



Northern Ireland Affairs Committee

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

Wednesday 9 April 2014

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Members present: Mr Laurence Robertson (Chair); Oliver Colvile; Lady Hermon; Kate Hoey; Naomi Long; Jack Lopresti; Dr Alasdair McDonnell; Nigel Mills; Ian Paisley.

Questions 244-411

Witness: **Sir Hugh Orde OBE QPM**, President, Association of Chief Police Officers, and Former Chief Constable, Police Service of Northern Ireland, gave evidence.

Q244 Chair: Sir Hugh, you are very welcome. Thank you very much for joining us. I do not think there is any need for me to introduce the subject; I think you are well aware of what we are doing. Before we ask questions, I would just like to invite you to make an opening statement, if you wish to do so.

Sir Hugh Orde: I am happy to make a very brief one, Chairman; I would far rather answer questions, frankly, so we can get to the nub of the issues that concern the Committee. I have a couple of major points having studied in detail the evidence given last week. One is that my understanding of this scheme—referred to as “the administrative scheme”—was that it was categorically not, and never was planned to be, an amnesty; it was simply a notification that the subject was not wanted at that time, and new evidence was always a possibility. As for my role, my concerns in the seven years I had the privilege of leading the Police Service of Northern Ireland were the policing concerns, and we stuck absolutely to that. I have to say I was surprised by some of the evidence I heard last week, but no doubt I will be asked questions on that.

Lady Hermon: Yes.

Q245 Chair: Last week I asked the first witness, who happened to be Mr Baxter¹, “Is there a special category of ‘on-the-runs’ as far as the police are concerned?” and he said, “No there is not. People are either wanted or they are not.” Am I right in assuming this category is a political invention?

Sir Hugh Orde: The phrase “on-the-runs” was a term used for people who were wanted in Northern Ireland and had left Northern Ireland to evade prosecution, or certainly arrest and

¹ The transcript of the oral evidence to the Northern Ireland Affairs Committee by Norman Baxter and Peter Sheridan on 2 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/8333.html>

interview. It is a phrase that is unique to the Province; it is not a phrase that is used elsewhere, in my professional understanding or knowledge. It was simply restricted to that category of people.

Q246 Chair: But the police would not see it as a category; you would just see individuals, and you either want them or you do not want them.

Sir Hugh Orde: Indeed. It was just a phrase that had come into common usage in Northern Ireland. The on-the-runs were known to be people who were literally, as described, on the run. In my previous life in the Metropolitan Police, they would have been people who were wanted. Very straightforward.

Q247 Chair: The whole thing came to everybody's attention following the John Downey case². It might be useful, therefore, to start there and ask what your take is on that. What is your take on the letter he received? What is your take on the advice that the police gave to initially, I understand, the DPP? How do you view that whole episode?

Sir Hugh Orde: As was discussed at length last week, Downey was one of many people who were part of a process where we had a very limited and restricted role, which, in the most simple of terms, was we would receive a list of names from the Northern Ireland Office and we would look at those names to form a view on whether they were wanted or not—i.e. if they came into jurisdiction, would they be arrested and interviewed, or would they be arrested and charged, or simply charged, or, in some cases, returned to prison? Having carried out that analysis, we then sent that to the prosecuting authority, and that is where our role ended.

Q248 Chair: Would you advise them, for example on Mr Downey, whether he was wanted in just Northern Ireland, or would you suggest that he may be wanted elsewhere in the UK?

Sir Hugh Orde: The way the system worked was the investigation was taken on, as you know, by Mr Baxter, who gave evidence at length last week. He reported to ACC Sheridan. The terms of reference were fairly precise, but not necessarily prescriptive. In the case of Mr Downey, the view of Mr Baxter was he was not wanted; he did not live in Northern Ireland, but, if he came into Northern Ireland, we would not have enough to arrest him, and therefore he was not technically wanted by the Police Service of Northern Ireland. Mr Baxter also did checks that enabled him to understand that he was still wanted; he was still circulated by the London Metropolitan Police. Some observations were made last week that that is just another part of the United Kingdom, so had he come into jurisdiction had that been known, he would have been arrested in Northern Ireland. Mr Baxter did not share that information with Mr Sheridan. That is the basic failure, and it was identified last week. Had the brief to the ACC included that information from the operation undertaken, I am confident that Mr Sheridan would have shared that with the prosecuting authority and I do not think we would be having these conversations now. That is where the system failed.

Q249 Chair: So in your analysis, there was a failure within the PSNI.

² "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>

Sir Hugh Orde: Yes, indeed, and I said so. But that was the failure. It was around not sharing the totality of the information. Indeed, Mr Justice Sweeney makes a similar observation. There then was clarification sought in that conversation, and part of that clarification was, “Has the PNC been checked?” as identified by Mr Justice Sweeney, and the answer to that was “Yes”. The inference there is if one checks the PNC and says no more, it would be reasonable to assume that there was nothing on it, and that was where the issue did not really come together. In my view, the DPP had a right to know that information, and I would have had no difficulty sharing it with him.

Q250 Naomi Long: Sir Hugh, it is good to have you with us. Can I just probe that a little further? Norman Baxter, in his evidence last week, said that there was a minute of a meeting previous to this where it was agreed that the Attorney General’s Office would undertake such checks with respect to whether someone was wanted by other police services across the UK, and that their duty was purely to report on the issues relating to the PSNI. He also gave us evidence to say that he believed that, were he to disclose that someone was wanted in another jurisdiction or the basis on which they were wanted, it could potentially pervert the course of justice. Could you comment on those two specific issues? Was it your understanding that it was the responsibility of the PSNI or the Attorney General to provide those checks? Do you believe it would have perverted the course of justice for Norman Baxter to have passed that information on, first of all to Peter Sheridan and then, through Peter Sheridan, on to whoever they report it to?

Sir Hugh Orde: That is a really interesting question. In relation to the role of the Attorney General, that was referred to in the discussions last week—that there was a meeting where that was tasked to the Attorney General. I do not think that excludes, in any way, shape or form, a police officer undertaking that activity in parallel and any SIO—senior investigating officer—would be very interested in understanding the full picture, and clearly Norman Baxter was; he did do that check. We are clear there certainly was a PNC check done by the PSNI, and therefore the result would have been known to Mr Baxter. What he failed to do was tell Mr Sheridan. It is beyond my understanding how communicating that information between professional police officers is in any way, shape or form perverting the course of justice. Equally, I am not persuaded that, had ACC Sheridan had that information, sharing it with the Director of Public Prosecutions, Sir Alasdair Fraser, a man of the highest integrity, now sadly dead, would have been perverting the course of justice. Our role was limited to that piece of activity. What happened post that event I do not think is a matter for the Police Service of Northern Ireland to comment on.

Q251 Naomi Long: Subsequently, the HET expressed concerns about the information that had been given suggesting that Mr Downey was not wanted, and the HET, based on their investigations, felt that that information was not correct. There are two questions arising from that. What conversations took place routinely between the HET, in terms of the investigations that they were undertaking in historic enquiries, and Operation Rapid in order that those would be coherent messages that would be sent out? Secondly, when it came to the use of that information—it being passed on and so on—how was it communicated within the PSNI? Would you have seen the information that was being passed to the Director of Public Prosecutions personally, and would you have had any oversight as to who within the PSNI had had sight of that information before it was passed on to bodies outside?

Sir Hugh Orde: I will do the last question first. No, I did not. ACC Sheridan was one of my senior command team and probably one of the most experienced Assistant Chief Constables I had in Northern Ireland at that time. He was in charge of dealing with this. He was delegated to get on

with it. As he identified in his evidence, this was just one thing of many things going on in a very complicated and complex policing environment in the teeth of a very dynamic and ongoing peace process, so we could not all be doing everything. It was Peter's responsibility to supervise the issue; it was Norman Baxter's responsibility to carry out the tasks as described in the terms of reference. That is how the system worked. Peter Sheridan was the person responsible for communicating with the Director's office the information from Operation Rapid³. That is how it went out of the PSNI.

Your second question was on coherence between the HET and Rapid. I take full responsibility for the Historical Enquiries Team. It is the only original idea I have ever had in policing. It was a determined and critical effort, in my judgment, to try to deal with this incredibly complex process of the past from a policing perspective. It is unique. It is not a traditional police investigation. It was focused on the families, as a starting point—trying to understand what the families wanted out of some review of their cases to give them some sort of greater understanding of what concerned them looking backwards. There were 3,000. It was a huge undertaking, supported strongly by the Northern Ireland Office and the Government, and funded. It still continues, although, sadly, has been subject to some unreasonable and hard-to-understand criticism recently. I led that team. It answered direct to me. I do not think I can remember any organised or formal communication between the two. They would be running in parallel, and the information we gave was at a moment in time. At the time the report went on Mr Downey or any of the other people, we were very clear, "At this moment in time, the Police Service in Northern Ireland will not be arresting X should he or she come into jurisdiction", but that did not mean, later down the line, should some new evidence be uncovered or something else happen, that we would not then carry on that policing activity, if it was new.

Q252 Naomi Long: That is precisely the question, as to what constitutes new. If the HET were making their way through the cases that they were reviewing and looking at the evidence that was available, they may have reached a different conclusion, for example. There have been cases that have been sitting for a long time where prosecutions have then been brought, not on the basis of new evidence but on the review of existing evidence. Did you have no qualms at all about informing people in some way that they were not going to be subject to prosecution on the basis of the evidence currently available without first checking with the HET whether they had conducted a thorough investigation into that case to decide whether or not it was possible that the evidence there could allow the pursuit of a prosecution?

Sir Hugh Orde: I understand your question. The reason I said at the beginning the HET was unique is that it was; it was truly a genuine attempt by the police service to take responsibility for dealing with the past; sadly, it seemed so many other people were not prepared to face up to this complexity. It was critical to building confidence in policing. Because so many cases were being looked at in an ad hoc way, people who were organised were getting attention and people who were not organised or had no one to speak for them were not, so we made a decision at the beginning that the fairest way of doing the HET process was to start at the oldest cases. People, sadly, were dying; in the Hegarty case, for example, the parents died before we could carry out that review, which was tragic. We started at that end and moved forward. I would not have wanted to have disturbed that. That is one of the many risks you take when trying to do

³ The terms of reference of "Operation Rapid" can be found here:

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

something different. There was inevitably a possibility that situations could arise where there was something somewhere that we did not know about, so a letter went out.

Q253 Naomi Long: And you did not feel the need at any stage when you were getting these cases brought to Operation Rapid for consideration to look at those cases with the same kind of detailed scrutiny that would be applied in the HET as opposed to a simple case review.

Sir Hugh Orde: To have done that would have taken those cases out of the routine in which we were carrying them on.

Q254 Naomi Long: It may also have prevented what happened in the Downey case.

Sir Hugh Orde: It may have done—although I am not persuaded—but it may have put other people's investigations at risk where we might have found something similar. The scale of this had never been tried before. With hindsight, could we have done it better? I am sure we could. But that is what we did.

Q255 Ian Paisley: Sir Hugh, it is good to see you here; it is like old days. First of all, in your opening comments, you said that this was not an amnesty; it was a notification. Are you saying it was a formal notifications scheme? Would you go as far as to say it was a scheme and that is how you identified it when you first became Chief Constable in 2002?

Sir Hugh Orde: You can call it what you want, frankly.

Ian Paisley: I am interested in what you call it.

Sir Hugh Orde: I did not really call it anything. It was a process where we played a small but critically important part, which was to receive names from one part of the Government and to put them through a thorough process led by a senior investigator who reported to an ACC who wrote to a senior law officer. What happened post that event was not our responsibility. In terms of the scheme, it has been referred to as an administrative scheme; it is quite a good description of what it was. It absolutely was not an amnesty. But, as Peter Sheridan alluded to, we were not aware of what happened post that.

Q256 Ian Paisley: Was that process peculiar to Northern Ireland, in your experience as a senior police officer in the Met and all the rest of it?

Sir Hugh Orde: I ran serious crime teams in south London for two years, and one would routinely review unsolved cases to see if there was new evidence. One would review any warrants in existence to make sure you had substantial evidence so you could carry forward the case. Witnesses, for example, had died; evidence had to be checked. That would be a routine process, and indeed Norman Baxter described that. But I did not in the Metropolitan Police, for example, then write letters to people, no; that is absolutely correct.

Q257 Ian Paisley: So that part of it was peculiar to Northern Ireland.

Sir Hugh Orde: It was absolutely peculiar. We did not in London, for example, advise the prosecutors, necessarily. We would review cases because that was the professional thing to do. We would not necessarily then take it to the next dimension.

Q258 Ian Paisley: What, then, is your understanding of the genesis of the on-the-run scheme before Operation Rapid was formulated into a policy paper?

Sir Hugh Orde: I am not sure I know enough about it apart from clearly this was part of the peace negotiations. I think there was common agreement that the best way forward was legislation; clearly, the legislation failed. I find it slightly incomprehensible to think that at that point everyone decided nothing was going to happen. That is a matter for others to comment on, not me, but I would find that slightly unusual. The legislation itself was discussed at the Policing Board; Alex Attwood I remember asked questions. I gave substantial evidence to this Committee in 2005⁴ on the legislation, but when that collapsed, something else happened. This, it appears to me, was what happened. Our role was precise. If I just may, in terms of bearing in mind what was said last week, reassure you that the notion that I would be subject to political pressure or influence—

Q259 Ian Paisley: I am going to come to that point in my questioning. I know why you want to answer it, and I want to have an answer to that, but I want to focus on this line of questioning, if you do not mind. Would it be fair, then, to characterise your understanding of what happened between 2002 and 2005 as an ad hoc arrangement?

Sir Hugh Orde: That would be a reasonable assumption, yes.

Q260 Ian Paisley: That would be a reasonable assumption, okay. Thank you. With regards, then, to what Mr Baxter said last week—because you should be in a position to answer that—you are reported in the press as saying, “If Downing Street had called me asking me to release prisoners, I would remember it to my dying day”. No one accused you last week of receiving a telephone call or being asked anything.

Sir Hugh Orde: The reference was to “the Chief Constable’s Office”. That is sufficiently close for me to make it utterly plain in the public domain that that never, ever happened in my term of office. At no time did Number 10 ever try to influence my decision making, which was operational. In law, I was operationally responsible, not operationally independent, by virtue of the Police (Northern Ireland) Act 2000, which is a minor distinction but still important to recognise. At no time did any Secretary of State—and I had four of those—try to influence me, and at no time did any official from the Northern Ireland Office ever try to influence my operational decision making. Had they, I would have made it public immediately. I commanded a very experienced team. We were together for six of the seven years. We met three times a week at eight in the morning on Mondays, Wednesdays and Fridays. Should any other of my senior command team have been subject to that, they would have told me and they would have known what would have happened. I am very concerned that the suggestion is that at any stage, at any time, one of my senior investigators was put under any pressure to release serious terrorist suspects—of course, in the particular case referred to by Mr Baxter, one of whom was convicted. It did not happen in my judgment and I would be very, very surprised if any such call was made in that regard.

⁴ The transcript of the oral evidence to the Northern Ireland Affairs Committee by Sir Hugh Orde on 9 November 2005 can be found here:

<http://www.publications.parliament.uk/pa/cm200506/cmselect/cmniaf/uc665/uc66502.htm>

That having been said, I would not have been surprised if Mr Adams, as he declared, did ring to complain. It was not unusual for politicians of all sides to complain about what the police service was doing, both Loyalist and Republican. You will remember that very well, Ian, from our conversations there.

Ian Paisley: I certainly do.

Sir Hugh Orde: It was of course their right to complain, and I would have expected to have been advised of that. There may well have been a telephone call from Number 10, or probably through the NIO, to who was on call to advise that Mr Adams, on that occasion, had been complaining. That is important, because complaints from senior politicians, of whatever side, can have an operational implication. There may be public order implications, for example, that we would need to consider. But never did anyone try to influence the due process that I was charged with delivering.

Q261 Ian Paisley: Mr Baxter has a note in his diary—his police log, by the looks of things—that he read to us that at 9.10 on a certain date he received this call. Where is he getting that from?

Sir Hugh Orde: I think you need to seek clarification from Mr Baxter, and I am sure he would be willing to describe in granular detail what precisely happened. As I understand it, the note was a call from an ACC, non-precise.

Naomi Long: Duty ACC.

Sir Hugh Orde: Duty ACC. At that time we had a system whereby rural region and urban region looked after their own issues, so if it was not the ACC, it would be the deputy to the ACC rather than having one on call. The challenges of Northern Ireland were such that you needed someone who had really deep understanding, and the rural ACC would be dealing with a huge piece of territory, and Duncan McCausland was the ACC for urban. It would not surprise me for a call to have been made, and I would have expected that information to have been communicated to the senior investigating officer. I would not expect—and I would be staggered if this happened—that an ACC would tell a Detective Chief Superintendent to de-arrest people, bearing in mind the planning for a job as complicated as the one referred to by Mr Baxter. That would have been a big operation led by an Assistant Chief Constable, and probably two Assistant Chiefs would have been involved in the planning and the execution of such an arrest.

