



Northern Ireland Affairs Committee

Oral evidence: [Administrative scheme for 'on-the-runs'](#), HC 177

Morning Session, Monday 9 June 2014

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Members present: Mr Laurence Robertson (Chair), Mr Joe Benton, Oliver Colvile, Mr Stephen Hepburn, Lady Hermon, Kate Hoey, Naomi Long, Nigel Mills, Ian Paisley, David Simpson.

Questions 967-1097

Witnesses: **Nick Perry**, Permanent Secretary, Department of Justice, gave evidence.

Q967 Chair: We are now live and in public session. I start by thanking the Speaker for allowing us to use the Senate Chamber again. It is very nice to be taking evidence in Belfast.

Mr Perry, you are very welcome; thank you very much for joining us. I do not think there is any need for me to give a long preamble as an introduction as you are well aware of what we are doing and looking at. Generally, have you had chance to look through the proceedings so far? If you have, what has been your impression of our inquiry?

Nick Perry: Yes, Chair. I have seen the transcripts of your sessions with witnesses other than the ones last week. Your inquiry certainly seems to be a comprehensive and intensive review of the issues.

Q968 Kate Hoey: Do you think that OTRs have been adequately described? In all the evidence, do you think that the way we are looking at OTRs, and the different views on what it was, chime with your recollection and involvement?

Nick Perry: Yes, to the extent that I had a direct involvement in the scheme itself. Obviously you have a number of witnesses coming who can give a political perspective, as opposed to a policing one, which has been the focus of the preponderance of your evidence. That will be important to the Committee.

Q969 Chair: It might be useful to the Committee if you could let us know about your involvement in the scheme. You have held positions that are different from the one you hold now, but if you wouldn't mind, it might be useful if you gave us a background to your involvement.

Nick Perry: If you don't mind, I will just read out the page I have in front of me, because that is precisely what I have written down.

It might be helpful if I briefly explain what my role was in the NIO and the posts I held between 1998 and 2010. Between August '98 and August 2000, I was private secretary to the Secretary of State, who was successively Mo Mowlam and Peter Mandelson. From 2000 to 2003, I was head of the Department's financial services division. From 2003 to 2010, I was successively: associate director, policing and security; director general, policing and security; and, latterly, director general, criminal justice and policing. In those years, on the policing side, the issues I dealt with included, among others: police reform; normalisation; policy relating to serious crime, including paramilitary and organised crime; parading and public order issues; criminal justice modernisation; and, towards the end, the practical preparations for devolution.

Neither I nor my directorate had responsibility for, or any involvement in, the operation of what is known as the OTR scheme. As the Committee might be aware, I have given evidence to the Assembly Justice Committee on this issue, specifically in relation to events after April 2010. I have also spoken to the Hallett review. It might be worth repeating some of the factual points that I made there.

Before devolution, I was aware that there was a process for addressing the OTR issue, that that involved checks being made by the police and prosecution authorities, and that the outcome of that was conveyed to individuals by means of a letter. Because the NIO's role in the scheme was led by colleagues elsewhere in the Department, I personally was not involved in processing any of the cases, nor am I aware of the identities of the individuals concerned or the content of the letters they received. I was not aware until the outcome of the Downey case that the scheme continued to operate after devolution. The extent to which I am able to help the Committee on the specifics of the scheme may be a little limited but, of course, I am happy to help in any way I can.

Q970 Chair: You were obviously very closely involved. In December 1999, for example, John Sawers from No. 10 Downing street wrote to you¹. There were a number of letters from No. 10 to you, so you obviously knew a lot about it or else presumably they would have written to somebody else. You must have been right there at the centre of it.

Nick Perry: As the private secretary to the Secretary of State, those letters were addressed to me—that being the way Government works—and were sent on to the relevant division to be dealt with through specific work. I was aware of the OTR issue at that time, certainly.

Kate Hoey: Sorry, Mr Perry, could you speak just a little slower?

Q971 Chair: The acoustics are not necessarily brilliant.

At that point, who was driving the whole issue? Was it the Prime Minister?

Nick Perry: I think No. 10 was driving the entire peace process at that time, in partnership with the NIO and the Secretary of State, but obviously the fact that the letter came from John Sawers shows that No. 10 was certainly playing an important role.

¹ The letter from John Sawers to Nick Perry (December 1999) can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawers-to-Nick-Powell-20-December-1999.pdf>

Q972 Chair: Why was this done outside the public discussions? For example, we had the early release scheme going through Parliament, which was very unpalatable for many people, but at least it went through Parliament. It was subject to a referendum. Why was this done differently?

Nick Perry: Of course, the OTR issue, as an issue, did come into the public domain. At that stage, in 1999, it had effectively been raised privately by Sinn Fein in relation to a number of particular individuals, and the Government needed to work out what their response was going to be and what the processes were going to be.

Q973 Chair: But none of us knew what was going on in relation to that. The police, for example, and the then leader of the Ulster Unionists, David Trimble, did not see the on-the-runs as an anomaly; they saw them as individuals who should be treated as individuals, yet that was not what was happening.

Nick Perry: The judgment on how much publicity to give this issue at the time was a matter for Ministers, but a number of private conversations and confidential conversations were going on with the political parties about a range of issues.

Chair: Okay. We will move on to questions from other Members.

Q974 Lady Hermon: It is very nice indeed to see you in front of us this morning, Mr Perry. We are greatly looking forward to this session because we know that you are going to be very helpful to us.

In your evidence to the Justice Committee,² you repeatedly said that you had no involvement in this scheme, but you certainly had knowledge of the scheme from an early stage as private secretary to Mo Mowlam and then as private secretary to Peter Mandelson. Is that correct?

Nick Perry: Correct, although I think it was probably in Peter Mandelson's time that it began to emerge. An individual's name had emerged in Mo's time, but I think the letter from John Sawers was written in Peter Mandelson's time.

Q975 Lady Hermon: Where did the OTR scheme originate? Was it in Sinn Fein headquarters, was it from the Irish Government, or was it from No. 10?

Nick Perry: The OTR issue, as an issue, was raised by Sinn Fein in the first instance. Kevin McGinty has spoken about the way the scheme itself developed.³ That emerged in discussions between different Departments.

² The Official Report of Nick Perry's oral evidence to the Justice Committee on 25 March 2014 can be found here: <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2013-2014/March-2014/On-the-runs-Administrative-Scheme-and-Letters--Mr-Nick-Perry-Department-of-Justice/>

³ The transcript of Kevin McGinty's oral evidence to the Northern Ireland Affairs Committee on 30 April 2014 (HC 1194) can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9013.html>

Q976 Lady Hermon: Could I just draw your attention to a letter written to you personally by Jonathan Powell on 28 June 2000?⁴ It began with the words: “Gerry Adams called me yesterday. He said some of his people were becoming wobbly.” I am sure that is code for something. The letter continued: “He needed to settle them.”

