



Northern Ireland Affairs Committee

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

Wednesday 7 May 2014

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

Questions 673-783

Witnesses: **Matt Baggott CBE QPM**, Chief Constable, Police Service of Northern Ireland, and **Drew Harris OBE**, Assistant Chief Constable, Police Service of Northern Ireland, gave evidence.

Q673 Chair: We will begin the public session. Chief Constable and Assistant Chief Constable, thank you very much for joining us. I do not think there is any need to go into a long introduction about the inquiry that we are carrying out. Before we get to that, I would like to give you the opportunity, maybe, to update the Committee as far as you can on two other issues. One is the McConville case.

Matt Baggott: Thank you very much for that. Clearly it is an ongoing investigation, so it would be inappropriate for me to talk about any of the specifics of that, except that we are, as an organisation, doing what we should do, which is following the evidence. Ultimately that will be assessed by the Public Prosecution Service, in terms of any future proceedings. At the moment, we have one person charged with a related offence and five reported to the Public Prosecution Service and one ongoing at the moment. It is very much an ongoing investigation, Chairman.

Q674 Ian Paisley: Could I ask about that arrest? I know you cannot say anything about it, but are you able to inform the Committee if the Secretary of State was briefed in advance of that arrest?

Matt Baggott: As a matter of course, I would brief the Northern Ireland Office if there are any events of national significance, in terms of their consequence management, but certainly nothing at all in terms of the specifics of the investigation. I am always very clear about that.

Q675 Ian Paisley: Sorry, Matt, just to be clear, was the Secretary of State specifically briefed about the arrest of this individual this morning.

Matt Baggott: I notified the NIO that there would be another event and the Secretary of State, but not in relation to the detail of that. I never brief on the detail of investigations.

Q676 Ian Paisley: Would that have been the same for last week, whenever Mr Adams was arrested?

Matt Baggott: That is right. Last week she was briefed, as we would do, through officials.

Ian Paisley: It is normal procedure.

Matt Baggott: Yes, normal procedure.

Q677 Chair: The second one really is resulting from an earlier session of this Committee with Mr Norman Baxter¹. I quote from when he was referring to an alleged telephone call, which he said he had received with regards to the arrest of two individuals. He went on to say, "That, in my mind, is attempting to pervert the course of justice and that was conveyed back to headquarters." I understand you are looking at that allegation.

Matt Baggott: That is right, Chair. Obviously because I am giving evidence today, and so is Mr Harris, we have moved ourselves out of that. That is being dealt with by my deputy Alistair Finlay, so that we do not compromise our own evidence due today, but there was an allegation made and I have asked the Deputy to explore that to see whether that could be substantiated, but that is an ongoing matter.

Q678 Chair: Thank you for that. Perhaps we could move on to the "on-the-runs" administrative scheme, which we are looking at at the moment. I would like to bring both of you in on this, but perhaps, Chief Constable, you could give us your understanding of the scheme and knowledge of the scheme and, in particular, when you first became aware of it.

Matt Baggott: Certainly. Could I first, perhaps Chairman, bring you up to date on where we are with the review? Would that be appropriate? I would then move on to what we know about it. Would that be okay?

Chair: By all means.

Matt Baggott: Thank you very much for the opportunity for Mr Harris and I to give evidence today, which is very welcome. I would like to update you on our actions following the Downey judgment², first of all. I am very mindful of the fact that there are families to whom I have already apologised for any failings in this. Mr Harris has met with the families himself personally, and they would wish to be assured straightaway that we are doing everything possible that we can to make sure that justice can be pursued.

We have established a team of experienced detectives to work our way through the 228 cases to ensure that no mistakes have been made and that any new evidence can be pursued. We have given this a name, as you would expect. It is called Operation Redfield. If I can say, the Downey case does appear to be somewhat unique, as far as we are aware from the ongoing work of the review at the moment, in that the fact that he was wanted was not passed on. It is the only case

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>

² A link to "The Queen v John Anthony Downey, Judgment: Abuse of Process" can be found here:

<http://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Judgments/r-v-downey-abuse-judgment.pdf>

of this nature that we know of. In the only case that was wanted elsewhere, the individual remains wanted. As far as we are aware at the moment, that review is showing that this is in fact a unique matter.

We have five individuals subject to the original review at the moment who are currently under investigation for pre-1998 offences. Another has been charged with a new offence pre-1998 and another is under investigation for a post-1998 matter. We now know that they received letters, but the review is subsequent to this; it is a review being carried out as a result of investigations from the Historical Enquiries Team and our own C2 department. This Operation Redfield will continue as long as it takes. We said it at the time very publicly: our understanding is that there are no immunities and no amnesties. We are working through this methodically for as long as it takes to see whether there is any new evidence, and that will be a subject of reports to the Public Prosecution Service.

Chairman, you asked for my knowledge of this scheme. Perhaps I could just contextualise this. At the end of 2009, which is when I became the Chief Constable and my team came together with me, the context for us was there was a significant upsurge in terrorist attacks. You will recall the tragic murders of the sappers, Stevie Carroll and attack on the Policing Board. I say this because, at the time, our priority was very much about trying to get on the front foot in relation to those terrorist attacks to bring that back and also to make sure that we had the resources to take the PSNI forward beyond devolution. My own priorities at the time were very much around getting to devolution, establishing a long-term financial settlement, stabilising the situation and getting on the front foot.

The context to that is because, in February 2010, there were the Hillsborough conversations going on. These were sensitive political conversations taking place at Hillsborough pre-devolution, before the devolution settlement was reached. At the end of that process, we were asked to review some 38 names. These were names that had been previously submitted and I would probably describe it as a completion of the review process. It was the tail-end; it was a reconciliation. A day before devolution was agreed, I took those names and we put them into a pre-existing review process.

I am satisfied that the role of the police in that was previously clearly defined as the result of a longstanding review and that it did not legally compromise our position as the PSNI. As I said before, I think it was the finishing-off a longstanding process, so it was a completion, although there was still work to be done in some of those names, which we can brief you on. I would probably describe it in my understanding as something akin to a subject access request. That is a request that people can make under the Data Protection Act as to what is known about them. We have a responsibility under that to make sure our records are up to date, that it is a statement of fact at a moment in time—there are exclusions to that—and ordinarily we would tell people if they were not wanted. They would be allowed to be informed of that. There is a process in place. There is a legislative background to that; there is the subject access request. Those names went into the system and were reviewed. In May 2013, the moment we recognised—

Q679 Lady Hermon: Would you mind, Chief Constable, if I just interrupted you? You were talking about what had happened just before devolution and how important—in fact, you actually said a priority was getting to devolution. Those were your precise words. Devolution of policing and justice happened very successfully in the spring of 2010. Why was it that the PSNI, post the devolution of policing and justice, continued to accept lists of names from the Northern Ireland

Office? Were alarm bells not ringing at that time, thinking, “What legal authority do we have to accept lists of OTRs from the Northern Ireland Office post the devolution of policing and justice”?

Matt Baggott: I am not sure that we actually received a list of that nature post the devolution of policing and justice, but Mr Harris can brief you on the detail of that.

Drew Harris: The last list that the Chief Constable referred to, which was received in early 2010, was the last composite list that we received. Any other enquiry from then on was from solicitors, and it was only really a handful of enquiries from then on until 2012 that was received.

Q680 Lady Hermon: Those were all exclusively through solicitors of clients who believed themselves to be on the run.

Drew Harris: Yes. In fact, outside of this process, any individual who feels they are a fugitive from the police service may ask their solicitor to make contact—in effect do a subject data access, which is using the Data Protection Act—to find out what the police may have on them or the information that they may hold on them. We have specific exemptions, under the Data Protection Act, in terms of preventing crime and detecting a person’s national security. It is not an open door in terms of giving information out.

Q681 Lady Hermon: Just to be clear, the solicitors who are acting on behalf of clients who believe themselves to be on the run were relying on and writing to the PSNI quoting the Data Protection Act and asking, under data protection legislation, to confirm whether in fact there was any evidence that the PSNI had that their client could return to the jurisdiction of Northern Ireland.

Drew Harris: Solicitors often write to us, but may not quote the legislation. I do not believe those letters did quote the legislation.

Lady Hermon: No, I would be very surprised if they did.

Drew Harris: It is a situation similar to that, because that in effect is what we are doing.

Chair: I am going to come back to the central theme of what you were saying, Mr Baggott but, because Kate has to go in a minute, would you mind if we just bring Kate in for a couple of minutes?

Q682 Kate Hoey: Thank you and welcome, both of you. Can I just ask you whether you feel any regret now that you so instantly knee-jerked, jumped in and apologised so profusely, as if it was only the PSNI and formerly the RUC that were responsible for this whole Downey shenanigan?

Matt Baggott: I do not think I would describe it as a profuse apology. I think I would describe it as an appropriate one and one that was very straightforward. I would say that probably for three reasons. One is that we had families here who were hurting and needed to have an authoritative voice say sorry. It was appropriate to do that at that time and in the manner that I did.

Secondly, we had an opinion. Having read the judgment quite a few times myself now, it is one of the most thorough judgments I have ever seen that sets out a very clear fact-based chronology of what the PSNI did or did not do in sequence. It runs to many pages. I have to respect the opinion of the judge and also the court as a definitive judgment.

More importantly also, I read the judgment through very thoroughly on a number of occasions, in fact more than one occasion and more than two occasions. I have to say—and it is for others to give an account themselves—I could not see why the fact that he was wanted was not passed on. The team knew that he was wanted; they checked that he was wanted on three separate occasions. They reviewed it again. They changed the template to include PNC analysis updates and there was an incomplete picture given. Even when the Northern Ireland Office exercised what I think was a due diligence function, they still did not correct it. We are part of UK policing; we are not a standalone organisation; we are part of UK policing. Subsequent to that, I have read through the terms of reference that were given in Operation Rapid³, and I still cannot see why that was the case. I still cannot see that.

Q683 Kate Hoey: You do know that we have had very clear evidence from Mr Baxter that it was passed on. Mr Baxter was a very dedicated officer with many years of service. Are you saying that you just do not believe him?

