downey's case, so it was not just a tabletop exercise. I would not confirm or un-confirm what evidence there is in that case.

Q86 Naomi Long: But there was reference during the earlier part of the session to fingerprint evidence.

Norman Baxter: Yes, there was an issue there in respect of a fingerprint.

Q87 Naomi Long: Can I ask a question? When the fingerprint evidence became available or was rediscovered, or whatever category it falls into, did anyone inform the Attorney General or, indeed, anyone else in 2008 that that was the case?

Norman Baxter: Reading the judgment, it seems not, but then, why would you? Why would the police tell the Attorney General to write to a suspect, to jeopardise an inquiry? It is judicial madness.

Q88 Naomi Long: In terms of the evidence you have given us today, you said that it would have been illegal for you to provide advice as to whether a person was wanted or not by another police service in another jurisdiction; that it was outwith your responsibilities—

Norman Baxter: Absolutely.

Naomi Long: —and that you had made that clear to the Attorney General.

Norman Baxter: In the June meeting of 2006, it was discussed, and they accepted it was their role—it was an action point—that they would carry out checks with the Metropolitan Police. The Metropolitan Police had the national anti-terrorist squad, and therefore would have had the database of wanted terrorists.

Naomi Long: So it would be fair to say that there should be some record in the Attorney General's Office, some paperwork, that would record the fact that the PSNI were not in a position to make those checks, or to pass that information on.

Norman Baxter: I am in possession of minutes of the meeting, which were not disclosed to Mr Justice Sweeney, and which the PSNI have kindly supplied today. So, yes, I am quite certain that the Chief Constable would be able to supply the Committee with that email.

Q89 Naomi Long: Were you surprised that those minutes were not passed to Mr Justice Sweeney?

Norman Baxter: Having read paragraph 10, where the prosecution did not conduct a proper investigation, no, I am not surprised.

Q90 Naomi Long: Were you disappointed that those minutes were not passed? This is perhaps a better question.

Norman Baxter: The question then arises about what else has not been passed, and why it was not passed. Mr McGinty is very clear in his evidence about what he did and did not do, but one thing he did not refer to was the meeting on 9 June 2006¹⁰.

Q91 Naomi Long: Can I ask a very direct question? Do you believe that the PSNI and you personally were being scapegoated for the failure of the case?

Norman Baxter: The answer to that is, absolutely, “yes”, and, Mr Chairman, could I have the liberty to say that I thought the Secretary of State's statement was quite disgraceful in blaming the police without any due process? I honestly think that she, by doing so, was covering up for what was going on with this administrative process. That is my personal view.

Q92 Naomi Long: I have to say that there were others of us who were also quite annoyed with the statement and the implication that this was in some way a devolved matter, which of course it never was. Can I also ask one other question? You have said that Operation Rapid was not linked to the HET. Did you find it strange that you were being asked questions about people who were potentially implicated in case files that were being reviewed as part of a process within the HET, but you were

¹⁰ The minutes of the OTR meeting on 9 June 2006 can be found here:

[http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-\(flag%2017\).pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes-of-the-OTR-meeting-on-6-June-2006-(flag%2017).pdf)

being asked to review them out of sequence? Did that seem a strange decision, or a peculiar way to process the cases, when, once the files had been processed by the HET, you would know whether or not there was sufficient evidence to pursue a prosecution at that time anyway through the normal process agreed?

Norman Baxter: That is a very valid point, but the difficulty is that, when a citizen writes in—as I was told—he has a right to know if he is wanted or not. Therefore, at what point do you tell him he is not wanted? Rapid did not re-investigate the cases, but simply looked at individuals. They accessed the files in the intelligence databases in relation to these people, but, yes, there was a disjoint.

Q93 Naomi Long: Can I ask a final question?

Chair: It has to be very final. We have a number of other people, and we are over time.

Naomi Long: How many individuals, on average per year, write either directly or through their solicitor to the PSNI asking if they are wanted in connection with any crime?

Norman Baxter: This was the first time ever that I was aware of, although I would say that there have been instances in other states in Europe.

Naomi Long: Thank you.

Q94 Lady Hermon: The evidence so far has been fascinating and troubling. Could I just ask you, Mr Baxter—I can only guess your reaction—how you felt when the Downey judgment was published, the words “catastrophic failure by the PSNI” were repeated and repeated again, and your name was mentioned repeatedly in the judgment as the person who headed up Operation Rapid? How did you feel at that stage? Could you describe the pressure on you? Could you also just reflect on the fact that the Chief Constable, Matt Baggott, said virtually immediately after the judgment was published that the PSNI accepted—and I am quoting here—“full responsibility” for the failures? Was he wrong to do so?

Norman Baxter: First of all, in respect of the judgment, I felt that the judge, of course, was quoting the prosecution that it was a “catastrophic failure”. It is a horrendous thing for a prosecutor to tell a judge that the prosecution case had a catastrophic mistake. One would have to question why he said that, and that leads on to other questions as to why he did not call certain witnesses.

Q95 Lady Hermon: Such as?

Norman Baxter: Such as Mr Sheridan and myself. There is that area of conduct, of the abuse of process. In respect of Mr Baggott, what do you want me to say? He was wrong. The judgment, I believe, was in the possession of the police from the Friday before it was published. He had Friday, Saturday, Sunday, Monday and Tuesday, and I never got a phone call. No one contacted me to ask what had happened, or what this was about.

Q96 Lady Hermon: So no one from the PSNI—no one currently serving in the PSNI—contacted you following the publication of the judgment?

Norman Baxter: No. The first contact I had with the PSNI was yesterday, and Mr Sheridan suggested that I should take the initiative and recover some documents, which I have shared with the Committee. Mr Baggott reacted without knowledge. What can I say, other than I think it was poor leadership in that area to give up his force as a sacrifice to cover for the Northern Ireland Office?

Q97 Lady Hermon: I must not put words into your mouth, but do you feel as if you have been hung out to dry in order to take the rap for this?

Norman Baxter: I would be afraid that people would try to hang me out to dry. I have confidence in this Committee; it is one of the few things that I have confidence in, but I do have confidence in this Committee. I certainly have confidence in the Chairman and the reputation of members of this Committee, and I was delighted when the Clerk contacted me last week to give me this opportunity to come before you. The decisions of Op Rapid were taken within the law. They were correct. The Northern Ireland Office activities are something that you will have to look at, but, at the end of the day, the victims and the people of Northern Ireland need to know that there is a robust prosecution process and that they can have confidence in justice. I am afraid that this has totally undermined it.

Lady Hermon: Can I just say, on behalf of the Committee, that in fact we were unanimous in deciding to call you as the first witness, and I am very glad that we did so?

Q98 Kate Hoey: Thank you, Mr Baxter. Your evidence has been very, very helpful indeed. Lady Hermon has covered a few of my points, because I just wanted to be clear that you were quite angry, personally, and that many members of the PSNI were angry at the statement of the Secretary of State and, indeed, the statement of the Prime Minister about this being a catastrophic error. I think she used the words “serious error”, and she actually says, “The PSNI will wish to reflect on lessons learned from this case.” How do you think the PSNI should be reflecting on lessons learned? What lessons are there to learn, given your evidence?

Norman Baxter: I would not like to give advice to the Chief Constable now that I have retired, other than that he should perhaps make some inquiries prior to proceeding down a culture of apology.

Q99 Kate Hoey: Of course, we will be seeing the Chief Constable, and your evidence is going to be very helpful. Have you been asked to see Lady Justice Hallett yet? Has she been in touch?

Norman Baxter: No.

Q100 Kate Hoey: Do you expect to hear from her?

Norman Baxter: I would expect so, but I have not. I know others have been invited to give evidence.

Q101 Kate Hoey: Other members of the PSNI?

Norman Baxter: Yes.

Q102 Kate Hoey: Do you know who?

Norman Baxter: I do, but it is probably best not to say.

Q103 Kate Hoey: We can ask Mr Sheridan this, but you would obviously be willing to see her.

Norman Baxter: I am willing to see everyone. I am seeing the Police Ombudsman next week. I have set aside a day. To reassure this Committee, the independent review of the processes needs to be conducted to give an audit of what happened from an independent policing point of view.

Q104 Kate Hoey: Just one final point: what do you think needs to come out of an inquiry like Lady Justice Hallett's to make the public, both in Northern Ireland and the rest of the UK, feel that we have got justice here, for the victims in particular?

Norman Baxter: If I can be frank, Mr Chairman, the victims in Northern Ireland will never get justice.

Q105 Kate Hoey: Whatever happens?

Norman Baxter: No. Once the Sentencing Act was passed that allowed prisoners to be released, and all these other schemes, justice in relation to republican and loyalist terrorists has been totally corrupted. It pains me to say that victims are the casualties, the collateral damage, of a policy started in 1998. I do not want to be emotive, but it is almost as if the blood of victims is crying out for justice, and there is no one to listen to them. This process is just more evidence of it.

Q106 David Simpson: Again, the evidence so far has been, to say the least, intriguing. I have a couple of brief questions. It was your opinion that there was a culture within the NIO that no republicans were to be prosecuted, or words to that effect. Is that what you said, or can you clarify that?

Norman Baxter: I think I could stand with that, and also that there was a culture to conceal republican activity from the population.

Q107 David Simpson: That is useful. The other point is that that would not have come from some low-level civil servant. The development of that culture would have had to come from someone senior within the NIO, such as Secretaries of State.

Norman Baxter: It is not for me to judge Mr Hain, but, in reading his statement to Mr Justice Sweeney, it is almost as if he displayed great glee in supporting a person who was suspected of murdering members of Her Majesty's forces.