The third paragraph is intriguing, and it refers to “we,” meaning the British Government or Mr Blair himself. Could you clarify who the “we” is meant to cover? It says: “We have promised that they”—these are OTRs—“will be dealt with within four weeks.” Had the British Government given a commitment as early as June 2000 to deal with OTRs within four weeks? I will just read the previous paragraph: “Adams asked what was happening with on-the-runs. I explained that we expected two more cases to be dropped this week, but I did not know the names. We were considering the general issue of how to deal with the overall problem as we reached the end of July.” Then the key paragraph: “He said the progress on this was very slow. We have promised that they”—referring to the OTRs—“will be dealt with within four weeks. I said we were doing our best.” Who on earth gave a commitment that OTRs would be dealt with within four weeks? Presumably it was the Prime Minister, Tony Blair.

Nick Perry: I do not know who gave that commitment.

Q977 Lady Hermon: That is a letter addressed to you.

Nick Perry: It is addressed to me, yes—it certainly is, as the private secretary. I do not know who gave that commitment. I do not know if that assertion is accurate. Jonathan Powell is quoting Gerry Adams, I think, there.

Q978 Lady Hermon: Actually, Jonathan Powell is referring to: “We had promised that they would be dealt with within four weeks”. It is quite clear.

Nick Perry: I am afraid I do not have the letter in front of me, but he is putting words in—I assume he is quoting Gerry Adams when he says that. I do not know who gave that commitment or in what terms it was given.

Q979 Lady Hermon: Thank you for that. In the subsequent correspondence, there is a reference, again from Downing street. This is a letter of 30 August 2000,⁵ and again it is addressed to you—it is from John Sawers this time, not Jonathan Powell. It is exclusively to do with OTRs, or it appears to be just to do with OTRs: “On OTRs, he”—the Prime Minister—“agrees that we should present our proposed scheme to Sinn Fein. But it should be made clear to Sinn Fein that our going ahead is on the clear understanding that the Republican movement will fulfil their commitments, including further weapons inspections and IRA engagement with the de Chastelain Commission, in advance of Trimble’s Party Conference.” Were the OTR letters—this early part of the scheme—a trade-off for decommissioning?

⁴ The letter from Jonathan Powell to Nick Perry of 28 June 2000, “Northern Ireland: Gerry Adams”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Jonathan-Powell-to-Nick-Perry-28-June-2000.pdf>

⁵ The letter from John Sawyers to Nick Perry of 30 August 2000, “Northern Ireland: Next steps”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawyers-to-Nick-Perry-30-August-2000.pdf>

Nick Perry: They were part of a broader political process. Whether it was a direct trade-off of the sort you are describing there, Lady Hermon—

Q980 Lady Hermon: Would you like to see the letter, to refresh your memory? I feel that you are at a slight disadvantage in that I am looking at your correspondence, but I assumed that you would have recalled something as controversial and as important as this.

Nick Perry: The OTRs emerged from a political process. In terms of what the Prime Minister may or may not have expected to get in return for anything, I am not clear. It was on the table as an issue that ought to be resolved somehow, as you have heard from Kevin McGinty. The official machine was clear that there were constraints on what could be done in the absence of legislation so, to that extent, it was a long-running issue. In terms of getting something done before a particular party conference, or in exchange for a particular act, I am not sure what the expectation was around that.

Q981 Lady Hermon: Before I pass over to colleagues and then come back to you on a different issue, could I just ask this question? When you sat at many meetings involving the Ulster Unionists, the SDLP and the Alliance party—at Leeds Castle and in various other very high level meetings—did you ever personally feel a great sense of deceit regarding these politicians in Northern Ireland who had no awareness at all of the OTR scheme? How did you feel? How did you manage that internally?

Nick Perry: I did not feel any sense of deceit or betrayal, Lady Hermon. There were a number of issues being discussed in the political talks. This issue, at the time you are talking about, was not one of the issues I was dealing with myself. I do not know what discussions Ministers had with the parties about them.

Lady Hermon: Thank you.

Q982 David Simpson: You are very welcome, Nick, to the Committee and to give evidence. You will by now be aware of the political storm that arose—I think it is even worse than a storm—in relation to all these letters that were forwarded to these individuals. Whenever I refer back to the letter that Lady Sylvia has quoted—“I explained that we expected two more cases to be dropped this week”—I think it shows us the depth that the then Government were prepared to go to in order to get Sinn Féin on board. There is reference to getting things moved on before the Ulster Unionist conference and all the rest of it, and it is just a can of worms and really corrupt.

Why was the administrative scheme located within the rights and international relations division of the NIO, and when did the NIO officials begin to sign letters?

Nick Perry: I am not sure why it ended up in the division it did, but the London side of the NIO often dealt with legacy-related issues, and I guess that’s why this particular issue ended up there, rather than being dealt with in Belfast.

Q983 David Simpson: Nick, can I ask you a very straight question? You can answer me if you want. As an individual—forget for the moment that you’re the permanent secretary working with the Justice Department and all of this—surely somewhere, deep-rooted within the recesses of your heart and mind, you ought to have known that this was wrong. Surely there was a moral obligation

from your side, as the permanent secretary, to instruct the Justice Minister on exactly what was taking place. Forget about all the spin of the Government Department.

Nick Perry: Let me address that point directly then, Mr Simpson. This scheme, as I understand it, was not illegal; it was not unlawful. The Law Officers oversaw the operation of it; the independent prosecution authorities were involved in it. In trying to bring peace to Northern Ireland, there are many difficult issues, uncomfortable issues, the early release of prisoners being a striking example of that. I don't think this was an unlawful process. I think Ministers had the constitutional and political authority to make judgments about it. It fell to them to make judgments about how much to disclose about it. There may be all sorts of issues about it being distasteful or uncomfortable—any of that language—but it wasn't unlawful, and to that extent I don't believe it was immoral.

Q984 David Simpson: But surely from a loyalty point of view—in your job, responsible to the Minister of Justice—it was your responsibility at least from a moral perspective to inform him that this scheme had been in operation and was continuing to be in operation.

Nick Perry: But the issue wasn't devolved. On anything that has been devolved, I have briefed David Ford comprehensively. This issue remains the responsibility of the UK Government.

Q985 David Simpson: But Nick, you did know about it and you did not—

Nick Perry: I did know about it, but as I've said before, I didn't know it had continued after devolution.

Q986 David Simpson: Okay. Letters were given out. I think you have confirmed that you were heavily involved as far as the issue of communication with the Department and all the rest of it was concerned, but you didn't feel that there was a responsibility on your part to tell the Minister.

Nick Perry: Communication with “the Department” meaning the Department of Justice?

David Simpson: Yes.

Nick Perry: No, I didn't tell them about this issue because, as I have said, it wasn't devolved; it remained the responsibility of the NIO and the NIO Ministers.

Q987 David Simpson: A final question, just to clarify the point—I think you did touch on this earlier—about the letter to Mr Downey. Just clarify the point again: you were not aware that Mr Downey was in possession of a letter?

Nick Perry: No.

Q988 Chair: Can I follow up what David asked about the morality of the scheme? You then came back and said it was legal. When you heard Drew Harris say that—I think these figures are roundabout right—95 of those who have received letters were connected through intelligence to almost 300 murders,⁶ how did you view that then?