Matt Baggott: I do not question the integrity of a colleague, and nor do I question the enormity of his role in the PSNI. I am not questioning that at all, but there is a fact-based chronology here that is very clear. Information I think should have been passed on and clarity should have been given about his status, and it was not. I have, in my notes here, line by line where the judgment says that. I think that was a responsibility, even to say he was definitely wanted. The team knew he was wanted. Everybody knew he was wanted, but that information was never passed on, other than saying that a check was done. That led to the sequence of events around the letter, and there were lots of opportunities there to put the record straight. For whatever reason, they were not taken and that was the failure that led to where we are now.

Subsequent to that, the judgment also says that the Historical Enquiries Team recognised that there was a mistake here. They also, in the judgment, talk about the potential for an abuse of process. Again, that information is not acted upon, so there were a number of stages at different levels of the review team where the record could have been put straight, where things could have been done, but that was never clarified. I have to say that I think that was a failing, but I am not making a judgment in terms of the integrity of that or the reasons why. It was clear to me that it was a failing and, because of that, the process of justice has not been followed.

Q684 Kate Hoey: Just one final question: you mentioned the Historical Enquiries Team. Was the Historical Enquiries Team aware of every single person who had been given a letter? In other words, they knew all about this so that, when they were looking at historic cases, they would be able to say, “There is nothing we can do about this, because he has been sent a letter”.

Matt Baggott: I do not believe they were. Mr Harris can give some detail, but the Historical Enquiries Team in 2007 was very new. It was not running through the whole process of a chronological review of cases. It was really only up and running at that moment. We now have cases, as I mentioned at the beginning, Chair—I think there were five cases—that we are looking at again. Although the Historical Enquiries Team has been suspended for a while, its work has been ongoing for quite some few years since 2007, so it is going through the whole process of reviewing unsolved murders.

³ A link to the Operation Rapid terms of reference can be found here:

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

Drew Harris: What I would highlight is that the five individuals who did receive not-wanted letters are now the subject of Serious Crime Branch investigations, because the HET in their review process have identified an evidential opportunity. The Serious Crime Branch now has responsibility to investigate that and report to the PPS, so it will be the PPS who will then take subsequent decisions around prosecution.

Q685 Chair: Before I bring others in, and I have a big queue, just to round off what you said earlier, Mr Baggott, with regards to the scheme generally, were you then aware that letters were being written to individuals?

Matt Baggott: No, I was not. I was not aware that letters were written.

Q686 Chair: Were you aware of what the judge described—presumably you were—as a “dedicated team in the PSNI” dealing with this issue? That is what the judge says.

Matt Baggott: I was aware that we were reviewing. I was not aware of the size of the team or the detail of that.

Q687 Chair: Who would have set up a dedicated team? We asked Sir Ronnie Flanagan⁴ this and he was not aware of it either. It seems extraordinary that there is a dedicated team within the PSNI and two Chief Constables now deny knowledge of it.

Matt Baggott: There was a team, am I aware now, set up under Operation Rapid that dealt with the bulk of the cases. When I became Chief and Mr Harris became the ACC, the vast majority of those had been dealt with through that review process. As I said, in the lead-up to the Hillsborough agreement, there were a number of politically sensitive conversations going on. One of those was to finish the process of the review. We were asked simply, in the role that was clearly defined, with the process that had been set in place for a number of years, to go through the remaining 38 names in terms of their status and that is what we have done.

Q688 David Simpson: Thank you, Chairman. Another point, very briefly: do you not find it, Chief Constable, as the Chief Constable, astonishing that letters were sent out to individuals who could have been responsible for some of the most heinous crimes in Northern Ireland and you, as Chief Constable, or ACC Harris from the criminal side, were not informed of this? Surely it is astonishing that the Chief Constable was not informed.

Matt Baggott: I do not think it is astonishing, in the sense that the police role was clearly defined, which was one of checking. There was a process through the PPS and the Attorney General, which was established as a result of a Government process. It is not unusual for the police to be asked to establish someone’s status in that moment in time. The existence of the scheme is clearly one that is for a Government to stand over, but our role was clearly defined. I am not astonished by it.

⁴ The transcript of the oral evidence to the Northern Ireland Affairs Committee by Sir Ronnie Flanagan on 30 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.html>

Obviously with the benefit of hindsight, had we known there were letters, could there have been a bigger conversation about the implications if a mistake had been made? There might have been, but at that moment in time I do not think anybody foresaw that a mistake of this nature had been made. That is a matter for the ombudsman now to investigate. I am not surprised that there was a means of notification because, if we receive a letter from a solicitor or a letter from a member of the public asking for their status, we will have a way of actually informing them. In view of there being a process and there being something set in place, there would be a means of communicating that back, but I was not aware of the fact that there were formal letters.

Q689 Ian Paisley: Good to see you, gentlemen. A couple of questions, first of all, with regards to Operation Redfield, is Mr Downey, in the eyes of the Police Service of Northern Ireland, still a fugitive from the law and is he still wanted by the Police Service of Northern Ireland or by any service across the United Kingdom?

Drew Harris: His present status is as not wanted.

Ian Paisley: Not wanted?

Drew Harris: Not wanted.

Ian Paisley: Either by the police service or by any service across the United Kingdom?

Drew Harris: He is not wanted by any United Kingdom police service.

Q690 Ian Paisley: For any crime, irrespective of Hyde Park or anything else?

Drew Harris: Yes, that is correct. His status is not wanted.

Q691 Ian Paisley: The five individuals who you mentioned who had received not-wanted letters and are now, post-HET enquiry, subject to further enquiry, the letters then that they did receive, are those letters annulled?

Drew Harris: That is not clear, as we are speaking today. We have to go through a process and we have not presented those files yet to the PPS. It will be then for the PPS to take a view on the weight of the evidence against those individuals and then to pursue then the issue of the status of their not-wanted letter. It comes down to some of the expressions that were used in the letters, because they are not consistent in respect of how individuals are told that they are not wanted. It comes down to the individual case; it is down to the case against them and then an assessment: are we in the position potentially of an abuse of process, again because a letter has been in existence?

Q692 Ian Paisley: So they may not be annulled then, or is your best case that they could be? Is it up to the court?

Drew Harris: I do not know whether they will be annulled or not. We will be presenting a case to the PPS. We will be presenting the best evidence we can and then expecting the PPS—

Q693 Ian Paisley: Would you be surprised if it was not annulled?

Drew Harris: Given the seriousness of the offences, I would be surprised if we could not find a process by which we could avoid abuse-of-process allegations being made against, in effect, the Crown.

Q694 Ian Paisley: In your opening comments, Chief Constable, you said you were given 38 names a couple of days before the point of devolution of policing and justice. Can you supply this Committee with those 38 names?

Matt Baggott: I would have to check whether we are allowed to do the names, because it could be exempted under data protection.

Ian Paisley: I would doubt that it is exempt to a Committee of Parliament.

Matt Baggott: I will have to check the legality of that.

Q695 Ian Paisley: I am not asking you to give us them publicly; we are asking if you can supply us with that.

Matt Baggott: If I can, then we will provide that.

Q696 Ian Paisley: Of those 38 names, is there anyone particularly notorious, i.e. a murderer of a police officer, who would be on that list?

Matt Baggott: I am unaware of those names in terms of their offending. I could give you the detail of how many are wanted or not.

Drew Harris: When you look through the full 228 names, there are people in that who are, in your own terms, “notorious”, without a doubt. 95 of these individuals are linked in some way or other to 200 murder investigations, but that linkage may only be in intelligence⁵. All of that is now being assessed. Obviously we wish to get to an evidential footing and all of that work is what Redfield now is taking on. There is a re-examination of each individual and all of the crimes that they are connected to. HET deals with murders—the homicides—but there is other serious criminality involved as well. Redfield, in effect, is looking at each person, whether they are wanted or not wanted. For the wanted ones, it is clear we do an assessment to make sure that that wanted status is still correct. The not wanted, really given the position we found ourselves in after Downey, we will have to revisit each individual in turn.

Ian Paisley: I must say, Mr Chairman, it breaks my heart today, as a citizen of Northern Ireland and a citizen of the United Kingdom, to know that 95 people are holding letters that excuse them for the murder of 200 people. That breaks my heart.

Chair: That was based on intelligence. There is nothing established yet.

Drew Harris: It is any link whatsoever. Obviously our purpose now is investigation to see whether those individuals are wanted or not wanted and, if they are wanted, to build a case to submit to the PPS.

⁵ The witness requested that his evidence be amended to clarify that the 95 individuals are linked in some way or other to 200 murder investigations, “touching upon 295 murders”, but that linkage may only be in intelligence.

Q697 Ian Paisley: Further to that—and this is very directed to you, Mr Harris—I sat on the Policing Board for seven years. I took evidence from you during that period of time. Why were you not more transparent, with me as a Board member and indeed with the Police Board, about an OTR formal scheme, which you then revealed to the Board in 2010⁶?

Drew Harris: In respect of your own tenure on the Policing Board and my tenure, I became responsible for crime operations in 2008. Operation Rapid was coming to its last throes at that stage and was wound down. Whenever I was asked a question by a Board member in respect of OTRs, I gave a full oral response, and then I followed it up with a written response, which set out all the figures of those who had been dealt with in the OTR scheme. I do feel I was open with the Board, but I acknowledge that, prior to that, the Board had had briefings, but had not had a fulsome briefing in respect of the numbers that I provided in 2010.

Q698 Ian Paisley: I think the answer that was provided in 2010, when I was not a member of the Board, but the answer that was provided verbally and in writing was, at best, deceptive waffle. It hid the reality of the scheme and the depth of the scheme and I am sure it was a scheme that, I hope, broke your heart as well. You were signing off information that basically cleared 95 people of 200 murders.

Matt Baggott: Chair, I understand the question, but there are two things I need to clarify. One is that I would not say you can say this cleared people of murders. That is a rather extreme statement. We need to work through this methodically. Mr Harris did say these were linked. That does not mean to say that there is evidence there. They could have gone through a proper review process and there still may not be reasonable grounds to arrest. We have to let that process of thorough review take place first of all. Yes, the figures are there and they look stark, but we will have to wait and see whether there is sufficiency there. I am not going to criticise the previous operation or the one before that because, as far as I am aware, they may well have done that job right. There may simply not be enough to take forward, so the letter may be right.