Q108 David Simpson: I think others got that impression as well. The other point is that—and some victims' groups have raised this with me when the whole thing was out in the public domain—we had the letters, and we had these royal pardons or royal prerogatives, and victims are saying that these people who professed to hate the Brits were very happy to take royal pardons. From your perspective as a police officer, how do you see the royal pardons operating as regards evidence, or crimes? What political influence could have been used to achieve royal pardons, in your opinion?

Norman Baxter: I am not sure I would like to answer that. I can answer personally, but if I am here as a police witness, I probably should not answer that.

Q109 Chair: Why not?

Norman Baxter: I have a personal view on that.

Q110 David Simpson: Why do you think you should not answer it? Put it this way: do you personally believe, without giving names, that the royal prerogative was used for senior members of the IRA or Sinn Féin?

Norman Baxter: If you look historically at the reason for royal prerogatives, it certainly was not for the purposes that the Northern Ireland Office used them. I suppose, when you look at what happened, they were used as an alternative for amnesty.

Chair: Thank you. This is probably going to have to be the last question.

Q111 Oliver Colvile: Thank you for your candour, and for being as honest as you have been during the course of this. It is most certainly very useful. I am not a lawyer and I have never had too much to do with the police, so I just want to understand the process that you would normally go through if it were not a case like this, which is very, very sensitive indeed. If you as a policeman were putting together a case—and you have an enormous amount of experience as a policeman, so you understand how this operates—am I right in thinking that what you would do is that you would carry out your investigation; you would then put the case together and you would give that to the Crown Prosecution Service, who then in turn would end up by going off and talking to the Attorney General, saying, “This is the case that we feel we have an opportunity to be able to prosecute, and we think that we have a strong enough case in order to get a conviction”? Is that the process that ends up happening normally?

Norman Baxter: Yes, if it is an offence for which the Attorney General must give consent.

Q112 Oliver Colvile: That being the case, have you ever known a previous case where you have done all of that, you have put the information forward to the CPS, and then it has been taken right out of the hands of the CPS and it has actually been the Northern Ireland Office that has got involved in the past? Have you ever known a similar case of that?

Norman Baxter: No.

Q113 Oliver Colvile: So this is a unique thing that we are looking at.

Norman Baxter: We are not, obviously, talking about the same thing. We were not presenting a prosecution case to the DPP. My understanding is that the report that Mr Sheridan sent to the DPP was to meet an Article 3 requirement that a person is entitled to know if they are wanted. I think there was a Greek human rights case where it held that, first of all, the person had to be told, but secondly, it is the law officer of the state that informs them, which in this case is the Attorney General. It is a legal decision, not a political one.

Q114 Oliver Colvile: So, under normal circumstances, the CPS would have actually come to the conclusion and would have said, “We cannot have this case, because we do not think we have a strong enough case to mount.”

Norman Baxter: In these cases, the view was, if it was not sufficient to arrest or they were not wanted in Northern Ireland, that went to the DPP, which as a department should have been checking whether there were outstanding warrants or extradition warrants. That form of words should have gone to the Attorney General—who is the law officer of the state, independent of politics—who should have been writing to Mr McGrory, the solicitor. That, in my understanding, is the proper constitutional and legal process.

Q115 Oliver Colvile: And that did not happen, because they just bypassed.

Norman Baxter: Yes. What is quite shocking is that, in Mr McGinty’s evidence, he says that it had become so routine that he did not even check with the Attorney General. He just kept sending them over to the NIO.

Oliver Colvile: Thank you very much indeed.

Q116 Chair: Thank you. I am not going to ask you to name them, but do you know who received the royal prerogatives?

Norman Baxter: Only what was reported in the local papers during the McGeough trial.

Chair: You do not have private knowledge of it. Mr Baxter, you have been extremely helpful to us. Thank you very much indeed.

Examination of Witness

Witness: Peter Sheridan OBE, former Assistant Chief Constable, RUC GC/PSNI, gave evidence.

Q117 Chair: We will move straight on. The likelihood is that we will be interrupted by a vote in, perhaps, 10 minutes, so I do apologise for that. We will suspend the Committee for 15 minutes, and then come back. Mr Sheridan, you heard my introduction. Thank you very much for joining us. You have also heard Mr Baxter's evidence. Are there any comments you would like to make about what you have heard?

Peter Sheridan: Let me clear up a point that Mr Mills asked, first of all, about the confidentiality. Those were my words, and the reason I termed this "confidential" was because there were going to be people's names listed in it. What I refused to do was to classify it as secret, because, in the police service, you can classify documents as restricted, confidential, secret or top secret. I was utterly clear, as was the Chief Constable at the time, that this was going to be a process where, if people wanted to see it, they could. The Policing Board could have seen the terms of reference, and that was why they were classified as confidential. As to the misunderstanding, I was clear at the time, as was the Chief Constable, that this could have been seen—particularly by the unionist community—as something different, and therefore all our documents were going to be classified in that way, that they could have been open to be seen.

Q118 Chair: Mr Baxter knew of the issue of on-the-runs, obviously, but he did not know about the political process behind it. Did you know about it?

Peter Sheridan: No. The first time I heard of the administrative scheme was in recent weeks and months, when the press talked about the administrative scheme. I was unaware of an administrative scheme. I think, Chairman, it might be helpful if I just set this out.

Chair: By all means.

Peter Sheridan: Members might then want to ask questions. I was appointed as Head of Crime in February 2006. On 25 May 2006, I was asked to a meeting at the Attorney General's Office with Kevin McGinty and Sir Alasdair Fraser, now deceased, who was then the Director of Public Prosecutions. There were NIO people there, and there was this discussion about the on-the-runs. I do not have all of the documents about what was discussed.

Q119 Ian Paisley: Who was there from the NIO, Peter?

Peter Sheridan: I am just reading from a note in my diary at the time. I did not list everybody that was at it, but I am sure that is available. There was a discussion about the on-the-runs, and I talked about the potential: could we use joint investigation teams to do it? Could we use current European legislation? There was nothing agreed at that meeting.

On 17 October, I travelled to a meeting at Stormont with the Chief Constable¹¹. We had a meeting with the Security Minister on national security and hyponatraemia, the deaths of the babies at the time. We updated the Security Minister on the current position of those, and then there was a discussion about the on-the-runs and national security, and we were joined by the Secretary of State for a period of time on the national security bit. On 30 November, I attended a meeting with the Chief Constable in Stormont again, and I put people's initials in, but I think I know who they are. I met with GK, which I think was Gerry Kelly; CM, Carl Muir, who was a Northern Ireland Office official; and LG, Leo Green, who would have been Sinn Féin. We discussed, among other things, AEPs, which are the baton rounds; the transfer of national security, and the OTR issue, and at that meeting I set out our position, the very legal and ethical position that we would take.

On 7 December, I had a meeting in my office with solicitor Barra McGrory, and I brought the police legal adviser, David Mercer, with me. There was a discussion about how on-the-runs being brought to the notice of the police by the solicitor would take place. There are two letters that I have in my file: one is a letter from the police legal adviser setting out what a scheme would look like in our terms, and a subsequent letter from Barra McGrory saying, effectively, it could not be agreeable. That was the end of it.

Both the Chief Constable, Hugh Orde, and I were very clear throughout all of this that there were policing considerations, there were political considerations, and there were public opinion considerations out there. We were going to very firmly stay within the policing considerations, and the political considerations could play no part in the decisions we were making. The issue could only be addressed by the police in a very limited way, by identifying those cases where the reasonable grounds for arrest and questioning could no longer be met against the evidential standards of 2007. We could not predict how many, out of all the people who were listed as on the run, would get letters that said they were not wanted or were wanted. We had no idea until that work was done.

The reason why I set out in the terms of reference five grounds where people would continue to be listed as wanted—and they are in your documents you got last night—and five reasons why people should not be listed as wanted is that if somebody was listed as wanted in the late 1970s, that might not stand the test of a case in 2007. Even when I joined the police, when I was a constable in 1978, I could have been told by the then-sergeant, "Go and arrest X under Section 11 of the Terrorism Act." That would have been enough, and I would have gone and arrested them.

There was a string of cases like O'Hara v Chief Constable where that changed, and the legislation changed from being that a constable just had to suspect to a constable having to have reasonable grounds, so it became stronger in legislation that the individual police officer had to have personal, reasonable grounds, not simply to suspect. That required them to have that information, so if someone was listed as wanted in the file and that was all of the evidence, then that would not stand the test in 2007. At the time, Sean Hoey was released in relation to the Omagh bomb because of lack of continuity of forensic evidence. Again, how forensic evidence was collected in the 1970s and 1980s and even in the 1990s may not have stood the test in 2007, and if it did not, then people should not be listed as wanted. If all of those things were still in place, as was the case in some, then there was no reason why they should not still be listed as wanted.

¹¹ This meeting and those outlined below are referred to in Lady Hallett's report (page 59): <http://www.hallettreview.org/filestore/uploads/2014/07/HallettReviewPrintReady.pdf>

What happened was that I set up the Rapid team, and I delegated responsibility to Mr Baxter. I set out the terms of reference, and it was for people who were wanted by the PSNI for offences pre-1998 in Northern Ireland. Having set out those terms of reference, my role in it was that once the information came to me—and Mr Baxter would have produced substantial documents for me on each individual to list why somebody should not be listed as wanted; the evidence is lost, or cannot be found, or documentation has been destroyed—on that basis, I would have written to the DPP. The only person that I wrote to about any person who was listed as on the run was the DPP. I did not write to anybody else about any individual in it. The DPP would have written to the Attorney General, but in doing so, he would have written back to me to say, “I have written to the Attorney General in these terms.” In the case of John Downey, the letter that I sent to the DPP¹² said that, firstly, he should not be listed as on the run, because he was not from the jurisdiction, but that, secondly, he was not currently wanted by the PSNI. The letter that the DPP sent back to me, which he sent on to the Attorney General, reflected exactly that. There was no difference in it.