Nick Perry: Those are shocking figures, but my understanding of how this scheme worked was that it was a factual assessment of an individual's position at a point in time and, if new information came to light, those people could still be pursued for whatever crimes they might have committed. This was a factual process, overseen by the Law Officers, on the basis of information provided by the police service, so to that extent—. If it was an amnesty, clearly there would be an issue about immorality.

Q989 Chair: That would suggest that that intelligence—this may be the case—has come out only very recently. It seems an extraordinary position to find ourselves in that the police were not aware of that situation at the time. That is a question we can put back to the police, but what is your reaction to that?

Nick Perry: Again, as I understand how the scheme operated, and particularly based on what Kevin McGinty said, the assessment was around evidence as opposed to intelligence—whether there was an evidential case that would stand up in court.

Q990 Chair: It could be lost in translation between the police and the people writing the letters, though, couldn't it?

Nick Perry: As I said, because I wasn't directly involved, I am not sure what process precisely took place between the police and the team that were dealing with this in the NIO.

Q991 Chair: Especially as there was this obvious need to bring Sinn Féin on board, as has been mentioned. You can understand our concern about this apparent gap.

Nick Perry: I accept that to an extent the morality or otherwise of the scheme depends on the political judgment of how essential it was.

Q992 Oliver Colvile: I understand that you were director general, criminal justice and policing. Were you aware at any stage—did you have any conversations with anybody—about these murders that took place in Hyde Park, which actually brought all this to the fore?

Nick Perry: No, not specifically.

Q993 Oliver Colvile: You did not talk to anybody about it.

Nick Perry: No.

Q994 Oliver Colvile: Were you aware that this event—this murder—had taken place?

Nick Perry: The Hyde Park bombings? Yes.

⁶ The transcript of Drew Harris OBE's oral evidence to the Northern Ireland Affairs Committee meeting on 7 May 2014 can be found here:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9418.html>

Q995 Oliver Colvile: And you did not seek to pursue what actually might have happened.

Nick Perry: They were atrocious murders, and I remember them vividly from the time. They happened back in 1982—

Q996 Oliver Colvile: I represent a military garrison city, as you probably know. There will be real concerns in my constituency as to what has actually happened and the fact that soldiers were murdered, as you rightly say, in the 1980s. You, in the Northern Ireland Office, were not aware as to what progress was being made on trying to find these—

Nick Perry: It was a Metropolitan police investigation into those murders.

Q997 Oliver Colvile: Did you talk to the Metropolitan police at all?

Nick Perry: No.

Oliver Colvile: Right.

Nick Perry: I am not sure what occasion I would have had to talk to the Metropolitan police about it.

Q998 Kate Hoey: When did you first see one of these letters?

Nick Perry: I have never seen one of the letters.

Q999 Kate Hoey: You have never seen one of these letters. Do you know all the names of the people who got the letters?

Nick Perry: I do not know any of the names.

Q1000 Kate Hoey: You do not know any of the names. Do you know that the letter originally written was changed when it went to Northern Ireland? *[Interruption.]*

Chair: Order. I think someone's phone is causing the sound system to go haywire.

Q1001 Kate Hoey: All the time that you were private secretary to Secretaries of State, you never saw one of these letters.

Nick Perry: These letters only began to be issued at the tail end of my time as the Secretary of State's private secretary. As I have said, when I returned to the policing area in 2003, the scheme was being handled by a small team in a different directorate in a different city. The way the NIO worked, information was extremely compartmentalised and held on a need to know basis, so I had no involvement in the scheme. I should have said that of course I am aware that Mr Downey got a letter, but that is after the event. As a result of these hearings and the evidence given to this Committee, I know far more about the scheme now and the detail of how it worked than I did at the time.

Q1002 Kate Hoey: If I can take you back then to all the letters that Lady Hermon referred to and others that have not been referred to, you seem to be at the centre of absolutely everything that was happening. There is a “Dear Nick” from Jonathan Powell⁷ and a “Dear Nick” from John Sawers.⁸ The only person I do not see a “Dear Nick” from is Tony Blair. Presumably you knew everything that was going on.

Nick Perry: They are addressed to me because I was the Secretary of State’s private secretary, and that is the way in which information is exchanged between Government Departments and Whitehall.

Q1003 Kate Hoey: But you attended, for example, the meeting that the Secretary of State held with Martin McGuinness, accompanied by Aidan McAteer, at Hillsborough, where OTRs were discussed⁹. It was made very clear there that various things were expected to be happening. I have been a Minister and I know the role of a private secretary. The private secretary and the Secretary of State and the Minister are very close. The private secretary needs to know everything that the Minister is doing. I genuinely find it quite interesting that you seem to have such a blank picture of what was going on then.

Nick Perry: I hope not. Up to the summer of 2000, I was the Secretary of State’s private secretary, so to that extent, when Sinn Féin raised the issue or when No. 10 wrote to the Department about it, they wrote to me. I was present at the meeting you described, so clearly I knew that it was a political issue at the time. In terms of the scheme as it evolved—it was running by the mid-2000s—is concerned, I was not involved in that; it was handled elsewhere. When the Committee asks me specific questions about particular letters, I was not involved in that. It is not an attempt to be evasive at all; it is just a matter of functional responsibility. Had I been in the political directorate, no doubt I would have known all about it, but I was doing different things.

Q1004 Kate Hoey: But did you know that the Ulster Unionists and the SDLP had not been involved in knowing about this, in the way we were told by both David Trimble and Mark Durkan?

Nick Perry: Up to 2003? I am not sure how much they knew or did not know. I was not present at any meetings with the UUP or the SDLP about this issue. I understand that they did not know.

Q1005 Kate Hoey: You said, in answer to the question earlier about morality, basically that it was legal. You will, of course, say that it was a political decision and you were only a mere private secretary to the Secretary of State, but are you really saying that the end justifies the means?

⁷ The letter from Jonathan Powell to Nick Perry dated 28 June 2000, “Northern Ireland: Gerry Adams”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Jonathan-Powell-to-Nick-Perry-28-June-2000.pdf>

⁸ The letter from John Sawers to Nick Perry dated 30 August 2000, “Northern Ireland: Next steps”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawers-to-Nick-Perry-30-August-2000.pdf>

⁹ The minutes of the meeting between Peter Mandelson, Secretary of State, and Martin McGuinness in August 2000 can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Minutes%20of%20the%20meeting%20between%20Peter%20Mandelson,%20Secretary%20of%20State,%20and%20Martin%20McGuinness%20in%20August%202000.pdf>

Nick Perry: As I said a moment ago, I think how you regard an issue like the OTRs, or an issue like the early release of prisoners, goes to how central you judge it to be to achieving a lasting political settlement that will save people's lives. I think that is the basic judgment around it.

Q1006 Kate Hoey: But is there not a difference between the releasing of prisoners and the OTRs? The releasing of prisoners was something that the public knew about and accepted—perhaps unwillingly, but accepted.

Nick Perry: I do accept that there is that distinction, but the OTR issue, as an issue, was in the public domain. The precise mechanisms for taking it forward using the administrative scheme, I accept, were not.