In relation to the Policing Board briefing, I am very mindful that the Policing Board has a right to have as much information as it can. We work very hard, both with the Northern Ireland Office and the Department of Justice—indeed, there was a protocol pre-2009 about the Board's access to information in relation to national security; as an aside, I have asked for those protocols to be reviewed by the Northern Ireland Office and the Department of Justice to make sure we are clear where the boundaries of responsibility lie. This was not a devolved matter when I became the Chief Constable. This was a matter relating to terrorism, which I think can be argued fits within the national security domain. In which case, it was not the Board's responsibility and neither was it the responsibility of Mr Harris or anybody to brief the Board on the detail. It was a sensitive confidential matter, where the responsibility rested quite rightly with the Government and the Northern Ireland Office.

Secondly, it does contain sensitive personal information, which even now would be excluded from the Board having sight of that, because of the legislative constraints. I do think—and I will hand over to Mr Harris—that the briefing that he gave in 2010 probably pushed the boundaries in relation to what the Board was entitled to have. Indeed, it pushed the boundaries of his own responsibilities, where there may have been a criticism of going too far. There was a very

⁶ The minutes of a meeting of the Northern Ireland Policing Board held on 1 April 2010 can be found here: http://www.nipolicingboard.org.uk/1_april_2010_meeting_in_public.pdf

thorough response to the question asked by Tom Buchannan, I think, at the time, which was followed up by letter in terms of the numbers of people and the status, so there was a fair amount of information given to a policing board, without going into the detail, which was a matter for Government response.

Q699 Ian Paisley: To be fair, Chief Constable, it was couched in such a way that you could not have entangled it. To be fair to Alex Attwood, he asked three follow-up questions, which were very specific about numbers that were submitted, who submitted them, etc. Not one of those questions was actually answered.

Matt Baggott: They were followed up by letter.

Q700 Ian Paisley: They were followed up, but the answer was couched in such a way that you could not have entangled that answer.

Matt Baggott: I think the letter that went the Chair was quite clear. Pre-devolution, the custom and practice for the Board were for the Chair and Vice Chair to be briefed on confidential matters.

Q701 Ian Paisley: You would have needed a decoder from GCHQ to have understood what that letter meant, quite frankly, in terms of what has now emerged. I have one final question, because I know my colleagues have some. What is the difference between the five individuals who you are currently considering, which they said they thought were questionable, and the 95 who Mr Harris has now informed us about?

Drew Harris: In relation to those five, HET has uncovered evidential opportunities for the Serious Crime Branch now to investigate as either serious crime or murder. It has been through the HET review process. As you know, HET only does a review process if there is an investigation⁷. That goes across to the Serious Crime Branch and to a major investigation team then to pursue. That is the process that was applied, so those five individuals have been identified in an HET review, and their names, and the cases, have been passed across to the Serious Crime Branch.

Q702 Ian Paisley: Is that because of where those cases stood historically that they came up on the HET scheme?

Drew Harris: This particular process, by which HET only does the reviews and they are passed over to the Serious Crime Branch, was only introduced in 2010.

Q703 Ian Paisley: When you found out, Chief Constable, that the Northern Ireland Office was actually sending out letters, which I assume was during the Downey trial, did that provoke a request for information by your office to the Northern Ireland Office, or did it provoke a complaint to the Northern Ireland Office about why they were doing this?

Matt Baggott: Not a complaint; we suspended our role in the review process in May 2013, until the judgment had been reached and there was clarity about it.

⁷ The witness requested that his evidence be amended to clarify that "HET only does a Review process. If there is an investigation, that goes across to the Serious Crime Branch".

Drew Harris: Mr Downey was arrested in May 2013. I attended a meeting shortly after that, in which I learned then of the letters. I also then learned, and was very shocked to learn, of the weight that may be placed in one of these letters. That has been subsequently borne out. I returned to the office and sent a direction to my own staff, but I sent communication to the Northern Ireland Office: because of the uncertainty around the legal challenge, because of the risk now of abuse of process, because it went so far past the Good Friday Agreement—this was 2013, so some 15 years later—we were now withdrawing and suspending our role in that.

Q704 Ian Paisley: Can you supply that communication to the Select Committee?

Drew Harris: Yes, I can.

Q705 Chair: Did I hear you correctly? You learned of the letters in May 2013.

Drew Harris: When I learned of the letter that Mr Downey had received in May 2013⁸, it immediately became apparent.

Q706 Chair: The Justice Minister did not know about it until the Friday before the judgment was published. Is that not rather surprising?

Drew Harris: It is a matter again of terrorist murders and the scheme involved Northern Ireland Office officials. It was a Northern Ireland Office official who I communicated with. It did not involve the DOJ.

Q707 Chair: That is the point. It was not just something that the police kept to themselves, which is perhaps understandable in certain circumstances. This was a matter of politicians and yet the Justice Minister of Northern Ireland, he has told us, did not know about it until the Friday before the judgment. It is perhaps for others to answer.

Just to finish off on Ian's question, you have discussed the five that have come up as a result of the HET. What about the 95, just for clarification?

Drew Harris: The remaining 90 are linked, in some way or other. Some of these links are through intelligence, but there also may be evidential links as well. That is what we want to explore in Operation Redfield. HET has referred a number of cases. They have referred more than the five cases to the Serious Crime Branch. They have referred 67 legacy cases in total so far in carrying out their work, so there is a steady flow of cases coming across for full investigation by the major investigation teams.

Now, beyond the five there is another individual who, on new evidence of a pre-1998 offence, has been charged. They were in possession of a not-wanted letter, but this was on the basis of new evidence that he has been charged. There is an individual who is under investigation for crimes subsequent to the Good Friday Agreement.

⁸ 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>

Q708 Nigel Mills: Have you had a chance to see the evidence we got from Mr McGinty⁹ last week about the status of the letters and what ought to be done to try to correct them, if that was needed? Is his analysis of what the situation is one you would share?

Drew Harris: That is that individuals need to give some notice that the letter is no longer in fact valid or that there is a case now to answer. We would have to take advice from the PPS and the senior law officers. Our portion of this is actually putting forward the evidential case. If we succeed in reaching the evidential threshold, we would strongly believe that matters should be heard before the courts. If that involves avoiding an abuse-of-process application then that should be done.

Matt Baggott: My understanding is that the letter represents a statement at a moment in time. We have not stopped the Historical Enquiries Team from reviewing murder cases that have been unsolved, over time. Mr Harris made mention to a mechanism by which cases are now referred from the Historical Enquiries Team to C2, where we have dedicated major investigation teams with qualified detectives working their way through. We did that in 2010. We have no expectation at all that, if new evidence emerges or there are other matters that come to light, people will not be prosecuted.

The mechanism for doing that for somebody who has received a letter is obviously one for the Public Prosecution Service but, as far as I am aware at this moment in time, the Downey case is somewhat unique in relation to the failures and the failure to clarify. There was a process breakdown here. Whether that affects other cases will depend on the individual circumstance of those cases but, our understanding is, in terms of new evidence or anything, the Public Prosecution Service will take that forward.

Q709 Nigel Mills: I have probably asked the same question of every witness so far. It is this question of what is new evidence. When you say new evidence is discovered, what do you mean by that, Mr Baggott?

Matt Baggott: My understanding of that is that there are probably two categories. One is absolutely new evidence: new witnesses, new forensic leads, something that actually emerges subsequently that was not available at the time. We are always open to that, because people's consciences change, and people's recollections; forensic advances happen all the time. Even now, in the last few years, there have been more advances around DNA. I would take that as being new evidence. It may be through this review process—and that is a big “may be”—there were things in the original papers that were missed. There may be something that was actually hidden somewhere. That would be a matter for the Public Prosecution Service to take forward, because that would probably need a mechanism in relation to the letters that were sent. It has to be for the PPS to determine the legal route for that.

Q710 Nigel Mills: Mr McGinty was pretty clear last week that that letter covered everything that was in the possession of the authorities at the time it was written so, if the HET finds something in the files that was not known about before, that is covered by the letter. Is that how you see the situation, from what you are saying?

⁹ The transcript of Kevin McGinty's oral evidence to the Northern Ireland Affairs Committee on 30 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.html>

Matt Baggott: I would not want to argue with someone who obviously has a legal background. I am a police officer; I am not a lawyer, so that is why we always take advice on this. What I can say is, if we find evidential opportunities or investigative opportunities that were not taken, we will take them and then we will pass that to the Public Prosecution Service for their decision-making. Our role in this has to be investigative. It probably would be wrong of me to pre-empt or pre-judge a PPS view of an individual case, but the assurance is we have put in place a significant team of detectives to work through this, at quite some considerable redeployment and expense, because we want to make sure that, if there is new evidence it is pursued and, secondly, if mistakes were made, every opportunity is taken to rectify them.

Q711 Nigel Mills: When you liken this to being a bit like a subject access request, if I submit a data protection request and say, “Do you want me for anything?” and you write back and say, “No”, presumably that is meaningless to me because, tomorrow, you could look at the file afresh and decide that you do now want to charge me.

Matt Baggott: We would not act without integrity. We would not say to you, “We have nothing on you. You are not wanted,” knowing that you were, because that would be an abuse of process and a breach.

Q712 Nigel Mills: No, but it does not preclude you acting if you change your mind on the basis of what evidence you have, does it?

Matt Baggott: It is a moment in time. It is your status at that moment in time. It is what information we have on you. Do we have anything to pursue you for? We would give an answer to that. There are exclusions to that, which cover national security, the apprehension of offenders and prevention of crime, and we are very mindful of that, but we do subject access requests all the time. If you were wanted, there may not be a response. We would not clarify, “You are wanted”. We would just say if you were not wanted and would deal with that accordingly. There is a bit of a dilemma here for us, because clearly we are not going to tell you, if you are a fugitive, “Actually, we need to arrest you”.

Q713 Nigel Mills: This administrative scheme was obviously designed to give something stronger than a subject access request response. That seems absolutely clear, does it not?

Matt Baggott: It would be wrong of me to talk about the politics over a period of 12 years from the original talks. It appears to accelerate at times when there are political decisions to be made, whether that is after Good Friday, whether it is devolution of policing and justice. Clearly that is for the politicians to stand over, but we are very clear on this and I know my predecessors are too. The police role in this was very clearly legally defined. It was legitimate and it was part of a process. Actually, how it was sold, the way it was sold and what it was sold for is a matter for others to talk over. We are very clear on this: our role was a lawful one and one that was clearly defined.