Q262 Ian Paisley: I can understand why you want to focus a lot on that, but the main thrust of the inquiry is very different from that piece of evidence, important as it is. My last question, Mr Chairman, if you will give me some grace on this, is: from Mr Baxter's evidence last week, and indeed Mr Sheridan's, it appeared that there was a reluctance, directly from Mr Baxter and to a degree from Mr Sheridan, to share information with the Northern Ireland Office. Why would that have been?

Sir Hugh Orde: I am not sure. I noted the evidence with some concern, because I worked with the NIO extremely closely for seven years; I worked with the Attorney General's Office, and the DPP's, extremely closely for seven years. I never had a concern about their integrity, I never found them to be biased—it is important that is put on record—and I never found them to behave or act outside their areas of responsibility. We all were charged with difficult jobs in a unique policing environment with a very complicated peace process going on around us, which was important and I was a full supporter of. But my role was a precise one; it was round about enforcing the law. I stand on my record, Ian, in terms of making statements that, without

question, would have been difficult for the Government and local politicians but were the right thing to do from an operational perspective.

Q263 Ian Paisley: But to be blunt—

Sir Hugh Orde: That was blunt.

Ian Paisley: Frankly, Mr Baxter and Mr Sheridan did not trust the Northern Ireland Office with information that was on the Police National Computer. That is the inference of what has been told to us.

Sir Hugh Orde: They would not have needed to share the information from the Police National Computer with the Northern Ireland Office. Had Mr Baxter told Mr Sheridan that, in this case, Downey was wanted by the London Metropolitan Police as described on the PNC, rather than saying, “The PNC has been checked”, I am confident that Mr Sheridan would have communicated that to the senior law officer, the Director of Public Prosecutions, who, in my view, had every right to have that piece of information, at which point the NIO would have been excluded from an unnecessary question that they did ask and were given information that the PNC had been checked. That is where the thing broke down.

Q264 Chair: Sir Hugh, you say that your office did not receive any such call, as was intimated by Mr Baxter. But you are saying that it could well be the case that if Mr Adams contacted Downing Street, as I think he has indicated he did, that would have been communicated to you. Could that amount to pressure? One man’s pressure is another man’s ordinary conversation, is it not?

Sir Hugh Orde: Not in my senior command teams, no. Not in any way, shape or form. Mr Adams did complain; he made a statement saying why he complained. He also observed that the wider issue was one of dealing with the past. This may sound rather strange as a senior chief officer: I agree with him. He is right. Pulling pieces out of what is a very complicated process is not necessarily the best way of looking forward, but I fully understand and respect why the Committee is interested in this particular subject.

Q265 Jack Lopresti: Sir Hugh, are you saying that the call did not take place or are you saying that you have no knowledge of it so it is unlikely that it took place, for clarity?

Sir Hugh Orde: I was on duty that day until 9.00 pm. I was actually doing HET work until nine that evening, so had it come into my office it would have been picked up and communicated to me. That is not to say it did not happen. It may well have gone into the regional control room, who would have told the Duty ACC, who may well then have advised—or should have advised—the SIO that a complaint had been made by a senior political figure. In this case it was Adams; on another occasion it may have been somebody else complaining. That would have been communicated quite properly to the senior investigating officer. I would have no difficulty with that at all, but I do not remember this one, which in my view means it was clearly a non-controversial issue.

Q266 Nigel Mills: Sir Hugh, can you just talk us through how this scheme came into fruition and what briefings or meetings you had at the time it started? I am just trying to understand what you thought you were being asked to do.

Sir Hugh Orde: There were a number of meetings. I cannot remember precise detail of how it came to be in terms of the political discussions between parties around how you deal with the on-the-runs. My understanding of the history was everyone agreed it needed to be dealt with, and there were certainly conversations around 1998 with all parties around, "It needs to be dealt with". I think the shared view at that point was that legislation was the way forward. Clearly that, sadly, crashed and burned, although I understand why that was the case. In terms of what I was being asked to do, I was extremely clear; it was a really basic process. It was a review of a case. It was then examined, "If this person comes into jurisdiction, do we have enough to interview this person, or do we have enough to arrest them and charge them?" We communicated that through the system to the law officers.

In terms of the conversations I had, which is important because it underpins what was said by ACC Sheridan in particular, on 30 November 2006 at 11.30, for example, with Peter, I had a meeting with Sinn Fein. This is a note entry from my journal. "The discussion focused on on-the-runs, where I felt that a process could be organised to deal with this issue that allowed people currently wanted for questioning"—that was when we discovered they were—"to be interviewed after a discussion between legal advisers". In this country, that is when a person surrenders to custody with their legal representative. This is the important bit: "I gave no assurances, except that all persons arrested would be processed as quickly as possible, in keeping with our obligations under the law"—that would be the Police and Criminal Evidence (Northern Ireland) Order. "I also stated that those who were currently wanted, in the sense that they would immediately be returned to prison or charged, would be subject to that action should they be discovered in the Province." I do not think I can be clearer than that about the role of the police. What we did, as has been ably described already so I will not repeat it, was as Mr Sheridan described to the Committee last week, Chairman.

Q267 Nigel Mills: Did you regard the on-the-runs as an anomaly, or did you regard them as like any other person who was suspected of a crime or thought they were suspected but had not had their inquiry completely resolved?

Sir Hugh Orde: An awful lot of policing in Northern Ireland was a bit of an anomaly, quite frankly. It was a very different environment. We were operating against a persistent, albeit small and reducing at my time—albeit sadly now increasing—terrorist threat from dissident Republicans. We were delivering 175 recommendations from the Patten report⁵. We were working with a fairly new but increasingly well-established Police Ombudsman, a new Policing Board and District Policing Partnerships. Mr Sheridan described some of the operational challenges we were facing. We had the routine marching events. There was an awful lot going on that was unique to Northern Ireland. This was without question different from any other review process in my professional experience as a police officer. People are circulated as wanted; there is an obligation on the service nationally to review those cases routinely to see if those cases still stand up, because if you do not, someone may end up getting arrested when you have not got a case, and that is a) unlawful and b) expensive. So, there is a process in this country. The unique part was that we would then routinely communicate that information to the prosecuting authority. That was different; we would not do that in the United Kingdom routinely.

⁵ The report 'A New Beginning: Policing in Northern Ireland' (September 1999) can be found here: <http://cain.ulst.ac.uk/issues/police/patten/patten99.pdf>

Q268 Nigel Mills: Were you not tempted, with all that other important stuff going on, just to say, “Look, this scheme has no role in policing. We are just not going to do that. We will treat everyone equally, in the normal way we would do policing”?

Sir Hugh Orde: We were treating everybody equally. Had I received a letter from the Northern Ireland Office, for example, with some Loyalist names on, I would have treated it in exactly the same way. In this particular case, all of the people we were referred to were Republicans, because they were on the run. As Norman Baxter quite accurately pointed out, Loyalist terrorists did not go on the run. I suppose the question would be: where would you run to? You would be within jurisdiction anyway. It was very different in that regard, but, again, at risk of sounding boring or repetitive, one of my primary objectives was to build confidence in the new police service across both communities. That was challenging enough, and this, in a way, was part of that process. One did all sorts of things as a Chief Constable in Northern Ireland, entirely properly and professionally, to try to move on a very complicated world and build confidence in our new police force. That was hugely challenging but well worth doing.

Finally, by way of an observation, Chairman, if I may, if one looks at the benefit of the peace process in very simple and stark terms—I do think this is important—in the 12 years prior to the Good Friday Agreement, 910 citizens were killed, including security forces and innocent civilians, in Northern Ireland; in the 12 years post, 85 people were killed. In a way, part of this was to try to drive that process on but operating within strict legal boundaries. I am entirely confident in relation to the on-the-runs that the PSNI discharged its duties professionally and within a very narrow constraint.

Q269 Nigel Mills: I think you lead us—you certainly lead me—to this quandary you try to resolve in your own mind of whether this scheme was meant to be essential for the peace process and therefore we might not like it but it had to be done, or whether it was just purely a statement of fact and did not confer any rights anybody did not already have, and was not ever intended to do that. With respect, you have shuffled between one and the other in this as well. As you knew that the on-the-runs was a contentious issue and there had been some discussions about resolving it, and you thought legislation was the right way to go, did you not suspect when that collapsed that what you were part of here was not just a normal role of policing to give a statement of fact, but some behind-the-scenes agreement to try to find a way forward? It looks from all the stuff we see from the judgment that an invisible process was wanted by some of the people here, and we appear to have had an invisible process. Are you really saying you did not suspect this was part of something bigger?

Sir Hugh Orde: That is a slightly insulting analysis of how I was trying to operate, if I might say so. What I was trying to operate in was a very difficult and complex policing environment and I was trying to deliver a highly professional, community-based style of policing to the 1.5 million citizens who I had the duty of protecting. In order to do that, one had to, as Chief, do some quite unusual things. This was unusual; it was not unlawful. Where I am clear is we discharged our bit of a process entirely properly and within the rule of law entirely. The moment the police service steps outside the law to enforce the law, we are in a bad place. I relied very much on that. I answer to the law and the law alone and I gave the information to senior law officers of the highest integrity and standing. I do not think any of that is wrong or unethical; it is entirely appropriate and justified. On the point you raised about the judgment, however, it is a real shame that I, ACC Sheridan and Detective Chief Superintendent Baxter were not asked any questions on the process, because Mr Justice Sweeney was denied some information that may have been helpful in reaching his judgment.

Q270 Lady Hermon: It is very nice to see you here today, Hugh. I am just following on from the question posed to you by my colleague. I am sorry if you find it offensive but I am about to repeat it. Were you aware that Mr Adams had asked the Prime Minister—then Tony Blair—for an invisible process to deal with on-the-runs?

Sir Hugh Orde: No, not until I read the judgment. I was unaware of all of that. In a way, it would not have come to my attention. I did not see our process as invisible; I saw it as a process. We had a line against inquiry, which Norman described in very good detail, which would be routine for us, so, had we been asked questions, we would have released a press release. Indeed, I have a copy of a press release if it is helpful to you, Chairman. Indeed, I discovered only yesterday from a senior press officer in Northern Ireland that it was asked for in 2007 by a radio station and was supplied, so that press release was supplied to a radio station, but they chose not to use the content. It was not secret from my perspective, and I was unaware of Mr Adams' preference until I read the judgment.

Q271 Lady Hermon: Thank you so much for that. I am very respectful of the fact that you are the President of ACPO at the present time and you were Chief Constable at the time of the letter being issued to Mr Downey. I am just reading here from what you are reported as having said at the end of February. It is dated 26 February 2014⁶. That is that—and these are your words—“a crucial oversight was made by a senior officer” within the PSNI “which resulted in erroneous information being sent to Mr Downey by the Northern Ireland Office and thus prejudicing the current indictment”. Do you stand by that assessment even after the evidence that was given by Mr Baxter and Mr Sheridan last week to this Committee?

Sir Hugh Orde: Yes, I do, as I identified early on today. Firstly, my response was based on the judgment of Mr Justice Sweeney, which was clear and overwhelming, and one must respect the view of a senior and experienced judge of the court. Secondly, notwithstanding information described last week, in my professional judgment, I find it hard to understand why a Detective Chief Superintendent did not share with his Assistant Chief Constable the fact that Mr Downey was wanted in London. I find that inexplicable.

Q272 Lady Hermon: The senior officer that you are alluding to having made a crucial oversight was—

Sir Hugh Orde: Was Norman.

Q273 Lady Hermon: Was Norman Baxter. Could I just, then, ask you, Sir Hugh, to explain who had arranged for the meetings that Mr Baxter—and, indeed, Mr Sheridan—attended? Mr Baxter was adamant last week that a meeting took place on 9 June 2006⁷. He explained who attended it. It

⁶ Sir Hugh Orde was quoted in a number of newspapers, including the Irish Post on 25 February 2014:

<http://www.irishpost.co.uk/news/police-accept-full-responsibility-for-john-downey-trial-collapse>

⁷ 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)

A link to the document ‘Cases yet to be established / resolved as discussed at meeting with AG, PSNI and PPS – 9 June 2006’ can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Notes-of-meeting-between-AG-PSNI-and-PPS-9-June-2006.pdf>

included a representative of the Home Office; it included representatives from the Attorney General's Office and representatives of the PSNI. He quite clearly had noted at that meeting that Mr McGinty, who represented the Attorney General's Office—and these are Mr Baxter's words just last week—"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". You were Chief Constable at the time. Who convened this meeting?

Sir Hugh Orde: I honestly cannot remember.

Q274 Lady Hermon: Are you able to check through your records? Do you have easy access to your records from that time? It would be very helpful to know who convened that meeting.

Sir Hugh Orde: I can certainly check my records. Whether that will give you the answer, I do not know. If it was a meeting in relation to on-the-runs, who the catalyst was I do not know. It may well have been the Northern Ireland Office. I do not know. They may know. It would have been delegated to Mr Sheridan to attend on behalf of the PSNI, because he was the person responsible for dealing with this issue, and he delegated the day-to-day examination of the cases to Norman Baxter.

Q275 Lady Hermon: Sir Hugh, this is meant to be just an observation. As Chief Constable, you were extremely politically astute and you were entirely independent, I am sure, of political influence. However, you would have known that on-the-runs was a key and very controversial issue indeed. In fact, you have alluded to that already today. Would you have read the minutes of that meeting of 9 June 2006, which seems to be crucial, in that Mr Baxter was absolutely clear to us last week that he understood that Mr McGinty had taken responsibility and that the Attorney General's Office here in England and Wales would check whether, in fact, anyone was being sought by the Metropolitan Police? This is a critical piece of evidence. Would you have seen the minutes from that meeting?

Sir Hugh Orde: I may well have been briefed on it rather than seeing the minutes. I may have seen the minutes; I honestly do not know. We are talking of some time ago. As you know, an awful lot went on every day in Northern Ireland. I absolutely accept that that meeting took place and that was what the agreement was; I have no difficulty with that at all. However, notwithstanding that, quite properly, Mr Baxter did a PNC check. That would be quite a reasonable thing for him to do, notwithstanding what the Attorney General or Mr McGinty was or was not doing. The information he got from that check was not shared upwards. That is what I find difficult to understand.

Q276 Lady Hermon: Could I then just ask you about a second meeting that Mr Sheridan gave us evidence about last week? Mr Sheridan was appointed—he was fairly new—to head up Crime. He was ACC Crime from February 2006. On 25 May 2006, he was asked to attend a meeting—again, asked to attend a meeting—at the Attorney General's Office with Kevin McGinty and with Sir Alasdair Fraser, now deceased, who was then the Director of Public Prosecutions here in Northern Ireland. There were Northern Ireland Office people there and there was discussion about the on-the-runs. Again, could you recall who convened that meeting, which again discussed on-the-runs?

Sir Hugh Orde: No, I cannot, but I think the clue is in the location. It may well have been the Attorney General's or the DPP's office. If that is where the meeting was, I suspect that is who called the meeting. That is an assumption.

Q277 Lady Hermon: Sir Hugh, you have been at great pains this afternoon to explain what you described as a process in which the PSNI played "a small but critically important" role but it did not take responsibility for what happened afterwards. Sir Hugh, this was a very controversial issue about on-the-runs; you had a very senior officer in ACC Sheridan attending two meetings consecutively—or Mr Baxter attended the one in June; Mr Sheridan attended the one in May. Surely, Chief Constable, as someone with such experience in Northern Ireland and as a very long-serving Chief Constable, you were aware that this was the starting point of a process, since all the key players were sitting in the same room at the meeting. Can I ask you frankly: was a blind eye turned to what was the end product after the initial police assessment?

Sir Hugh Orde: That is an interesting question, but it is not one that it is right for me to explain. My role was clear. We had a job to do, and I take full responsibility for allowing that process to take place within the PSNI to the point it did. We shared that information with the law officers, quite properly. What happened post that event is for others to explain.

Q278 Lady Hermon: Did you not care? Sorry to interrupt you.

Sir Hugh Orde: Of course I cared. All I cared about was delivering an effective policing service and building confidence across two communities, and that was a challenge of equal measure.

Lady Hermon: So, Sir Hugh—

Sir Hugh Orde: May I please finish? To try to suggest that I should then start engaging in political engineering about what was then done by very senior law officials with that information is simply unreasonable and unfair. We were all fully aware the peace process was going on. Frankly, I am very surprised that people are amazed that issues continued post the collapse of the legislation. The notion that post the legislation this was going to go away is simply impossible to imagine. There was always going to be something else, and I was entirely comfortable with the role we undertook on behalf of the service to provide information to senior law officers. They, I am sure, are more than capable of explaining what happened post that. Equally, the responsibility for explaining the politics of the peace process rests with politicians, not with public servants charged with a precise role.