Q1007 Kate Hoey: Do you know anything about the royal prerogative of mercy? Did that come across your desk at any time during any of these many jobs you have held over the last number of years?

Nick Perry: No.

Q1008 Kate Hoey: Pardons, royal prerogative of mercy—nothing to do with you, nothing to do with the Secretary of State and nothing to do with the Northern Ireland Office?

Nick Perry: I do not know whether it was nothing to do with the Secretary of State. I have never dealt with an RPM.

Q1009 Kate Hoey: Did you know that the royal prerogative of mercy was being given to lots of people?

Nick Perry: I was aware that some people might have got RPMs, but I am afraid I know no more than that. What I know is in the Secretary of State's written answer—I think last month—in terms of the numbers and the time scales for granting them.

Q1010 Kate Hoey: Nothing to do with you.

Nick Perry: I did not deal with that issue.

Q1011 Ian Paisley: Good to see you, Nick. Thank you for coming to give evidence.

First of all, in your opening comments you used the phrase that the OTR issue “was led by colleagues elsewhere”, and you have reiterated that point to Kate Hoey in answering her questions. Who were the colleagues elsewhere?

Nick Perry: They were colleagues working in the political directorate.

Q1012 Ian Paisley: Who?

Nick Perry: I think the Committee is already aware of the names of Mark Sweeney, because that came out in the judgment, and Hilary Jackson as the political director. I think those names are in the public domain.

Q1013 Ian Paisley: So because Mark Sweeney and Hilary Jackson were in the political directorate, do you believe that they would have known, in a very intimate way, all the machinations and details of this process?

Nick Perry: They would have known, because it was their job to know, and they were acting under the direction of Ministers. They would have known how the mechanics of the scheme worked.

Q1014 Ian Paisley: Should we call them as witnesses, given what we are trying to get to? I am not asking you to shop your colleagues here; I am just asking you a straight question, given what you know of this inquiry.

Nick Perry: On the detail, they might be of more assistance to the Committee than I am able to be, but I think the way the scheme worked Kevin McGinty set out quite clearly.

Q1015 Ian Paisley: I want to take you back to the letter of 30 August 2000 from John Sawers at No. 10 Downing street to yourself.¹⁰ In it is the phrase “will fulfil their commitments”—that is the British Government. I will just read all of it: “On OTRs, he agrees that we should present our proposed scheme to Sinn Féin. But it should be made clear to Sinn Féin that our going ahead is on the clear understanding that the Republican movement will fulfil their commitments, including further weapons inspections and IRA engagement with the de Chastelain Commission”. Is it your understanding that you got that trade?

Nick Perry: I do not know, because I think by the time that letter arrived I had left private office. I am not intimately involved in the detail, but I think the purpose behind that phrase—and No. 10 can speak for itself—is that in order to create public confidence around the process as a whole that would permit these unusual arrangements to operate, clearly other people needed to help to create that.

Q1016 Ian Paisley: But it appears that it was a very direct trade: in August 2000, in the late summer of 2000, the Government were going to trade an OTR scheme for something to do with IRA involvement in the de Chastelain Commission. That is what this letter appears to suggest.

Nick Perry: I am not sure that it was as direct as that, but I have no personal knowledge of what the expectation was on that.

Q1017 Ian Paisley: It was not as direct as that? It is a one-paragraph letter to you from the head of Downing Street indicating that this is the issue: that we are going to go ahead on the clear

¹⁰ The letter from John Sawers to Nick Perry dated 30 August 2000, “Northern Ireland: Next steps”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawers-to-Nick-Perry-30-August-2000.pdf>

understanding that the republican movement will fulfil their commitments, including further weapons inspections. It is a fairly clear trade-off: you give us OTRs, we'll give you further weapons inspections. It is the first time that it has come up.

Nick Perry: It talks about commitments in the plural, so whether No. 10 had an expectation of anything specific in relation to decommissioning, I don't know.

Q1018 Ian Paisley: Was it a good trade? One of your key roles is to advise that Secretary of State—that is your job—so was that a good trade?

Nick Perry: Well, I think that anything that moves the process on and brings peace and stability closer that is not unlawful is worth it.

Q1019 Ian Paisley: I didn't accuse you of doing anything unlawful; I have far too much respect for you. Was it a good trade?

Nick Perry: Well, I really cannot comment sensibly on that. If the IRA gave up its weapons, then clearly that is a good thing.

Q1020 Ian Paisley: In the summer of 2000. Of course, there wasn't movement on the weapons issue until 2007.

Nick Perry: Well, there was a preliminary episode, I think, a couple of years before that—

Q1021 Ian Paisley: But with hindsight, would you accept that Sinn Fein appeared to get more out of this than the Government?

Nick Perry: There was a political process going on and people were moving forward on a number of fronts. It is a matter of judgment really whether—

Q1022 Ian Paisley: I am interested in a yes or a no. In your view, is it clear to you that Sinn Fein got more out of this than the British Government?

Nick Perry: I don't think it is possible to give a yes or no answer to that question. I imagine that Sinn Fein might take the view—it is not for me to speak for Sinn Fein either—that what they had wanted out of an OTR scheme was not in the end what the OTR scheme delivered, in the sense that it was an administrative process.

Q1023 Ian Paisley: Whenever you gave evidence to the Justice Committee¹¹—and this morning you repeated this for David Simpson—you said that, after devolution, you did not believe that the scheme had continued. What did you base that assumption on?

¹¹ The Official Report of Nick Perry's oral evidence to the Justice Committee meeting of 25 March 2014 can be found here: <http://www.niassembly.gov.uk/Assembly-Business/Official-Report/Committee-Minutes-of-Evidence/Session-2013-2014/March-2014/On-the-runs-Administrative-Scheme-and-Letters--Mr-Nick-Perry-Department-of-Justice/>

Nick Perry: My understanding was that by 2009 the scheme had been running down.

Q1024 Ian Paisley: So you made a clear assumption—a guess?

Nick Perry: No, it was not a guess; it was an assumption. I had no reason to think that it was continuing after devolution.

Q1025 Ian Paisley: Would you have thought it would have been worth it to check?

Nick Perry: As I have said, the Ministers who had responsibility for this issue had decided that it would not devolve. They took that decision, I believe, on the basis of legal advice and the Law Officers supported that advice. It simply had not transferred across to the Department of Justice.

Q1026 Ian Paisley: Was it negligent not to check?

Nick Perry: No, I don't believe so.

Q1027 Ian Paisley: Have you commissioned, in your current role, legal advice as to whether this issue of on-the-runs is a transferred or a reserved matter?

Nick Perry: The Minister has commissioned that advice.

Q1028 Ian Paisley: Do you know what that advice says—what the outcome of that advice is?

Nick Perry: I have seen that advice.

Q1029 Ian Paisley: You have seen it. Can you advise us of what that advice says?

Nick Perry: I am afraid I can't. The convention is that legal advice is not disclosed. In any event, though, the advice was to the devolved Justice Minister and he has made his position clear about disclosing it.

