



Northern Ireland Affairs Committee

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

Tuesday 11 November 2014

Ordered by the House of Commons to be published on 11 November 2014.

Written evidence from witnesses:

– [Peter Sheridan](#)

[Watch the meeting](#)

Members present: Mr Laurence Robertson (Chair); Oliver Colvile; Lady Hermon; Kate Hoey; Nigel Mills; Ian Paisley.

Questions 3149 - 3314

Witness: Peter Sheridan OBE, former Assistant Chief Constable, Royal Ulster Constabulary GC/Police Service of Northern Ireland, gave further evidence.

Q3149 Chair: Mr Sheridan, thank you very much for joining us again. It is the second time you have appeared before us on this inquiry, so thank you for coming. You have very helpfully submitted quite a lengthy document¹. I am not going to ask you to read it out now; we can make that available on our website. I think it would be useful if you start off by just giving a very brief summary of the points and the concerns you have expressed in that paper, if that is okay.

Peter Sheridan: Chairman, thank you and thank you to Members. I was determined to come back again, not least because it is really the only opportunity for me to get things on the public record.

Lady Hermon: We were very keen to have you back as well. Thank you.

Peter Sheridan: I suppose, since we were at that very first meeting, we have had the two reports and considerable evidence given to this Committee. I have watched all of it and read the two reports. With regard to the report of Lady Justice Hallett², I have to say I found the report balanced, fair and thorough. I spent almost four hours having interviews with Lady Justice Hallett's team and two hours with Lady Justice Hallett in person. I was

¹ Peter Sheridan submitted the following written evidence to the Committee:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/written/15246.pdf>

² A link to the Hallett Review report can be found here: <http://www.hallettreview.org/report/>

satisfied that she was trying to get an understanding of all of the issues. At every level, I felt that I had been treated fairly in it.

Furthermore, before publishing the report, in keeping with the Salmon letters, she wrote to me and all of the witnesses and said, “In recent times it has been the practice of statutory inquiries, and non-statutory reviews to indicate the nature of any potential criticism to those directly affected, before the report is finished. This allows them the opportunity to make any further comments. It also ensures that the individual is not taken by surprise when the report is published.” She afforded me that opportunity and I met with her junior counsel, who flew to Belfast. I know that, in the discussions around the potential areas of criticism, I was able to make some adjustments and changes, which were reflected in Lady Justice Hallett’s report.

In contrast to that, I believe the Police Ombudsman’s report³ lacked fairness, balance and thoroughness. As someone who has read hundreds of investigations, I got the distinct impression that this was a report where the conclusions had been arrived at and then the evidence would be gathered up. It was followed from one end to the other with hindsight bias, where somebody had viewed the events as being more predictable than they really were.

I met with the Police Ombudsman’s Office. I was asked at the very start, and I presented myself willingly and openly to the Ombudsman’s Office. I was interviewed by the Deputy SIO, which was fair—I had no difficulties with that—and I made myself available a second time. I have never had two words with the Police Ombudsman himself or anybody else other than the Deputy SIO.

The first I knew about the criticisms was when the report was published. PONI—the Police Ombudsman—did write to me, and said, “As a key witness to our investigation we would also like to offer you the opportunity to read the report prior to public release. I must emphasise a reading of the statement would be for your information purposes only and is to ensure fairness to key witnesses ... whose accounts are subject to our findings.” There was no sense in the letter that I got that there were going to be any criticisms. It never mentioned that I would be criticised in it, nor did they offer me the opportunity to see any of those criticisms, nor to respond to them in keeping with the Salmon letters.

The IPCC here, at the time of Jean Charles de Menezes, wrote to the then Commissioner, Ian Blair, and set out in the same form what criticisms they had. I find, as somebody who has spent their life trying to be fair to people, and even being fair to people who are murderers and rapists—I still treated them fairly—I have to say that I felt on this occasion that I was not treated fairly by the Police Ombudsman.