The first time I became aware that additional words had been added to the letter—I did not even know there was a letter sent to them—was when the trial happened here, and those additional words were in there. The Northern Ireland Office, as I read it, did try to clarify through my staff officer at the time. They did not name any individuals, but named one of the letters, the one on 11 July, with 10 people, and asked, “Have they been checked, and are they listed as wanted elsewhere?” The staff officer would have spoken to Mr Baxter and his team, and the message came back that the PNC had been checked, and that was all that was given back.

Chair: We will have to suspend for 15 minutes. We will start again at two minutes past four.

*Sitting suspended for a Division in the House.
On resuming—*

Q120 Chair: It is two minutes past four. Sorry about the interruption. Mr Sheridan, you were just giving us the background to your involvement. Please continue.

Peter Sheridan: I was at the point about the clarification that NIO officials were seeking through my staff officer when they were inquiring about the letter of 11 July. The staff officer would have asked the Rapid review team. Because the position in the team was that they were not prepared to say that Mr Downey was wanted by the Metropolitan Police, my staff officer would have been unaware that he was wanted, so her response goes back to say that the PNC has been checked. She did not say whether he was wanted, or any of them were wanted, by an external force. Unfortunately, in the abuse process, in the judge’s comments, he said that there was nothing done by the PSNI to correct the situation. The answer to why the letter had not been corrected is that we were completely unaware that there was a letter sent and, indeed, that additional bit over and above what I wrote in the letter to the DPP, so we were not aware of it until it happened in the court.

Q121 Lady Hermon: Sorry, Mr Sheridan, could you just tell us exactly what words you believe were added?

Peter Sheridan: From the judgment, it says that there was “no outstanding direction for prosecution in Northern Ireland” in relation to him, that there were “no warrants in existence”,

¹² Peter Sheridan’s letter to the Department of the Director of Public Prosecutions (6 June 2007) can be found here: [http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Sheridan%e2%80%99s-letter-to-the-Department-of-the-Director-of-Public-Prosecutions-\(6-June-2007\)%20.pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Sheridan%e2%80%99s-letter-to-the-Department-of-the-Director-of-Public-Prosecutions-(6-June-2007)%20.pdf)

and that he was “not wanted in Northern Ireland for arrest, questioning or charge by the police”, and that “The Police Service of Northern Ireland are not aware of any interest in [him] from any other police force in the United Kingdom.”

Q122 Lady Hermon: All of those words were additional to the letter¹³.

Peter Sheridan: I am reading from the judgment. I do not have the letter. I have never seen the letter and had been unaware of the letter.

Q123 Ian Paisley: Did you ask to see the letter?

Peter Sheridan: I did not know there was a letter.

Q124 Ian Paisley: When you did subsequently find out during the judgment process and the adjournment, did you ask to see the papers?

Peter Sheridan: The judge said that it became apparent at an early stage in the abuse hearings that there had been no investigation, and he then adjourned and asked both the defence and the prosecution to go and make those further inquiries. Like my colleague, I expected to get a call from somebody either at the Met or via the PSNI to ask me for clarification. In fact, I got a call from the defence solicitor, Gareth Peirce, who asked me whether I would be willing to assist the court in their understanding, and I said, “Of course, I will.” I then contacted the PSNI and I said to the liaison officer, “I want to see the letter that I wrote and the background papers”, and he said, “That is fine.” Then he called me back to say that a solicitor who was doing the disclosure on behalf of the Metropolitan Police said that I was not to get access to the letter that I wrote, or the documents. I have to say I found that completely bizarre, given that I had written the letter, given that it was the PSNI, that somebody in the prosecution from the Metropolitan Police—

Q125 Ian Paisley: You were asking them to help the prosecutor.

Peter Sheridan: I was going to see the defence and I wanted to have access to all of the information that I could. I was prepared to help the court in whatever way. I instructed the PSNI officer to go back to the disclosure officer and tell him that, if I did not get access to them, I would alert the defence when they spoke to me. I did not get access to those documents and I spoke to the defence solicitor and I explained that I had to go from my memory, which is some eight years of memory, because I was not given access. She found it incredulous that I was not given access. More than that, she asked me, “Which documents do you want to see? Here is your letter here”, and she showed me my letter that I had written, to help refresh my memory on it. “What other documents do you need to see?” and then I answered whatever questions she had. I did find it strange that the prosecution had never come to me to ask me, because, if they had have come, we would have been able to tell them that we had no knowledge of the letter. We had no knowledge of any additional information that was in that letter over and above what I had written in my letter.

Q126 Lady Hermon: So who do you believe added the words?

Peter Sheridan: That would be speculation on my part, other than to say that the Northern Ireland Office staff were talking to my staff officer to try and seek clarification as to whether any of the list of 10 people on the letter that they had were wanted by an external police force. They

¹³ A link to the letter from the Northern Ireland office to Mr John Downey of July 2007 is provided here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Cover-letter-from-NIO-to-Gerry-Kelly-and-John-Downey-OTR-Letter-July-2007.pdf>

were asking that question of my staff officer, who would have rung the Rapid review team and asked them the question, but the answer she gets back from the review team is the PNC has been checked and she reflects that back, because she is unaware that John Downey was wanted by the Metropolitan Police. I was unaware that John Downey was wanted by the Metropolitan Police up until his arrest.

Q127 Chair: On that point, then, your letter that you remember writing confirmed that he was not wanted by the PSNI. How do we go from that position, then, to the Attorney General deciding that Mr Downey should face trial? Did evidence only come forward after you had written your letter?

Peter Sheridan: No, because ours is just about Northern Ireland. My letter was just about Northern Ireland.

Q128 Chair: Surely, though, there is co-operation between police forces. Gloucestershire and Hereford & Worcester would talk to each other.

Peter Sheridan: Yes, because if you go back to whose responsibility it was to check with the Metropolitan Police—and, as Mr Baxter has outlined, there is a document from the 9 June 2006 meeting where the Attorney General's Office were to make those checks—in February 2006, according to the judgment, the Attorney General had written to the NIO and said that Mr Downey was wanted for serious criminal offences. There was no mention of Hyde Park in it. So the NIO in my view, had the letter of February 2006¹⁴. They get my letter a year later via that route and they are obviously looking at them and wondering, "How do these two things square?" and so they start to seek clarification through my staff officer, I think, but that is only—

Q129 Chair: Sorry, can I just clarify this: if one police force is aware of a crime—you were aware of the Hyde Park bombings—how does that go up to the Attorney General to decide on co-operation between police forces?

Peter Sheridan: I am not sure I understand the question.

Q130 Chair: Unless I am missing the point, the PSNI said Mr Downey was not wanted in relation to offences in Northern Ireland.

Peter Sheridan: Yes.

Q131 Chair: You do not work in isolation from other police forces, surely.

Peter Sheridan: No, but, in the clarification, the Rapid review team said they had checked the PSNI. The review team knew from very early on that John Downey was wanted by the Metropolitan Police, but, as you have heard from Mr Baxter, he took the view that to alert anybody would potentially pervert the course of justice if it is to say to somebody, "You are wanted by the Metropolitan Police".

Q132 Chair: Am I the only one who finds this extraordinary that those police forces do not speak to each other? I live on the border of Gloucestershire and Hereford & Worcester. PSNI is within the United Kingdom. We are not talking about the Republic of Ireland, and it would have been extraordinary even then.

¹⁴ The letter from the Rt Hon Lord Goldsmith QC, Attorney General to the Rt Hon Peter Hain MP, Secretary of State for Northern Ireland dated February 2006 can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Lord-Goldsmith-to-Peter-Hain-February-2006.pdf>

Q133 Ian Paisley: Speaking to each other and speaking to the fugitive is different.

Peter Sheridan: They will have been aware. The review team were aware, from the Police National Computer, that John Downey was wanted by the Metropolitan Police.

Q134 Chair: They were aware.

Peter Sheridan: They were aware. The Rapid review team were aware.

Q135 Chair: Why was that not reflected in your letter?

Peter Sheridan: Because, as you heard, I was unaware—

Q136 Chair: I heard what Mr Baxter's opinion was. I am asking yours.

Peter Sheridan: Because I was not advised by Mr Baxter that he was wanted, because he took the view that, first of all, the terms of reference were review of persons wanted by the PSNI; secondly, from 9 June 2006 meeting at the Attorney General's Office, the responsibility and checking with the Metropolitan Police around wanted persons was going to be the Attorney General's Office; and then, thirdly, he believed—and this is the first time I have heard his evidence on it—that to alert somebody that they were wanted by another police force, knowing that the likelihood is they would stay out of the jurisdiction, could be prejudicial to the case of the Metropolitan Police, who were trying to investigate it.

Q137 Chair: Does that give rise to the accusation that this was dealt with in this way in order to trap Mr Downey in to coming back into the jurisdiction?

Peter Sheridan: You would have to ask Mr Baxter whether it was intended that way. I do not think it was intended. I think he took the very straight view that, in any case, there is no issue in telling somebody that they are not wanted, but to alert people that they are wanted, particularly to alert people that they are wanted by another police force for a particular offence, would, in his words, be potentially perverting the course of justice by alerting them that they are wanted.