Q1030 Ian Paisley: Without disclosing the legal advice, can you advise this Committee as to whether these powers were transferred or not?

Nick Perry: I'm afraid I can't comment on that, Mr Paisley.

Q1031 Ian Paisley: You have to comment on it. You know the standing of this Committee and you know that, when we ask you a question, you have to give us an answer.

Nick Perry: The answer that I am giving you in this particular case is that the legal advice went to the devolved Justice Minister, who I think you are seeing, and of course you may ask him—

Q1032 Ian Paisley: I am not asking you for the legal advice. I am asking you for the outcome, which must surely now be in place.

Nick Perry: It is the same thing, effectively.

Q1033 Ian Paisley: It is not. The basis of the outcome is not what I am interested in; I am interested in the outcome. It comes into effect—it is in effect now, and you know at this point whether this is a reserved or a transferred matter.

Nick Perry: I can only ask you to ask that question of the Justice Minister. As I said, he has made his position quite clear to the Justice Committee.

Q1034 Ian Paisley: Did you play any role in commissioning that legal advice?

Nick Perry: No.

Q1035 Ian Paisley: Why not?

Nick Perry: Because as the Justice Minister explained to the Justice Committee, he felt, given my previous role, before devolution, he would prefer to commission it himself.

Q1036 Ian Paisley: Are you slightly out of the loop now?

Nick Perry: No, because I have seen the resulting advice.

Q1037 Chair: Can I just follow up on that letter on 30 August?¹² Ian stopped before reading the next bit, which says: “The Republicans are unlikely to be satisfied with our scheme and no doubt will press for a wider amnesty.” An amnesty is not legal.

Nick Perry: No, but then, they did not get an amnesty.

Chair: It goes on to say: “The Prime Minister does not think we should accede to that demand now. But nor should we rule it out: his instinct is to keep the issue under review.” Those are pretty damaging words.

Nick Perry: Of course, later on, though, there is the legislation, or the attempt to introduce legislation, that goes into that territory.

Q1038 Chair: Which was withdrawn.

Nick Perry: Yes, it was, but the point is there, though: I think the Prime Minister was saying that it was not acceding to that demand.

Chair: Right. Naomi?

¹² The letter from John Sawers to Nick Perry of 30 August 2000, “Northern Ireland: Next steps”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawers-to-Nick-Perry-30-August-2000.pdf>

Q1039 Naomi Long: Nick, thank you for coming and giving evidence to us. Can we go over the process for the devolution of policing and justice, because I would like to explore that a bit more? What was your specific role in that process of devolving policing and justice?

Nick Perry: It was doing the planning around some practical things about creating the new Department—a lot of really practical things, like accommodation and IT, those sorts of practical things—but also in relation to those issues that were devolving and had been identified by legal advisers as devolving, to make sure that they had a home and we were in a position to brief the incoming Justice Minister about them.

Q1040 Naomi Long: Were you involved in any of the discussions about things that would transfer across and things that would not?

Nick Perry: Not about things that would not transfer, but I was clear about what was going to transfer.

Q1041 Naomi Long: Was there any discussion at that time with you, or were you aware of any discussion taking place, about the situation with the OTR scheme and whether or not it would be devolved?

Nick Perry: There was no discussion with me about it, no.

Q1042 Naomi Long: Were you aware of any discussion having taken place in that regard?

Nick Perry: Yes, I believe on this there were discussions. I believe legal advice was taken on whether or not it should devolve.

Q1043 Naomi Long: Okay. Were you specifically told at any stage by the Northern Ireland Office that the OTRS was not going to be devolved?

Nick Perry: Not in terms, but I was told that functions being carried out by the political directorate were not a problem.

Q1044 Naomi Long: Okay. Did you assume that that included the OTR scheme or were you—

Nick Perry: Well, I was aware that that fell within that description.

Q1045 Naomi Long: Okay. Did you ask for any explanation as to why that was not being devolved—given the different structures that were going to be in place and given the people who would be involved in, for example, providing the information, processing the cases and so on? Did you make any inquiries as to why that was not being devolved?

Nick Perry: No. As I said, my understanding, my belief—it is still my belief—is that NIO Ministers had the political and constitutional authority to make that decision and that they had done so based on properly provided legal advice, so I did not go beyond that.

Q1046 Naomi Long: Obviously, we are all aware of the protocol around the civil service code and what you can and cannot discuss with Ministers, and so on. Were you at any time asked specifically not to tell the Justice Minister about the OTR scheme?

Nick Perry: No.

Q1047 Naomi Long: Were you at any point in time advised what discussions you should or should not have with the Justice Minister about the OTR scheme, by anyone in the NIO, either prior to devolution or afterwards?

Nick Perry: No. Obviously, there is a general discussion about excepted matters in general and reserved matters, and there was a lot of discussion, of course, leading up to devolution about national security issues and how they would be handled after devolution; but no, not specifically on OTRs.

Q1048 Naomi Long: Had you any concern that by not raising this, given that—I am assuming you were aware of the scheme and its operation and therefore aware that parts of the devolved structures were involved in administering the scheme. *[Interruption.]* So that is correct. Were you at any stage concerned that, given that was the case, by not discussing this with the Justice Minister you could in fact be leaving him open to embarrassment, if this became a matter of public debate?

Nick Perry: Well, I hope not, Ms Long, because this is not the only area where issues impacting on the operation of the justice system are not devolved. Some prisons-related issues, extraditions, public inquiries relating to the past and whether to continue or discontinue a trial based on national security information are all issues that rest with direct rule authorities, although they impact in the justice system here. Any embarrassment or difficulty about the way the public interest decision was made on the continuation or otherwise of the OTR scheme rested with the Ministers who had responsibility for it, and those were NIO Ministers. I don't see any reason why the Justice Minister should be embarrassed by that.

Q1049 Naomi Long: But the examples you have given that would rest with Whitehall, are issues that the Justice Minister would be aware, and it is very clear, would rest with Whitehall. The lines of authority are well known and open to scrutiny, which has not been the case with this scheme. When it became apparent that the scheme was still operating and that there appeared to be no ownership of it—let's be clear: the Secretary of State was initially confused about whether it was devolved or not—did you have any concern during that period that if the details of the scheme became public it could cause embarrassment to the Department of Justice and the Minister of Justice, and did not that cause you discomfort?

Nick Perry: As I said, I didn't know it continued until the outcome of the Downey case.

Q1050 Naomi Long: With all due respect, you did know it continued, because you indicated that you were aware at the point of things being devolved that it was not being devolved. You were aware that it was continuing at that point.

Nick Perry: Well, I didn't know it continued to operate after that. I knew it operated up to that point.

Q1051 Naomi Long: Sorry to cut across you, Nick, but you said you were aware that it was not being devolved, which would suggest that it was still in operation. There would be no need not to devolve it if it had stopped at that point.

Nick Perry: That is true, but as an historic issue it continued to rest with the NIO. In some areas, the Justice Department would have a more direct interest in things that had not continued beyond 2010. The point is that if the scheme operated as I understood it was intended to operate—a factual check on somebody’s status at a particular point in time—the issue would not have arisen in the way it has.