Q714 Nigel Mills: Obviously we have had Sir Hugh Orde¹⁰ and Sir Ronnie¹¹ before us. It kind of looks like, “What we do is fine, but we do not care what this whole thing is a part of. We will just

¹⁰ The transcript of Sir Hugh Orde’s oral evidence to the Northern Ireland Affairs Committee on 9 April 2014 can be found here:

turn a blind eye to this contrary-to-justice scheme. What we are doing is fine; we do not want to know what you are doing with this information.” That is what it looks like from the answers that we get.

Matt Baggott: I would not talk for my predecessors. It would be wrong for me to do that. Everybody makes their judgments and decisions at that moment in time. My decision was a very brief walk-on part in the Hillsborough negotiations, where it was utterly essential that we reached a place of devolution. At the time—I remember it very well from day one of arriving—I was greeted with a series of bombing attacks, with mortar attacks, with the aftermath of police officers and soldiers being killed, with no stability and with devolution utterly necessary to turn around a £17 million budget cut into something that turned out to be an additionality that we could then invest into fighting terrorism. The consequence of that now is over 270 people brought before the courts for terrorist-related offences in the last three years.

My decisions were I thought it was a legitimate role for me to support the devolution of policing and justice. I did it with other political parties, but never stepped beyond our role, our legitimate, lawful role. By accepting those 38 names into a pre-existing review process, if that helped to cross the t’s and dot the i’s to get to devolution, and it was my judgment call, that was the right thing to do. It would be wrong of me to talk about the way the scheme was administered in those Weston Park days, in the days leading up to devolution and then the devolution of policing and justice, which was my walk-on part.

Q715 Nigel Mills: The problem is that we seem to get two defences to this. One is that it was absolutely essential for the peace process. The other is that these letters were meaningless and were entirely consistent with police processes, and they do not really give any new rights that did not already exist. It is quite hard to square those two off. Either this was essential or it was meaningless, but it cannot be essential and meaningless, can it?

Matt Baggott: Perhaps I am at risk of speaking for others here. Forgive me; I am not a politician. In a series of politically sensitive conversations, politicians need to present something that brings people with them. In the run-up to the devolution of policing and justice at Hillsborough, there were a number of politically sensitive conversations taking place, of which I was not part, but I know people camped there for days on end.

Each party was making their demands. Some of those came back to my door, in relation to my view of the police role and the legitimacy of that. It would probably be wrong, Chairman, for me to talk about what members around the table may be aware of, in terms of those politically sensitive conversations, because that is a matter for political parties. The one for Sinn Féin was around clarifying the status of people who believed they were wanted, the on-the-runs. That was put into a political process over a period of 12 years.

I am satisfied that our role in that did not go beyond what the police role should be, which is checking status. I said before that I would make the parallel of that being a subject access request, albeit this was turning into a longstanding scheme for political reasons. That is a matter

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/8472.html>

¹¹ The transcript of Sir Ronnie Flanagan’s oral evidence to the Northern Ireland Affairs Committee on 30 April 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.html>

for government. I do believe that, if I could clarify something that was lawful, and it got us to the point of devolution, that was probably a role that I should have taken as Chief Constable.

I had people being shot at; I had people murdered. I had a Policing Board that tried to be blown up. The Palace Barracks was subject to a massive car bomb and the situation was running away from us. Looking back, it was a very difficult time, when the stability in Northern Ireland was very much under threat. If that means finishing off, after 12 years, 38 names that were part of a pre-existing review process, with the roles of different agencies clearly mapped out, which was lawful, and to be seeing that as a completion exercise to finish something off, so that the parties could sign up to devolution of policing and justice; the outcome of that some four years on has been justified by the fact that we have the highest confidence, the lowest crime and we have stabilised the situation from the terrorist threat.

We are going to review these cases. As I said before, our commitment to the families and people who have lost loved ones is to make sure that, if there is new evidence, if there were mistakes made in relation to that status, then we will do everything possible to rectify them. That is why we have put significant senior detectives against this.

Q716 Nigel Mills: Do you think that the secrecy of this scheme and the way it has come out have perhaps damaged some of the confidence in policing you were trying to build up?

Matt Baggott: I do not know if it has damaged confidence in policing, because our role has been clearly defined. The mistake or the failing—call it what you will—that enabled someone not to face due process would have damaged confidence in policing, because it was simply a matter of not doing the job that we should have done. Had those checks been done in 2007 and passed on, we would not be having this Committee hearing. I am sure of that. If other ones had emerged subsequently, we might have been, but we have not seen any signs of that yet. We are reviewing them. That was a failing, as the judge clearly said, which led to a letter being wrongly issued, which led to a learned judge making a decision about abuse of process. They were a series of failings by the review team themselves. Confidence had been damaged in policing, but I am not sure it is quite to the extent that we may be concerned about.

Q717 Nigel Mills: Even in the last week, when you have presumably taken entirely reasonable policing actions, you have been accused of acting politically, trying to influence elections and perhaps levelling scores or something. It just looks like policing has become very political again during the course of this year.

Matt Baggott: In the context of Northern Ireland, policing is inevitably political. One of the things I set out as Chief to try to do—and I said it very clearly in my opening month—was to take the politics out of policing and policing out of politics. Since I have been the Chief Constable, I have had to deal with the aftermath of four public inquiries, the rehiring issues of the RUC, the exit of a full-time reserve and the fulfilment of Patten, issues of the Historical Enquiries Team, which was set up to be one thing but became another, understandably, because we were concerned that it did not have a proper investigative function and it was necessary to increase its skills. There are a whole range of issues where making arrests, dealing with disorder or taking decisions will be instantly politicised, but that is the nature of the world we live in in Northern Ireland. All we can do is navigate our way absolutely clearly through the law and by sticking to due process, and that is exactly what we have been doing over the past week or so.

Q718 Nigel Mills: One last question from me: had you ever discussed this scheme with the First Minister between 2009 and 2012, or was that something that never came up?

Matt Baggott: I have not discussed this scheme with the First Minister, as far as I recall—not even in the last few months, I do not recall.

Drew Harris: I discussed it in the immediate aftermath of the Downey judgment.

Nigel Mills: But not before that?

Drew Harris: Not before that, no.

Q719 Chair: On the 228 names that you are reviewing, who decided to review them? Was it your own decision?

Drew Harris: The 228 names was our decision, based on what happened in the Hyde Park bombing trial and the outturn of that. Really we were left with a situation: could something else be sitting in this group of cases? We could not risk that there could be some other awful mistake sitting there, so we immediately had to act to rectify that. In doing so, for completeness, the only way we can be sure of this is to re-examine each case again in turn.

Q720 Chair: If you find a mistake or several mistakes, what happens then? Do you deal with that or do you go back? Who would you go back to or can you deal with that yourselves?

Drew Harris: We have found only one other individual who was not wanted in Northern Ireland but was wanted in Great Britain, and they remain as wanted. That was dealt with properly. It is a similar case as to Mr Downey, not wanted in Northern Ireland but wanted in GB. That person remains on the police systems as wanted, so that has been properly dealt with. We now have to work through each of the cases to make sure that the wanted or not-wanted status is correct. If we are changing invariably a not-wanted status to wanted, then we have to go through the evidential process, gathering evidence, submit a file to the PPS and also then there is the issue of the letter and the wording of the letter then to be dealt with. The PPS would lead that on our behalf.

Q721 Chair: You would have to deal with people who wrote the letter, presumably.

Drew Harris: I presume the Attorney General's office in London here would become involved and make decision in respect of those, but it has not happened yet, so we do not actually know what the process is. We have not got to that point yet.

Q722 Dr McDonnell: On that point of background, and forgive me if I am repeating the same ground, but I want to be clear in my own head. Evidence up until now has run along the lines that basically the police did a very normal type of check on individuals on names presented. Did each of those get a letter from the police in terms of the checking, or was it verbal?

Drew Harris: It was not from the police. The communication with those individuals who were told they were not wanted and, indeed, some who were wanted was either via an individual letter, but there are composite letters and some communication, I understand, was just a verbal communication.

Q723 Dr McDonnell: Some were verbal; some were by letter; some were composite letters. The final letters were then issued on the back of those letters, by others.

Drew Harris: Sorry, we issued no letters whatsoever. We communicated only with the PPS. The Northern Ireland Office was the agency that issued the letters.

Q724 Dr McDonnell: Chief Constable, I think you insinuated or suggested that there was obviously a mistake made around Downey. I am trying to get my head around where the mistake was made because, if your people did not know that letters were being issued, how were they to know that there was a mistake being made to be reversed?

Drew Harris: The circle never closes around communication so, when it gets to the Northern Ireland Office to create a draft letter to send out, it never comes back to the Police Service to say, "Are you content?" In fairness to the Northern Ireland Office, they did send us a communication querying Mr Downey and others.

Q725 Dr McDonnell: Sorry, can I just stop you there? You said the letters from the Northern Ireland Office went back for checking.

Drew Harris: No, they never—

Dr McDonnell: They never went back for checking.

Drew Harris: We never see a draft of those to say, "Are you content with the wording that has been used in this case?"

Q726 Dr McDonnell: Were you aware that letters were going out from the Northern Ireland Office?

Drew Harris: No, not specifically. The first we learned of the actual letters was in May 2013. That is the first time that I learned of those letters. Obviously there was some form of communication and the assumption, in error now, was that this was a verbal communication.

Q727 Dr McDonnell: When it became obvious that there was a mistake made around Downey, where did that responsibility lie and who was that person therefore supposed to communicate with? Some of your people were supposed to suddenly wake up some morning and say, "We have made a mistake here". Who was he or she supposed to communicate with?

Drew Harris: We were asked on a number of occasions after 2007, and so there was the opportunity then, in response to queries from the Northern Ireland Office, to communicate Downey's status, in respect of his being wanted by the Metropolitan Police. What the correspondence talks about is that he is wanted by the Metropolitan Police for very serious crime.

Q728 Dr McDonnell: Would it have been the same people who had been involved earlier as were involved in 2007?

Drew Harris: There was one person who stayed consistent with the initial team, but the initial team really ran from early 2007 through to mid-2008.

Q729 Dr McDonnell: What is the procedure now? You have told us, and it is interesting, that another individual has been picked up who is similar to Downey.