Q279 Lady Hermon: I am sorry to have interrupted you earlier, but could I just ask you the question, because it was key and material to what you were saying at the time? That was that your focus was on building two communities together—Loyalist and Republican—and building confidence in policing in Northern Ireland. How exactly has it built confidence in Northern Ireland with those two communities—particularly the Loyalist community—when they have discovered now, post-Downey, that a secret, invisible scheme was being assisted by the PSNI? How does that impact on the Loyalist community?

Sir Hugh Orde: Everything we did on one side or the other had a negative effect. This is always the tragedy of when one pulls pieces out of a peace process to determine who is wining and who is losing. You know how I operated in Northern Ireland, Lady Hermon, and you know my response to, for example, the riots in Bangor undertaken by the Loyalist community and my views

on that, because that had an equal negative effect on Republicans. It was a very difficult policing environment. Success, frankly, for me, was when I upset both sides equally, because we must have been doing something right. Frankly, it was not that simple, as you well know. What I did was, in my best professional judgment, the right thing to do. The notion that this was one-sided is flawed. I spent an equal amount of time discussing some difficult issues with Loyalist paramilitaries to try to move that world on, and that, without question, drew substantial criticism from Republicans. ACC Sheridan made this point. Pulling pieces out to discuss I fully understand, and I fully respect why the Committee is doing this, but unless we move on from that and look at the wider picture of what was achieved—hence my reference to lost lives and the numbers of people killed—I do think we get into this who is winning and who is losing and “isn’t that awful?” when the reality is this was very complicated. There are, frankly, no winners in this. There are lots of victims, who will be upset and outraged at the decisions Government made on the back of some of that information. That is for them to describe, not me.

Q280 Lady Hermon: Sorry, you would accept that Operation Rapid and dealing with on-the-runs in an invisible manner was one-sided. It was one-sided. That is what I was referring to.

Sir Hugh Orde: If one pulls this out, yes; it only dealt with Republicans. The point, however, is had I been given a list of Loyalists in the same boat, I would have treated them exactly the same.

Q281 Chair: The legislation, though, that you referred to, Sir Hugh, dealt with everybody, and it proposed giving amnesties. I am surprised that you are surprised somebody like me might have thought that was the end of it, because we are then told that these letters did not amount to an amnesty. Were they a replacement for that Bill or were they not?

Sir Hugh Orde: I am absolutely clear these were not amnesties.

Q282 Chair: So the Bill was a completely different thing, then.

Sir Hugh Orde: The Bill failed because every party decided they did not like it.

Q283 Chair: But it was a different thing from the letters. You are surprised I am surprised that this was going on, but the Bill was a separate thing altogether.

Sir Hugh Orde: Yes, it was. The Bill failed, therefore, clearly, discussions took place as to what happened next, and, as part of those discussions, we had, as I have described time and time again, a very narrow, police-related function to carry out, which I think was the right thing to do. It was not a matter for me to judge what happened post that information going to senior law officers. We did not share it with anyone other than the senior law officer in Northern Ireland.

Q284 Oliver Colvile: Thank you, Sir Hugh, for coming and giving us a very useful insight into what happened. You will be delighted to know I am not a barrister, so I am not going to be in a position of being able to cross-examine you enormously in the same way as a court might do, but I do want to talk about the process and how all of that happened. You had a number of people who you had given responsibility to manage this process under you as well. What I am concerned about is what you have said to us, and that is that you were not aware of various things that happened during the course of the process. If I ran, as I used to run, a very small little business, I would expect to know

everything, and, indeed, in my own constituency office, I want to see every single phone call that has been made—everything. I want to be kept in touch with what is happening. This, probably, was the biggest political issue tied up in the whole thing of trying to deal with the peace process. I am just trying to understand why it was that your officers did not feel that they had to tell you absolutely everything from start to finish.

Sir Hugh Orde: Because it would have been physically impossible. I policed 5,500 square miles; I had a staff at that time of 13,000 people. We had the biggest change programme in the history of policing to deliver. We had oversight at a scale and level not repeated anywhere else certainly in the United Kingdom, if not in the world. In the politest terms, I was fairly busy. This was not a hugely complicated thing for the police to do. In terms of the politics, as I said at the beginning, the politics was a matter for others. By way of example, you will remember we had a raid on Stormont, where I chose very quickly from an operational perspective to apologise and faced huge criticism for that. We had the biggest bank robbery in the history of policing at that point—Kent has had a larger one since, I am delighted to report. In that case, I felt it professionally right and operationally necessary to attribute that to the Provisional IRA. I am not sure the Government was hugely grateful for me doing that. That was irrelevant to me. One has to keep the politics distinct from the policing or we are in a really bad place. I would like to think I managed that reasonably well, but I could not micromanage pieces of operation when I had, as I said at the beginning, probably the most experienced command team in the United Kingdom working for me—a team that worked for me for nearly six years. I had total confidence in them, and I think the evidence shows I was right in having that confidence.

Q285 Oliver Colvile: I have to say my concern is I am not sure as to how much you did know and how much you did not know, and that is something I am sure we will end up by pursuing. Let me go slightly further on this. This whole story is caught up, is it not, in a bombing that took place in Hyde Park? To what extent did you, as the PSNI, share that information with other police forces, including the Metropolitan Police? Indeed, did you ever talk to the Metropolitan Police about some of those activities that took place in the 1980s and whether or not you had any gem on those people who they were interested in trying to interview?

Sir Hugh Orde: Sorry, in relation to the Hyde Park bombing?

Oliver Colvile: The Hyde Park bombing took place in the 1980s, yes?

Sir Hugh Orde: Yes.

Oliver Colvile: There must have been a group of people who the Metropolitan Police had an interest in who they knew had got very close relationships with what was going on in Northern Ireland, and there must have a number of these kinds of cases, where the mainland was interested in what was going on. Was there any kind of liaison between the PSNI and the Metropolitan Police on any of this kind of information? Did you share information with the Metropolitan Police?

Sir Hugh Orde: Of course they would be sharing information; that would be routine, and certainly during the Troubles. Way before my time—and I am sure someone like Sir Ronnie would be far better able to explain it than me—there would without question be very close co-operation between police services. You, Chairman, made the observation last week that Northern Ireland is still part of the United Kingdom and that information should flow freely. In Northern Ireland, I, certainly at the beginning, was responsible for national security too. That would take place. Primacy for investigating Hyde Park rests, and remains, with the Metropolitan

Police, and that communication would be driven by them. If they wanted assistance, they would activate that request and it would be absolutely dealt with, as a matter of routine, between police forces within the same legal jurisdiction helping each other out. If we were asked a question, we would deal with it. Mr Justice Sweeney's judgment refers on a number of occasions to meetings and discussions around whether extradition should be sought for Mr Downey, who was not resident in Northern Ireland; he was resident in the south. He was not technically on the run, actually, because he was living where he said he was living; he was not on the run from Northern Ireland. In the routine of our working day, we would liaise with police forces nationally and internationally. That is just part of our business.

Q286 Oliver Colvile: Could you just explain to me, then, what discussions you also had with the Northern Ireland Office? Forgive me; I probably should know the answer to this, but to whom did you need to end up by reporting to?

Sir Hugh Orde: I reported to the Northern Ireland Policing Board, period.

Q287 Oliver Colvile: Would they have included you in any discussions that took place with the Northern Ireland Office?

Sir Hugh Orde: The Policing Board?

Oliver Colvile: Yes.

Sir Hugh Orde: You are sitting next to a member of it in my time. I reported to the Policing Board by virtue of the legislation; that is who held me to account for everything I did in Northern Ireland. I would answer to them. I cannot remember too many meetings between the Policing Board, NIO and me. I am not sure why we would have those meetings. I would speak to the Northern Ireland Office—of course I did—and I would speak to the Secretary of State and the policing Ministers, but, as I said at the beginning and is worth repeating, none of those players ever tried to influence what I did.

Q288 Oliver Colvile: Did you at any stage have conversations with Number 10 Downing Street as well?

Sir Hugh Orde: Yes, I did. I went to Number 10—not frequently—on occasions, yes.

Q289 Oliver Colvile: Did you have one person who you would be talking to?

Sir Hugh Orde: They were not that often. I remember a number of meetings, one with the Garda Commissioner and the Secretary of State for Northern Ireland and the Member of Parliament in the south, just on general cross-border co-operation. I met Adams and McGuinness at Number 10 in response to a request to would I meet Adams and McGuinness. I would update the Prime Minister from time to time on the security situation, as does the current Chief Constable and as did the previous Chief Constable.

Q290 Oliver Colvile: But there was not somebody in the Number 10 Policy Unit who would be keeping a close eye on this and you would have ended up by talking to.

Sir Hugh Orde: Not to my knowledge. The meeting around this time that I had at Number 10 was on 11 October 2005, where I noted that I expressed my concern from an operational perspective around the on-the-run legislation, because I saw that potentially, had it been implemented, as being quite difficult, but that is just an observation that I felt it was important the Prime Minister was aware of. One would have those sorts of meetings, which would be a broad strategic update. I would meet the Security Committee to update them on national security issues. But I did not discuss in any detail, to the best of my memory, any precise initiatives that were of a political nature. I was there to update from an operational perspective, and that is what I did.

Q291 Oliver Colvile: Do you have an audit trail of those meetings that you ended up by having?

Sir Hugh Orde: If I went to Number 10 there would be a note in my diary saying I went to Number 10 and a brief summary of what I said. As I have said, in relation to this particular issue, that is the only one I could find. That was around the legislation, not the process post that.

Q292 Oliver Colvile: So there was not one individual who you ended up by talking to at Number 10.

Sir Hugh Orde: No. Routinely, if I briefed the Prime Minister, Jonathan Powell would be there, if that is the answer to the question you are seeking, because he was involved in the peace process, and probably an official. But I would not routinely ring Number 10. I would routinely speak to the Policing Board; if I needed to, I could speak to the Secretary of State for Northern Ireland. Of course, policing was not devolved in that time. Those would be the relationships I would have. I certainly did not have a close relationship with Number 10.

Q293 Oliver Colvile: It sounds to my mind that you were not proactive in having conversations with Number 10; you were reactive—i.e. you waited for the phone call to be made by Number 10 to you rather than you seeking to give them information.

Sir Hugh Orde: That would be a very fair assessment, yes.

Q294 Chair: You have quite rightly, Sir Hugh, determined that there should be no political interference with policing, but we were told the police had not sent any of these letters out. It was suggested last week the Northern Ireland Office sent those letters out. Is that not an interference?

Sir Hugh Orde: It is nothing to do with us. The point is our process ended with the information going to senior law officers in Northern Ireland.

Q295 Chair: It did not end there, though, did it? They sent it on to the Northern Ireland Office.

Sir Hugh Orde: That is a matter for them to discuss, Chairman, not me. That is not naive; it is simply trying to be realistic about what we were dealing with. It is a matter for others to describe what they did with that information, not me.

Q296 Oliver Colvile: And you did not see that final letter that went out at all.

Sir Hugh Orde: No.

Oliver Colvile: And you would not have expected to either.

Sir Hugh Orde: We did not know they were there. We did not know they existed. One of my frustrations about the judgment was one of the observations I think that was persuasive—far be it from me to second-guess the judge—in the judge’s mind was, when the information went out that was not right, it was not corrected. I cannot correct what I do not know.

Q297 Kate Hoey: Sir Hugh, can you just clarify exactly what you see as the difference, if there was any, between what was called the previous administration scheme and then what was called Operation Rapid?

Sir Hugh Orde: It was simply a more organised way of dealing with it.

Q298 Kate Hoey: But what led to somebody saying, “Let us call it Operation Rapid. Let us do this thing differently”? You must have been quite involved in that.

Sir Hugh Orde: No, not really. Names are given to operations to distinguish them from others; it is just a rather strange police tradition of doing it. There is nothing to be read into the name. My sense is that the reason it became more organised was because the best way forward—i.e. you enshrine this in some form of legislation so it is open, transparent and understandable—failed but it was not going to go away. It is beyond my comprehension that people did not think something else would fill its space. That is what happened. It then makes absolute sense that you need to have a process and a plan around it, and that is exactly what we did. We set up a process; we set up a plan; Mr Sheridan took full responsibility, quite properly—it was within his area of command—and we just got on with it.

Q299 Kate Hoey: So before it, it was all just ad hoc: a little bit here and there.

Sir Hugh Orde: I do not remember it too well, to be quite honest. I probably need to write to you, because I cannot remember too much about what went on before in this regard.

Q300 Kate Hoey: But all these people were being told that there was no reason for them to fear arrest on, what, an ad hoc basis? Was intelligence involved? Was MI5 involved, or was it simply the police looking into their records?

Sir Hugh Orde: Intelligence that was relevant to policing would be passed to us from MI5. The basic process was to look at the individual to see if we could build a case against them, or we had it at a point where we could arrest them should they come into jurisdiction or we could charge them if they came into jurisdiction or we could return them to prison if they came into jurisdiction. If that was the case, we would advise them.

Q301 Kate Hoey: What was different with Operation Rapid?

Sir Hugh Orde: As I say, my sense was it was more organised, but I would need to look back into my notes in more detail to be able to give you a better answer on that as to what was different. If we were asked to check someone, I had no difficulty carrying that out, providing the only people I communicated that information to were the prosecuting authorities.

Q302 Kate Hoey: You described what you meant, in answer to the very first question from the Chairman, by “on-the-runs”. You did not mention people who had escaped from prison. Do you consider them as on-the-runs?

Sir Hugh Orde: They were certainly on the run.

Q303 Kate Hoey: Surely they were obviously still wanted.

Sir Hugh Orde: Indeed so. As I referred to in my note before, I said very clearly that those currently wanted, in the sense they would be immediately returned to prison or charged, would be subject to that action if they came into the Province. I stand by that. That is what would have happened.

Q304 Kate Hoey: Right. You seem to be quite keen, almost, to criticise officers within your own force, and yet it has come out very clearly about those particular meetings where the responsibility for passing on certain information was given to the Attorney General. Does it not slightly concern you that you have so obviously used evidence from Mr Baxter in particular to almost imply that he is the only person responsible for all of this problem with Mr Downey?

Sir Hugh Orde: No, not at all. That is not what I said. And no, I do not criticise my officers routinely; I do precisely the opposite. If you would like to look at my seven years in Northern Ireland, I think you will find that to be the case, and it has not changed since. My observation is a professional one: that, notwithstanding that, I find it hard to understand why a Detective Chief Superintendent does not share with his Assistant Chief Constable what I would see as a critical piece of information, which is namely to inform them that not only is this person not wanted by the Police Service in Northern Ireland, but, “by the way, there is a PNC record that says he is wanted by the Metropolitan Police”. Quite properly, Norman did the check. I would be amazed if he had not done that check. What I find difficult is that he did not then communicate it up the police chain. Then Mr Sheridan would take responsibility for what he did with that information, but he did not have that information, as his evidence clearly said last week.

Q305 Kate Hoey: Given that—and you agree that the Attorney General was asked to do that.

Sir Hugh Orde: Absolutely. If the evidence is there, yes.

Q306 Kate Hoey: Do you think, then, the current Chief Constable was right to so immediately publicly apologise and take responsibility for the fact that an alleged terrorist has now gone back to live and do his business in Donegal?

Sir Hugh Orde: I think you are hearing from Mr Baggott. It is a matter for him to explain what he said. I have told you what I said and why I said it.

Q307 Kate Hoey: Just a final point: you had a number of Secretaries of State when you were—

Sir Hugh Orde: Four.

Kate Hoey: Four Secretaries of State. You said you talked to them. Would a week go past without you having a telephone conversation at the very least with the Secretary of State or a police Minister?

Sir Hugh Orde: Probably a police Minister would be more routine. It would not be weekly. It was fairly frequent, but I am not sure it would be weekly. I can certainly check and give you a list if it helps.

Oliver Colvile: That would be helpful, please.

Q308 Kate Hoey: I suppose really it is a comment; it is not really a question. As Lady Hermon has said, you are a very experienced police officer and very astute politically; you would not have been able to handle being in Northern Ireland for such a long time otherwise. It feels to me that you are almost trying to pretend that you were naive about the political process and what was really going on.

Sir Hugh Orde: No. I would dispute that. I was very aware of the importance of the peace process. It was critical to how we delivered policing. If one looks at some of the things we could not deliver under Patten, it was because the peace process did not move on quickly enough. My frustration generally there was that the peace process was not moving on quickly enough because politicians spent too much time arguing rather than moving on in a shared future strategy, which was critical to us. If one takes the Historical Enquiries Team, for example, my genuine belief when I set that up was by the time it had got established and started to move, Eames-Bradley⁸ or something else would have come down the line that would have dealt with the past in a far more holistic way. It still is not there. My point is I was very aware of the process; I was equally aware of what my role was. My role was to deliver policing. I do not think it is right, fair or, indeed, justified to draw some negative inference from the fact that information we gave to senior law officers was used in other ways, which were negotiated in other places. That is a matter for other people to be held to account about. I note you are seeing Secretaries of State in your inquiry, Chairman, and I think that is entirely right.