Q138 Naomi Long: Can I ask some questions on this, Peter? It is good to have you with us to give evidence. You have said that they were not wanted by the PSNI, but the PSNI knew they were wanted by the Met. Is that correct—that Mr Downey was?

Peter Sheridan: The review team knew he was wanted.

Q139 Naomi Long: Let us explore this. If Mr Downey had walked across the border at some point into Northern Ireland, would the PSNI have had a duty to arrest him, for example, on behalf of the Met?

Peter Sheridan: If that had happened and the police officer who had stopped him had checked the PSNI computer and it flagged up that he was wanted by the Metropolitan Police, if there was enough evidence on the computer to justify in the officer's own mind that there were grounds for arrest, then of course he could arrest him, or they could have rung the Metropolitan Police and said, "What is the background information?" The officer who is making that arrest would have to have sufficient knowledge, either from the computer or from contact with the Metropolitan Police, to satisfy themselves they could make that arrest.

Q140 Naomi Long: Would it be fair to say that, if you are wanted in the UK by a police service and you are in the UK, you would expect that you would be wanted by any police service?

Peter Sheridan: Yes.

Q141 Naomi Long: So it would be fair to say that, while he may not have been on the PSNI's own wanted list, if he was on a wanted list for any police service in Northern Ireland, the public expectation—and, indeed, the PSNI's expectation—was that, if he came into their jurisdiction, he should be pursued for arrest and could be.

Peter Sheridan: He could be arrested.

Q142 Naomi Long: The PSNI, when they wrote to the Attorney General—is that correct?

Peter Sheridan: No, the PSNI wrote to the DPP.

Q143 Naomi Long: When the PSNI wrote to the DPP, did you make any reference whatsoever to being aware that he was wanted elsewhere, even though you would have known that?

Peter Sheridan: No, I did not know that and was not aware of it. The review team—Mr Baxter's team—knew he was wanted but they did not pass that information to me. They gave me the grounds that he was no longer wanted by the PSNI and they stuck to that for all of the reasons that I explained to the Chairman a moment ago. The letter was drafted for me in that way.

Q144 Naomi Long: Can I ask a further question? You have said—and Mr Baxter said in his evidence—that to alert someone to the fact that they were wanted by another police service could be to pervert the course of justice. How could that be the case if the only person you thought you were alerting was the DPP? How could you be perverting the course of justice if you notified the Director of Public Prosecutions, which was the only communication that you claimed you had, to the fact that this person was still a wanted individual elsewhere? How does that stack up?

Peter Sheridan: Why would you be telling the DPP in Northern Ireland about somebody who was wanted in London?

Q145 Naomi Long: Because you have been asked to say why that person is wanted, and what I am asking—

Peter Sheridan: No, that is not correct.

Q146 Naomi Long: I am not asking why you would have done it; I am asking whether you believed it would be perverting the course of justice to pass that on to a law officer.

Peter Sheridan: No, of course it would not.

Q147 Naomi Long: In that case, the argument for not passing it on to a law officer seems weak.

Peter Sheridan: No. If you read the terms of reference, the terms of reference for the review team are a review of persons wanted by the PSNI, which is what the review team did. The 9 June meeting said that people who were wanted in the Met would be the role of the Attorney General, so the review team knew that. Why would it pick up any information and write to the DPP in Northern Ireland to say that so and so—?

Q148 Naomi Long: Would you personally have had no concerns about the interfaces between various police services and the various organisations who were involved in dealing with these cases? You would have had no concerns or no sense of moral obligation to raise fully what was known within the PSNI in order to ensure that the ball was not dropped by anyone else.

Peter Sheridan: Of course I would have told, if I had have been aware, but I was not aware.

Q149 Naomi Long: You do not believe that Operation Rapid officers would have shared that same concern.

Peter Sheridan: I cannot talk for individuals but my role was, if I had have been told, then I would have alerted the DPP of it.

Q150 Oliver Colvile: First of all, thank you very much indeed, Mr Sheridan, for coming to see us. I have to say I think this is a primary case of failure of joined-up government somewhere along the line, but I also want to ask you a very simple question. What is the point of the national crime database, then? Do you have access to it? Does the Metropolitan Police have access to it? Would you not have thought it would be a good idea in which to—both of you—have a look at it and see as to who might appear upon that national crime database?

Peter Sheridan: Yes, and that is what the review team did. The review team knew he was wanted on the Police National Computer database.

Q151 Oliver Colvile: But that did not seem to feed into the Northern Ireland Office or, for that matter, into the Home Office either.

Peter Sheridan: You have heard Mr Baxter saying what the role is of the Northern Ireland Office in wanted persons or even in terms of data protection and giving names of people from the Police National Computer to people who are in the Northern Ireland Office or the Home Office.

Oliver Colvile: I have to say I am bemused by the whole process.

Q152 Nigel Mills: I have a couple of areas I would like to ask questions about, Mr Sheridan. Could you just talk us through, in the meetings you had with the Chief Constable, Sinn Féin and the NIO at the start of this process, what your understanding was of what was trying to be achieved here?

Peter Sheridan: We were very much aware that, first of all, the legislation had collapsed and the discussions that were happening around that; that the prisoners had been dealt with who had been released; that people who had subsequently been convicted after 1998 would serve no more than two years; that, if people give information about the disappeared, that could not be used in evidence; that decommissioned weapons could not be forensically examined; that the outstanding anomaly was on-the-runs; and that Government were trying to deal with people who were on the run and listed as wanted. The Chief Constable and I were very clear that, if a question was asked, "Is an individual wanted?", we would review the evidence against that individual, set against 2007 standards, and either continue to list them as wanted or not wanted, and we would then advise the Director of Public Prosecutions. That is what we did.

Q153 Nigel Mills: So you did not suspect this was part of a bigger political promise.

Peter Sheridan: I knew there were political considerations but we were very clear that our role was the policing considerations and the limitations that we could deal with it within policing, and we said that time and time again. I know the Chief Constable said it, and I said it, at all of those meetings. There were no other opportunities for us in it. It had to be within the legislation that allowed us to review those people who were listed as on the run.

Q154 Nigel Mills: Do you now feel perhaps you were involved in a slightly bigger exercise than you thought you were involved in?

Peter Sheridan: No, I am satisfied that the police have a responsibility to review the evidence. If you list somebody as wanted in 1975, in 2007 is the evidence still there? There is an obligation on the police to ensure that they are up to date on that. I do not have any difficulty in what the

police were doing in terms of reviewing the evidence that was in the system against the individuals.

Q155 Nigel Mills: Can you perhaps tell us why Mr Barra McGrory, when he wrote back to you, did not accept the proposed outline of this scheme? Maybe if you could give the Committee a copy of that letter, it would be helpful.

Peter Sheridan: I have his letter here. I do not know whether the Committee want to hear from it. I can read, first of all, the letter that went from us via our legal adviser to Mr McGrory. This is dated 8 December 2006.

“Dear Barra, Our meeting of yesterday”—that was in my office—“date refers. The following is my understanding of the suggested process. 1) Using the list provided to you, you seek instructions from those named on it”; he would seek instructions from his client. “You write to me on behalf of the individual client asking for confirmation that the client is wanted and, if so, on what basis; i.e. warrant or for interview. I reply to you setting out the date and location of the incidents to be the subject of interview, the basis for the interview and sufficient pre-interview disclosure to allow you to advise your client as to the next step. You carry out such interviews of your client as you deem necessary to assess his wishes. If the client is content and interviews arranged by voluntary attendance or arrest, at the conclusion the investigating officer considers releasing completely, or release and report, or charging, if evidence is available. 6) Taking of DNA and fingerprints: we are still considering this. 7) Interviews will be restricted to the incidents identified at (3) above, unless the client volunteers information about other incidents which are serious enough to merit immediate investigation. I look forward to hearing from you.”

On 19 December, Mr McGrory writes back to Mr Mercer, the legal adviser. “Thank you for your letter of 8 December setting out the steps that might be taken to bring about closure in respect of a number of individuals still regarded as wanted by the PSNI. I have had an opportunity of reflecting on this since our discussion. I am concerned that any proposal that requires an arrest and the taking of fingerprints and DNA will fall at the first hurdle. I simply cannot imagine fugitives presenting themselves for interview at the Serious Crime Suite in Antrim or anywhere else on such a basis. I would, therefore, suggest that I could take instructions from each individual identified and convey a response to the allegations to the PSNI, which may then be able to decide that there is little point in keeping a file open or reporting and taking no further action. If interviews are absolutely essential, they can take place under Article 31 of the PACE voluntary attendance, which carries no obligation to take fingerprints or DNA. These interviews can be conducted in the Republic or at a location within the North that is a great deal more conducive to the resolution of this problem than the Antrim Serious Crime Suite. I would hope, however, that the vast majority of cases might be disposed of without the necessity of an interview. I would be grateful if you would please consult with the Chief Constable and ACC Sheridan and let me know if this proposal or some variation of it is acceptable at your end.”

Q156 Naomi Long: What was the response to that, Peter?

Peter Sheridan: We did not—that was not the system. The system that we had suggested via the legal adviser was what we were prepared to go with.

Q157 Nigel Mills: I just want to square that correspondence with the process we have been talking through. Presumably, people who, when you reviewed your file, you thought there was no evidence worthy of continuing with, you would not have started down the line of interviewing and whatever

else. They would have just got the letter that said, “No, we do not want you anymore.” Is that right?

Peter Sheridan: What we would have done is written to the Director of Public Prosecutions and said whatever the result was.

Q158 Nigel Mills: So that exchange is more about those who you were not prepared to write to the DPP about.

Peter Sheridan: It was the beginning of a process, because that happens in December 2006, before Operation Rapid is established in February 2007.