It goes probably to the heart, and it gives me no pleasure in saying this, Chairman, of where some of the difficulties are between former police officers and the Police Ombudsman’s Office. I have consistently championed the Police Ombudsman’s Office since its inception, both inside and outside the police. I have tried to persuade former colleagues to take part and co-operate with the Office. I have to say my own confidence

³ The Police Ombudsman for Northern Ireland’s ‘Public Statement on PSNI Operation Rapid, matters arising from the ruling in R v John Anthony Downey’ (21 October 2014) can be found here: <http://www.policeombudsman.org/PONI/files/9d/9d6aa90c-5429-43cd-9f66-8ed229fde238.pdf>

has been knocked by the lack of fairness shown to me. Until the Police Ombudsman's Office stands up to the same level of the principle of fairness that Lady Justice Hallett did and other inquiries do, I am afraid we are going to continue with those same difficulties.

Q3150 Chair: Thank you. You make quite strong accusations in what you have written and what you have said but, with regards to the report and the findings, I think you would accept that that is probably the most important part of it and how they were arrived at. What particular specific criticisms would you have of the findings?

Peter Sheridan: First of all, in the report it says, I think at page 61, paragraph 6.17, "the most serious flaw is the wrongly articulated threshold for arrest creating the potential to impose a different standard when considering the grounds for arrest than that normally applied", and that "the threshold which should have been articulated and applied was whether or not there were reasonable grounds for suspecting that the person under consideration had committed an offence. Nowhere in the terms of reference⁴ is this clearly accurately stated."

That is not correct. 6a(1) of the terms of reference states, "Intelligence exists which is of a required grade, which has been assessed as to support a reasonable suspicion to be formed that X committed the offence". In Lady Justice Hallett's report, on the very same point, she says, "until the PSNI has concluded its lengthy review of all of the decisions previously made, it is too early to say whether an incorrect threshold was applied at any time, including in 2007-08". At the time when I spoke to Lady Justice Hallett, I made it clear to her that most of the people who are wanted or on the run were based on police intelligence. 6a(1) was about police intelligence and reasonable suspicion. To say that it is not articulated in the terms of reference is not right; it is in the terms of reference.

Furthermore, until we know what the quality of the work done was, it is unfair to say that the threshold was wrong. The Ombudsman gives one example of one of the officers on the team coming to a judgment that he says is an example of too high a threshold. What he does not say is that that report then goes to Norman Baxter. Further on in the Ombudsman's report, he refers to Norman Baxter saying that there was reasonable suspicion. He was satisfied, on the grounds of reasonable suspicion, of the judgment made.

Also, in any of those cases, the final arbiter was the DPP. Once the Rapid team had reported to my office, a letter went to the DPP who made the judgment. The police officers were not making the tests for prosecution; ultimately it goes to the DPP. If I had been given the opportunity to talk about that in advance, I probably could have relayed some of those fears in it, but it is clear to me that they have picked one area, which is one of the three lines of a four-page document, and they have then sought to find one piece of evidence that fits that without putting balance into it by demonstrating the other parts of it. Norman Baxter has consistently talked about reasonable grounds and he, after all, was the person who was the ultimate decision-maker in Operation Rapid.

⁴ The terms of reference of "Operation Rapid" can be found here:
<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Operation-Rapid-Terms-of-Reference.pdf>

Q3151 Chair: It seems a little confusing. We had a discussion about this last week. There is some dispute about this. I should have thought it was a fundamental principle and a fundamental guideline. I am struggling to see why there would be any dispute at senior police level as to what the threshold is. It seems strange to me that there is that doubt.

Peter Sheridan: Lady Justice Hallett said in her own report that different people, based on reasonable suspicion, can take a different view and that is legitimate. What you might consider reasonable suspicion or reasonable doubt could be different from what somebody else in the room might think, and Lady Justice Hallett makes that point; it is one of the difficulties—people having their own mind as to what is reasonable suspicion.

Q3152 Chair: Obviously the word “reasonable” is used in legislation in this House pretty much in every Bill that goes through, probably several times in each Bill or Act that goes through. Yes, it is a subjective judgment, but surely the point about the threshold is clear. Surely the wording is clear. Is that not a fundamental basis for policing?