Q309 Kate Hoey: Should the Historical Enquiries Team, which you are very proud of, have been more involved in all of this? Were they involved in questions about Downey and others who were sent these letters?

Sir Hugh Orde: As described by Ms Long, I do not think that connectivity was as good as it could have been. That is a fair and justified observation. But as I described, we were reviewing all the cases, some of which then went to a full investigation—and only recently, in fact, one led to a successful prosecution. So it did have teeth and it is important, but it was just one bit of what we were trying to deliver. My frustration was we took a huge risk to set that up, and I stand by the decision because it was focused on families and victims and trying to solve their issues. It was non-partisan; it dealt in a logical way. The logical way we have dealt with it probably excluded, in a way, a more thoughtful interaction between the HET and Operation Rapid, because we were determined to deliver in terms of our Article 2⁹ responsibilities to the families who had the greatest right, and we decided that was from the back to the front—i.e. from the oldest to the newest. Sadly, it was only one part of what should be a far wider peace process, but that is for another day, I suspect, Chairman.

⁸ 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

⁹ A link to the *European Convention on Human Rights* can be found here: http://www.echr.coe.int/documents/convention_eng.pdf

Q310 Chair: With regards to the information requested about Mr Downey, you said the Detective Chief Superintendent should have passed that on to Mr Sheridan. Would Mr Sheridan not himself have known anyway, or does the responsibility lie lower?

Sir Hugh Orde: No, he would not have done. I led murder squads in London. It was a very basic thing to have done and I certainly would not ask my detectives, "Have you done a PNC check?" Quite properly, Norman Baxter had done a PNC check; that was entirely professional and absolutely the right thing to do. Blaming people is not the way of dealing with this. I have to say I refute entirely the notion of political interference, and I have already made that point. If that conversation had been slightly broader, I do not think we would be in this position today. That is the point. It would have been a further stopgap check and balance, and it would have been a reasonable thing to have done.

Q311 Dr McDonnell: Thank you very much, Sir Hugh, for your evidence so far; it is fascinating. A number of times you have expressed surprise that people are surprised. Would you accept that, while people knew there was an issue out there, the surprise is attached to the fact that this whole process has been done in a covert way? That is where the surprise is—not that something was being done, not that there was an issue there. Most things attaching to the peace process up until this have been done fairly openly and fairly transparently. It is that covert part—and it is fairly obvious that Gerry Adams himself at one stage had asked for it to be covert.

Sir Hugh Orde: Indeed, that is clear, and I was likewise unsighted. My point around the bit we did is I did not see our bit as secret in any way, shape or form. We would not have created a draft press release if we were going to be secret. As I said, it did go to the radio station, although they chose not to use it. On-the-runs were discussed. I had a very long conversation at this Committee in 2005 just before the legislation collapsed on those issues. It was discussed at the Policing Board in terms of the legislation. People have kindly referred to my experience, probably too kindly. What strikes me as surprising is the experienced politicians in Northern Ireland are so surprised nothing else happened. Whether they chose not to probe or not is another matter, and it is not a matter for me, but some of the observations today around why I did not push more—I am just slightly surprised that other people did not say, "Well, what is happening next?" It is just an observation. I have got a note here that Alex Attwood asked a number of questions around on-the-runs and that was very much in relation to that time of the legislation going through. It was quite right and proper it was discussed at the Policing Board, because there would have been, without question, operational implications had that legislation gone through, as you will fully understand.

Chair: We are beyond time, but we can carry on for a few minutes.

Q312 Dr McDonnell: Very quickly, another pertinent question that maybe we have not fully clarified is: when did you become aware that there were letters in circulation?

Sir Hugh Orde: When I read the judgment.

Q313 Dr McDonnell: And you were totally oblivious.

Sir Hugh Orde: Yes.

Q314 Dr McDonnell: Surely you were a bit surprised about those letters.

Sir Hugh Orde: Back to the question about what happens with that information, clearly, if you are asked, “Is X wanted?” it is entirely unsurprising—and, in fact, an obligation under Article 3—for the state to advise that citizen whether that is the case or not. There was obviously going to be some form of communication. Letters are one way. I was slightly surprised that there were all these letters flying around; I would have thought it would have been a conversation with the individual’s legal representative that, “This person is currently not wanted”. That having been said, having read the judgment, my sense was the letter certainly could not be interpreted as an amnesty; it was, at a moment in time, “The PSNI does not want you”. In particular in the Downey case, what the judge found persuasive was that additional line, which was, “and you are not wanted anywhere else”.

Q315 Chair: Does it not put you in some difficulty? This letter has been sent. You do not know it has been sent. You may come across some more evidence and arrest the person; then he can wave a letter at you. I am not blaming you personally, but surely the police should have known what was going on.

Sir Hugh Orde: If we got new evidence, we would have arrested them, and then it would have gone into the process and at best, I guess, the letter becomes mitigation.

Ian Paisley: But they did that. They arrested Downey.

Naomi Long: That is what happened to Downey.

Ian Paisley: There is new evidence. There is fingerprint evidence about other activities. They have arrested him, and he is out scot-free. That is why there is such anger about it, Hugh. You know that. It is not plausible what you are saying. It is ultimately not plausible that you did not know that there was something happening at the other end of the sausage machine.

Q316 Chair: If Sir Hugh is saying he did not know, he did not know. My question to you is: should the Government—whoever it was; we can ask the former Secretary of State later—not have kept in communication with you on something so serious?

Sir Hugh Orde: We gave them the information. I just take issue with what Ian has said that it is not plausible. I am afraid it is what happened, Ian. It is a fact. We did what we were asked to do entirely properly and entirely lawfully. Your questions about what people did with that information—you need to get them in front of this Committee so you can ask them the questions, not infer that I was playing some clever game around a very delicate peace process of which this was just one bit. As I have said, Ian, by pulling out one bit from a very complicated situation, you over-simplify a situation you well understand.

Chair: We are way over time now and we have got another witness waiting. I will take one or two very, very quick final questions.

Q317 Naomi Long: I want to be brief, but these are important points that have arisen during the discussion. It is said that a staff officer in the NIO probed and queried the information that was issued as part of the Downey judgment. At that point, when the NIO—not the law officers, but the NIO—were querying the information that was sent, did you not query what the process was beyond your immediate remit in the PSNI?

Sir Hugh Orde: I would not have been aware of that. The answers were given last week. This is in relation to the, “Has the PNC been checked?” and the response was “Yes”.

Naomi Long: Yes.

Sir Hugh Orde: Peter has answered it, and I would have been unsighted on that, so I would not have known about it. I cannot act on what I do not know.

Q318 Naomi Long: Given your sensitivity about political interference, that would not have been something that would have been reported to you—that the NIO were making contact about these cases.

Sir Hugh Orde: It would have gone to Peter, but it was a very straightforward question. We are overcomplicating it. The issue for me with that was this attempt to clarify what the facts were would not have happened had the initial information communicated to Mr Sheridan been such that he could have communicated properly to the law officers the full circumstances of the case. But I was unsighted on that series of phone calls and, as I said, I had very senior and very experienced chief officers dealing with this. I am not sure why you think that would get to me.

Q319 Naomi Long: Simply because of your sensitivity around any form of political interference and your defence of the scheme, in that all you were doing was communicating with law officers and not entering into political process. The NIO are not law officers; they are part of the political process, and that stands contrary to what the PSNI have said circumscribed this particular process in their minds. That is why I am probing that issue.

I want to move on and ask a further question, if I could, because this is quite important. Last week Norman Baxter gave evidence in terms of the justification that he had for conducting these checks and communicating it to law officers. He said that under Article 3 of the ECHR, “a citizen is entitled to know if the state wants them for any offence if they request this from the state”. You also referred to that in one of your previous answers just a few minutes ago. Can you clarify from whom you received legal advice that that was the case and where that came from? The legal advice that we as a Committee have received is that there is no such right under Article 3 of the ECHR.

Sir Hugh Orde: No, the short answer is I cannot, but I can find out for you.

Q320 Naomi Long: Would you have taken legal advice?

Sir Hugh Orde: I am sure we would have taken legal advice on our role, yes. I will check and get back to you, if that is helpful.

Q321 Naomi Long: You also mentioned that this scheme was not secret and that therefore, if you like, it was there to be seen. I think Peter Sheridan described it as being there if people had known to ask. I think that was how he described it. You recognised the political significance of the on-the-runs; you recognised the political sensitivities of it. Did you feel any obligation to brief the Policing Board as a whole on the issue of Operation Rapid, the particular circumstances under which it was being taken and the legal advice that you had had to undertake it, given that you knew how politically sensitive this issue would be, and given that you would want to protect the PSNI from any retrospective judgment that it may have acted in a political manner?

Sir Hugh Orde: I am quite used to retrospective judgment, I am afraid; sadly, that is the way the world is going. Everything I was dealing with was politically sensitive, frankly. Everything we did was against, as I said, this very complicated backdrop of policing in Northern Ireland. In terms of scale and where this fit, at the time—rather than now—it was not any more sensitive than anything else. Certainly Peter Sheridan explained that he spoke to the Board Chair and Deputy Chair, and as I understand it Denis Bradley has also said that he was spoken to. At that time there was that agreement with the Board that one could speak to the Chair and Deputy Chair on matters such as that, and that is clearly what took place. Prior to that, during the legislation, as I have described, that was discussed at the whole Policing Board.

Q322 Naomi Long: My final very brief question is this. You have been very clear that you would have resisted any political interference or any suggestion of political interference in policing. Last week, when Peter Sheridan was pushed on this issue of whether or not there were similar inquiries where Government would ring police officers to ask for a case to be dropped and so on, he said, “It never happened to me”. He then went on and said he could not give chapter and he said, “You hear these conversations or rumours around it, but I am not aware”. Were those conversations and those allegations passed to you during your time as Chief Constable? Would you have expected your ACC, having heard such rumours and conversations, to have brought them to your attention?

Sir Hugh Orde: You would have to ask Peter for clarification on what he meant. I was absolutely clear on this, and, at the risk of repeating myself, at no time was I put under political pressure, certainly such as described by Norman last week, to pull charges or to release people who had been arrested for very serious offences. The notion that that could happen is where I struggle, because if one looks at those at those sorts of cases, they were subject to substantial planning. You do not just arrest people with that sort of history; you do an awful lot of work. You have a gold commander at ACC level. If it was a rural operation, as this was—and I am sure Judith Gillespie, who was there at the time, would have copious notes on this, because she was a meticulous operator. You would also have your ACC urban involved because of where the terrorist holding centre was. The notion that all that could be suddenly dismantled by a phone call is beyond belief. It did not happen. I do not think I can be any clearer than that.

Chair: Thank you for that. There are going to be votes very shortly. We will have to wind this particular session up then and then we will come back to hear the next witness.

Q323 Dr McDonnell: To finish where I was at earlier, in your time as Chief Constable, are you aware of any of these letters ever surfacing until the Downey one surfaced?

Sir Hugh Orde: No. None came to my attention.

Q324 Oliver Colvile: Forgive me. I do not want to be boring about this, but I thought that Downey had made it quite clear that he had some letters probably two or three months beforehand. Or am I living in a dream world?

Sir Hugh Orde: I have been out of Northern Ireland for five-plus years now, so I am unsighted on that.

Q325 Dr McDonnell: During your time, none of—

Sir Hugh Orde: During my time, the answer is no.

Dr McDonnell: None of these letters ever surfaced to prevent a prosecution.

Sir Hugh Orde: No.

Q326 Lady Hermon: Sir Hugh, you seem to have been unsighted on a number of things. Could I just check and make sure that in fact you were sighted of the PSNI document that Mr Baxter very kindly had circulated to the Committee before his evidence last week¹⁰? It says—heading—“Subject: Operation Rapid” and the report provided to the Committee sets out the context, the terms of reference and the legal framework for decision making around cases referred to in the Operation Rapid team. Could I just be assured that as Chief Constable you would have been sighted of the context and the legal framework and the terms of reference of Operation Rapid?

Sir Hugh Orde: You can be assured that I was aware of Operation Rapid, you can be assured that ACC Sheridan would be all over the detail of Operation Rapid, and you can be assured I would certainly have had sight of the papers. In terms of how much detail I would have gone into, I would have been briefed by Peter.

Q327 Lady Hermon: And the legal advice contained in this internal PSNI document would have been provided by whom?

Sir Hugh Orde: I need to have another look. We had our own legal advisers. We had our own human rights legal adviser employed by the PSNI. If it was seen as too complicated, we may well then have put that out to a lawyer of a higher qualification.

Q328 Lady Hermon: Would you very kindly check and let the Committee know who provided the legal advice? We have some queries around the legal advice.

Sir Hugh Orde: I would be delighted to, yes.

Q329 Lady Hermon: Could I just double-check on something else as well? The PSNI had, you said in your evidence, played “a small but critically important” role in making the initial decision as to whether a person was wanted or not, but this was not an amnesty, you keep telling the Committee.

Sir Hugh Orde: It was not.

Lady Hermon: Was the file closed when a person was told by the PSNI that they were no longer wanted? Where was the additional new evidence to come from? Was that file closed? Who kept investigating?

Sir Hugh Orde: I had limited resources. The current cases would be investigated. Unsolved serious crimes routinely, across the country, are reviewed by what we call cold-case review teams; that process was not different in Northern Ireland. Those cases would, from time to time, no doubt come up. The likelihood, frankly, of new evidence fades over time, but that is not to say it does not happen. It happened recently in a Historical Enquiries Team case that I am sure you are aware of. As I have said, at a moment in time, we gave information to law officers about what the current state of play was. That is all we could do. I cannot, sadly, look into the future.

¹⁰ The terms of reference of “Operation Rapid” can be found here:

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

If something came to light, there are many ways that can happen. It could be that someone decides to give evidence who never has before; it could be that new forensic opportunities emerge as science advances. Those are the normal ones in terms of what we get. That does not mean it would take you to a level of sufficiency in terms of prosecution, but it certainly would merit a review. It could be triggered from something proactive coming into us, or it could be in the routine that an unsolved crime would be reviewed. As you know far better than I do—which is why we set up the HET—the sheer scale of unsolved cases in Northern Ireland was so huge, that made it far more difficult. That was why I set up the HET. Before that, these cases were not being looked at at all.

Q330 Lady Hermon: So even though a letter had gone out, the files were kept open. Even though a person was not wanted at a particular time, you were assured in your own mind that it was a live file; it had not been closed.

Sir Hugh Orde: Unsolved case files are not technically ever closed. It would be misleading to say there was a huge raft of detectives day in and day out going over every case. That is a simple logistical issue.

Q331 Ian Paisley: You said that you had four Secretaries of State during your time as Chief Constable. Which Secretary of State stands out as playing the most proactive role in the OTR system?

Sir Hugh Orde: In terms of my world and my connection with the politics of the on-the-runs, there was a disconnect. I was doing a role; it would have been the relevant Secretary of State at the time. You have got Shaun Woodward coming in behind me, who would have been there at the end. Before that would have been Peter Hain.

Q332 Ian Paisley: Do either of those two gentlemen or either of the other two Secretaries of State—Mr Murphy and Mr Mandelson would have been the other two—

Sir Hugh Orde: No, John Reid. Mr Mandelson left before I took over.

Ian Paisley: John Reid. Do any of the four stand out as being particularly exercised or proactive in this role?

Sir Hugh Orde: No, is the short answer. Not to me.

Q333 Ian Paisley: So in terms of policy consistency from the NIO's political figurehead, it was consistent.

Sir Hugh Orde: Again, I have described our role. I am not that troubled by what the Secretary of State did or did not think about it.

Q334 Ian Paisley: I am not asking whether you are worried about it; I am asking whether they were proactive in this particular—

Sir Hugh Orde: No. I cannot remember any huge conversations with them on that subject.

Q335 Ian Paisley: Okay. Was the issue of pardons ever run past you, Sir Hugh? Did you ever have to give an opinion with regard to how pardons would be handled for terrorists?

Sir Hugh Orde: No. Not at all.

Q336 Ian Paisley: Not at all. You were completely unsighted on that.

Sir Hugh Orde: I am completely unsighted on the execution of the Royal Prerogative.

Chair: We are going to vote in a minute. I am told there might be two votes, so if members perhaps could get back as quickly as possible after they have voted a second time, that would be helpful, so we can move on to the next witness. Sir Hugh, thank you very much for joining us today; it has been very valuable. Thank you very much.

Sitting suspended for a Division in the House.

On resuming—

Examination of Witness

Witness: **Rt Hon Shaun Woodward MP**, Former Secretary of State for Northern Ireland, gave evidence.

Q337 Chair: I will open the public session with apologies to Mr Woodward for keeping you waiting for the best part of an hour. I am sorry about that, but thank you very much for joining us. You sat in through the previous session and probably have read the transcript of the sessions last week. Can I invite you perhaps to make a brief statement before we might ask questions?