Q159 Nigel Mills: That seems a lot more thorough in terms of wanting to interview.

Peter Sheridan: That was where our position was, so the only position that we could take then in setting up Operation Rapid was as I have set out in the terms of reference: we will examine each case set against the criteria, what would be expected and would it meet the judicial standard in 2007.

Q160 Nigel Mills: Could I just ask you quickly about what happened in the early 2000s? I think some letters were sent out a long way before Operation Rapid, weren't they? Is that something you have any knowledge of?

Peter Sheridan: I have no knowledge of any of that before.

Q161 Lady Hermon: Can I just pick up on two particular issues that concern me greatly? One of them is to do with the Historical Enquiries Team, and it is in the public domain, in the Downey judgment, that your staff officer, Peter, was notified on 23 July 2008¹⁵, a year after Mr Downey had received his letter. Of course, we are repeatedly told that these administrative letters were not an amnesty from prosecution; if fresh evidence came to the fore, then, in fact, they could be arrested. It does suggest in that email—and it is published in paragraph 126 of the Downey judgment—that, in fact, that email did inform your office that HET had “located a crucial piece of evidence in relation to a double murder”, presumably of the two members of the Ulster Defence Regiment, “for which we submitted a review template.” Fresh evidence has come from HET about Mr Downey, a crucial piece of evidence in relation to a double murder. What was the process after your staff officer was notified of that? Why did Mr Downey continue to sleep peacefully in his bed at night?

Peter Sheridan: The HET were established to investigate, so they would have continued their investigation and they may have listed him as wanted, if that is what they want to do. By that stage, however, I was exiting the organisation, so I have no details of what happened. I left at the end of August that year.

Q162 Lady Hermon: When you left, presumably this very serious piece of information from HET would have been taken forward by your successor, and your successor, at that stage—just remind the Committee.

Peter Sheridan: ACC Harris, but it would have continued to be taken forward by the HET team. If they had discovered that evidence, their job was to review investigations, so they would have taken that forward. I would have expected that they would have taken it forward.

¹⁵ An email exchange between members of the Historical Enquiries Team (HET) and the PSNI (23 July 2008 to 4 August 2008) can be found here: [http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Email-exchange-between-members-of-the-Historical-Enquiries-Team-\(HET\)-and-the-PSNI-\(23-July-2008-to-4-August-2008\)%20.pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Email-exchange-between-members-of-the-Historical-Enquiries-Team-(HET)-and-the-PSNI-(23-July-2008-to-4-August-2008)%20.pdf)

Q163 Lady Hermon: Yes, but did the PSNI co-operate with HET and let them have any additional information?

Peter Sheridan: Yes, they would have done.

Q164 Lady Hermon: Would HET have been told, “I am terribly sorry”, or words to this effect, “Mr Downey received a letter on 20 July 2007”? Would HET have known anything about this administrative scheme?

Peter Sheridan: No, I expect not, but they would have been aware from the review team that he had got a letter saying he was not currently wanted by the PSNI from 6 or 7 June 2007, or rather the letter that went to the DPP saying he was not currently wanted by the PSNI.

Q165 Lady Hermon: If the administrative letter was not an amnesty and he could have been pursued for further prosecution if fresh evidence came to light, and here we have HET identifying a crucial piece of evidence, then what should have happened?

Peter Sheridan: It has to be clear whether it is new evidence or whether that evidence was in place at the time. This would have been the Head of Crime, Norman Baxter’s role at the time as senior investigating officer. I heard him saying that, if that was new evidence, then of course it could be, but it might be evidence that was already in the system but, I understood, could not be found when the review team did their review. It was a question of whether it was new evidence or already there and simply could not be found.

Q166 Lady Hermon: But HET may not have known that there was an administrative letter. Your guess would be that they did not know a letter had gone.

Peter Sheridan: They would not have known.

Q167 Lady Hermon: They would not have known that Mr Downey had received a letter on 20 July 2007.

Peter Sheridan: No. I have checked this as late as yesterday with the PSNI. Nobody who I can find in the PSNI—neither the Chief Constable then, Hugh Orde, nor anybody else—knew there were letters going out to individuals. I would assume there had to be some way of communicating with the individuals, whether it was by word of mouth, and, as I understand now, not everybody got letters; some people were told by word of mouth or other ways of telling them. I assume that there had to be some way of communicating the information, but we were not aware of what it was.

Q168 Lady Hermon: This was such a well-kept secret that the Chief Constable of the time, and that you, as a serving and very experienced ACC, were not aware of these letters going out from officials.

Peter Sheridan: I knew what I wrote in the letter to the DPP. That is where it stopped. That loop never came back the other way for anybody to say to me, “Here is a letter we are drafting and we are sending out to X”, so we were not aware that there were letters in the system.

Q169 Lady Hermon: I will put the same question to you as I did to Mr Baxter: how did you feel when the current Chief Constable, Matt Baggott, when the Downey judgment was published, accepted “full responsibility”? “The Chief Constable of the PSNI accepted full responsibility for the failures by the PSNI”. How did you feel?

Peter Sheridan: I would take a slightly different view from my colleague, simply having been in that position and acted in the Chief Constable’s position at the time. He was responding to a

judgment that came out of the court at that time. When you read it, the judge had adjourned it and asked for further investigation, so he was responding—as was the Secretary of State—to a judgment that came out of the court at the time. I am not sure that I would have done it much differently, once I had got a judgment from the court, particularly at that level, a High Court judge, saying this was his judgment. When I read the judgment, I thought it was a very good judgment.

It is only when I then start to drill down into the various aspects of it that I find where the judge says that we did nothing to correct the situation; that is correct, but I did not know what the situation was because I was not aware of what was in that letter, that it was any different from what I had said, and that there had been no sensible explanation for the various failings in Operation Rapid. If my colleague had been called and I had been called, maybe we would have been able to inform the judge or help the court come to a different conclusion, if they had have been aware of this. I do not know what the judge's conclusion would have been if we had been able to explain to him the PSNI never knew there were letters or there was any difference in the letter that I sent to the DPP. The fact is that we were never asked by the prosecution to assist, even though the judge adjourned that case and asked for further information. The only people who asked me were the defence.

Q170 Lady Hermon: Do you feel that the judgment would have been a much better and fairer judgment had all of the papers that could have been made available to Mr Justice Sweeney been made available?

Peter Sheridan: I have no idea, Lady Hermon, but I would have wanted the judge to have all available facts. I am not a judge. I do not make judgments. I do not know what the judge would have done. He may have made the same decision. I have no idea.

Q171 Lady Hermon: Yes, but do you feel that more information should have been available to Mr Justice Sweeney?

Peter Sheridan: I absolutely feel that the information that I have been able to give you today, which is factual information, should have been given to the judge. The judge should have been given a note of that meeting from 9 June 2006. The judge should have been told the PSNI officers were completely unaware that there were letters going out and that there was additional information put in the letter that went out that was different from the letter that we sent to the DPP.

Lady Hermon: Yes, very significant factors.

Q172 Chair: Just on that point, that would not have changed the fact that Mr Downey had the letter.

Peter Sheridan: No.

Q173 Chair: But if there had been better communication at the beginning, he may not have got the letter.

Peter Sheridan: There is clearly an issue of communication, and I have to be fair to colleagues in the NIO that I do not think anybody was trying to pull a fast one at the time. When I read the emails about clarification, I can see two different trains of thought. One is from the individual in the NIO who is trying to seek clarification, "Has the PNC computer been checked and have you checked for any other external force?" They are probably doing that because they have the letter from February 2006 from the Attorney General saying he is wanted. My staff officer is

completely unaware that he is wanted, because the review team have not told him he is wanted, and neither have the NIO said, “We have a letter here from 2006 to say he was wanted.” The staff officer then asks the review team. There is no further information, other than to say “You can reply back that the PNC has been checked”. That is what she does.

Q174 Lady Hermon: I just need to clarify one point—in fact, it was a very significant point made by the Attorney General in response to the urgent question tabled by our Chairman immediately after the Downey case. In the course of his statement, the Attorney General said, “During this process, the Office of the Attorney General operated as the co-ordinating point because the Public Prosecution Service for Northern Ireland could not and would not communicate directly with the Northern Ireland Office and, therefore, collated the information that was supplied. In fairness to my predecessors”—previous Attorney Generals, obviously—“it is probably right to say that they would have had no independent means to verify whether or not someone was wanted, and reliance for that was placed on the PSNI and its links with other police forces in the other jurisdictions of this country.” Was he mistaken in having that confidence that there was going to be that linkage between the PSNI and other police forces in the United Kingdom?

Peter Sheridan: I can only go on the information that I have. The electronic note of the meeting on 9 June says, “Action: Mr McGinty to confirm with the Metropolitan Police if individuals are wanted, why they are wanted and what evidence exists in relation to the incidents.” That is the information that I had from the meeting on 9 June 2006. I had sent an officer down to that meeting.

Q175 Lady Hermon: Mr McGinty, of course, represents the Attorney General’s Office.

Peter Sheridan: Yes.

Lady Hermon: Thank you.

Q176 Mr Hepburn: You said that you were unaware that Mr Downey was wanted in London and, if you had been made aware, you would have passed on that information to the Attorney General.

Peter Sheridan: Yes. There is always a danger of reconstructed memory and because of what I know now, of course I would have told the DPP, so I have to caveat that by saying it is fine now, when you know what is happening now, that, if somebody has said to you, “John Downey is wanted”, I would have told them. Knowing the political considerations, I probably would have said to the DPP at the time.

Q177 Mr Hepburn: Did your team let you down?