Peter Sheridan: It was never in my mind that there was going to be any change in the threshold. Police officers and all of the detectives, who are 30-year detectives sitting on that team, all of their life used reasonable suspicion. Why would they all of a sudden, overnight, decide that they are going to do the test for prosecution, without any training, without anybody saying to them that it needs to be on the basis of something different than reasonable suspicion? I just do not understand that. Secondly, the vast majority of the on-the-run cases are to do with intelligence. Lady Justice Hallett quite rightly says that that was the proper test, but it does not get mentioned in the Ombudsman’s report, which is the majority of the cases. If I was a victim reading that report, I would think that that referred to all of the on-the-run cases.

Q3153 Lady Hermon: I am very grateful for you, Mr Sheridan, for coming back to see the Committee and for being so forthright. That is not a surprise; you were forthright the last time, so I am pleased that you have carried on in that vein this afternoon. You have obviously been very critical of the Police Ombudsman’s report. Have you any right of redress when an Ombudsman’s report is published? Have you any right of redress apart from judicial review, which of course is hideously expensive?

Peter Sheridan: No, it does not seem so. In fact, last week, out of fairness, I wrote to the Ombudsman’s Office to say that I intended to make some of these comments and was willing to meet in advance to discuss them. I was told that it was not appropriate. Again, I cannot understand that: the report is already issued; there was no reason why it could not be discussed. I can see no other opportunity to change something that fundamentally could be wrong, and that is what the Salmon letters were about: to give people that opportunity, a chance to reply before the report is published. Witnesses should be given that notice in advance. I was not and I do not recall any other police officers were given it.

Q3154 Lady Hermon: Did you at any stage ask to see the Police Ombudsman when this inquiry was launched? I know it was requested by the Chief Constable very quickly after the Downey judgment⁵ was published.

Peter Sheridan: I did not ask to see the Police Ombudsman specifically. I spoke to the Deputy SIO on several occasions. I corresponded over email with her and she was the person who did the two interviews.

Q3155 Lady Hermon: Your point is that, since you are one of the very senior officers who has been criticised in the Police Ombudsman's report, it is unfair that you did not have a right of reply to the criticisms before the publication of the report.

Peter Sheridan: Absolutely.

Q3156 Lady Hermon: That is the point you are making. Thank you for that. We will come back to that, I am sure, and other colleagues will want to come back to it. If I can just turn now to the Downey case itself and specifically to Operation Rapid, even after the Ombudsman's report and even after the Hallett report, we as a Committee are still in the dark really about how Operation Rapid started. Your boss at the time was Hugh Orde, and Hugh Orde had been a very senior commander within the Metropolitan Police before he came to the PSNI—it was in fact the Royal Ulster Constabulary and then the PSNI; I think that would be the sequence of events. He was one of the longest-serving Chief Constables of the PSNI, and a man for whom I have the highest regard; I need to put that on the record.

We have evidence that Tony Blair—we know from the Downey judgment—wrote to the President of Sinn Féin, Gerry Adams, just after Christmas in 2006. Within a matter of weeks, on 7 February 2007, Operation Rapid commenced. Could you just fill in the gap in those weeks? A decision is made by the Prime Minister, writing to the President of Sinn Féin at whose behest the OTR scheme had been set up. We all know that now. The Prime Minister then gives a commitment that he will expedite the OTR cases. The sequence of events was what?

Peter Sheridan: I can only give you my sequence of events.

Lady Hermon: Bearing in mind you are the ACC and Hugh Orde has been there for a long period of time, and is definitely there in 2007.

Peter Sheridan: I was a uniformed ACC in the region up until February 2006. Head of Crime at that time was Sam Kincaid. I took over from Sam Kincaid in 2006. The first I became aware of any involvement in this was when I was asked to Sir Alasdair Fraser's office—I think I gave the dates at the last meeting—to discuss the on-the-runs. In hindsight, what has happened is that, during the period that politicians were trying to bring forward legislation during 2005, Sam would not have been involved. When the handover happened, I was not told that there was a scheme and we were doing on-the-runs. When I

⁵ 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>

went to Sir Alasdair Fraser then, I got the impression that this was the first time we were being involved and that this was something new that we were being asked to do.