Mr Woodward: Thank you very much, Chair. I certainly welcome this inquiry, and especially also the inquiry of Lady Justice Hallett¹¹. This issue has generated a great deal of heat so far; I do not know how much light it has generated. That is why I welcome this inquiry. It is important that your inquiry, Chair, establishes all the facts and does that within the timeframe in which this issue really needs to be understood. It is not an issue to be looked at only in the context of 2014 and a judgment in relation to one individual; it is important to see it in the context of a peace process and a political process that begins with the Good Friday Agreement and goes forward to the Hillsborough Agreement and beyond in 2010. A number of opinions have been expressed—a number of impressions—which at times are judgmental. The public understandably are concerned by this, and I share the worries that have been expressed by a number of colleagues about this issue. Getting the context and getting the facts together is really important. For example, in relation to Mr Colville's question to the Chief Constable earlier, when he said it was the biggest issue, I just remind the Committee that in 2007-08, when I became Secretary of State, the biggest issue was actually a political process that was falling apart at the seams. We were about to see the succession from Reverend Paisley to his successor. We were seeing a Stormont Executive that was increasingly ceasing to function. We were seeing a resurgence of

¹¹ A link to the Hallett Review report, subsequently published, can be found here:
<http://www.hallettreview.org/report/>

Republican violence. We were seeing a whole series of problems, and indeed the whole thing broke down. We would see the murders of police officers again in 2009. I just simply say that sometimes we can sit here in 2014 and we can forget the context in which this was operating. This does not for one moment in any way, should something unlawful have been done, validate that, but I put in there the context within which we have to be looking at what the Chief Constable was doing and therefore understanding why it might be the case that he was not spending every single waking second only worrying about how to deal with the so-called “anomaly” of on-the-runs.

It is also, it seems to me, extremely important to remember that had we not got a peace process, we would not only be talking about the victims of those who died during the Troubles until 1998; we would probably be dealing with several thousand more victims and victims’ families now. I share, as Mr Baxter and Mr Sheridan did last week and the Chief Constable did today, as much concern about victims as anybody else. There is no hierarchy to be had here of who cares most about victims; I think everybody in this Committee and in this room cares passionately about this. In dealing with the on-the-runs issue, it is not in any shape or form to say that somehow one did not care about victims. All of those who are concerned with that issue care deeply about the victims.

In the debate a few weeks ago, Lady Hermon put out something that is as important as the issue of the background of on-the-runs. While I was Secretary of State—and I was the longest-serving Secretary of State in the Labour Administration—I was always of the view that this was an administrative process and that these letters were statements of fact. Should it be that the judgment that has been produced in relation to Mr Downey has allowed these statements of fact, as I understood them to be and I believe as all others understood them to be, to have a legal force beyond being statements of fact, that transforms a number of things for the future. Regrettably, the Secretary of State currently serving in Northern Ireland in the debate did not quite seem to take the point that Lady Hermon was making, and that was why I intervened at the end. Despite her resistance to take the intervention, I remain grateful to Lady Hermon for taking my intervention on her at the end of the debate. If Lady Justice Hallett’s review and yours, Chair, do not really go to this crucial issue, which is not only what then, but what now is the status of these letters—have these letters got a new status as a consequence of the judgment?—then this would indeed transform the position that we are looking at, and it would make the inquiry that you are currently doing a pale shadow of the inquiry you will need to do if these letters have this new legal position.

I say this because I think this is an incredibly important inquiry that you are conducting. Those who were involved in on-the-runs, whether they were Northern Ireland officials, whether they worked in the PSNI—wherever they were—were doing this in good faith, in the context of a peace process, and they were doing it in the context of something that was at all times, however unusual—to borrow the Chief Constable’s words—always lawful. Therefore, as I said at the beginning, a lot of heat has been generated, not least by Mr Baxter’s evidence, which I am afraid in parts was misleading last week, certainly in some of the opinions he gave and certainly in some of the outrageous comments that were made about my predecessor, Peter Hain, in relation to the evidence that he supplied to Mr Downey’s case. The idea that he had any glee in seeing anybody who might allegedly be involved in such a serious charge is absolutely outrageous. I say that because I do not think that should be allowed to go uncommented on a single day longer, and it would be a great pity if this Committee allowed a forum for people’s unsupported, uncorroborated views to prevail. This is a serious issue. It affects many, many victims. If the victims and the victims’ families were to feel that there were by me or my predecessors or

successors any delight in seeing any criminal going free—avoiding justice—by a process called “on-the-runs”, it would be as outrageous as I could possibly imagine.

Q338 Chair: Thank you, Mr Woodward. You have made a great defence of the peace process, understandably, and you have put this into context. You have very passionately suggested that this was crucial to the peace process. It is difficult to square that with the fact that these letters were just a statement of fact. You did go on to say that we ought to look at their current status, but it is difficult to square those two arguments: that this was so crucial to a failing peace process, as you described it, and yet these letters were just a statement of fact. How could a statement of fact save a peace process?

Mr Woodward: Let us get back into context, Chair. What was crucial to building a peace process up until 1998 was getting people into the room together, and there were a number of people who would not even go into the same room with each other to talk. What became crucial to the survival of the Good Friday Agreement was decommissioning, and there was a long period in which all that was falling apart. Again, in a hierarchy, I do not think that getting people in a room to talk is less important than dealing with on-the-runs. I do not think that the decommissioning of weapons is somehow less important than on-the-runs. Of course it was not. But as a series of issues that needed to be addressed, yes, it was one of the issues. If you go back to the conversations that were taking place in the run-up to not only Good Friday but subsequently St Andrews and Hillsborough, that was one of the issues that one of the political parties brought to the table.

Again, as somebody who was leading for the British Government in those negotiations in what was a political process falling apart at the seams in 2007, 2008 and 2009, I can tell you that each political party would bring in their shopping list of issues they wished to have dealt with. It is an obvious given that when you are building a peace process you are going to have different conversations with different people. However, what was never, ever on the table was that anything would be done that was unlawful or that interfered in the proper processes of the police and of the prosecution services. That was testified by Assistant Chief Constable Sheridan last week and again by Hugh Orde, the Chief Constable, today.

The only person who has suggested something perhaps else is Mr Baxter, whose reasons I do not understand, but let us again be clear. From what I heard today, had Mr Baxter told his superior, he would not have had to have done any of the things he suggested to the Committee last week. He simply had to tell his boss, “I think we have got a problem here”. I think the public would be most astonished to learn that it did not require a Prime Minister to solve this, it did not require a Select Committee to solve this, and it did not require endless Chief Constables and Secretaries of State to be summoned to solve this; it required a policeman to tell his boss. The question I do not understand and I would like to know the answer to—and I think the public would—is why he did not tell his boss, Mr Sheridan, that he knew something rather different.

Q339 Chair: That was made quite clear by Sir Hugh and it was a line I followed in questioning last week; I was confused about that. But the letter to Mr Downey did not come from the police.

Mr Woodward: No, it did not.

Chair: Who did it come from?

Mr Woodward: The letter to Mr Downey¹², which I have a copy of here, came from the Northern Ireland Office, and says: “The Secretary of State for Northern Ireland has been informed by the

Attorney General”—and again I stress “informed by the Attorney General”—“that on the basis of the information currently available, there is no outstanding direction for prosecution in Northern Ireland”. The letter goes on; I am happy to read it. I think you already have a copy of this.

Chair: We do not, no. If you would be so kind as to read it.

Mr Woodward: Of course. “There are no warrants in existence, nor are you wanted in Northern Ireland for arrest, questioning or charge by the police. The Police Service of Northern Ireland are not aware of any interest in you from any other police force in the United Kingdom. If any other outstanding offence or offences came to light, or if any request for extradition were to be received, these would have to be dealt with in the usual way.” In other words, the police, if they have reason to, would interview this individual; if they had reason to believe they could have a prosecution, they would prosecute the individual.

Lady Hermon: Who signed it?

Kate Hoey: Who signed it?

Mr Woodward: In absolutely no shape or form do I believe that this letter of July 2007 could have been read or should have been read as anything else other than a statement of fact. That it has taken a life in which, in the context of a judgment that looked at a process that I remind the Committee included the fact that what was noticed by the judge in those two sections of his judgment, which is that within the PSNI it was known that a mistake had been made but that the NIO was never informed, again, I simply say, both before and after this letter, two opportunities for co-ordination to have happened could have taken place, and they did not.

Q340 Chair: Okay. Obviously there are security issues here. Are you able to tell us who signed the letter?

Mr Woodward: I was Secretary of State at the time. There is a fashion these days for Ministers and Secretaries of State not to be prepared to take responsibility for their officials.

Chair: So you signed it.

Mr Woodward: I did not sign the letter, but I am taking responsibility for my officials. That is good practice, and I hope that Ministers get back to doing that.

Q341 Chair: Yes, the police should have passed on that information, in my view, but should the Northern Ireland Office be involved in writing letters? The Northern Ireland Office is not a legal officer. The Attorney General is a legal officer. You, as Secretary of State, are a political appointee. The Attorney General is semi; he is a legal adviser to the Government. He is a politician, but he has a separate role. You do not have a separate role. Should the Northern Ireland Office at any point be involved in writing letters to people? Surely that is not the Northern Ireland Office’s job.

Mr Woodward: I have the benefit now of not being the Secretary of State and therefore I can have the benefit of giving a view on this. My view begins with again recognising that this is a process that began in 1998, not 2007. There was a policing operation, we now learn. I never, ever saw the words “Operation Rapid” but I was aware there was an operation going on. I never

¹² 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>

knew the name of it. But the work for dealing with the so-called on-the-runs has to be seen in genesis back in 1998. It is a mistake to simply take a slice of a moment in the story of this and say, "Well, how on earth can that have been happening? How on earth could the Northern Ireland Office be writing these letters?" It goes back to a discussion in 1998, then in 1999, then in 2000, then at Weston Park, then the joint agreement, then St Andrews, in which British and Irish Governments, but crucially the British Prime Minister, agreed to use the offices of the Attorney General in order to elicit information—not to interfere with a prosecution but simply to inform.

There is no secret about this; it is available in a lot of places. If you read Jonathan Powell's book—he was, after all, the Prime Minister's Chief of Staff for a number of years; it is a reasonably authoritative record of the period—it is very clear that this is an issue that was being discussed. I could produce for you other instances when it was being discussed, but the crucial point I am trying to make here is there is a very big distinction to be made between what is sensitive and what is secret. One of the things again that has been formed is a view that this was such a secret thing. Yes, it was sensitive, just as, for example, Unionists had sensitive issues. And yes, it would have been insensitive had we simply have said, "I tell you what. We shall be discussing tonight every issue that Ian Paisley wishes to discuss" or "We shall be publishing tomorrow in the Belfast Telegraph every issue Peter Robinson thinks should be out there, or any disagreement that takes place between the leadership of one part of the DUP and another". In other words, being sensitive is not the same as being secret.

Q342 Kate Hoey: Can you just say, ex-Secretary of State, whether you ever discussed this with the Attorney General? You heard the evidence earlier that the Attorney General was to be the person who was going to check about whether Mr Downey was wanted in England.

Mr Woodward: Absolutely I did.

Q343 Kate Hoey: So did he check?

Mr Woodward: Let us get the nomenclature right: she. It was Baroness Scotland. Her predecessor had, with the previous Prime Minister to Gordon Brown, discussed the issue of what could be done given the failure of the Northern Ireland (Offences) Bill.

Q344 Kate Hoey: No, I am talking specifically about who was meant to check. The police did their bit and then the Attorney General was meant to check whether—

Mr Woodward: Yes, but I fear that one of the things the Committee does not have is the context for why any discussion would take place at all. Again, it is the taking out of context that is causing so many of the problems that are now running there. With the failure of the Offences Bill and with the whole definition of on-the-runs having quite significantly changed from 1998 to the time the Offences Bill is being dealt with, the position you are now in in 2006 is: what do you do with this issue that the British Government, as part of a peace process, said it would wish to look at as an anomaly and how do you go forward? We were absolutely clear that what we could not do was issue pardons, immunities or any of those things at all. That remained at the heart of British Government policy and it did not change. There was an issue in 2005, 2006 and 2007 about how those who had been wanted or those eight, for example, who had escaped from prison, were they to return, would be dealt with. The ones who had escaped from prison could, under the sentences Act, be dealt with very clearly, but there was a whole bunch of people who did not know, so they were asking how they would be dealt with. Crucially, the issue was, bearing in

mind that many of these were pre-conviction, whether the evidential test would mean that there could be a chance of a successful prosecution. The reason for the Attorney General's role in this is that the public interest also now weighs into this. This is not a public interest about giving people immunity from prosecution; it is about the public interest that weighs in in the cases of many things that we look at in relation to a prosecution. Your question was whether I had conversations with the Attorney General. The answer is I did have conversations with her about the review process that would take place. Did I try in any shape or form to interfere or suggest we would like a particular outcome in the way that Mr Baxter most misleadingly put forward to this Committee last week? Not at all at any time.

Q345 Kate Hoey: You talk a lot about the context, and that is probably very important. Everyone is now trying to say it was all Mr Baxter's fault: he did not pass on something. The reality is that what the public in Northern Ireland want to know is how, with all the expertise, all the Special Branch and all the money that has gone in, anyone could not have said, apart from Mr Baxter, that Mr Downey—someone who the English police knew they wanted in relation to the Hyde Park bombing—was wanted in England.

Mr Woodward: The answer to that is as simple as the Chief Constable gave, which is: a mistake happened. I am not condoning a mistake. I share the public's view.

Q346 Kate Hoey: Who made the mistake? Are you just blaming Mr Baxter too?

Mr Woodward: The police were the only people who—

Kate Hoey: What about the Attorney General? According to that meeting that happened—

Chair: Let the witness answer, please.

Mr Woodward: Let us deal with the police first of all. The police operate themselves. We do not tell the police how to operate. The police have their own way of running whatever operation it is that they are doing. We were told, through the Attorney General's Office, that "we have no reason", therefore we issued the letter. What went wrong, very clearly, was that within the PSNI somebody had information that did not go into somebody else's hands. A mistake happened.

Q347 Kate Hoey: No, but you know about the meeting—and no one is disputing that the meeting did not take place—on 9 June 2006¹³, where the Attorney General gave an undertaking they would check if people were wanted in England.

Mr Woodward: I am talking about why Mr Baxter did not pass the information that he knew later to Mr Sheridan.

Kate Hoey: I am putting that to one side for a moment.

Mr Woodward: I am not trying to lay it all on Mr Baxter.

¹³ 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)

A link to the document 'Cases yet to be established / resolved as discussed at meeting with AG, PSNI and PPS – 9 June 2006' can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Notes-of-meeting-between-AG-PSNI-and-PPS-9-June-2006.pdf>

Kate Hoey: I am just trying to see where the Attorney General—

Chair: Order. Can we have a question and then an answer?

Q348 Kate Hoey: Yes. What was the role of the Attorney General?

Mr Woodward: The Attorney General's role was to do exactly what the Attorney General should do, which is to review, in these cases, as had been agreed by Tony Blair and her predecessor, those cases where it had been cited that there would be a prosecution to see if the evidential tests would stand up. That was the role in this.

Q349 Lady Hermon: Could I just come back to your description, please? A number of us live in Northern Ireland. I do not remember the 2007 that you have described to us this afternoon. You said to us in evidence—I have taken it down—the political process was “falling apart at the seams” in 2007. I remember the opposite. I remember suspension of the Assembly having been lifted on 8 May 2007. I remember very happy photographs of Ian Paisley senior as the First Minister and enjoying very much being the First Minister with Martin McGuinness as his Deputy First Minister.

Mr Woodward: And I remember a stream of leaders from political parties coming to see me in the autumn of 2007—I had only been in the post at that point three months—saying, “Are you aware of the material that is not being discussed at the Executive at Stormont? Despite the fact that it all looks very good”—and for goodness' sake, nobody is imagining that anything that was positive was anything other than good—“are you aware of what is not being dealt with?” I would see political leaders of the smaller political parties coming in saying, “We are not being consulted”. I was constantly being advised that problems were building up, including by parties inside the respective political parties on both sides—that there were real problems there that were going to need to be dealt with. What I am trying to describe here, Lady Hermon, is the idea—and it was in response to the question from Mr Colvile to the Chief Constable—that he would have had every single waking moment to worry about on-the-runs when we could see the beginnings of some really serious problems emerging with dissident Republicanism again. What I am trying to build here is what manifested itself when Ian Paisley stepped down, when, if you remember, the Executive did not meet for months in 2008. Many of the seeds for the problems that were happening in 2008, and indeed the murders of the police officers in 2009, we could see in 2007.