Peter Sheridan: No, I think they operated—

Q178 Mr Hepburn: Bearing in mind that the Haass talks and everything have gone to Parliament, do you not think there is a bigger consideration?

Peter Sheridan: They are political considerations. We were clear that we remained within policing considerations, so the terms of reference said a review of people wanted by the PSNI. The 9 June meeting said the Attorney General’s Office will about clarify people wanted by the Met, and you have heard Mr Baxter say that he believed that, by alerting people that they were wanted by another police force, it was tantamount to tipping them off. I think they did what they were asked to do. I guess, with the subsequent inquiries, the quality of the work that was done, I do not know, because I did not look at the quality. The quality of those reviews will be tested at some stage in the future.

Q179 Mr Hepburn: Did I hear you right: did you say that you were also unaware that letters were going out to on-the-runs?

Peter Sheridan: I checked with the Chief Constable, Hugh Orde, at the time. He was unaware. I was unaware that there were letters going out.

Q180 Mr Hepburn: What do you think the purpose of your judgment was, then? Why would somebody ask you for your judgment if they are not going to pass it on to someone else?

Peter Sheridan: I was absolutely clear that they were trying to deal with on-the-runs. Our part of that process was to review the current evidence about why somebody is listed as on the run. Does it stack up in 2007? If it does, we will alert the DPP that it does; if it does not, we will advise the DPP. The DPP would then advise the Attorney General in London. I have no knowledge of what letters went to the Attorney General, to the Secretary of State or the Northern Ireland Office.

Q181 Mr Hepburn: Something that was referred to earlier on: Mr Downey made a number of visits to the UK, didn't he?

Peter Sheridan: Yes.

Q182 Mr Hepburn: How come he was not picked up beforehand?

Peter Sheridan: I have no idea. Again, I left in 2008. I presume that Mr Downey travelled to London and people did not check the PNC because he was not stopped. Not everybody who travels across to the UK gets stopped. Maybe the time he was stopped, somebody had just run the manifest from the aircraft that day through. I do not know.

Q183 David Simpson: You are very welcome, indeed, Peter, in the same way as Mr Baxter. Can I just ask you the same question or get clarification on it? I asked Mr Baxter to clarify his opinion, in relation to the NIO, that there was a culture within the NIO not to pursue or prosecute Republicans. Would you be of the same view?

Peter Sheridan: Most of the meetings at the NIO with Gerry Kelly were attended by me and my staff officer. I have to say I was not ever unduly influenced at those meetings by anybody in the NIO to do anything, other than we took names. They did try to prioritise names but some of that was to do with people whose parents were elderly or there were other reasons given, but I did not get a sense that there was pressure on me to do anything other than a proper review of it. Part of that is people in the Northern Ireland Office were utterly clear from the Chief Constable and myself: we will do what is within the limitations of policing around this, or policing considerations. Of course, we are aware of all the political considerations around it, but that is not going to influence what we are doing, the review team's efforts or the terms of reference in it.

Q184 David Simpson: In terms of the involvement of other police officers in the whole project Operation Rapid, did you offer any instructions to them as to what level of confidentiality there would be in relation to that, or the way the work had to be completed?

Peter Sheridan: The only instruction I gave, as your colleague Mr Mills read out, was that Operation Rapid is the operational name for the review of persons certainly as wanted by the PSNI, and it will be listed as confidential. That was it. Most police documents are confidential or restricted. Very little needs to be kept secret in policing, although people may not believe that,

so I did not see any reason why these documents or any part of Rapid should be listed as secret. It is confidential because the potential is people's names will be listed in it.

Q185 David Simpson: Another point, if I can move on to the Policing Board a little bit: at any point, did you, as the ACC, speak to the whole of the Policing Board in relation to the scheme? At any point, was a formal briefing offered to the Chair and Vice Chair of the Board?

Peter Sheridan: You can take this whole OTR issue out here now, set it out on its own and look at it outside the context of what was happening. At that time, I ran the public inquiries: the Rosemary Nelson and Billy Wright inquiries; the transfer of national security from the PSNI back to MI5; Denis Donaldson had been murdered in April that year; the Mark Haddock case had come out from the Ombudsman's office. In all of those cases, I saw it was important to talk to the Chair and the Vice Chair of the Board. Was it a formal briefing? No. Was it a conversation where I was updating them on various aspects? Yes. Did I ever formally brief the full Policing Board? No.

I was very much aware, though, that, towards the back end of 2006, having had those meetings with the Attorney General's Office, we were going to be writing terms of reference and reviewing them, and I would have said probably as little as that. It would not have been that I would have said, "Once I write to the DPP, the DPP will then alert the Attorney General, and the Attorney General will alert the NIO", because that is not part of policing. "Here is what we will do: we will review the evidence and write to the DPP." It could have been something as simple as that, but, yes, I would have told the Chair and Vice Chair of the Board because I saw the importance of it and that it could have been misread that this was somehow being done secretly by the police.

Q186 David Simpson: Can you clarify just one point again: when were you first aware of the letters?

Peter Sheridan: When the public debate started after the trial, or around the trial time.

Q187 David Simpson: As a senior police officer within the PSNI, you were unaware of the existence of the scheme before you became involved with it. Would that be correct?

Peter Sheridan: I never heard the words "administrative scheme" until recently.

Q188 David Simpson: Subsequently, you asked police officers involved to treat it with some degree of confidentiality.

Peter Sheridan: Yes, like most of the work that they do.

Q189 David Simpson: At no point was it raised by you with the whole of the Policing Board.

Peter Sheridan: No.

Q190 David Simpson: No briefing was given to the Policing Board. At no point was there any formal briefing in relation to it and, finally, until the Downey trial, even you were unaware of the letters that were being issued from the NIO. You were unaware of any of those.

Peter Sheridan: No, and the briefing that I did to the Policing Board was to the Chair and Vice Chair. You may recall at that time there was agreement that sensitive issues, rather than being briefed to the whole Board, would be briefed to the Chair and Vice Chair.

Q191 David Simpson: It was only the Chair and Vice Chair who were briefed as regards that.

Peter Sheridan: Yes.

Q192 Ian Paisley: You are very welcome, Peter. I am going to follow on immediately from David on the Policing Board issues. I sat on the Policing Board during that period of time, from its inauguration through to the end of 2006, and certainly I do not ever recall a briefing. It is good to hear you confirming that. Can I also be clear: was it your view, because it appeared to be the senior police team's view, that possibly the reason why a briefing would not be given to the Policing Board on sensitive issues was that it leaked like a sieve?

Peter Sheridan: Was that the Board would leak like a sieve?

Ian Paisley: Yes.

Peter Sheridan: There may have been that sort of view. I am not sure how accurate it is. To be fair to the Board, at those times I had detailed conversations with many Board members about very sensitive issues and I am not aware of any leaking from the Board by individual whom I briefed. I was Head of Crime at the time, and I have just read out a list of very sensitive issues that I could have briefed or spoken to members about, not in a public session at the Board but individual members. I could not point to one time when any Board member let me down.

Q193 Ian Paisley: In terms of the briefing that you would have given to the Chair and Vice Chair, this was confidential. You would have stressed, I assume, that this was a confidential briefing, or that it was sensitive, and it was up to them how they handled it, but your expectation would have been that they would not have gone out and, to put it in Northern Ireland terms, "blabbed" it to the rest of the Board.

Peter Sheridan: Particularly the public session. It was up to them how much or how little. It was not my job to tell them, but there was a mechanism set up at the time, if you recall, that the Vice Chair and the Chair could be briefed on sensitive issues because there had been some fallout previously where the Board were not told things because, in that sort of public session, it could have leaked out or information been given out publicly. On those sensitive issues, the Chair and Vice Chair would have been briefed.

Q194 Ian Paisley: During that briefing which you gave to the Chair and Vice Chair, did what you told them look like an administrative scheme that has now subsequently emerged?

Peter Sheridan: All I would have said is that the police are going to review the individual cases. If we find that somebody is wanted, we will write to the DPP in that way. If we find they are not wanted, we will write to the DPP in that way. I would have kept it within policing considerations.

Q195 Ian Paisley: Did the Chair or Vice Chair make any requests about that review?

Peter Sheridan: No, I do not recall anything outside of that. I have to be clear on this: this could be a fairly brief conversation in the list of other things because, at that time, the Board were very interested—

Q196 Ian Paisley: There were lots of reviews going on.

Peter Sheridan: National security was a big issue, and the Board would have spent more time, so this issue about on-the-runs might have been this size compared to the other things that were happening at the time.

Q197 Ian Paisley: During the course of Mr Baxter's evidence, he recounted an incident where he had arrested two terrorists, where he was questioning them, and where Gerry Adams was able to find out about this, ring Downing Street, and Downing Street then applied pressure directly to the police to let these villains go. As a senior police officer, how does that make you feel?

Peter Sheridan: Today is the first I am aware of it. Of course, I would imagine any politician or any member of the public would not want politicians interfering in operational policing. That is almost a given right.

Q198 Ian Paisley: Let me ask a different way. If you had known that when you were his senior commander, would you have gone ape about it? Would you have picked up the phone to the chief and asked the chief to ring Downing Street and speak to them in his Sailortown language of exactly what he thought?

Peter Sheridan: I do not think I would have had to. I think Hugh Orde, who was then the Chief Constable, would have already been two steps down the road ahead of me.

Q199 Ian Paisley: Did that happen, then?

Peter Sheridan: I think, in his evidence, he said it was the Chief Constable's Office, so I am not aware that the Chief Constable would have known about it.

Q200 Ian Paisley: Were there any other cases that you were aware of, of a similar vein, where an official from Government would ring a police officer and say, "This case needs to be dropped"?