Lady Hermon: You only became aware of the OTR scheme when you took over in February 2006.

Peter Sheridan: Yes.

Lady Hermon: In actual fact, this scheme had been operational, we know, since the first letters were signed by Jonathan Powell.

Peter Sheridan: I think Norman Baxter said the same thing. He was not aware of it either. My first meeting was 25 May 2006 with the Attorney General.

Q3157 Lady Hermon: Could you just confirm again, for the record, when you became aware of the secret—and I emphasise “secret”—OTR letters, because they were certainly secret to the rest of us until the Downey judgment?

Peter Sheridan: When the Downey case happened that is when I became aware that there were letters.

Q3158 Chair: You did not know of any letters being sent before then.

Peter Sheridan: No.

Chair: Thank you; that is a very crucial point.

Peter Sheridan: In fact, Chairman, Lady Justice Hallett says in her report that if the police had known that there had been letters sent, Operation Rapid would probably have acted very differently. She is absolutely right in that. If that loop had been closed back again and we were aware of what was on paper, the Rapid team would have been looking at those letters and would say, “That is not right”, or “That is incorrect”.

Q3159 Lady Hermon: Actually, Lady Justice Hallett does say in her report that the first email to any police officer about the OTR letters was I think in December, but it was certainly much later. 2011, I think it was, certainly after 2007, which is a key year for Mr Downey. Let us go back to those few weeks after the Prime Minister writing to Gerry Adams. What happened within PSNI headquarters? How did Operation Rapid come about so quickly?

Peter Sheridan: After I suppose the first meeting with the Attorney General, then I wrote back to the office again, then we spoke to Hugh Orde—I cannot recall the sequence was—we were being asked then to review people who were no longer wanted or we could identify as no longer wanted.

Q3160 Lady Hermon: You have just used the term “we were being asked”. Who asked the PSNI?

Peter Sheridan: The meeting included the Attorney General, the Attorney General’s Chambers, Kevin McGinty, Sir Alasdair Fraser, Jamie Scholes, Jim Davison and Hilary Jackson from the NIO.

Q3161 Lady Hermon: What was the date of that meeting?

Peter Sheridan: It was 26 May 2006. As a result of that, I came away with, “You review those people who could be told that they were no longer wanted”.

Q3162 Lady Hermon: Let us focus on Operation Rapid. We were told from the Downey judgment that it commenced on 7 February 2007. We know from the Ombudsman’s report that the Chief Constable, and I take it that it is you in your capacity as the ACC, met with Sinn Féin on 24 January 2007, two weeks before Operation Rapid began, to discuss the OTRs. You met with Sinn Féin. Do you recall who you met with on that date?

Peter Sheridan: I do not have a record of it.

Lady Hermon: That is just two weeks before Operation Rapid commenced.

Peter Sheridan: I think that was to explain what we were going to do.

Lady Hermon: You met with Sinn Féin politicians. Do you remember who attended the meeting? Gerry Kelly, presumably, since he was the messenger.

Peter Sheridan: I think it was Gerry Kelly and Gerry Adams.

Lady Hermon: Gerry Adams and—

Peter Sheridan: I am sure I have it, if you give me the date again, Lady Hermon.

Lady Hermon: It is 24 January 2007, two weeks before Operation Rapid.

Peter Sheridan: I do not have the names listed down on this, but I think it was Gerry Adams and Gerry Kelly who were there. We were explaining what we were going to do in the scheme—that we were going to review people who were currently listed—

Q3163 Lady Hermon: This was Hugh Orde, as Chief Constable, and yourself. To the best of your recollection, there were four of you.

Peter Sheridan: To the best of my recollection, yes.

Q3164 Lady Hermon: You explained to the senior Sinn Féin public representatives what you were going to do to expedite the OTRs.

Peter Sheridan: We were not expediting them, but what we were going to do in relation to the on-the-runs. As Lady Justice Hallett said, she was making a connection between that and the Sinn Féin Ard Fheis, which was going to support policing.

Q3165 Lady Hermon: What assurances were given to Gerry Adams and Gerry Kelly?