Q350 Lady Hermon: I hope you could not foresee the murder of a police officer in 2009. I am sure that was not really what you meant to say. I am just going back to the Downey judgment here. You have now painted a picture, as you saw it, of the political landscape in Northern Ireland in 2007 that does differ from mine, but you were Secretary of State and I was just a simple active Member of Parliament with a constituency. In the Downey judgment, we have, in evidence from the then Prime Minister Tony Blair, a letter—a confidential letter, of course—that he wrote to the President of Sinn Féin just three days after Christmas in 2006¹⁴, in which he says, in terms, that he intends to expedite the administrative scheme for on-the-runs to make sure that the issue is dealt with before he leaves office. Tony Blair, of course, stepped down six months later, at the end of June 2007. I put it to you that the driving force for Operation Rapid and the driving force for dealing with this was not saving the peace process, which did not need to be saved in 2007—it was in very safe hands, and I pay

¹⁴ The letter from Tony Blair to Gerry Adams on 28 December 2006 is referred to on page 59 of the Hallett Review: <http://www.hallettreview.org/filestore/uploads/2014/07/HallettReviewPrintReady.pdf>

tribute to the two gentlemen who were First Minister and Deputy First Minister when suspension was lifted. That was the driving force behind expediting the OTRs and the administrative scheme, not saving the peace process.

Mr Woodward: But there was nothing new in that letter of 2006.

Q351 Lady Hermon: Apart from the fact that it was going to be “expedited”. Since you were saying that there was nothing new about it and all of this was to save the peace process, and since you were, as you have told us, the most experienced, longest-serving Secretary of State for Northern Ireland during the Labour administration, what on earth do you think the consequences for the peace process now in 2014 and for the people of Northern Ireland are when we discover this secret little scheme—a one-sided scheme to give preferential treatment to the friends and colleagues of Gerry Adams? How damaging is that, do you reckon?

Mr Woodward: First of all, as a Member of Parliament representing Northern Ireland, which you and a number of colleagues on this Committee do, it is not for me to tell you what you should feel, so your anger and your concern is totally genuine.

Lady Hermon: Yes, it is.

Mr Woodward: And do I think you are unique? Clearly not. However, this is not about people—although in the case of Mr Downey we have a very unusual set of circumstances, which is again why I say I believe you are right to look at the legal status of these letters. I do not in any shape or form think that the issuing of this letter to any of them, including at the time Mr Downey—although we now know a mistake was made in his case—was about giving anybody the special treatment of an immunity or an amnesty. Were it the case that these letters gave people an amnesty, were it the case that these letters gave people immunity from prosecution, then it would be absolutely right to extrapolate now everything you feel as a real concern about where this would go.

What I do not believe is that these letters were, in any shape or form, immunities from prosecution or amnesties. They were statements of fact about whether or not, as of 2007, in relation to the particular police operation that took place and afterwards, there would likely be a successful prosecution of these individuals. In other words, a view was taken. But the letter was clear that even if you had one of these letters, should any evidence come to light or should an extradition be sought—should anything emerge—then the normal law should take its course. These people were not, as far as I was concerned, being told, “That is it. You are free. You need never worry again.” It was simply, “As it is right now, this is where we believe it is”, based on the police’s review—not my review; the police’s review and the prosecution’s review.

Q352 Lady Hermon: If the administrative letters were so basic and so simple, why do you think it was an invisible process? Why was it secret?

Mr Woodward: It was sensitive, not secret. That was the distinction that I made earlier on. If it was secret, it would not have had any public life at all. It would not be in Jonathan Powell’s book. It would not have been referred to by John Reid. It would not have been answered in questions in 2008 or 2009 by the late Paul Goggins. The question of on-the-runs was out there. It was discussed in the media. The issue of how it was being dealt with as an administrative process was being discussed out there. As Peter Sheridan said last week, he gave informal briefings to the

Chair and to the Vice Chair of the Policing Board. The idea that this was secret and not being discussed with anybody is not the case. Was it treated sensitively? Yes, it was.

Q353 Lady Hermon: Sorry, could I just contradict you?

Mr Woodward: Of course you can. Please do.

Lady Hermon: I do regret having to say this, because you know I hold you in very high esteem indeed, but I just have to bring to your attention, because it is already in the public domain, the fact that your immediate predecessor, the Right Honourable Member for Neath, who gave written evidence to the Downey trial¹⁵—so it is published in the judgment—said, “As Secretary of State, I was conversant not just with the implications but with the running of the scheme.” “The procedure was in a number of ways wholly unprecedented.” “There were a number of exceptional features to the scheme. The first, of course, involved Sinn Féin being formally put on notice [...] The second was that the scheme progressed in a non-public manner. Confidentiality was maintained for the individuals who submitted their names”—and it goes on. This was an unprecedented scheme—“wholly unprecedented”. That is the evidence that was given to the court by your immediate predecessor. Are you saying that you understood it to have some other characteristics?

Mr Woodward: The Chief Constable encapsulated it brilliantly. It may have been unusual, but it was not unlawful. That it was confidential and that it was treated sensitively does not make it top-secret and something that was wrong.

Q354 Lady Hermon: Why do you think the Right Honourable Member for Neath replied in two consecutive months to written questions from the Honourable Lady for North Down asking what the Government was intending to do to deal with the anomaly of on-the-runs? Unfortunately, the Right Honourable Member replied that in fact there were none—that this was an anomaly that was going to be dealt in the future.

Mr Woodward: I am sure you will have a further opportunity to ask the Right Honourable Member for Neath that question directly. I did not answer that question.

Lady Hermon: No, you did not.

Mr Woodward: What I would say to you is that I do not believe—because if you look at this as an evolutionary process—that the issue that the Offences Bill was trying to deal with in 2005, which would have meant, for example, that people who on the administrative process were found to be wanted for prosecution—under the 2005 legislation, they could have gone through that tribunal and come through it and walked out of the tribunal on the other side of it. The administrative process was not saying to those people, “Now you can walk out”. The administrative process was saying, “If you come back in the jurisdiction, you will be wanted”. I do see quite a big difference. However, I see the genesis for both of these groups being back in 1998. Therefore, with the failure of the on-the-runs process of 2005 and therefore the falling of the Northern Ireland (Offences) Bill, the mechanism that would have been established and used, whether it was for those who were wanted for prosecution, having gone through the process, or,

¹⁵ Mr Hain’s evidence to Mr Justice Sweeney (January 2014) can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Hain-statement-to-Mr-Justice-Sweeney-January-2014.pdf>

indeed, for, let us say, those serving in Northern Ireland who might be wanted in relation to Bloody Sunday; everybody could have gone through that process. That it fell apart is a discussion for another day, but what it left was: “Okay, so tell us who is wanted and who is not wanted”. That was what was left. What was clearly not left was the idea that somehow we had a solution for those who would be wanted. I cannot speak for him, but my interpretation of what you are seeking is that what Peter Hain was discussing was that for those who would be wanted and be prosecuted, there was no solution. The Government would seek to find one, but that is not the same as the administrative process that inside the PSNI was known as Operation Rapid and was being dealt with inside the Northern Ireland Office with the issue of the letter.

Lady Hermon: I will just put it on the record that there was no ambiguity about my questions; they were about on-the-runs. I will leave it there for the moment. Thank you.

Q355 Chair: On that basis, anybody receiving a letter was not suspected of any crimes at all.

Mr Woodward: I cannot tell you whether they were not suspected, because I am not the police and I am not the prosecuting authorities. What I can tell you is that the Northern Ireland Office was informed by the Attorney General that, having gone through a review, the evidential test that would have required an individual either to be prosecuted or summoned for questioning had led to a position that the Attorney General advised the Secretary of State, who in this case was me, that this individual, on the basis—and always those crucial words—of current information, would not be sought should they return to the jurisdiction.

Q356 Chair: The police would always work on current information.

Mr Woodward: Absolutely. Which is why—may I add, Mr Chair—I remain astonished at the outcome of the Downey judgment. I remain absolutely astonished that these letters can have been used to take the force that they did and have taken the interpretation that they have. Again, it would be inappropriate for me to go into the particular case, but I simply find it extraordinary. It is not only the former administration, but the administration that took over in 2010 and would have had in some cases the same advisers but different advisers as well; as the current Secretary of State has said, if she or her predecessor, Owen Paterson, had been advised that they were anything other than statements of fact, they would have brought the process to an end there and then.

Q357 Lady Hermon: So were you astonished that the judge gave such weight to evidence from Jonathan Powell and from your predecessor, the Right Honourable Gentleman for Neath?

Mr Woodward: All I can comment on is the letter that falls into my responsibility. Despite the fact the letter falls under my jurisdiction as Secretary of State, amazingly, in that trial, nobody got in touch with me.

Q358 Lady Hermon: So when did you first know about the Downey case?

Mr Woodward: When I was informed on Privy Council terms immediately before the announcement of the judge’s verdict by the Secretary of State.

Q359 Chair: We will perhaps come back to Downey in a minute. We have gone off the line of questioning I had to discuss a very important point, but I was really trying to get to why people would want these letters. There must be some reason why some people required letters. There are very many people in Northern Ireland who would not have needed their position clarifying. Why did some people need their position clarifying?

Mr Woodward: To some extent you would have to ask the individuals. I can speculate, and I am speculating that if somebody thinks they might be wanted by the police for an inquiry, they might want to know whether that is still the case. That does not seem to me to be too extraordinary, and it does not seem to me to be particularly too extraordinary in the context of the original discussions back in 1998 and 1999. In other words, people who in 1998 and 1999 were asking those questions were still asking them in 2001, 2005 and 2006.

Q360 Chair: Most people—probably more than 99%—in Northern Ireland did not need their position clarifying. Some must have suspected they were wanted for certain offences. They must have done.

Mr Woodward: Again, that is for them to decide why they felt that they were in that position. Some, for example, if they had been arrested and if they had jumped bail and fled the country, had a view as to, “Would I still be wanted?” If, for example, the witnesses had died, or if, for example—as, regrettably, we know happened in some cases—some of the evidence that was used by some people against some particular cases turned out to be bogus, then again, you might want to know what your position was. I cannot speculate on everybody, nor am I remotely trying to suggest to you that those all were whiter-than-white individuals. Again, I do not think we will benefit by creating a caricature of what we were trying to deal with. This is a situation that arose in the late 1990s in the core of the peace process: a set of requests by Sinn Féin to know what the status was of these people. Again, I repeat to you, Chair, then, during my time and now, this has never been an attempt to seek an amnesty or immunity from prosecution.

Q361 Naomi Long: You have said that you could not say whether people were wanted or not—I think that was the phrase you used—because you were not the PSNI or the Attorney General, so you could not make any judgment on that. Are you surprised, then, at the evidence we got last week that said it was the NIO who sought clarification about the content of the letters, including John Downey’s letter, directly from the PSNI? Obviously someone within the NIO had concerns about the information that had been fed to them by the process—either the DPP or the Attorney General—and sought to clarify that. First of all, are you surprised that anyone in the NIO would have had the knowledge to be able to question that information? Secondly, are you surprised that they sought to do so directly with the PSNI and not via whatever chain the information had been received from—for example, through the DPP or the Attorney General?

Mr Woodward: I am surprised by a number of things that Mr Baxter said last week.

Naomi Long: It was not only Mr Baxter, just to be clear; it was also Peter Sheridan.

Mr Woodward: Yes, but what Mr Sheridan said was quite different from what Mr Baxter said. To be fair, my recollection—and perhaps you can point me to something that I may have overlooked in my examination of the evidence last week—is that Mr Sheridan was at pains to say that the Northern Ireland Office at no point tried to make any of the interference that was being described. Mr Baxter, unfortunately, took the view that it was not constitutional for the Northern Ireland Office to be receiving material from the Attorney General.

Q362 Naomi Long: I suspect we are on two different pages.

Mr Woodward: Okay. What page—

Naomi Long: No, metaphorically. I am not referring to the claim that Mr Baxter made with regard to phone calls being made about individuals being released from custody. I am very specifically referring to the evidence that we have received that 12 people's names were passed to the NIO via the administrative process, and there was a call made from the NIO to the PSNI querying whether the PNC had been checked in all of those cases. That is where Norman Baxter said that they responded that, yes, it had, and that was the only information that was then sent, and not the additional information that it had and that they were aware that there was some kind of issue with the Met. The question I am asking is: how would anyone in the NIO have known to query the information? If you are saying you simply take it sight unseen and rely on the investigative authorities—the police and, indeed, the law officers—to give you the right information and then you communicated that information, why would anyone in the NIO have challenged or queried the quality of that information on this particular case, and why would they have chosen to do so directly with the PSNI but not through the Attorney General's Office or, indeed, the Director of Public Prosecution's Office, which was the normal chain of discussion in these matters?

Mr Woodward: It has already emerged today from the Chief Constable that people did not do things entirely correctly inside the PSNI. Your allegation is, I think, that somebody did not do something correctly inside the Northern Ireland Office. Is that correct?

Q363 Naomi Long: No. It is a simple question. It is in our briefing that Mark Sweeney emailed the staff officer to ACC Sheridan querying the information that had been provided¹⁶. What I am asking is a very simple question. The question is: why would anyone in the NIO have had cause to query that information if you were simply a conduit for investigative information that was passed through law officers? Why would you have queried it? The second issue is: why would anyone have queried it directly with the PSNI as opposed to querying it with the law officers from whom it was received?

Mr Woodward: Since Mr Sweeney is not here, I cannot answer the question.

Q364 Naomi Long: You were happy to take responsibility for the person who signed the letter because you were in charge at that time, so the question is still relevant.

Mr Woodward: Let us be clear about this, Naomi. When did this phone call take place?

Naomi Long: 18 July 2007.

Mr Woodward: What I suggest we do is we use the offices of the Secretary of State, and I am very happy to do the letter that asks that question for you. It would be somewhat unrealistic to imagine that I can account for every single employee of the Northern Ireland Office for every single minute that I was Secretary of State.

Naomi Long: I accept that.

¹⁶ The email exchange between Mark Sweeney (NIO) and the PSNI (18 July 2007 to 20 July 2007) can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Email-exchange-between-Mark-Sweeney-NIO-and-the-PSNI-18-July-2007-to-20-July-2007.pdf>

Mr Woodward: It would be very sensible for you to ask me the question and for me to offer to do my very best to get you the answer to the question. It would be extremely foolish of me to try to second-guess what the answer to that question might be. That is not the same as me saying I am in any shape or form not taking responsibility for officials who worked for me. They worked for me, and I take responsibility for them.

Q365 Naomi Long: Yes. And it would be your understanding that it would simply have been the official who was asking the question as opposed to being—

Mr Woodward: Forgive me; you are asking me to second-guess, and I do not know the answer to the question. I learned the hard way in Northern Ireland that sometimes, when you do not know the answer to a question, it is better not to bluff and to say, “I do not know, but I will find out for you”.

Naomi Long: I am glad that we all learned something.

Q366 Ian Paisley: Shaun, thank you for coming and giving your evidence, and thank you also for bringing the first piece of hard evidence—the actual letter—which I will maybe turn to in a moment. Could I just address very briefly the issue of context? Context is subjective. You have portrayed the period whenever you stepped into office—I was a Government Minister during that period of time—as “falling apart”. However, from 2007 until 2014 we have probably had seven of the most stable years in Northern Ireland’s political history, and indeed social history, than we had certainly for the previous seven, and probably the previous 37. It has been a very stable period. The naysayers who were banging on your door from other parties in the autumn of 2007 were spectacularly wrong. I am not saying your job at any time was easy, but comparatively speaking, given previous Secretaries of State, you had an easier period of time to govern as Northern Ireland Secretary. I was the Cabinet Minister responsible for getting the Executive to function and putting the agenda together for the Executive, and I know during that short period I was there we did 151 specific policy actions, which was four times more than the three previous administrations. It was a very successful foundation block for a stable Northern Ireland that we are in today. In the two years prior, we had Colombia, we had the Florida gun-running, we had the Northern Bank robbery, we had the four collapses of the Assembly, and we had the complete misery all round. The period that you came in was, when we look back to it, the halcyon days of a new regime. That context is as valid, if not more valid, than the context that you outlined to us earlier.

I am sorry for such a long preamble to my question. In terms of the evidence that you have put before us, we have asked for the Downey letter; we have not yet received it. Are you able to share that particular copy with this Committee? Are you willing to do that?

Mr Woodward: I have nothing but praise for the officials of the Northern Ireland Office, because they are outstanding in so many ways, so this is not a criticism of them. Yesterday, when I was able to get my hands on a folder of information relating to my time as Secretary of State, I said to the very nice young man who brought the material to me—because it was a rather thick file—“I am going to need to take this home and read it”, and the answer was I could not take it home and read it, even though these were all documents written to me when I was Secretary of State. I was only able to look at the folder in his presence. The very nice guy offered to stay all night if it was necessary for me to do it, and I thought it might be more sensible to get a night’s sleep.

Ian Paisley: So did you pinch that letter?

Mr Woodward: I hasten to say I am not getting anyone into trouble. I did not make a copy of this letter from the folder yesterday; it is a letter I had from the time of the debate in the House of Commons. All of this being said, I will ask whether I can let you have a copy of this letter and if I can, I will. If you can do anything to encourage the Northern Ireland Office to allow me to read the folders not under protection, that would be wonderful as well. I cannot see why any of the material that I am talking about here should not be accessible to this Committee.