Q1052 Naomi Long: In terms of your assertion that it would not be embarrassing because it was merely a factual check, the correspondence that others have referred to today suggests that it was also very politically sensitive. You would have been aware of the political sensitivity of it even if it were, as you describe it, merely a factual check. You would have been aware of the potential difficulty were that to emerge into the public domain, having not been in the public domain previously, and indeed having all the appearance of being kept out of the public domain deliberately.

Nick Perry: It was a sensitive issue politically, as Shaun Woodward said,¹³ but it was not a secret issue. The Policing Board and Drew Harris had that conversation in 2010. Yes, it was obviously an issue of political sensitivity, but it was one for NIO Ministers, not for the Department of Justice.

Q1053 Nigel Mills: Mr Perry, could you reiterate for me how you come to the conclusion that these letters are a legal process, rather than an illegal one? What would be the characteristics of an illegal process, in your view?

Nick Perry: A legal one? I draw that conclusion from the fact that after very careful scrutiny, the Law Officers, the Director of Public Prosecutions and the police were participating in it.

Q1054 Kate Hoey: Sorry, could you repeat that? Careful scrutiny of the law—what?

Nick Perry: That the Law Officers, the Director of Public Prosecutions and the police were participating in this administrative scheme is where I draw the confidence that it was a legal one.

Q1055 Nigel Mills: What gives it the hallmarks of being legal rather than illegal, in your view? Is it the fact that it was done on an individual basis, rather than a general basis, or case by case?

Nick Perry: The fact that careful scrutiny was given to individual cases by those the authorities which had individual responsibility for investigating crime and considering prosecutions, that is what I base it on.

¹³ The transcript of Rt Hon Shaun Woodward MP’s oral evidence to the Northern Ireland Affairs Committee of 9 April 2014 (HC 1194) can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/8472.html>

Q1056 Nigel Mills: The issue I am trying to get at is that if this had been a scheme that was intended to give a get-out-of-jail-free card, and the process that was followed could never realistically have reviewed all the files and all the evidence for the 3,000-odd murders during the troubles, would you then start to think this looked a bit too much like a general amnesty, rather than a factual statement about an individual case?

Nick Perry: I think the very fact that individual assessments were done and some people, as I understand it, were turned down shows that it was not an amnesty and was not a blanket process. Cases were considered on the facts available to the relevant authorities.

Q1057 Nigel Mills: You are familiar with the evidence Mr McGinty gave us, which was that once you had one of these letters, it said you wouldn't be prosecuted for any pre-1998 offence unless new evidence came to light. It did not say "for the following offences" or "the various offences you may have been specifically reviewed for"; it was for any offence, whether or not that person's involvement had previously been suspected.

Nick Perry: As I understand it, the wording of the letters was agreed by the Law Officers, so to that extent whatever wording was in there was legally approved.

Q1058 Nigel Mills: Hypothetically, say your Justice Minister came to you now and said, "Mr Perry, I would like to go through this process with this collection of people. There is some anomaly and I'd would like to give them some reassurance. I would like to issue some letters saying that I won't prosecute them. I will let the police do a bit of a cursory, quick, perhaps you could say rapid, check, but then we issue that letter and then there can be no prosecution." What would your advice be to your Minister in that situation?

Nick Perry: I should say there is absolutely no question of my Minister saying that. You talk about cursory checks, but my understanding is that thorough checks were done.

Q1059 Nigel Mills: So if I said to you, "I'd like to do this but there will be thorough checks," you would say to me, "Yes, in theory that could be legal."

Nick Perry: I think in theory it was legal. Going back to the original scheme, I would not be advising him to do it, but if there were some compelling reason for him to do it, the involvement of the Law Officers, the Director of Public Prosecutions and the police, it seems to me, is as objective a way as one could devise of doing that, if one had to do it.

Q1060 Nigel Mills: So, why wouldn't you be advising him to do it?

Nick Perry: We come back to the point about the public interest in pursuing such a scheme.

Q1061 Nigel Mills: Could I move slightly on, to again a hypothetical situation? Say there is a chance to prosecute an individual now who has received one of these letters. Clearly it would be a sensitive decision to proceed with such a prosecution. How would you in theory advise the Minister. Are you saying that these letters trump everything?

Nick Perry: I would not be advising him at all. That would be a matter for the Public Prosecution Service, so civil servants would not be engaged in that process at all. As I understand the intent behind the letters, they were accurate on the day that they were issued. If there is new information as a result of HET work or anything else, then they do not have any status.

Q1062 Nigel Mills: What is your understanding of new information in that context?

Nick Perry: I am not an expert in that. I have seen what the Chief Constable and Kevin McGinty have said about that, so there is no point in my speculating on what I am not sufficiently qualified to judge.

Q1063 Mr Benton: My lines of questioning have been covered by other members, with one exception, which still much puzzles me. When you first learned of the scheme, was there an official briefing? Who gave the briefing? Was the briefing in the form of “This is what we want to do,” overlooking certain aspects of what even you might regard as not proper? How precisely was the scheme introduced to you?

I heard your response to David Simpson and I am curious. Let me put myself in your position, given your professionalism and the role you had at the time. If someone had come to me—and I dare say any member of this Committee—and suggested a scheme like this, I would imagine you at least had very strong reservations about the propriety of that, without—how shall I say it?—making a declaration of support or getting involved in the scheme. This is what I am finding really very puzzling, and not just from you as a witness, I dare say, but from other witnesses I’ve heard as well.

Everybody appears to me to be saying that they have answers and are giving answers, but nobody is reflecting how they truly felt at the time when they learned about the scheme. Surely you, Mr Perry, must have had some reservation, to say the least, given your obviously highly professional career. I am puzzled as to why, at that stage—other witnesses have been in the same position—nobody seems to have said, “This is questionable. Where do we go from here?” I am not demeaning your conscience in any way, but I would find it very, very burdensome and problematic to proceed along these lines without raising it further.

I would like to ask you how you originally heard about it in the first place, because my belief is that the knowledge of this proposal must have been more common than a lot of witnesses have indicated. I would like to know what your reactions were. Did you have any reservations? Did you express them to the person who actually put or mentioned the proposal to you? This is the only way, it seems to me, that we are going to get to the root and the proper transparency of this situation.

Nick Perry: I could make two points there, and the first is on the process by which the scheme was devised. It emerged as an issue—the letter from John Sawers to me—at the end of 1999.¹⁴ Advice was sought; there followed several months of to-ing and fro-ing with the Law Officers and with others. There was quite a lot of soul searching, as Kevin McGinty brought out and as the correspondence of the then Attorney-General brought out, about how one balances those important issues of principle against a public interest—there is a judgment to be made about the public interest here—in moving the process forward. There was a great deal of discussion, soul

¹⁴ The letter from John Sawers to Nick Perry of 20 December 1999, “Good Friday Agreement: Status of those still facing charges”, can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-John-Sawers-to-Nick-Powell-20-December-1999.pdf>

searching and teeth sucking, or whatever phrase one wants to use, about how best to take this forward. In the end, a scheme was devised which, in the view of the Law Officers, did not breach fundamental principles. It was an administrative scheme, checking out facts.