Drew Harris: He is not similar in that he is still wanted and he never received the letter. If he is arrested, there can be no question then of an abuse-of-process application, because they are a fugitive and they have never been told anything else. There has been no miscommunication to them as to their status. The difficulty is that each case is individual; each of them has different circumstances and there is different information, different evidence, etc, and so, when you are trying to find patterns in this, it is difficult because the forms of the letters change over time and then, as the legislation was attempted in the mid-2000s our work on the review process stopped. There was work, and the majority of the work was done in the early-2000s, attempted legislation, that failed, Rapid starts then in February 2007 and runs for approximately 18 months, and it revisits all of the original OTR work.

Dr McDonnell: Right, so it reviewed them all.

Drew Harris: It did them all again.

Q730 Dr McDonnell: One final question on this: who should have been communicated with? Are you suggesting that that should have been the Attorney General? Are you suggesting the Crown Prosecution Service? I presume you are not suggesting that somebody should have sent a letter to the individual or to their solicitor to say, "Sorry, we have made a mistake".

Drew Harris: That would not have been our place, but if a letter was issued in error, and the Downey letter obviously was issued in error, then it would have been, I suggest, between the PPS and the Attorney General's Office to work out how to rectify that. One cannot be sure what form that would have taken, but I think the letter was wrong, obviously, and then it became real; it did create the risk of abuse of process and therefore the case of the Hyde Park bombing was lost on that basis and so it had a very serious outcome in terms of justice.

Q731 Dr McDonnell: Just a final thing: you mentioned the five cases. What was the communication like with them or their lawyers?

Drew Harris: Those are matters under investigation and when we are ready to present the case to the PPS that will be done, so that is just a matter between us and the prosecutors at this moment in time.

Q732 Dr McDonnell: Just getting our heads here around the difference between keeping confidentiality, obviously investigations are confidential by their very nature and the balance is probably somewhat difficult for somebody sitting in my position between confidentiality on the one hand and disclosure on the other. I am just trying to see where one stops and the other starts.

Drew Harris: At all times we are talking in general terms. We have not mentioned any specific names or cases and where we do reopen major investigations and murder investigations, we

always have a family liaison process in place and people would be aware that a full murder investigation has been reopened in respect of the loss of their loved one.

Q733 David Simpson: It was mentioned earlier in relation to the names of the individuals who received these letters, and I think that is important—and I declare an interest, Chairman, because I raised it in the House of Commons during the OTR debate, where I outlined that the IRA had murdered four of my family. I asked the question then: did the people who were suspected of the murders receive a letter or, even worse again, did they receive a royal pardon? Were the PSNI aware that royal pardons were being issued to individuals who were possibly guilty of some of the crimes as, Mr Harris, you have outlined, where 95 people were possibly responsible for 200? What is your understanding of the royal pardons? I have to say that in my constituency, through the community organisations that I speak to, people are absolutely disgusted at the fact that the Government managed to get Her Majesty to sign 18 royal pardons for those who could have been responsible for some of the vicious crimes in Northern Ireland.

Matt Baggott: The issue of royal pardons has not affected me as Chief Constable in my tenure. I do not know if we have any details on the 18 cases that we can provide you with later, but I do not have a breakdown of what those pardons were for.

Q734 David Simpson: You have outlined a possibility of giving privately the names of those who received letters or a number of them. Is it possible to give the Committee, in confidence, the names of those who received the royal prerogative?

Drew Harris: Not all the pardoned cases came across our collective desks as an organisation, but we can enquire and can give more detail as to the pardons that we are aware of and the cases that those are involved in. Again, each of those is individual and it would be wrong for me to start to outline that, because individual cases could then be identified.

Q735 David Simpson: I understand, but are you aware, Mr Harris, from the royal pardon side, of well-known republicans receiving royal pardons from the internal investigations? Are you aware of any senior republicans receiving royal pardons?

Drew Harris: I think it would be wrong for me to comment in those terms. If I supply the information as promised, the Committee can take a view as to well-known or not.

Matt Baggott: I am just mindful, Chair—forgive me; I can understand the need for the questioning—we are entering into some quite complex legal territory here around revealing names or narrowing names down. I think it would be wrong for me to do that. In terms of the names of people who have received these letters, there is this principle of innocence until proven guilty, and in such a case I think that is covered very firmly by legislation. I am mindful I want to support the Committee here, but I am not going to step into any territory being ultra vires here at all.

David Simpson: Yes, but it is a Parliament Committee.

Matt Baggott: I understand that, but I would need to seek some legal clarity on that further before—

Q736 David Simpson: I understand that, but you are aware of course that 350 royal pardons were issued in Northern Ireland, I believe, some of them for traffic offences. What is your understanding of that? Royal pardons for traffic offences and rubbish like that—surely royal pardons are issued for more serious crimes.

Matt Baggott: I have not reviewed the royal pardon scheme or why or how or the depth of that. It is a matter that was at a different moment in time. I am the Chief in a post-devolution age. I cannot comment on how and why it was done at the time; it would be wrong of me to speculate on that.

Q737 David Simpson: Okay, but to finish, Mr Harris, you possibly could give the Committee, in confidence, names of those who received the royal prerogative.

Drew Harris: Yes, there is a composite letter that covers the pardons and again, if we provide information, obviously it is confidential and personal to people, so—

David Simpson: Yes, we understand that. Okay, thank you very much for that.

Q738 Oliver Colvile: First of all, thank you very much indeed, gentlemen, for coming in and spending your afternoon with us. I have several questions. First of all, Mr McGinty came to see us last week. He told us that the Northern Ireland Office had asked the PSNI whether or not they checked the names of Mr Downey and whether or not there was any more information. They said yes, they had checked it, but it appears that they did not, at any stage, say, from the PSNI to the Northern Ireland Office, “And, by the way, we have the stuff on Downey and he is wanted elsewhere”. Why do you think that ended up not happening?

Matt Baggott: It would be wrong for me to speculate. That is a question for Mr Baxter and others in the team to give an account of. I am not going to guess why that information was not passed on to, I think, ACC Peter Sheridan, why it stopped at the point that the check had been done, because it is clear from the judgment that the knowledge was in the team that he was wanted, but it was not passed on, and that was the failing here. That is probably for others to give an account of what their decision-making and their reasoning was at the time and it would be wrong of me to speculate.

Q739 Oliver Colvile: We are going to ask Mr Baxter to come back and see us again possibly. We would quite like to end up by having that cleared up. My concern is this: it just seems that everybody is siloed in all of this, in that there are some people who are trying to make sure that you, as the PSNI, who have a very difficult job to do, are going to carry the can for it. Politicians and people inside the Northern Ireland Office have a different view. It seems that there has been a lack of communication the whole way through this and my real concern is that what we need to end up doing is making sure that we have an independent judiciary, which is given the information and that we have a police force that is going to make sure that they put their case together in order to do it. Therefore, in hindsight, you have heard what has been happening, you have probably read all the way through the last three or four weeks that we have been having it, is there anything that you think, in hindsight, you would have ended up doing differently if you had been in place or you think the PSNI should have done so?

Matt Baggott: In terms of a longstanding review process, I suspect one of the issues will be around consistency and that may be something that is for you to comment upon. However, in

terms of a 12-year process at different times, was there a very clear consistency there? With the benefit of hindsight, was that set out and understood with terms of reference and roles mapped out for every single one of the parties involved in it? Now, I am very mindful of the fact that this is a Government scheme operating at different points of the peace process and the scheme itself appears to have been an essential element of moving people towards what ultimately we have now, which is a relatively peaceful and stable devolved administration. That is a very, very valuable prize to have in relation to the future, in spite of where we are recently, but it is a prize. I think there is a consistency issue there. I am probably stepping out of my role in saying that, but I think the conversations that we had would be it probably needed to be defined and mapped out a lot clearer, even if it remained a sensitive confidential matter, which it was, under a degree of political direction at that moment in time. With the benefit of hindsight, there are consistency issues.

From the PSNI perspective, we would want to make sure that our terms of reference did not enable anyone to interpret them in a different way, so those terms of reference should have been very clear that this was a thorough set of checks across the whole of the United Kingdom and also in relation to is there reasonable grounds to arrest somebody. Now, I cannot comment on that. I have to say the terms of reference for Operation Rapid, having seen them, are very detailed and they are very thorough. It is unusual for terms of reference to run into several pages of A4; they are normally a lot more concise than that.

Ian Paisley: Can we have those terms?

Matt Baggott: Yes, you can have copies of the terms of reference, but I think the issue is a mistake was made here and, with the benefit of hindsight, those letters from the Northern Ireland Office should have been answered in relation to being part of United Kingdom policing, not in relation to simply being the PSNI, because we are part of the United Kingdom.

Q740 Oliver Colville: Exactly so, and that is what is incredibly important about this. It is not to think of Northern Ireland as being something separate that should not end up by being involved in it too. However, the key thing is this, also, if I may say so: that what we need to make sure happens is, first of all, this never, ever, ever happens again. The idea that justice is overridden and that victims are, frankly, hung out to dry is appalling, and I have real difficulties with that. The other thing that I think is also very important is that, in future—and I seek your advice and you may tell me that I am talking rubbish and I should not do it, but what I would say to you is this: it is very important if there are any letters that are going to be written, you need to be in the loop in the whole of that process so that you know what letter is going out. Because it seems to my mind that what happened was the Northern Ireland Office, having got you to draft the letter in the first place—you as the PSNI—it then ended up by going to the Northern Ireland Office and they did not, at any stage, go back to you and say, “This is the letter that we are going to be sending. Can we make sure, please, that that is correct and you do not have any problems” and those letters end up by going out.

Matt Baggott: I am mindful of the fact that, having read the judgment, there was an awful lot of work done by my predecessors to make sure that the police were not being compromised in terms of stepping into something that was political. It was a political process, but I can see very clearly there challenges back from chief constables, from attorney generals and from others to say, “Are we sure this is legitimate? Is our role here one that we can stand over?” I think the answer to that was, “Yes”, so in relation to the policing role it was pretty clearly defined. I think you are right in the sense that, with the benefit of hindsight, had anybody known the consequence of making a mistake or of failing in relation to a letter being written that would

mean someone potentially charged with the most serious offences would not stand trial, then there would have been more work done to make sure that the process was a seamless end-to-end one in which the consequence of the letter was clearly understood. I do not think anybody would disagree with me on that and neither, I am sure, would my predecessors.