Peter Sheridan: It never happened to me.

Q201 Ian Paisley: Yes, but are you aware of it?

Peter Sheridan: I could not give you chapter. You hear these conversations or rumours around it, but I am not aware.

Q202 Ian Paisley: An official complaint was not brought up from officers to you about this kind of activity.

Peter Sheridan: No. If it had have been, with the Chief Constable at the time, Hugh Orde's reputation around operational independence or operational responsibility and the crossover with politicians, I think we would have known about it.

Q203 Ian Paisley: Given the earlier question and evidence you gave with regard to there being clear lines of demarcation between what you knew, what you were able to tell the DPP, and information other police services across the United Kingdom held, was there a view that, if the Police Service of Northern Ireland had told the Northern Ireland Office what was on the Police National Computer about Mr Downey and his involvement in Hyde Park, and indeed other things that were on the PNC, the NIO people would have tipped off Sinn Féin and the on-the-runs? Is that why you basically kept a very clear line of demarcation here?

Peter Sheridan: First of all, the NIO never asked about an individual in any of those emails. They talked about a letter that had 12 names in it. They did not talk or ask about an individual. There is an issue of whether, if my staff officer had have known, she could have said to a civil servant in the NIO that a named individual is wanted by the Metropolitan Police. Where does that sit with data protection? Where does that sit with potentially prejudicing an investigation? What was the reason that person wanted to know it? What were they going to do with that information? But that did not arise because the staff officer never knew.

Q204 Ian Paisley: This was a fluid situation. Your staff officer was being telephoned and engaged in conversation on more than one occasion by someone senior in the Northern Ireland Office, and your staff officer was being asked questions about, "What do you know? Do you have anything else?" It was probably, at times, quite a casual conversation. Were you very clear to your officer

that, “If you let them know anything, they will let those so-and-sos know and that will let them off the hook even more”?

Peter Sheridan: I do not think I would have taken that view. Civil servants would just automatically—

Q205 Ian Paisley: Was there a fear of this? It was fairly clear from Mr Baxter’s office that you could not trust the NIO as far as you could throw them.

Peter Sheridan: I would just say that I dealt with them in relation to all of the names and all the individuals, and it is not the impression I got. They were very clear where we stood on this, and I think the professionals in the NIO knew where that line was and did not cross that line, certainly with me. When the clarification comes, you are certainly on the border, because they did not name any individuals. They asked, “Has the Police National Computer been checked? Has it been checked that any of the list of 12 are wanted by any other police force?” The answer simply goes back, “Yes, the Police National Computer has been checked”, so the question would be, if the officer had gone back and said, “Yes, and X is wanted by the Met”, first of all, is it legal that the police can do that under data protection; secondly, why would they want to know that? What were they going to do with that information?

Q206 Ian Paisley: Mr Baxter has concluded that this process, in his view, was illegal in terms of how it was worked out. They were the words he used. Do you agree with him?

Peter Sheridan: What the police were doing was not illegal.

Q207 Ian Paisley: I am talking about the process. I am not accusing the police of operating illegally. I am talking about the process in terms of how it is worked out from his knowledge of the constitution.

Peter Sheridan: I think our safety and security, from the PSNI’s perspective, was to remain within the policing considerations, and I am going to continue to do that because I am here in my representation of my role in the police. Those were policing considerations that we acted lawfully and properly in.

Q208 Ian Paisley: Peter, come on. You are a senior police officer. You supply information to the PPS, as you should, and then you find out, years later, that the information you took was taken by Jonathan Powell and others—a civil servant and adviser to the Government—and used to get terrorists off the hook.

Peter Sheridan: What you are asking me to do is to make a judgment as to whether that was legal. I do not know. It is up to lawyers to make that judgment.

Q209 Ian Paisley: It is more than that. You have a judgment in front of you, which said that poor Mr Downey, the defendant, was wholly misled, and that he had received an assurance which should have been competent and should have been carefully written, and this poor guy could not rely on that assurance. Pity him, with his blood-soaked hands. Does it not make you outraged that the Government took a lawful situation that you were involved in and turned it on its head to the benefit of people you were trying to bang up—and rightly bang up?

Peter Sheridan: To be clear on this, Mr Downey was innocent. He had not been before the court on any of that, so the policing role in this was to test the evidence at that time, which is what the review team did. What you are reading from in the judgment, it would have been good if the

judge had had access to all of the facts and all of the information, and then what would have happened, I do not know.

Q210 Ian Paisley: You are confirming that, during the adjournment period in December of last year, no contact was made by the prosecutor to get you and to give that additional evidence, which could now maybe be viewed as new evidence.

Peter Sheridan: I think, more than that, I was refused access to the documents to assist the court when the defence asked me.

Q211 Ian Paisley: What does that tell you? Do you think they want to get to the truth in this?

Peter Sheridan: Again, that is a subjective judgment, and I cannot make it.

Q212 Ian Paisley: Come on, Peter, I am asking you to give me your opinion on this. I am not asking you to play it so straight.

Peter Sheridan: The only reason I play it so straight is because I am genuinely not sure what was behind all of that. All I can say is that it is bizarre.

Q213 Ian Paisley: Peter, come on. You are not sure what is behind it? You have been long enough in this game. You know Northern Ireland like the back of your hand. You have served in some of the most difficult situations and you have arrested some of the most difficult individuals. What do you think is behind it?

Peter Sheridan: I do not know what is behind it.

Lady Hermon: Can I take the liberty of rephrasing that question?

Chair: I think we have probably got to the end of that line.

Q214 Lady Hermon: Could I just rephrase the question slightly? Is it a matter of disappointment to you, Mr Sheridan, that the Attorney General chose not to appeal the Downey judgment?

Peter Sheridan: It is a matter of disappointment that we did not have the opportunity to put some of this information in front of the judge, and, if the judge had made the same judgment, maybe the Attorney General may have thought differently. There are a whole lot of maybes in this. I think the Attorney General was making a judgment, like everybody else, on what happened, on the information that was in front of the judge at the time. I have to accept that the Attorney General has read that judgment and has found that there are no grounds for appealing it. I could not disagree with him because I am not that qualified to do it, but I wonder: if all of the information that we have given you today had been with the judge, and the judge still made that, would there have been an opportunity for the Attorney General?

Q215 Ian Paisley: There is one question I want to finish on. Does it surprise you, Peter, how incandescent the people of Northern Ireland, who suggest that they were unaware of the existence of this letter scheme, are, from the First Minister down?

Peter Sheridan: When this broke, I was inundated with requests from journalists to do interviews, as you can imagine. I feel extremely sorry for the families, because I heard some of the families of the Hyde Park bombers saying that the police had let them down, and they are utterly bewildered about who was doing what and what was happening. I was conscious that, if I did anything in the media, there would have been sound-bites and it would only add to it. This is the first opportunity we have to give a broader picture. Is this going to help the victims, what I

am doing? Probably not. It is probably going to add to the bewilderment and confusion as to what was happening. We continue to talk about victim-centred approaches and thinking about the victims. At some stage, we have to separate this whole past and deal with victims, and deal properly with victims.

Q216 Ian Paisley: Are you surprised that the public of Northern Ireland are so outraged by this? Given that you were blindsided to what was happening at one end of the process, can you understand that outrage?

Peter Sheridan: The public of Northern Ireland, having accepted that we are going to let prisoners out, having accepted the most you will ever do, no matter how many murders you have committed before 1998, is two years in jail, having accepted that we are not allowed to forensically examine decommissioned weapons, having accepted that we are not allowed to take information about the disappeared, I guess the public of Northern Ireland will—

Ian Paisley: Were they fair game for it?

Chair: I think the difference being that all those things went through this House of Commons, and the on-the-runs administrative scheme did not. We will move on.

Q217 Naomi Long: I just want to clarify something that you said in response to Ian. You said you were not aware, and you do not believe that the Chief Constable was aware, that Downing Street had contacted, through his office, an officer who was investigating a serious crime, to ask them to release the individuals who were being questioned. Did anyone talk to anyone else in the PSNI about these things? Would no one have seen, in the Chief Constable's Office, that this was a slightly important conversation that had been had, and thought to alert either yourself or the Chief Constable, or would your own officers who were working to you not have thought that this was something they should mention to you?

Peter Sheridan: I think you have heard of the conversation. The call came to somebody in the Chief Constable's Office, who then spoke to Mr Baxter and he was clear, so they knew already. Because the call came down the ways, it was not as if Mr Baxter got the call and kept it and did not pass it up, so they would have known that already.

Q218 Naomi Long: So the Chief Constable did know, because I thought what you had said in answer to what Ian had asked you was that you do not think the Chief Constable did know, because he was precious about the PSNI's independence.

Peter Sheridan: He was. I do not know. I cannot answer for the Chief Constable, but when Mr Baxter gave his evidence, he said "the Chief Constable's Office". If he had meant the Chief Constable, I think he would have said "the Chief Constable." I do not know whether the Chief Constable did or did not know.

Q219 Naomi Long: Do you find it at all strange that he did not mention that conversation to you?

Peter Sheridan: That who did not?

Q220 Naomi Long: That Mr Baxter did not mention that conversation to you. Do you find that at all strange?

Peter Sheridan: He probably had already made his point to the senior officer who told him.

Q221 Naomi Long: So you do not find it all strange.

Peter Sheridan: I am not sure that he would have told me every conversation and referred—

Q222 Naomi Long: No, I would accept that, but I would dare say, if most people got a phone call from Downing Street, it might be slightly more noteworthy than the average conversation that they have.

Peter Sheridan: He did not get it from Downing Street. He got it from the senior officer who had taken the call.