In terms of my own personal reaction or those of any of my colleagues, we might have had all sorts of personal views on all sorts of aspects of the peace process but at the end of the day, if acting under the lawful direction of Ministers—that is why it is important whether it is lawful or not—they are the ones, and it is not passing the buck but a statement of different functions to say this, with the political mandate and authority to direct that things are done. That does not mean there were not lots of conversations about, “Should we or shouldn’t we be doing it?” but if it is not unlawful and if there is a political necessity, in the judgment of those who hold that responsibility, that it should be done, I do not think civil servants should be resist— should be undermining that. That would be true working for the Executive as it was working in Whitehall.

Q1064 Mr Benton: Whose instruction were you directly under, or who did you have dialogue with when you were introduced to the scheme?

Nick Perry: I was the Secretary of State’s private secretary at the time, so I was working directly for Peter Mandelson, but there were a number of senior colleagues in the Department who were looking at this. As I say, the Law Officers were engaged and No. 10 was engaged. There were a lot of people.

Q1065 Mr Benton: How did they justify the scheme to you?

Nick Perry: On the basis that they were trying to bring peace.

Q1066 Kate Hoey: Is there something in writing somewhere that is legal advice to somebody? You have said that the Law Officers and Downing street were involved, but is there something written somewhere that legally made you feel that this was lawful?

Nick Perry: There is correspondence from the Law Officers that Kevin McGinty referred to, and at the end of the day, I think that is an authoritative voice.

Q1067 Mr Hepburn: Nick, if possible, can I just take you out of your role as a civil servant? You have every reason to be very proud of what you did in the Labour team in Northern Ireland to bring about the peace process, because I do not think it would have come about if it was not for the likes of you and Labour figures at the time making the decisions that they did. Just briefly, what role did you play in all the mechanisms that went on at the time?

Nick Perry: As I said at the beginning, at that particular time, I was private secretary to two successive Secretaries of State, so to some extent, that was just a co-ordinating and sort of gofer role. I was present at the meetings that Lady Hermon described, and I was present at Leeds Castle and St Andrews, and at some of the other sets of discussions on trying to secure a political settlement.

Q1068 Mr Hepburn: Were there any face-to-face discussions by yourself with the likes of Gerry Adams and Martin McGuinness—privately, or one to one?

Nick Perry: Well, in support of Ministers, yes.

Q1069 Oliver Colvile: When you met Gerry Adams and Sinn Fein, you always met with other people being present. Did you ever meet anybody by yourself?

Nick Perry: No.

Q1070 Oliver Colvile: You always met with somebody else.

Nick Perry: Yes, I don't think I have ever met them by myself.

Q1071 Mr Hepburn: So, in your old age, when you eventually get there, you will have no excuses, problems or hang-ups about your role or anything that went on in the process that you were involved in?

Nick Perry: There are all sorts of things I might look back on, but to answer your question, I spent 19 years in the NIO working, along with many other people, either to support the police in trying to keep people safe or to try to obtain a political settlement that would keep everyone safe. I worked with some extremely capable colleagues there and some very able Ministers, and fortunately there are enough political leaders out there in the community—including some around this table—who were eventually able to get the whole thing over the line. I do not think that is anything to be ashamed of, and I am not.

Q1072 Mr Hepburn: Absolutely, I agree with you. What about the other parties—the political parties in Northern Ireland? Are they making excuses? Are they running away? Did they know what was going on? Heart to heart, did they know or did they just say, “We don't want to know about it. You just get on with it.”?

Nick Perry: It is not for me to speak for parties—

Q1073 Mr Hepburn: I want to know your autobiography.

Nick Perry: Well, when I get permission to publish it, I will send you a copy, Mr Hepburn. Parties have put their position on the record and I have no reason to think those positions are not accurate. That the OTR issue was an issue, of course, was out there in the public domain. In terms of knowledge of the scheme or the specifics about that, I really could not say.

Q1074 Mr Hepburn: So, the OTRs, as we knew at the time, because it was mentioned, would be handled. It would be dealt with. To me, at the time, that would have rang in there and if I had been that concerned, I would have been saying, “What are you doing about these OTRs?” Did any of these political parties say to you, “By the way, what is happening with these OTRs?”?

Nick Perry: They did not say it to me, but—

Q1075 Mr Hepburn: Did it come up? Did they even bother themselves to say something, even though it was in the public domain then?

Nick Perry: I'm not aware of that, but from 2003 on, that is not a conversation I would have been having with them, on the specifics of this. I have no reason to think—parties have put their own positions on the record.

Q1076 Mr Hepburn: Do you think, as I believe, that Northern Ireland is a much better place these days, whatever has gone in the past, because of your involvement or ministerial involvement in getting peace?

Nick Perry: I am not sure that my involvement—

Q1077 Mr Hepburn: Every day that goes past, there is nobody dead.

Nick Perry: It is certainly far better now than it was, thanks to a collective effort, both inside Government and outside it.

Q1078 Mr Hepburn: Do you think this OTR thing has all been blown up?

Nick Perry: Well, there is clearly a genuine issue of public concern around it, which I hope this investigation and others will allay.

Q1079 Mr Hepburn: What do you think this investigation will find out? You have obviously thought about it and you know the answer.

Nick Perry: I do not know the answer. I hope it will find that people are operating in good faith within the system to try and work their way through a difficult issue.

Chair: Thank you. Last few minutes to Sylvia.

Q1080 Lady Hermon: Just to comment on my colleague's remark, I do not think OTRs have been blown out of perspective at all. *[Interruption.]* Yes, certainly that leads into—*[Interruption.]*

Chair: Order. Can we have questions to the witness, please, rather than a debate between ourselves?

Lady Hermon: Thank you, Mr Chairman. It leads into a question to the witness. I think he is very well placed indeed to answer. How damaging do you think the OTR scheme—the revelation now, post the Downey case—is to the rule of law? How damaging is it to confidence in the criminal justice system here in Northern Ireland?

Nick Perry: It has certainly caused some harms. The damage depends on whether that is just one specific episode in a particular case.

Q1081 Lady Hermon: So do you welcome the PSNI's team that has been set up—Operation Redfield—to look at every single one of the 228 letters that have gone out to OTRs? Do you welcome that?

Nick Perry: I am sure it is the right thing to do in terms of public confidence.

Q1082 Lady Hermon: In terms of public confidence, but are you confident? You have certainly indicated to the Committee that you are confident that all of the OTR letters were proper, were lawful and went through the legal system, and therefore you do not think there will be any issue with any of it.

Nick Perry: As I said earlier, I do not know who got letters and what those letters said, but as I understand the scheme was intended to operate, hopefully there will not be other cases like that.

Q1083 Lady Hermon: Yes, well, the evidence we have already taken from the PSNI—from ACC Drew Harris—did indicate that when a recipient had received their OTR letter, the file was closed. They were not actually looking for fresh evidence.