I am not sure that it is fair to say that victims were hung out to dry. I do not think anybody, in terms of myself and my predecessors, saw a situation where, if new evidence emerged or things changed, somebody would not face trial. This was never, in my mind or anybody else's mind, an amnesty or an immunity. It was playing a part in something that led towards a greater degree of stability with the role clearly defined, but I would not say that anybody ever saw a situation here where there was a compromise to victims not receiving justice wherever that was possible.

Q741 Oliver Colville: Do you not think that at some stage when the PSNI were looking at the list of people who they had to check whether there was going to be anything, they had not realised that all these people had one thing in common: they were all nominations from Sinn Féin to end up by having it? As you know, I represent a military garrison city and I probably have a number of people who served in the military during the course of that time who are now very, very concerned as to how they are going to be dealt with in the whole of this process. They have not had anybody who has been writing letters and saying, "I think we might give special treatment of some sort".

Matt Baggott: If an individual wrote to us or a solicitor wrote to us on behalf of a client, we would go through the same process of checking what we have, whether it is up to date, and whether we can give them clarity at this moment in time. The difference is, as you say, this was put into a political process and driven by a political party through Government, so it was a process. However, if someone wrote to us and said, "I would like to have clarity about my status", we would answer that, because we are duty bound to, and I have taken two sets of legal advice since, because I want to be clear on this. If I get a request from somebody to clarify their status, we are under a lawful duty to do that unless the three exemptions apply, which we can then use.

Q742 Oliver Colville: Finally, did any members of the PSNI look at the list and say, "Gosh, these people have something in common the whole way through. They all happen to be part of one set of places and not with anybody else"?

Matt Baggott: The fact that the list came in a collective form—and I was very much aware that list had come to the NIO through Sinn Féin as part of that longstanding process—meant there was an awareness that it was coming from a political party. I do not think it was on the part of the Chief Constable at the time or I to comment on the fact it was one-dimensional, but you are right in the sense of that process at that moment in time involved a list of names being provided by Sinn Féin. I am not sure, in relation to other parties, if there was the same issue of on-the-runs.

Q743 Oliver Colville: No, because they were all within the UK.

Matt Baggott: Different status, yes.

Q744 Oliver Colville: These guys happened to be outside, but it just seems, to my mind, it should have been—

Matt Baggott: “On-the-run” is a generic term for people who believe they are wanted and have moved elsewhere outside of the UK, so it probably was unique to Sinn Féin in relation to the people they were representing.

Q745 Lady Hermon: Chief Constable and Mr Harris, could I just ask you: when do you think the wider public, any of us, would have been aware of this secret administrative scheme for OTRs had it not been for the John Downey judgment and case? When would the Northern Ireland Policing Board and, indeed, the Justice Minister, David Ford, when would we have been told the whole truth and nothing but the truth about this scheme?

Drew Harris: As the criminal justice process has continued on, the work of the Historical Enquiries Team, the investigations that we have outlined, the individual who has already been charged—that would have surfaced some of this. Mr Downey’s case obviously surfaced it in a very dramatic way and particularly traumatic for the Hyde Park families, which has caught public attention. However, there were other cases, and I would refer also to the attempted murder of Mr Brush, where there was a successful prosecution as well of an individual who was within this scheme at one point. Therefore, I think it would have come out through the criminal justice processes, because in our mind we did not regard these letters as any form of amnesty. We did not feel and still do not feel that there are any brakes upon us in terms of where our enquiries should go and that we should continue to follow the evidence and produce it to the PPS.

Q746 Lady Hermon: If I could pick up on what you have just said, Mr Harris, because when you gave us evidence earlier about Mr Downey you referred to Mr Downey very carefully. You said Mr Downey was not wanted, so, in effect, Mr Downey has in fact received an amnesty, has he not?

Drew Harris: No, he has not received an amnesty.

Q747 Lady Hermon: Would you like to elaborate on that? It would appear that he has.

Drew Harris: No. He has received the letter and at this moment in time—I was careful to use the expression “at this moment in time”—he is viewed as not wanted.

Q748 Lady Hermon: At this moment in time he is not wanted, but you are hinting that he should not really be able to sleep easy in his bed because he may be wanted in the future.

Drew Harris: I point towards the fact that we are conducting a thorough review of each of the 228 individuals who fall within this Operation Redfield. We have promised to do that. I have met with various family groups of victims, particularly of murder, and we have briefed each of them that we are doing this work and the extent this work will take. It is a piece of investigative work that will take two to three years; it is a very considerable undertaking given the amount of crime that is contained within the Operation Redfield persons.

Q749 Lady Hermon: Operation Redfield could take two to three years to complete.

Drew Harris: It could take two to three years to complete, yes.

Q750 Lady Hermon: At the very beginning of your evidence this afternoon, Chief Constable, you referred to the Downey case twice as “somewhat unique”, so you have been through all, I take it, 228 cases to come to the conclusion that it is somewhat unique and yet Operation Redfield is now going to take two to three years.

Matt Baggott: I am happy to clarify that. I think “unique” in relation to being wanted elsewhere. We are reviewing the case in terms of new evidence and in relation to any investigative opportunities that have been missed, so we are going through this very thoroughly indeed. This is a broader set of criteria we are working through. This is a review of the evidence, when there is new evidence and investigative opportunities. This is a much more thorough issue we are doing at the moment other than just checking status.

Q751 Lady Hermon: Did this experienced team—I believe there are 19 PSNI officers involved; am I right?

Drew Harris: Yes, so far; it will have to be enlarged. It was my serious case review team who review murders and other serious crime, including stranger rape, and I have had to take them from that work and now dedicate them to Operation Redfield.

Q752 Lady Hermon: Yes, and from the moment that these 228 individuals, OTRs, received their administrative letters that we now know of, indicating that there was no evidence that could take forward a prosecution at that point in time—we have received so much evidence about “that point in time”, whatever that point in time was—could you just confirm to the Committee, because it is very interesting to me, when a person received one of these indications was the file kept open and further investigations done or was that file for those 228 individuals neatly filed away as closed, they had a letter, done and dusted?

Drew Harris: In respect of the Operation Rapid files, what you describe, in effect, of them being closed is probably what happened. What has happened differently though is that since then HET has conducted their reviews and also the Serious Crime Branch reviews have been conducted of major crimes—not homicide—and that has uncovered new investigative opportunities, which have allowed us then to reopen the case against some individuals.

Q753 Lady Hermon: Can I just repeat my question then? HET has made the difference. Is it the case—and I think you have hinted that it is—that from the beginning of this administrative scheme, which we now know started somewhere just after the signing of the Good Friday Agreement in 1998, so somewhere around 2000 right up past 2007, until we get the HET, those files where individuals have received comfort letters were closed and no fresh evidence was sought. Is that the case? That is what we believe to be the case. Sadly, that is what we believe to be the case.

Drew Harris: Yes.

Q754 Lady Hermon: And you have confirmed, even more sadly, that that has been the case.

Drew Harris: Well, but I would also say—

Q755 Lady Hermon: But there was never an amnesty, Mr Harris.

Drew Harris: I would also point to the work of the HET and also to my own Serious Crime Branch in terms of going back into these incidents to uncover new evidence to look for investigative opportunities. I also point out that we have had successful prosecutions of historic crimes. We have learned from those prosecutions. We have learned about the weakness that there can be in cases, but also the strengths and what is worth pursuing. We have had successes.

Q756 Lady Hermon: I could not agree more, Mr Harris. I just would like to know, of those historic cases where you have had success and there have been prosecutions, how many of those individuals had received OTR letters?

Drew Harris: In respect of prosecutions, there was a case that went to trial in April 2011, but in that case the defendant was found not guilty. In one other case, two people returned for trial; only one was convicted.

Q757 Lady Hermon: Therefore, out of 228 cases where OTRs received comfort letters, there have been one and a half successful cases of subsequent prosecutions; is that the case?

Drew Harris: Out of that particular group, but as we have outlined, there are investigations ongoing at this moment in time and there are reports with the PPS at this moment in time as well. We have not given up hope on this. Indeed, we have seen where we have had success and, as I have said, we have learned from those successes and what we need to do to get the best evidence for the PPS. We have addressed, as best we can, a lot of the weaknesses that had been identified in 2007, for instance, around forensics. We have learned from that, and forensic techniques continue to develop as well.

Q758 Lady Hermon: What do your lawyers tell the PSNI that the legal status of these administrative letters currently is post the John Downey judgment and Mr Justice Sweeney's detailed judgment? What is the status of these letters?

Drew Harris: Our view, in terms of the exercise of our functions and our duty to investigate and detect crime, is they make no difference. It is our job to collect the evidence, produce a file of papers and to present that to the PPS. It is for the PPS then to consider what we have put forward and also then to resolve any allegations that might be made of abuse of process. However, that should not deter us; because there is a letter, we are not deterred and we will not be deterred from conducting our investigation.

Q759 Lady Hermon: To answer the question that I asked, what has the advice of the internal lawyers to the PSNI been to you, or has there been any advice? Please do not tell me there has been no advice from police lawyers about the status of these letters post the Downey judgment. I would hate to think that was the case.

Matt Baggott: If we have new evidence or we have investigative opportunities, we will take them. Therefore, to some degree the letter is an irrelevance to that point, because we are pursuing an investigation. I have heard nothing and seen nothing that says that these are immunities or amnesties. In this particular case, it was presented as an abuse of process, because something was known that was not passed on. That is a unique judgment in relation to Downey, but we will continue to investigate these cases.

I probably just need to clarify the question about closed or open, because I do understand that. The HET has been set up since 2006-07 to go methodically through every single unsolved murder. If those reviews produce evidential opportunities, then clearly that investigation is taken forward. That is why we have files on all these cases. What we have done is, in 2010, to make sure we had the best possible opportunity of presenting a case to the PPS, moved those cases where there was a potential evidential opportunity into C2 by way of a memorandum, to make sure that we had up to date detectives with the right skills investigating those and we are seeing some of the benefit of that now in relation to cases going forward.