Peter Sheridan: I can assure you Hugh Orde gave no assurances to anybody, other than that we would, from a policing perspective, review people who were on record or listed as wanted to see if that case remained. If they were no longer wanted or we could not stand up that they were wanted, they would be advised that they were no longer wanted.

Q3166 Lady Hermon: To the best of your knowledge, was any other political leader told of the discussions?

Peter Sheridan: Not that I am aware of.

Q3167 Kate Hoey: Could I just come in on that little point? I appreciate that you are a police officer and you were the senior-most police officer. Did it never occur to you at the time or did you not think privately, “Hang on, this is amazing. Here we are having private briefings with leaders of people who have actually killed, murdered and terrorised, and we are not telling the other political parties”?

Peter Sheridan: I think we were probably asked to have a meeting with them by the Northern Ireland Office at the time.

Q3168 Kate Hoey: You would not know who asked you from the Northern Ireland Office. Would that be possible to find out?

Peter Sheridan: I do not know whether we can find out, but we were in contact with them.

Q3169 Lady Hermon: So we met with the senior Sinn Féin members, Gerry Kelly and Gerry Adams, and this is the Chief Constable and the ACC who is responsible for Operation Rapid. How did you understand Sinn Féin would find out whether those who were on the run were wanted or not wanted? What did you take away from it, Peter? How were they communicated with? Surely somebody in that room knew or explained how the communication was going to work.

Peter Sheridan: We explained that we would write to the Director of Public Prosecutions.

Lady Hermon: The channel of communication was always clear; it was from the PSNI to the DPP.

Peter Sheridan: Yes, and it is where I think some of the mistakes happened later, particularly when it came to that issue of that chain of emails about trying to clarify whether somebody is wanted or if their record has been externally checked with other police forces.

Q3170 Lady Hermon: Let me just probe that a little bit further. Was it unusual? In fact, I would go stronger than that. Was it actually lawful for the Northern Ireland Office officials to phone police headquarters? They did not speak to you that we know of, and I do not believe for a minute that they did speak to you. We are talking about Mark Sweeney here and we are talking about the letter that went out to Mr Downey⁶. How unusual is it since the line of communication—you are quite clear about that—was the PSNI communicated with the DPP's office about the status of on-the-runs? How appropriate was it for the Northern Ireland Office, and particularly Mark Sweeney in the Northern Ireland Office, who we know signed off the letter to Mr Downey, to phone and to email your private office at police headquarters asking about Mr Downey?

Peter Sheridan: That is where some of the difficulty happened. Now that I can see the whole sequence of events and have a better picture, what I see is my staff officer at the time and the Northern Ireland Office playing ping-pong around whether the PNC been checked, but they are playing ping-pong on two separate tables. My staff officer is unaware that John Downey is wanted. The Northern Ireland Office keeps asking the question, "Has the PNC been checked?" Norman Baxter then was nervous about releasing information; this is private information under the Data Protection Act.

Lady Hermon: Absolutely, to a Northern Ireland Office official.

Peter Sheridan: This is something that has not been explored by the Police Ombudsman. It is almost accepted that the police should have told the NIO that John Downey was wanted. That is sensitive information about an individual. Under the Data Protection Act, it should not be passed unless there are proper agreements in place, with rules and procedures agreed beforehand. There were no rules or procedures. I can see now that what the Operation Rapid team was doing was not telling my staff officer that John Downey was wanted on the PNC, because that was going to go to the Northern Ireland Office. The proper procedure would have been for the Northern Ireland Office to write back to the Attorney General, to the DPP, to ask the question then of the police, and we would have had no difficulty in telling the DPP.

Q3171 Lady Hermon: Correct. Could you remind the Committee what you had assessed Mr Downey's status as being under the terms of reference of Operation Rapid⁷? What had you actually said? What had been said by the PSNI about Mr Downey's status?

⁶ 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>

⁷ The terms of reference of "Operation Rapid" can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Operation-Rapid-Terms-of-Reference.pdf>

Peter Sheridan: That he was no longer wanted in Northern Ireland—not currently wanted in Northern Ireland.