Ian Paisley: We intend to get it, Shaun, one way or the other. Anyone in the NIO who is listening to this should be aware of that.

Mr Woodward: I do not think there is anything to hide. That is my real feeling about this.

Q367 Ian Paisley: No, but they are, let us just say, foot-dragging. Mr Sheridan last week in his evidence to us said that he did not know about the letters coming out of the machine at the end of the day. He was putting information in to the law officer and the first time he knew something had come out was during the trial. I will come back to that point in a moment. He said that what came out of the machine—in other words, that letter that you have in front of you—was substantively different from what he put in in one regard, and that is the two sentences that refer to what was or was not on the Police National Computer. He said that was technically wrong. So, someone in the Northern Ireland Office, I can assume, took the material that was given to them by the law officer—the Attorney General or the DPP—and massaged and changed that. Was that a mistake by the Northern Ireland Office? That is what ultimately lies at the heart of the Sweeney judgment.

Mr Woodward: A preamble to this: I think your father was one of the most extraordinary figures in our contemporary political lifetime.

Ian Paisley: So do I, but that is neither here nor there.

Mr Woodward: The comment I made about 2007 is not in any way a commentary on him; it is a commentary on the problems that we could see beginning to build, not least with dissident Republicanism.

In relation to the specifics of this and why the words that Peter Sheridan issued were not the same as the words in the letter, I cannot answer that, because I did not write the letter, I did not sign the letter, and I did not see what went into it. It seems to me to be entirely legitimate for this Committee, and certainly also for Lady Justice Hallett's review, to wish to examine in micro detail what happened from that period in 2006 into 2007, which was under my predecessor, and the way that officials were dealing with this, into what happened inside the Attorney General's Office, and to know what came from the Attorney General's Office into the Northern Ireland Office. As I say, I suspect—I do not know—that what will emerge is not conspiracy but just mistakes. The problem is the mistakes now look like conspiracy. That conspiracy is what allows people to think that everything was so secret and that everything was being contrived and people were being issued with pardons who should not be given immunities and so on. None of that is true. However, I can see that when you get something like this, that is how it is possible to look at it, which is why I welcome what you are doing and what Lady Justice Hallett is doing, and why, as far as I am concerned, there is no single piece of paper that I was sent under any strapline that, so long as within the bounds of national security—and there can always be ways round that—you cannot see. I would be happy for you to see anything I was ever sent.

Q368 Ian Paisley: With regard to the police knowledge of the letter and Mr Sheridan's characterisation that he did not see what was coming out the other side, do you believe the police when they say that they did not know there was anything coming out the other side from the Northern Ireland Office or from Government officials until the trial emerged in 2013?

Mr Woodward: I do believe the police, and I believe in the Police Service in Northern Ireland almost *primus inter pares*. I happen to believe that this Committee this afternoon had in front of it a Chief Constable whose integrity is second to none. I happen to have the highest possible view of Peter Sheridan. Anything they have told you is the absolute truth, and they would not be dishonest for one second. If the question is do I believe what you heard from Peter Sheridan and from Hugh Orde, absolutely.

Q369 Ian Paisley: Okay. You characterised the process as "sensitive, not secret". Would you agree with me that it was, however, designed to conceal; it was not a transparent process?

Mr Woodward: It was not designed to conceal. It was designed to expedite, but it recognised the sensitivities involved in this and, to some extent, the confidentiality. If I was your Member of Parliament and you came forward and asked me, "Could you find out for me whether I am wanted for any inquiries by the police?" I would be happy to write that letter to the police for you. I do not think I should make it a matter of public record that I am doing it on your behalf.

Q370 Ian Paisley: But it was designed to camouflage sensitive matters from the rest of the public.

Mr Woodward: It was not designed to camouflage. The operation of it was not designed to be something that was on a daily basis shared with the British public.

Q371 Ian Paisley: Okay, then; let us go back a bit. We all, as a Minister, get a folder with our first-day brief. When you became Secretary of State, was OTRs on your first-day briefing paper?

Mr Woodward: Almost certainly there would have been a reference to it, but almost certainly most of the briefing on the issues that are related around that would have been a verbal briefing, not least because on your first day there are a number of issues with which to deal.

Q372 Ian Paisley: If it was, would you have kept those papers from your first-day brief?

Mr Woodward: No.

Q373 Ian Paisley: Could you get a copy of them?

Mr Woodward: They would be returned to the Northern Ireland Office.

Q374 Ian Paisley: When did you, then, first become aware, and who in the Northern Ireland Office first briefed you specifically, about an on-the-run scheme?

Mr Woodward: When you come into this job—particularly in 2007; it is different now—you see your officials and the second you are in the job, all the political leaders want to come through your door, so you see them all. As I say, there were issues that were building. I do not believe that my Permanent Secretary, in his first briefing with me, found it the right moment to raise the

issue of on-the-runs, by which I simply mean it was not a pressing issue. Do I think in preparation for my first meeting with Gerry Adams, say, that the words “on-the-runs” would have been used? Inevitably, because when Gerry Adams would come to see you, it was an issue that would be something that he would raise. To which the answer, by the way, was always very clear, which was, “You had your moment in 2005 when we had the Northern Ireland (Offences) Bill to find a process to deal with the anomaly. I do not see how we can deal now with the anomaly where the anomaly relates to those who have been through the process and been found wanting for prosecution, because we cannot give immunity from prosecution, we do not give pardons and there is no amnesty. Yes, we recognise it needs to be dealt with as one of the legacy issues, but I do not see what the issue is. If you have names of people who you want to find out about whether, separate from that, they may be wanted, fine.” But crucially, of those who were wanted and had been through that process and had been reviewed, that was the answer: “There is not an alternative on offer”.

Q375 Ian Paisley: The Permanent Secretary at the Department of Justice in Northern Ireland has given evidence to the Northern Ireland Assembly Committee for Justice on some of these matters. Have you seen that gentleman’s evidence?

Mr Woodward: Are we talking about Nick Perry’s evidence?

Ian Paisley: We are.

Mr Woodward: I have not seen Nick Perry’s evidence, no.

Q376 Ian Paisley: Right. Would you have received any briefings from Nick Perry when he was in a different role at the Northern Ireland Office?

Mr Woodward: Nick Perry worked for me when I was Secretary of State, so yes, I would have received briefings on all kinds of issues in relation to policing. He was an exceptional civil servant of the highest integrity. On the one hand we think our Civil Service system is brilliant because it works to keep a door between one administration and another, but, in this case—from what I know anecdotally—is it so smart that somebody as brilliant as that goes from a job with extraordinary expertise into the devolved administration and yet, because of the rules of the Civil Service, is prohibited from talking about what happened in a former life?

Q377 Ian Paisley: In that life, did he specifically brief you, or do you recall any briefing about OTR issues from Mr Perry?

Mr Woodward: Most of my briefing in relation to OTRs was the really rather boring rehearsal of a set of lines, which was, “It is not an amnesty, it is not immunity from prosecution, and we have no proposals to do anything along those lines”.

Q378 Ian Paisley: Was it Nick putting you over those lines?

Mr Woodward: No, there would have been a whole series of officials who came through to do that.

Q379 Ian Paisley: Who was the point of contact in the Northern Ireland Office between the NIO and the PSNI on this issue?

Mr Woodward: Let us be sensible about this, Ian. A number of issues were dealt with in certain departments. I could give you a name of a civil servant right now, who might find themselves on the end of somebody who had nothing to do with the issue we are looking at today, but who might suddenly think, "Oh, that was the person who might have been dealing with that. I might want to go and see them."

Q380 Ian Paisley: It is just to find the person who is responsible if you are not.

Mr Woodward: What I am trying to say to you is: I am not trying to prevent you from having the information. I am happy to make the information I know available, but I am conscious of the fact that we are dealing with some people who could be intimidated and I do not want to put a name into the public arena. I am very happy, Chair, to give you the name and for you to follow that up.

Q381 Ian Paisley: I am happy with that. I am just saying that the weight of what we were shown last week by the police was that, to a degree, they did not want to send certain information up to the NIO because they found them untrustworthy in the handling of sensitive pieces of information.

Mr Woodward: I was not aware that Peter Sheridan was suggesting that he found the NIO untrustworthy.

Ian Paisley: The weight of the evidence was that.

Mr Woodward: The other witness that you had said a number of things about the NIO and about my predecessor that are entirely misleading. They are his opinions and he is entitled to them.

Ian Paisley: That is why it is important that we get to the people who were running the NIO: so as we can disprove a lot of this.

Mr Woodward: I am happy to make the names available, but I am not happy to put them into the public arena for them to be read, with huge respect, by the Belfast Telegraph and anybody else who might pick it up tomorrow.

Ian Paisley: Thank you.

Q382 Dr McDonnell: Shaun, I was very taken by your play on context. I am coming at this from a point of view of someone who was prepared to do difficult things and prepared to take tough decisions, and I personally was a Member of the Parliament here and I thought I had probably some standing in the SDLP and I would have supported much of what you were doing, yet I find myself totally disconnected from all that was going on. Maybe I am stupid, or maybe I was intending to be stupid, but I do not see this, and could not see this, as part of the peace process. This did not involve the various parties to the peace process. This was a deal, from my perspective, between your good self, as Secretary of State, and Sinn Féin, and I do not think, therefore, it can be set in the context of the overall peace process. Whatever the complications of it, whatever the context of it, the court case around Downey very much transferred, and some of the evidence that was given by your predecessor and by others transferred, what was, at your suggestion, a relatively straightforward administrative process into one of significant legal standing. How are we going to bridge the gap here?

There is another gap and the play between confidential and secret and sensitive. I do not know where sensitive ends and confidential begins, or where confidential ends and secret begins. All I think this Committee is looking for is to get the facts out on the table and to realise what was going on. I do not know whether you have any comment on that, but I feel very much on another planet in the context of the context that you have put forward there. I would like to think that if there was any leakage, even within a confidential context, somehow or other, as a Member of Parliament for South Belfast and as Deputy Leader of the SDLP at that time—I attended Leeds Castle; I was at St Andrews; I was at the discussions in Hillsborough; and I was involved in the run-up to the Good Friday Agreement and all the rest. There is a big gap between your context and my context, to be quite honest with you. If that is there, that gap shifts this very significantly beyond sensitive and beyond confidential into something that was secret. Yes, we knew that there were murmurings and mutterings and possibilities floating about, and that Gerry Adams had an issue with some of these people getting clearance, but there was never any sharing of information; there was never any involvement. Quite frankly, I am not saying I would have objected to some aspects of clearing the thing at a very simple level, but when the thing came into a very heavy legal context, with letters, undertakings and all the rest involved, it moved it into a process where the rest of us should have had some say and some involvement.

Chair: Okay. Let us have an answer.

Mr Woodward: That is an opinion, and I regret that we have a difference of view on that. As I say, my view remains, Alasdair, that this was administrative, not anything that was unlawful or seeking to be unlawful, by means obvious or not obvious. In the context of the many things that had to be dealt with and some of those that were agreed to, as Peter Sheridan cited last week—for example, that decommissioned weapons could not be forensically examined—we were not changing the law for anyone; we were simply having a system of expediting whether somebody was wanted in relation to crimes that were committed before 1998 and whether they were now likely, in terms of the prosecution authorities, to pass that test. We had nothing to do with it; we did not interfere. It was a process being done through the Attorney General with the police. A number of times the whole issue of the Royal Prerogative of Mercy and pardons has got drawn into this. There may have been, way before me, discussions around this issue, but what I can tell you is that even where pardons way before me were done, these were in no shape or form pre-conviction pardons. This was, if you remember, a process that was last used, in terms of pre-conviction pardons, in the 19th century and, as far as I know, it ain't been used since.

What I am trying to get at here is that I do not believe that we did anything post-2005 when the Offences Bill fell in relation to what was known as on-the-runs but was no longer the group of on-the-runs pre-2005 that was unlawful. Unusual—the Chief Constable's word? Yes, it was. Sensitive? No question about it. We can see how sensitive it is now. But again, I come back to: we would not be in this position were it the case that material that was in the hands of the PSNI, with or without the issue of on-the-runs, had been handed on, and had it have been handed on I think we would have had a different judgment, but, again, I cannot comment on that particular case.

Q383 Chair: Just on that earlier point, when you quoted Mr Sheridan quoting the handing over of weapons, there was legislation—a lot of it was SI—that went through this House. Is that not the crucial difference?

Mr Woodward: There was legislation attempted to go through this House that failed to go through this House that would have dealt with people who were wanted for prosecution.

However, the legislation having failed, we had no way of dealing with it. The administrative process that remained post that was not the process to deal with that group of people that would have been dealt with in the Offences Bill. They remain an anomaly and they remain out there. Again, I remind the Committee that three of the people who went through that process were arrested and were charged.

Q384 Kate Hoey: But did you never think that it would be helpful to report that to Parliament, given that Parliament was so angry and annoyed about the whole way the on-the-runs legislation was going through and then was stopped and we had a statement? Did you not think that Parliament might not want to know this was happening?

Mr Woodward: We could have told Parliament a number of things along the way. We did not make a statement on that. If I was asked a question, did I answer a question on it? Would I be prepared to? Yes, I was. When, for example, the commission on the past was doing its work, we made a pretty detailed briefing to them on the issue, and that was available to everybody on that committee. But we were not doing something that would have required legislation; we were not doing something by the back door that was unlawful. Yes, of course we could have made a statement to Parliament, and it would have been possible to think of a number of issues on which one might have made statements to Parliament.

I have to also say to you that since we were not doing anything that was unlawful, we were not doing anything that required an SI, and we had recognised that there was a group of people, the so-called “on-the-runs”, that could not possibly be dealt with because they were wanted for prosecution and they were the anomaly and nothing that we were doing was going to help them one bit—and, indeed, of those who did come back, they got arrested if they were wanted for prosecution and nobody sought to help them out; they faced their charges and went to prison—I am not sure what the statement would have been. That “we are finding out whether anyone who comes to us who may want to know whether or not they are wanted for questioning may be wanted for questioning”? I am not trying to trivialise it, because I have seen the damage that this particular case has done. I am not remotely trivialising it, but I am not sure that without this particular case we would be in the place that we now are.

What this case has thrown up, going back to Lady Hermon’s crucial observation, is whether what, in whatever good faith, everybody—officials, myself, predecessors and successors involved—thought was a statement of fact is more than that. The absolute urgency of this inquiry and Lady Hallett’s inquiry has got to be to establish this. It is essential that the Secretary of State and the Attorney General face that fully square, because it would be for me utterly unacceptable to think that a process that was an administrative process was now going to become one that could be used as an immunity from prosecution. That was never the intention and it is still not the intention. I cannot speak for the current Secretary of State, but I am pretty certain that she would agree with me.

Q385 Dr McDonnell: Do you accept that the police did not know letters had been sent?

Mr Woodward: The Chief Constable said that this afternoon, and I accept every word the Chief Constable says.

Q386 Dr McDonnell: Do you accept every word Peter Sheridan says?

Mr Woodward: Yes.

Q387 Dr McDonnell: Good; okay. When some information became available that Downey was not quite in the clear, what were they supposed to do to reverse the clearance that they had given?

Mr Woodward: They make it very clear to the DPP that there is a problem, at which point the DPP makes it extremely clear to the Attorney General that there is a major problem.

Q388 Dr McDonnell: But they gave a clearance at the point in time where they saw it in the best benefit. Their comment, or recommendation, only became significant in the context of the letters. Once the letters were sent, that lifted their assessment to a whole new level, and they were not aware of the letters.

Mr Woodward: Bearing in mind that the Attorney General did know of the letters and bearing in mind that the Attorney General has many people working for him or her of a quite considerable calibre, who are far more and better trained than I am in relation to the value of a letter and what it may or may not mean, I just find it inconceivable that if I was being reassured that the letters were statements of fact and nothing more than that, that was not also the opinion in the Attorney General's Office. I am, in that sense, as surprised as you and everybody on this Committee is, and everybody else. I do genuinely think people are being honest here. What is extraordinary is that it would seem that a judgment was made that does not treat this as a statement of fact. But I do put, again, Chair, into the context of this that Justice Sweeney says it is part of a process, not the letter in itself. Again, you will probably be better read than me on this judgment, but my recollection of what Justice Sweeney says, particularly in the concluding parts, is that in finding to strike out the case it was the handling by the police, not only in the initial information that led to this letter but the subsequent discovery of a mistake having been made that was not then communicated to anybody else, that led the judge to talk about the abuse of process. Again, I just very much hope that Justice Hallett, as much as this inquiry, will wish to look at that. We can focus, and rightly this Committee is focusing, on the letter, but it is also necessary to look at the entire process. As I say, my view is that we will find at the end of the day this was a mistake, not a conspiracy.