In relation to cases that have been reviewed, in any case of serious crime they are never, in effect, closed. They remain open even if we are not investigating them. I say that because it probably would be unfair of me to colleagues to say that in view of the here and now and the dissident attacks and the need to investigate serious crime now, there are finite resources available here. We would not ordinarily go back and back again to cases that have been reviewed and closed because there are no further evidential opportunities. They are left there in case something emerges or something happens. However, in fairness to Mr Harris, at the moment over half of his major investigation team is dealing with the past. We have very serious problems at the moment around organised crime, kidnapping, rapes and murders and they are about protecting people in the here and now.

I just wanted to clarify that, because if I am not careful I may give the impression that cases are closed and left. They are left; if something comes up subsequently, they are reviewed and opened again. They are never closed forever. They are just not under the spotlight all the time.

Q760 Lady Hermon: Thank you. That was very helpful clarification. Could I just take you back to evidence that was given by Mr McGinty and that you referred to with Mr Colvile earlier? Mr McGinty, for the Attorney General's Office last week, explained in considerable detail that when Peter Sheridan, a very distinguished ACC, became an ACC in the PSNI and was appointed to head up the Crime Branch, I believe, in 2006, when he sent his letter—and he was very careful in the drafting of this letter—to the Northern Ireland Office, we now know from the evidence given by Mr McGinty for the Attorney General last week that it was the Northern Ireland Office that amended Mr Sheridan's very carefully drafted letter. They did not tell him and you have explained, Mr Harris, today that routinely the PSNI did not see—after the letter that was drafted and sent to the Northern Ireland Office the practice was that the Northern Ireland Office did not let you see that letter again. Is that correct?

Drew Harris: No, we did not see those letters.

Lady Hermon: Never?

Drew Harris: Never.

Q761 Lady Hermon: You do not think there is something unusual then that we now know definitely that it was the Northern Ireland Office that changed Mr Sheridan's letter to make it inaccurate, of course—to make it wholly inaccurate¹². Has that caused you to reflect upon the apology after the Downey judgment?

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

Matt Baggott: No, not at all, because I think the Downey judgment chronology and facts are very clear about failings within that team of information not being clarified and, because of that, letters being issued. The chronology is very, very clear about that and repeat opportunities, and I have not seen anything in that judgment, and neither have I anything in my experience, to question the integrity of the Northern Ireland Office in this. As far as I can see, their role in this was an administrative role, a co-ordinating role and I have not seen anything to question any other motives other than the fact that they were given information that was not correct.

Q762 Lady Hermon: So, Chief Constable, it is then, in your view, acceptable practice for a letter to leave the PSNI headquarters from a very senior ACC, a very distinguished police officer, ACC Sheridan, and to have it amended without his knowledge, without his consent, by the Northern Ireland Office, knowing how very significant this could be. He was never told, and you think that is alright.

Matt Baggott: Forgive me; I am not so close to the details in terms of facts. I am aware that Peter, for whatever reason, gave a view to the Northern Ireland Office that Mr Downey was not wanted—

Lady Hermon: He drafted a letter for the Northern Ireland Office.

Matt Baggott: And the point of failing here was in the information provided to Peter not being correct. That is a matter for, I think, Mr Baxter to clarify in the sense that he said the checks had been done, but there was no detail added to that. I think there was an assumption that that meant that he was not wanted elsewhere, and that assumption was taken forward by Peter, but I cannot speak for Peter. Peter will have to clarify that himself.

Q763 Lady Hermon: Can I just ask you a question that I asked Sir Ronnie Flanagan, a predecessor of yours, last week, and I was surprised, but it may well be the fact—and I do not doubt his word at all—that assessment reviews and assessment files did not exist for OTRs in his time? He certainly did not understand the term, or it did not ring any bell with him, when I asked him what an assessment file was. In the documents produced to the judge in the Downey judgment and indeed to this Committee, we have the OTR assessment review for Mr Anthony Downey¹³. Would you be familiar with an assessment file that looks like this?

Matt Baggott: I have not seen that; forgive me.

Q764 Lady Hermon: It is heavily redacted, but the key words, the ones that are not redacted in this assessment file, say, on page 1, under Mr Downey's name, "Bomb at Hyde Park, London, 20 July 1982". That is not redacted, so that was in the assessment file. What is an assessment file? I think that is what we need to know. It was on page 1 of the assessment file.

Drew Harris: Can I ask when that particular correspondence is dated?

The letter from the NIO to John Downey (July 2007) can be found here:

[http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Sheridan%2080%99s-letter-to-the-Department-of-the-Director-of-Public-Prosecutions-\(6-June-2007\)%20.pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Peter-Sheridan%2080%99s-letter-to-the-Department-of-the-Director-of-Public-Prosecutions-(6-June-2007)%20.pdf)

¹³ The PSNI Assessment Review File for John Downey (7 May 2007) can be found here:

[http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/PSNI-Assessment-Review-of-John-Downey-\(7-May-2007\).pdf](http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/PSNI-Assessment-Review-of-John-Downey-(7-May-2007).pdf)

Lady Hermon: It is dated clearly 7 May 2007.

Drew Harris: 7 May 2007. Yes, I am aware of that correspondence and the awareness that there was in respect of that Mr Downey was wanted for the Hyde Park bombing. What I have been unable to really explain satisfactorily, even for myself, is how then that is converted to a different response whenever we are asked specifically about whether all checks have been conducted. I am looking at the correspondence that Mr Sheridan sent along to Mr Junkin in the Department of the Director of Public Prosecutions, which lifts off the wording precisely that was given to Mr Sheridan and it makes no mention of that terrible atrocity. I can offer no explanation for that. It exists in that document in May 2007. It is not in a document of June 2007, and on 27 June 2007¹⁴, some 20 days later, in response to the NIO there is confirmation that all checks have been done: ICIS check, checks with An Garda Síochána and the Police National Computer. That is a difficulty we have looking back, understanding how that fell through.

Matt Baggott: We cannot understand, and that is a matter for the ombudsman and others, as to how knowledge that somebody wanted in the United Kingdom was not passed on and clarified. I have a chronology here, Chair, if you would indulge me for two minutes, which may help. It is in the judgment. Operation Rapid requested a check on the PNC regarding the Hyde Park bombing and the alert is currently confirmed by the team on 13 April 2007¹⁵. They request an update report from the Met. Mr Baxter is informed that indeed he is wanted for the Hyde Park bombing. This is not mentioned in the report to ACC Sheridan. The Northern Ireland Office does some due diligence checks in relation to clarifying that and, indeed, the review template is changed within the review team to accommodate external checks. Mr Baxter emails Mr Graham on 14 June, giving him some guidance on the sort of checks that need to be carried out and, "What we need to establish", he says, "is the following. Is X wanted for arrest by the PSNI for an offence pre the Good Friday Agreement or circulated as wanted for arrest by an external force?" which is pretty clear in terms of the parameters that are being set. It says, "This can be established by an ICIS check. I do not believe that investigations beyond this are necessary, as those examined have shown". Then Mr Sheridan writes to the Northern Ireland Office, "Our review set out to establish if X is wanted for arrest by the PSNI for any offences pre the Good Friday Agreement or circulated as wanted for arrest by an external force". So there is clarity there, but for some reason the information regarding his status as being wanted is not passed on. Even then the NIO comes back and says, "Can you confirm please whether external checks have been carried out?" and it is known he is wanted. There is a failure in information provision here.

Q765 Lady Hermon: Sorry, Chief Constable, to interrupt and with the greatest respect, why at no stage did the Northern Ireland Office not explain? There were these emails and there was a series of follow-up enquiries, but to be fair to Mr Sheridan and to be fair to Mr Baxter, at any time did the Northern Ireland Office explain, because you have consistently, both of you, said to us this afternoon that you had no awareness of administrative letters going out?

Matt Baggott: Yes.

Drew Harris: Yes.

¹⁴ The letter from Peter Sheridan to Hilary Jackson on 27 June 2007 can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Peter-Sheridan-PSNI-to-Hilary-Jackson-27-June-2007.pdf>

¹⁵ The email exchange between the PSNI and Met Police (13 April 2007) can be found here:

<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Email-exchange-between-the-PSNI-and-Met-Police-13-April-2007.pdf>

Q766 Lady Hermon: You had no awareness of those administrative letters going out, so if I had a series of emails from the Northern Ireland Office asking very precise questions, would it not have been proper and helpful and right if the Northern Ireland Office had explained what the purpose was, because it was never explained by the Northern Ireland Office that they construed the information from Mr Sheridan or from Mr Baxter to change and alter a letter drafted by Mr Sheridan? That is the problem here.

Matt Baggott: I am not sure that is the issue.

Lady Hermon: Oh yes it is.

Matt Baggott: I think the issue is that everybody appears to believe and know that he is wanted and make an assumption that the checks have been done and the knowledge is there that the checks have been done and he is not wanted, because they do not say so. The issue would have been probably to have said, "We are not doing these checks, because it is your responsibility to do them, not ours". However, that does not accord with the terms of reference for the reviews and neither does it accord with the fact that they were doing these checks for other cases. Therefore, either you say, "These checks are not being carried out and it is up to you to do them", or you say, "He is wanted". I do not think there is any confusion in that. I cannot speak for the Northern Ireland Office on this, but I think the fact that the letters were previously on the assumption that checks have been carried out and if someone is not wanted that is what they say, I do not think it would be fair to put blame for that on the Northern Ireland Office, but can I be clear? I am not questioning anybody's integrity here. I am not. I have huge regard for colleagues at different levels in this organisation, but I do think the chronology is very clear here, and the NIO were simply being the administrators and the co-ordinators and, in fairness, they came back and asked for clarity on two separate occasions here.

Lady Hermon: I am very, very pleased that you have put on the record that you are not calling into question the integrity of Norman Baxter or Mr Sheridan, because I have the utmost confidence in both of those police officers.

Chair: There is probably going to be a vote very shortly, but there are two more people at least who want to come in who have not been in yet.

Q767 Mr Benton: Chief Constable, the last two questioners have covered, in the main, my line of questioning, but it still begs a question with me. The first thing is—and I am certainly not clear in my own mind about this—I cannot understand whether you and your predecessors who have given evidence are saying that the letters that were sent represented in no way an impediment of justice, given the explanations that we have received about the police role in this, which is totally appreciated. The major impetus, I would imagine, for the police is the pursuit of justice. What is really puzzling me is the fact that nobody at any stage—and I am not being personally critically now—along the line saw fit to question those letters, even at a later stage, if they had become aware of them at a very late stage in the process. It seems to me on prima facie it goes right across the whole case and frustrates the police in the performance of the pursuit of justice irrespective.