May I also draw your attention to the reply that you gave to the Justice Committee when you were asked, Nick, about the responses given by the then Secretary of State for Northern Ireland, the right hon. Member for Neath, Peter Hain? Some of us did table parliamentary questions as late as February¹⁵ and March of 2007¹⁶ asking precisely the question: what is the Secretary of State for Northern Ireland doing about on-the-runs? And Peter Hain, then the Secretary of State for Northern Ireland, replied that it was an anomaly. I am quoting directly from his reply: “we believe that the anomaly will need to be addressed at some stage”—future tense—“However, the Government do not have any current proposals for doing so.” That was as late as March 2007.

In your reply to one of the members of the Justice Committee of this House, you said: “I did not have sufficient knowledge of the detail to know that anything that Peter Hain said publicly contradicted that. I am not sure that it did.” Having told us that you knew all about the commencement of the OTR administrative scheme—that it was one-sided and dealt only with Republican OTRs—would you like to rephrase the reply that you gave to the Justice Committee?

Nick Perry: It depends on what Mr Hain meant by “anomaly”—or whatever the phrase was that he used in his letter. You would need to ask him what was in his mind. If he was talking about the cases of OTRs against whom evidence existed—I am not here to defend his answer, but in terms of explaining my answer, I do not know what was in his mind—he may have had a very specific interpretation of your question when he gave that answer to it. I did not provide any input to his answer, so I cannot help with that.

Q1084 Lady Hermon: Who does give input into replies by a Secretary of State for Northern Ireland?

Nick Perry: I do not know who provided advice on that particular point. It may have been all his own work. I am afraid I just do not know.

¹⁵ The House of Commons Hansard text of 7 February 2007, Column 961W, “On-The-Runs”, tabled question by Lady Hermon to Peter Hain MP, former Secretary of State for Northern Ireland can be found here: <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070207/text/70207w0012.htm#07020795001681>

¹⁶ The House of Commons Hansard text of 1 March 2007, Column 1463W, “Terrorism”, tabled question by Lady Hermon to Peter Hain MP, former Secretary of State for Northern Ireland can be found here: <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070301/text/70301w0005.htm#07030155000893>

Q1085 Lady Hermon: But you would acknowledge now, in light of the evidence you have given this morning, that it is not correct to say that anything that Peter Hain said in reply to a parliamentary question was consistent with the accuracy of what actually was happening with the OTR scheme.

Nick Perry: I go back to the point that it depends on what interpretation he put on that word you read out. I do not recall—

Q1086 Lady Hermon: Let me read my question: “To ask the Secretary of State for Northern Ireland...on ‘on the runs’, what measures the Government are considering to deal with ‘on the runs’ other than further legislation or an amnesty.” In the reply from Peter Hain, the word is “none.” It says: “None. As I explained in my previous answer to the hon. Member for North Down, the Government continue to accept that the position of ‘on the runs’ is an anomaly, and we believe that the anomaly will need to be addressed at some stage. However, the Government do not have any current proposals for doing so.” That gives the clear, inaccurate impression that OTRs had been not dealt with; but you have confirmed to us today that the system began, as early negotiations talked around it, in 1999. Certainly letters had already been sent out by the summer of 2000.

Nick Perry: As I say, I can’t explain what was in Peter Hain’s head when he gave that answer.

Q1087 Lady Hermon: I am not asking you to explain what was in Peter Hain’s head; I am asking you to tell the Committee that what was said on that occasion is not accurate.

Nick Perry: If in that answer he was including whether there was or was not an administrative scheme, then as we have just explained, an administrative scheme had existed. It may be that he meant something else, but I am not in a position to explain that.

Q1088 Lady Hermon: Were you aware that the present DPP, Barra McGrory, in his capacity as a solicitor, had been the solicitor advising the OTRs when they were making applications, apparently under article 3 of the European convention on human rights,¹⁷ to find out from the PSNI and the RUC whether they were wanted or not? Did you know he was representing the OTRs?

Nick Perry: I did not know that until I saw the evidence that came to this Committee.

Q1089 Lady Hermon: Was it the evidence that came to the Committee or when you read the Downey judgment?

Nick Perry: It may have been then. They are blurring together.

Q1090 Lady Hermon: But you weren’t aware at the time?

Nick Perry: No.

¹⁷ A link to Article 3 of the European Convention on Human Rights can be found here:
http://www.echr.coe.int/Documents/Convention_ENG.pdf

Q1091 David Simpson: This is just a point for clarification. Nick, a letter of 28 July 2000 to John Sawers about the Prime Minister's meeting with the Taoiseach¹⁸—it was “pp’d” to yourself, but whoever signed it is redacted—says: “On OTRs, our Attorney General has agreed to drop three prosecutions and still considering some other cases. Peter Mandelson accepts that the release of the remaining prisoners has implications for outstanding extradition requests”. Can you recall who the Attorney General was who agreed to drop three prosecutions and to consider other cases?

Nick Perry: I am afraid I can't recall—was it Lord Williams? I am not sure; I am afraid I—

Q1092 David Simpson: Okay. From a personal point of view—again, without your permanent secretary hat on—do you think that that comment about him agreeing to drop prosecutions and to consider other cases in order to get OTRs sorted was unlawful and immoral?

Nick Perry: I would be amazed if it was unlawful, given that it was a Law Officer who made that comment. I am assuming that he assessed the evidence against those individuals and decided that prosecution would not be appropriate.

Q1093 Kate Hoey: Thank you for coming here today, Mr Perry. As you can see, we are all very nice people. You are the permanent secretary at the Department of Justice. If you were advising Gerry Kelly, the Minister, would you not have advised him that in the cause of public transparency and openness he should appear before this Committee?

Nick Perry: I think that if Mr Kelly was the Justice Minister, he would take his own decision on that.

Q1094 Kate Hoey: Are you surprised that he has said no?

Nick Perry: I haven't really got a view on it—

Lady Hermon: That you can express to this Committee—I am sure you have a view.

Q1095 Nigel Mills: Do you fear that this OTR situation has done some damage to the perception of the justice system in Northern Ireland?

Nick Perry: Clearly it probably has, yes.

Q1096 Nigel Mills: What do you think is the best way forward from here?

Nick Perry: As I understand it, the Secretary of State has said that the scheme has ended and the Justice Minister has said that something like it would not operate under devolution. This was an episode in time and in a particular context. So I think two things. First, going forward, I wouldn't really expect it to arise again; secondly, I imagine that Lady Justice Hallett's review will have carried out scrutiny of the handling of particular cases and I hope will be able to provide you with some assurance about the uniqueness of that particular case.

¹⁸ The letter from [name redacted], Northern Ireland Office to John Sawers of 28 July 2000, “Prime Minister's meeting with the Taoiseach” can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-the-NIO-to-John-Sawers-28-July-2000.pdf>

Q1097 Nigel Mills: So you do not think that the impact of this is that some people have got some kind of “get out of jail free” card, and we should just have a general amnesty and everyone moves on?

Nick Perry: I am not saying that there should be a general amnesty. My understanding is that this scheme was not intended to provide a general amnesty.

Chair: We will wind up there. Mr Perry, thank you very much for joining us. It has been very helpful.