Q389 Chair: It is an important point, that. By the time the mistake, or whatever you want to call it, was realised—it goes back to Alasdair's question—they could hardly alert Mr Downey to the fact that the letter carried no weight, because that would then have prevented him from coming back into the jurisdiction where he is wanted.

Mr Woodward: I refer the Committee to paragraphs 133 and 137. 137: "Again, nothing was done to alert the DPP (NI), or anyone else, in relation to the defendant being wanted".

Q390 Chair: Yes, that should have happened, but what were they supposed to do with regards to Mr Downey, other than alert him, "If you come back, yes, you will be arrested"? Once we had got to that point, it was hard to get out of it.

Mr Woodward: The questions around the Northern Ireland Office are entirely right and I am glad that you ask them, and anything I can do I will help with, but it does seem to me, both with the particular officer and his superior and between the PSNI and the DPP, that no contact happened there either. All that is also outside the remit of the NIO. That conversation could

have taken place. Why it did not I do not know, but, as I say, my feeling is that it was a mistake. The problem is the mistake for the victims involved in this is appalling and indescribable.

Chair: We have been going for well over an hour, so if we can try and avoid any repetition, that would be greatly appreciated.

Dr McDonnell: Chair, I will leave it at that. I was going to ask a question about whether the SDLP qualified as one of the smaller political parties.

Chair: Okay, well we will not get into that.

Mr Woodward: Chair, it is a very large political party.

Q391 Dr McDonnell: Could I ask: were the letters all given to Gerry Kelly? Why were they given to Gerry Kelly rather than to the individuals?

Mr Woodward: I do not know if all the letters were given to Gerry Kelly because I did not sign them and I did not pass them on. The process that I am aware of—because very often it did not involve me at all—was simply that a list of names would be given, as began with Tony Blair back in whenever it was after the Good Friday Agreement. That was the process that happened. As I say, one of the things, Chair, that is a hallmark of this is an evolutionary process. As so often happens with evolutionary processes, they look fine when they start—there is a debate around that, of course—but there then comes another moment when circumstances change and then they have the capacity to look completely different. With hindsight—always a wonderful thing—could we have done it differently? Very possibly these letters should not have been coming from the NIO. But they still would have had to have come from someone. Therefore, I think I am saying slightly the mistake could still have been made, because if information is not passed between people, whoever the letter may come from, however it is written and whoever has signed it, if a mistake in the original information is made and there is no apparatus to check it, and when it is discovered that a mistake has been made it is not referred to the DPP, the discussion of the letter is a secondary issue. It is: why was the mistake made, and why, when it was discovered, was the DPP not involved?

Q392 Nigel Mills: We are at risk of going round this circle a few more times here, but I suppose it comes back down to the question I keep asking myself, which is how this could be critical for the peace process and yet be largely meaningless, and how you get those two to square.

Mr Woodward: I did not say it was meaningless.

Nigel Mills: Okay, I will rephrase my question. What seems to me a salient question is: what did these letters mean by “if we discover new evidence, or some new offence comes to light, then action can still be taken”? The question was asked last week: does new evidence mean evidence that we find in a file that we did not know was there or we had forgotten was there or we had not put two and two together but it was quite material to this, or does it have to be solely a witness coming forward that had never come forward before or a new forensic technique we did not have before? Those are really quite different scenarios.

Mr Woodward: What matters for one person is not the same as what matters for somebody else. I would never describe these letters in the sense of their value to the person who received them as meaningless, not because I am suggesting they carry the value of being an immunity but

because for the individual concerned who got one, being told you were free to return, not because you had a pardon, not because you had an amnesty, but for whatever reason—maybe the witnesses had died; again, I remind you that none of that information was ever contained in the letter—it meant a lot. But crucially, it contained a statement that, “By the way, if the facts change, you could be interviewed by the police, and, if you are interviewed by the police and there is evidence there, you could go to prison”. So, you could argue, as you have just done, “What did these letters mean?” The answer is: to the people who had them, they meant what they meant; to you, they have a different view. To where things were for Sinn Féin in the late 1990s, they were probably very important for reassuring people that they were prepared to do things to find out whether people were wanted for questioning or whether or not there would be prosecutions, and those were issues that mattered to them. But I have to tell you that there were other political parties who had issues that would fall under the umbrella of, “Why on earth did that matter so much to them?” The answer is: because it did.

Q393 Nigel Mills: When you were Secretary of State and you were presented with this process, did you every worry or enquire about how the Historical Enquiries Team process would interact with this process? If the Historical Enquiries Team, doing a file review, found some new evidence or thought there was a case that could be put together that had not been previously put together, did it ever worry you that that would get stalled because that was not “new” under a natural use of that word?

Mr Woodward: I had a number of worries about the Historical Enquiries Team. The HET is brilliant. It was under-resourced when we were in Government, and it is in an even more difficult place now. The weight of the work that it has to deal with is enormous, but the value of its work is incredible. The problem is that they were approaching the work chronologically. We have given undertakings in the course of building a peace process that we would deal with the anomaly of OTRs. Again, you come back to needing to see this in an ongoing context. Whilst the collapse of the 2005 legislation meant that nothing could be done about those who were wanted, on the other hand, for those who needed to know whether they would be wanted, there was no reason why we could not deal with an expediting of finding that out. That being said, at no time was it interference, and at all times it was very clear to me that this was a police operation and a prosecution operation that was going to be reported through the Attorney General’s office to me, which is a different structure from the HET. Remember, what the police were doing in relation to Operation Rapid, as Peter Sheridan set out last week, was a review. What the HET were doing, in some cases, was going further than that.

Q394 Nigel Mills: Were you intrigued last week to hear Mr Sheridan’s evidence that he had an exchange of correspondence in 2006 with the lawyer representing the on-the-runs about what a process could look like for dealing with them, which would involve them voluntarily submitting for questioning, and that that process was effectively rejected by Mr McGrory at that point, and then we appear to have moved on to a process that did not require such questioning to determine if the file should be closed? It seems that the police moved their process quite dramatically forward from a normal-looking police investigation to a paper chase. Do you think this could have been perhaps better if they had stuck with the first idea?

Mr Woodward: The first idea being?

Nigel Mills: Being, “Yes, of course we can look at the file, and if you come in for questioning, we can decide whether we want to proceed or not”. That looks a more robust process, does it not?

Mr Woodward: To be frank, that is a matter for the police to decide. It was not for me to tell them how to do their operation. We needed to know, if we got a list of people who said, “Are these people wanted for questioning?” what the answer to that was. It was absolutely not for us to say how to do it, what not to look at or what to look at. That had to be an operational issue for the police and the prosecuting authorities.

Q395 Nigel Mills: It just makes it look, does it not, the assurances having been given to Gerry Adams and Sinn Fein that a solution would be found, like this was the solution?

Mr Woodward: No, the opposite. There are many records of me saying to Gerry Adams, “There is no solution to this”.

Q396 Nigel Mills: What was his reaction to that? Did he say, “Wait a minute. What are these letters, then?”

Mr Woodward: I also had in my mind the pending Bloody Sunday inquiry. However hateful for many people the Northern Ireland (Offences) Bill would have been, one of the things that it would have provided is for any—for example—member of the British forces who found themselves being prosecuted to put themselves into that process. Once the whole process had failed and we had no tribunal mechanism, it was very simple to Mr Adams: “There is nothing I can do about this”.

Q397 Nigel Mills: When you see Mr Adams making press comments about the Downey case on the basis of, “He should never have been arrested. He should be released. This is a betrayal of a promise the British Government made that the on-the-runs would not be pursued”, that is different to the conversations you had with him, when you think he knew that this was an administrative process that did not confer an amnesty and was not intended to, and that investigations could be re-opened in suitable circumstances.

Mr Woodward: This is not a value judgment on the individual; it is a remark on his rhetorical capacity. He is very good at blowing the trumpet on behalf of those he represents.

Q398 Nigel Mills: But he knew that these letters were not intended to be a get-out-of-jail-free card; they were merely a, “Today we do not want you; tomorrow we might.”

Mr Woodward: They knew, for example, that if somebody who did not have one of these letters, because they were wanted, came back, they would be charged and arrested, because we charged and arrested people. I say “we” meaning the PSNI. He could not be in any doubt when he saw three people arrested and charged.

Q399 Nigel Mills: Were you ever involved in any discussions about how the public interest in prosecuting played into these decisions? It is one thing to say, “There is no evidence, therefore we cannot proceed”; it is quite different to say, “There is some, but we think in the public interest it is not advisable to continue with a prosecution”. Was that criterion ever used in deciding whether to issue these letters or not?

Mr Woodward: I am going to be absolutely honest with you and say yes, I had discussions with the Attorney General about the possibility of how, post the failure of the Offences Bill, we could

find a solution to the anomaly, but those discussions were precisely because we had given an undertaking that we would, and they were always rather repetitive in nature, because there was not a solution but we said we would discuss it, so I would always honour the value of going through with my promise. I was always coming back saying, "But we do not have a solution to it, because this has to remain lawful, and we do not have a lawful mechanism for people being pardoned or giving immunity from prosecution".

Q400 Nigel Mills: So you do not think it would have been lawful to say a prosecution of somebody in this situation would do such damage to the peace process that it was not in the public interest to proceed. That was not a criterion you used.

Mr Woodward: That was never my discussion with anybody. Do I think Attorneys-General have to weigh sometimes the public interest on issues? I am not talking about Northern Ireland here, but wider issues. Yes, they do. There are relatively recent instances. Nonetheless, I, during my time as Secretary of State, did not have any conversation in any shape or form about individuals being given some immunity from prosecution.

Nigel Mills: Or some kind of general policy that—

Mr Woodward: To be really honest, there is not a general policy. There is either immunity from prosecution or there is not immunity from prosecution. There is not another place to go. If you are wanted for the murder of somebody, then you are wanted for their murder; there is not another place to be parked in.

Chair: Thank you. Can I just remind Members we have been going an hour and a half now? There will be a vote shortly. Some of us have to get to greet the President of Ireland as well.

Q401 Oliver Colvile: I will try to keep this to the point. First of all, can I thank you for putting the context for what else was happening at the time into context too? There are two things I want to ask you. First of all, do you know who was responsible for signing off the terms of reference for Operation Rapid?

Mr Woodward: As I understand it, Oliver, Operation Rapid was a policing operation and therefore it would have fallen under the ambit of the Chief Constable. It would not be something that he would discuss with me.

Oliver Colvile: No, that is fine. It is a question for him.

Mr Woodward: There is no political connection in any shape or form.

Q402 Oliver Colvile: The question, then, that I also have to ask is: where we are now, there are some people who have been killed in Hyde Park and there is now, it appears, no course for getting any kind of justice for the victims of those people who were killed. When you were considering the strategy that you were going through, did you ever think to yourself, "This, frankly, looks as if there is one group of people who are going to be seen to be getting preferential treatment. How can we look after those people who also may have ended up by committing crimes and being involved in terrorism, either from the Loyalist side or alternatively? Secondly, how are we going to end up by making sure that those members of the military who were doing their duty as far as the British Government was concerned are not going to find themselves under prosecution too?"

Mr Woodward: First of all, anybody who came to me in my capacity as Secretary of State—a Member of Parliament or whoever, from whatever political party—and said, “Look, we need to know about X and whether they are wanted” I would have done exactly the same for. Sinn Fein were the people who relentlessly did it for the numbers of cases that the current Secretary of State has put into the public arena. It is just what they did. Would it have only been done for them if we had been asked by anybody else? No. I would have done it for anybody else.

Q403 Oliver Colvile: Did anybody else ask you?

Mr Woodward: Nobody else came in to ask for it. If, for example, a political party had come in and said, “We have this group of people who have a history within Loyalism”, say, “and we want to know if they are free to return”, would I have done it? Of course I would have done it, because I was not doing anything that was unlawful.

Chair: Two final quick questions from Sylvia and Naomi. We will have to wrap it up then.

Q404 Lady Hermon: If, as you have repeatedly told us, the Government was not doing anything illegal and it was just dealing with an anomaly, why do you think the present Government did not tell Richard Haass anything about the administrative scheme before he embarked on hours and hours and hours of negotiations on dealing with the past? Why was that deceit continued for those other negotiators from other parties, apart from Sinn Fein, who knew about it all the time?

Mr Woodward: For me it is quite difficult to comment on the current Government, for this reason.

Lady Hermon: But I am asking you—

Mr Woodward: No, but it is very relevant. I spent a long time in Northern Ireland. A big problem leading up, as Ian knows, to the 2010 Hillsborough Agreement¹⁷ was around parades and flags—a number of very important issues, particularly for Unionists but equally important for Nationalists. I was not even asked to give evidence to Richard Haass. This Government took a view in 2010 that everything any of us did in the 12 or 13 years from 1998 to 2010 was not something they wanted to involve us with. I cannot tell you why this Government have not invited or asked for us in relation to Richard Haass on this because they have not asked for it on any front whatsoever.

Q405 Lady Hermon: No. The picture that you have painted for us is: “We are just dealing with an anomaly. Gerry Adams comes in; he gives a long list of people and repeatedly asks about OTRs.” The question I am asking is: if it was just so ordinary—if it was such a normal process, it was not illegal and it was just dealing with an anomaly—why on earth would any Government not tell a chief negotiator who flies hundreds of miles, repeatedly giving up his time—

Mr Woodward: I cannot speak for this Government. For me it was not a secret. For example, I discussed the issue, when they asked me, with both the former Secretary of State in President Obama’s administration and her predecessor. I had no difficulty discussing it. If anybody from

¹⁷ The ‘Agreement at Hillsborough Castle’ (February 2010) can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/136435/agreement_at_hillsborough_castle_5_february_2010.pdf

this Committee in its former life had come to talk to me about it, I would have had no difficulty discussing it. I cannot answer for this administration and why they have not talked about it with Richard Haass. I do not believe it is such a terrible secret.

Q406 Lady Hermon: Let me just interrupt. I do apologise for interrupting you in the middle of your flow. Did you know about Operation Rapid?

Mr Woodward: I did not know the name of Operation Rapid, because, as I said, the words never, ever went across my desk.

Lady Hermon: Yes. But you knew it was happening.

Mr Woodward: Did I know that the police were working to expedite? Yes, I did, because Gerry Kelly or Gerry Adams would bring names, and I was aware in the Northern Ireland Office of the list of names being brought in, that were then being passed on.

Q407 Lady Hermon: So the only thing that surprised you about the Downey judgment is the fact that the legal status appears to be that it was, in effect, an amnesty in Mr Downey's case.

Mr Woodward: Again, a bit of caution there. The judge seems to be saying it was an abuse of process, of which the letter is part. To end up concluding, therefore, that the letter is an amnesty is highly dangerous. I just would caution this because if it is not, we ought to be careful that we are not building it into something that it is not. I do recognise every worry that you have given about how people feel about this. If it is the case that this letter is not an amnesty and that the lawyers look at this and say, "No, what went wrong was not the letter but the information not being passed", I do not want to create more pain for people who have been through enough.

Chair: We have got a couple of minutes left; that is all. I will have to bring Naomi in, as she has been sat there waiting patiently.

Naomi Long: Thank you, Chairman. There are some very important questions that have not been asked, and I am conscious that a few minutes may not do justice to them. For example, the issue of devolution of police and justice has not been touched on at all. I am just putting that on the record, because we will need to return to that to get the evidence.

Chair: We will ask that of the relevant Secretary of State.

Naomi Long: Which is Shaun Woodward, who is in front of us now.

Chair: No, because he left office in May two thousand and—well, before that.

Q408 Naomi Long: Yes. But on the issue of the devolution of policing and justice, can I ask the question: in the run-up to that and in the negotiations, did you brief the parties on this scheme and its potential for devolution and how it would be devolved?

Mr Woodward: Sorry, did I brief the parties?

Naomi Long: Yes. Each of the parties who were involved in those discussions.

Mr Woodward: No.

Q409 Naomi Long: Did you at any time raise this with David Ford?

Mr Woodward: No. But can I just remind you that I was Secretary of State up until, as the Chair has pointed out, May of 2010, and he only became Minister after that process?

Q410 Naomi Long: Yes, but we were both heavily involved in those negotiations. Would it be fair to say that?

Mr Woodward: Yes, but we should be conscious of the timetable being so tight and all the issues that were pressing at the time. Let us also say that David Ford could only ask what he knew about, but, that being said, he had quite a lot of pressing issues that he did want to spend the time on and that, genuinely, I think he was right to spend the time on.

Q411 Naomi Long: I am simply trying to establish that during that process of negotiation, which I was party to as well, this was not an issue that you felt needed to be raised or discussed in the context of devolution of policing and justice.

Mr Woodward: Bear in mind that the police report to the Policing Board. I am just struck by whether or not you are looking at the right person for having that discussion.

Chair: We will have to return to these issues. There are a number of issues. Thank you very much for your help, Mr Woodward.

Mr Woodward: Not at all. If the Committee wants to write to me in order to expedite this, please do so.

Chair: Thank you very much.