Now, why was that not questioned even at late stage? It must have been clear to most astute minds, whether it be political or people who study terrorism or anything else, that, with that impediment and the fact of the processes leading up to this, there was a clear and distinct possibility of somebody acting ultra vires. That is my loose interpretation of it all and what we do not seem to be getting is positive responses to that line of thinking. As I say, I really want to know if you are

saying now that the issuance of those letters had no effect whatsoever, did not represent in any way at all or hinder or provide an impediment in the pursuit of justice. If you could possibly give me a categorical answer to that, I would appreciate it. Although it may not be your role to comment on political decisions, etc, the point is when decisions are made such as obviously the ones that have been made, if they do impede the pursuit of justice, I think it is right for the police to make an observation on that, even to the point of it being only an opinion.

Matt Baggott: Yes, thank you. Can I answer that in two ways? Firstly, the assurances that we are committed to effective investigations: that is our job, that is what we get paid for and that is the law, and I think you see evidence of that in relation to the ongoing work of the Historical Enquiries Team. We have had to deal with an inspection report, but we have put police leadership in charge of that now, we have revamped it and it is up and running. You have seen that in relation to the Boston tapes, for example. We are not afraid to be controversial and go where the evidence takes us, and I will make tough decisions for as long as I am Chief Constable; so will Mr Harris. We will not be politically influenced by any of that and I think our track record stands testament by itself. We are committed to effective investigation and that is our lawful duty.

Q768 Lady Hermon: Would you like to take the opportunity to refute the suggestion, the allegation, that there is a dark side to policing?

Matt Baggott: I might come back to that, if I may, but the first thing is our whole structure and what we are doing is set up to bring people to justice or to give the PPS and the courts their role in this.

Are the letters an impediment? The very clear answer to that is, if they are wrong, yes, and that is what the Downey judgment says. If there is information given that is wrong and it was known to be wrong, then clearly a learned judge has now seen that as an abuse of process and I have to respect that judge's decision. If we give information that is not correct, then clearly there is a consequence to that. The point I came back to earlier, Chair, is had colleagues known in the past the consequence of a letter being wrong it may have affected whether letters were issued in the first place as a result of ending that process or not. That is me speaking with the benefit of hindsight around consistency and consequence, but it is very clear from the Downey judgment that telling someone they are not wanted when in fact they are may have a consequence.

Q769 Jack Lopresti: Following on from that, you spoke of the letters as being a snapshot, if you like, a moment in time, and said that it does not relate to any future new evidence or information. For those cases, if information comes forward that changes the emphasis, are they investigated in exactly the same way as any other, which they ought to be under the law? On more than one occasion, you implored us to see the whole thing in the context of the Good Friday Agreement and the peace process and everything else. By saying that, it makes it very difficult for us to accept that you are not acting with even an understanding or an awareness of political pressure, because, in my mind, your job is the pursuit of crime and justice. Whilst the peace process and the stability of the lives of people in Northern Ireland are a fantastic by-product of that, as you quite rightly say, it is not your responsibility to delve into the political aspect.

Matt Baggott: Would I allow any political interference, influence or interjection in an investigation? The answer is no. Would I allow any politician to tell me what operational decisions I should make? The answer is no. In terms of due process, I understand my role very clearly.

In relation to supporting a process that leads to peace, I have an ultimate responsibility for the protection of life, which is Article 2¹⁶, and I am very clear that in relation to devolution and policing and justice, to get to a place where you have stable politics, a Justice Minister and a long-term budget, the outcome of which has been to save the lives of many people, I believe, over the last few years, then I do think it was not wrong of me to say, “Okay, I want to make sure that our role is lawful and legitimate and cannot be questioned, but I can live with this”. That is not to say that I am compromising in any shape or form my integrity or my role as Chief Constable, but part of being a chief constable is to be politically aware, if not politically influenced, so I am comfortable with where I was on this.

Q770 Chair: It is a political opinion whether devolution should take place, not just the policing and justice, but anything.

Matt Baggott: It is a political opinion, absolutely right, and in the run up to the agreement—I think it was on 3 February—there were all sorts of sensitive conversations going on between political parties who wanted to assert a position or get clarity on a range of issues. The police role in all of those, I was very clear, was one that was going to be lawful and legitimate. I will not talk about those now, but they are issues that political parties brought to the table. Being part of a political process does not necessarily mean that I compromised my integrity or the due-process role of policing.

Chair: I think we probably have five minutes, so if we can have three very quick ones.

Q771 Ian Paisley: Given what you have just said, Chief Constable, are there any other equivalent secret undertakings, deals, or whatever you want to call them, that Parliament should now be aware of with the criminal fraternity in Northern Ireland?

Matt Baggott: I do not know of any sensitive, confidential processes of this nature. In fairness to Mr Harris and I, it touched our time together at the beginning of 2010 and really was not on our radar until the Downey judgment—

Q772 Ian Paisley: Let me be more specific. Are there any undertakings that would be of assistance to people who are involved in the smuggling of fuel, the laundering of fuel, the smuggling of cigarettes, or the smuggling of other illicit goods and trades? Are there any undertakings that have been made with the criminal fraternity post-2002 between Number 10 that the police are aware of and, say, the shipping and transport office, and the covering of freight moving between Northern Ireland—

Matt Baggott: I am not aware of any deals on that. I am aware that Customs will make decisions based on prosecution or recovery of tax. They are the legitimate conversations and decisions for them, but I am not aware of any—

Q773 Ian Paisley: And there is no turning of a blind eye to any of this.

Matt Baggott: Not as I am aware.

¹⁶ A link to the *European Convention on Human Rights* can be found here:
http://www.echr.coe.int/documents/convention_eng.pdf

Q774 Ian Paisley: Has it been requested?

Matt Baggott: No.

Q775 Ian Paisley: Was it requested in 2010?

Matt Baggott: Not of me.

Drew Harris: No.

Q776 David Simpson: You have touched on this, but I just want to put it on the record. I am very encouraged by what you have said today about whatever information comes in you will pursue it no matter who that is. However, we have heard in recent days where certain individuals have made threats that if certain people were charged they would review their position on policing and justice and all the rest of it. Hypothetically, if you received a call from a political mandarin for the NIO because you were taking a certain lead on a certain case of a certain individual, and you were told, “If you pursue this it will have serious consequences for the Assembly, and serious consequences for policing and justice in Northern Ireland”, what would you say?

Matt Baggott: Our role is very clear. Our role is to investigate impartially.

Q777 David Simpson: Would you basically tell them to go and get lost?

Matt Baggott: Yes. I would not use those words, but it would be very clear.

Q778 Oliver Colvile: The whole of this Inquiry started off, as you may remember, with Downey appearing in court over the Hyde Park bombing. There potentially were other people involved in that; he did not act solo. Could you just tell me—and you may not be able to tell me; it may be all subject to you undertaking your investigation—whether anybody else who is under consideration for the Hyde Park bombing has received a similar kind of letter as well?

Matt Baggott: I am not aware of the detail.

Drew Harris: No, I could not clarify that at this moment in time.

Q779 Oliver Colvile: Could you, in the future, be able to clarify it?

Drew Harris: Yes.

Oliver Colvile: Could you write to us about that then, because I think this is very, very, very important? This is about justice, and if there are other people who are around who have committed felonies then they should be pursued.

Drew Harris: Yes.

Q780 Kate Hoey: Mr Harris, were you approached by either the defence or prosecution in the Downey case? Did they talk to you ever or come back to you and ask for more information?

Drew Harris: The prosecution was in contact with the Serious Crime Branch and we supplied them with the material that we held within the Operation Rapid review, but I had no personal contact with the CPS, no.

Kate Hoey: You did not.

Drew Harris: No.

Q781 Kate Hoey: Mr Baggott, do you understand why people in Northern Ireland might be feeling that this whole process that led to peace—a form of peace, anyway—in Northern Ireland has been very one-sided, given what we have learned about the on-the-runs and who they went to?

Matt Baggott: I do not think it is for me to comment on people's perceptions. We all have different views of the peace process and what was given and what was taken in relation to, for example, the Good Friday Agreement. I did not live through the Troubles. It would be remiss of me to make a comment on that, and I cannot speak from a victim's perspective either. However, I do understand that in Northern Ireland people have different perceptions based on their experience and their history and, in many cases, their own tragedies.

Q782 Kate Hoey: Do you believe that justice in the end outweighs political expediency and the rule of law?

Matt Baggott: I think there were some tough choices that had to be made in order to stabilise and bring Northern Ireland to a more peaceful place, but I do not believe at the moment that the police role should step outside of what we are required to do, which is effective investigation under Article 2 of the Human Rights Act. We are an organisation that works under law and the law is very clear: our job is to pursue effective investigations, and that is what we do.

Q783 Lady Hermon: Chief Constable, you very kindly indicated that, if there was an opportunity, you would come back to this question, and that is there has been a very irresponsible remark made by a very senior Sinn Féin politician in recent days that alleged that there was a dark side to policing in Northern Ireland and a cabal somewhere at the top of the PSNI. Could you just take this opportunity to refute categorically those unhelpful remarks?

Matt Baggott: I was very clear in my statement yesterday that comments of that nature are misplaced and inappropriate. We have a very strong track record of integrity in the PSNI, and of following evidence. We do not have corruption in any shape or form, as far as I can see. We do not have miscarriages of justice. We do not have allegations of brutality. We are the most human-rights-compliant organisation probably in the world, and if you want the evidence for that you saw it in the way we handled the flag protest last year without a single person being seriously injured, in spite of colleagues' own injuries, and you see it in terms of our relentless pursuit.

Can I just say this on the record? I am extremely proud to be associated with my colleague to my left. He is, ultimately, one of the most professional police officers I have ever worked with.

Lady Hermon: Thank you. We agree.

Matt Baggott: I think he has saved many lives.

Chair: I think that is a good place to finish. It has been a very, very useful evidence session. Thank you very much for coming. Mr Baggott, I do not know if we will meet formally before your retirement from the PSNI, but whether we do or we do not, can I just put on record our appreciation for the enormous amount of work that you have done and the very professional way in which you have carried out a very difficult job? Thank you very much for that. Gentlemen, thank you for joining us.

Matt Baggott: Thank you, Chair.