Q223 Naomi Long: He knew the genesis of it. He knew it came from Downing Street, because he told us that today.

Peter Sheridan: Yes, but he made his point clear back to them. I do not know, Naomi. I cannot say why he did not tell me or who he was going to tell. He had already made his point to the senior officer and he was clear what he was going to do about it, and it was ignored.

Q224 Naomi Long: You described previous attempts to deal with the issue of on-the-runs, and you described the letter exchange with Barra McGrory. Could you just explain very clearly again for us, just to get absolute clarity on this, who specifically asked for Operation Rapid to be set up and for this process to be done by the PSNI, when this was done in 2007? Who were the individuals who were involved?

Peter Sheridan: I go back to the very first meeting, on 25 May 2006. You had the then Director of Public Prosecutions, Sir Alasdair Fraser, Kevin McGinty from the Attorney General's Office, NIO representatives, and there were others there. I have not listed them but there will be a record of that. This is a journal entry or a notebook entry that I have myself. The discussion then was about on-the-runs and the failure of the process, and whether there were any other things that could be done around it. We were clear that the issue could only be addressed by the police in a limited way. If solicitors asked, "Is my client wanted?", we could respond that their client was wanted or not wanted, but we would have to go through a process to check that anyone on the list who was wanted in terms of the modern day would still stand the test of time. We would have been happy to do that review and, in fact, those reviews should always have been done along the line. We should always be reviewing people we have listed as wanted: is the evidence still there? Does it still stack up? We should not list people as wanted if the evidence does not justify that. I am quite comfortable that we can do that about any person who is wanted, not just about the on-the-runs.

Q225 Naomi Long: When the scheme was set up—Operation Rapid—you were not dealing with individual solicitors making requests, as you have suggested. You were dealing with names being given to you en bloc—is that correct?—by the NIO.

Peter Sheridan: Yes.

Q226 Naomi Long: And you said that you had attended meetings where Sinn Féin were present where the NIO gave you those names.

Peter Sheridan: Yes.

Q227 Naomi Long: So you were aware of that. Norman Baxter said that he was not aware that that is the situation.

Peter Sheridan: You can see in the terms of reference that I would provide him with the names, so I gave him the names. The discussions with Barra McGrory and that are December 2006, when

we were trying to find a way, and the potential was solicitors could write in, but in the main the names came via the NIO and Sinn Féin.

Q228 Naomi Long: You were aware of that; Norman Baxter was not aware of that. Did you at any stage ask what would happen to that information when it was passed on to the DPP; how it would be used?

Peter Sheridan: The DPP is a law officer, so I assume it will be treated like every other letter that I write to the DPP.

Q229 Naomi Long: You were not curious as to how it would be used or communicated to anyone beyond that.

Peter Sheridan: It was clear that the DPP would write to the Attorney General, but not what happened. The DPP would check his records to see if there was anything in his system, then he would write to the Attorney General.

Q230 Naomi Long: When someone from the NIO probed your staff officer for clarification about the information you had sent, were you surprised that the NIO had that information?

Peter Sheridan: I did not know that probing, because those were ordinary, routine correspondence that the staff officer would have dealt with, liaised with the Operation Rapid team and gone back again. As I said, people take it on its own, as if that was the full day's job that we were doing. I had 1,400 officers under my command. I was running live operations at that time resulting in the arrest of seven people for explosives. On-the-run was that much of my day, if it came into my day's work at all. I had delegated responsibility to Norman Baxter, and his team got on with that job.

Q231 Naomi Long: Would he have been aware that it was the NIO who were asking for this clarification?

Peter Sheridan: Yes.

Q232 Naomi Long: Would that have caused him concern, given that his understanding of the process was that it was being passed to you to be passed to the Attorney General via the DPP?

Peter Sheridan: I think, in his evidence, he said that, so he would have said to my staff officer, "You can respond back that the PNC has been checked." He did not say, "You can respond back that the PNC has been checked and there are a number of those people who are listed as wanted."

Q233 Naomi Long: When it came to the Downey case, when this went to court, were you surprised that the NIO and the Attorney General did not present the full detail of the scheme, as it was, in terms of the role of the PSNI, in detail, including the limitations on what the PSNI would do and the role of the Attorney General's Office, which we believe is minuted, that they would do the checks with other police services? Were you surprised that was not submitted as part of the evidence in the prosecution case?

Peter Sheridan: The only evidence that I got access to was what was in the judgment at the end of it, so I do not know what was presented, but I have consistently said that I would have liked to have the opportunity to have had all of this given to the judge, so that he could take that into account. Those minutes are crucial and I was able to get access to those minutes. When I was asked last week whether I would come to the inquiry, I then began to ask: "I need access to the notes and the background material." This was eight years ago. So I got access to them. If a

disclosure officer was in the PSNI twice or three times, how did they not get access to the documents when I got them?

Q234 Naomi Long: In terms of the judgment, the PSNI were judged very harshly in terms of their role in the scheme. Do you feel the PSNI, and Norman Baxter in particular, have been scapegoated in this affair?

Peter Sheridan: Again, we continue to forget about the victims. I have categorically said that I am going to avoid the blame culture—who did what, who did that—because all we are doing is bewildering and complicating for victims this process. I can only give you factually what I have in front of me. Other people can make judgments around it. I am not going to get into making judgments, as you have asked me. It is not my function or role. I feel desperately sorry that people who lost loved ones are listening continually to mixed messages, confusion and what seems incompetence across the board, and we still have not helped them in it.

Q235 Naomi Long: I accept that point, but I have to come back to this issue, because I agree with you that the victims have been hurt, but they will not be hurt by us not dealing with and addressing the issues that are there. If all of the information that was pertinent to this case was not presented to the judge, that may have contributed to their pain, so surely that needs to be exposed. Therefore, I am asking: do you feel, first of all, that the fullest information possible was presented to the judge, based on your reading of the judgment and your knowledge of the scheme?

Peter Sheridan: No.

Q236 Naomi Long: Do you believe that the PSNI were, therefore, judged more harshly than is fair?

Peter Sheridan: It seems that way when I read “did nothing to correct the situation”, when I see “There has been no sensible explanation for the various failures in Operation Rapid.” That is because they were not asked. The people who were involved in that were not asked, “What is your explanation?”

Q237 Naomi Long: My final question: have you asked anyone in the NIO or, indeed, in the Attorney General’s Office why you were not asked?

Peter Sheridan: I do not think it is the role of the NIO or the Attorney General’s Office. I think it is the role of the prosecution. The judge adjourned the hearing and asked both the defence and the prosecution to go away and get further information. What he said was that it became apparent at an early stage in the abuse hearings that there had been no investigation as such instituted by the prosecution into the precise circumstances in which the letter dated 20 July 2007ⁱ came into being and why it had not been corrected thereafter, and he adjourned it to go and get further information. The people who ring me are the defence.

Q238 Oliver Colville: First of all, I have to say, Mr Sheridan, that I represent a naval military constituency and military-garrison town, and we have a number of people who have been murdered, who were going about doing their job as members of the Armed Forces, which I find incredibly difficult to take on board. I want to ask you this question: do you think that PSNI, and you in particular, were specifically not shared that information about these letters? Would you have done anything different if that had been the case? Do you feel—and I am sorry for using this expression—that there has been political intervention in all this that has perverted the course of justice to make sure that those people who were murdered have not had someone held responsible for this?

Peter Sheridan: Let me take your second question first. If we had been given notification that this letter was going out “and it is going to say this”, then that would have gone to the Rapid team, who would have, right away, seen that it was wrong, because they would have known. They knew. My staff officer, if she had got that letter, would have gone down to Rapid and asked, “Are you happy with this draft? This is going out.” They would have right away—I have no doubt—picked up that it is inaccurate in what it says, but because we never had access to it, we could not do that. What was your first question, again?

Q239 Oliver Colvile: It was just generally that I feel there is now a series of victims here whose families have seen their military relatives murdered and, at the end of the day, they have no recourse as far as this is concerned. I was under the impression that you could be tried twice for something. If new evidence ended up coming forward, you could be looked at.

Peter Sheridan: Only if there is new, compelling evidence.

Q240 Oliver Colvile: What I want to ask you is: do you think you were deliberately prohibited from having that information shared with you?

Peter Sheridan: No, I think that we had the policing part of it and the policing considerations. We were not going to get involved in the political considerations around that. I do not think I was used, because we were clear what we were doing would be within the law, within ethical considerations for the police, and that is what we did. I do not think people deliberately used us because we were not going to be caught like that.

Q241 Oliver Colvile: Why do you think they did not share that information with you about the letters?

Peter Sheridan: Our remit is with the Director of Public Prosecutions, not with the Civil Service and the NIO or anywhere else. If you take an ordinary murder investigation, I would not be writing to the NIO. I write to the Director of Public Prosecutions. That is our route. What happens thereafter is not a matter for the Police Service.

Q242 Ian Paisley: During the course of Mr Baxter’s evidence, Mr Simpson asked him a question about the royal prerogative. Are you aware of any details where the royal prerogative has been given?

Peter Sheridan: I was not aware of it until I saw it in the judgment.

Q243 Ian Paisley: Have you been able to find subsequently anything, since then?

Peter Sheridan: I have not. I have been more exercised about the information about the PSNI.

Chair: That has been a very useful evidence session, Mr Sheridan. Thank you very much for joining us.

ⁱ A link to the letter from the Northern Ireland office to Mr John Downey of July 2007 is provided here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Cover-letter-from-NIO-to-Gerry-Kelly-and-John-Downey-OTR-Letter-July-2007.pdf>