Lady Hermon: Full stop?

Peter Sheridan: Full stop.

Q3172 Lady Hermon: What would have been the consequence in the Downey judgment if that was the letter and the only thing that had been sent out, and had not been amended by the Northern Ireland Office? I am sure that has crossed your mind.

Peter Sheridan: That has crossed my mind several times. I do not think I know. I suppose one argument could be, if the police knew that he was wanted in the rest of the United Kingdom and only put on the letter that he was not wanted in Northern Ireland, was that a way of getting him to come in and could that be seen as abuse of process as well. I do not know, Lady Hermon, but I do know that that could have been avoided if the information had gone back through the system again and not cut across the system to the staff officer, because she was completely unaware of the fact that John Downey was wanted.

Q3173 Lady Hermon: More to the point, you were completely unaware that the Northern Ireland Office was signing off letters to the Sinn Féin recipients of these OTR letters. You did not know that the information was being used and that your assessment had been amended by Mr Sweeney in the Northern Ireland Office.

Peter Sheridan: My assessment was not amended by the DPP. It left the DPP's office in the same format that I sent it.

Q3174 Chair: That was very useful but, just on the meeting—correct me if I am wrong—I think you said four people: yourself and Sir Hugh Orde, Gerry Kelly and Gerry Adams, to the best of your memory.

Peter Sheridan: To the best of my memory, because I do not have a record of it.

Q3175 Chair: To go back to what Lady Hermon asked, though, in the ordinary course of policing that seems an extraordinary thing to do. I cannot imagine the Chief Constable and Deputy of Gloucestershire sitting down with me and another political ally to discuss who is wanted and who is not. It is extraordinary.

Peter Sheridan: The whole thing was extraordinary, Chairman; from beginning to end it was extraordinary. Kevin McGinty, when he was giving evidence, said it was not unlawful but it might have been abnormal⁸. It was all of those things; it was something

⁸ The transcript of Kevin McGinty's oral evidence to the Northern Ireland Affairs Committee on 30 April 2014

that was not usual. Of course, we were not comfortable about doing any of it, at the time. Nevertheless, there was probably no reason that we should not do it and there were probably all of those discussions about whether it would be helpful to the peace process if we were to alert people who were not wanted that they were no longer wanted.

Q3176 Chair: One thing we have to consider, though, is who has the power, if anybody, to vary the normal legal process. Who in Government has that power? Who do you feel was pressing for that to happen?

Peter Sheridan: It had to be somebody above the Attorney General and the DPP, because I recall Sir Alasdair Fraser consistently said that this could contaminate the criminal justice system. There was an unhappiness across the prosecution system about doing it at all. To my mind, it had never been done before. It was being done for one political grouping and all of us were uncomfortable around all of that. On the other side of it, there was a responsibility that, if we had on record people who were listed as wanted and we knew they were not wanted, then we should probably tell them. It was to tell people who were not wanted that they were not wanted.

Q3177 Chair: The problem is that a number of those people are now wanted by the police, both the Met and in Northern Ireland.

Peter Sheridan: Chairman, this is the point. The scheme also did not reach into the rest of the United Kingdom, Germany or anywhere else. It was only about Northern Ireland. John Downey's case, in terms of Hyde Park, would have had to have been reviewed by the Metropolitan Police. Again, this is where the lack of structure and design in the process allowed for loopholes. I can say this with the benefit of hindsight as well: when you see across the board now, where the system was not designed but, as Lady Justice Hallett said, evolved, it allowed for loopholes and problems to arise.

In a strange sort of way, the police got a lot of criticism about the terms of reference⁹. Actually, we were the only people who wrote down the terms of criticism in all of that. We were the only people how tried honourably and honestly to come up with a set of principles that we would work to, so that officers would know about it, but we get criticised because we did that. In some ways, we would have been better not writing anything down at all, like other people, and then there would not have been the opportunity for people to pull it apart for you.

can be found here:

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

⁹ The terms of reference of "Operation Rapid" can be found here:

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

Q3178 Chair: If we could just finish that point, if Sir Hugh Orde and yourself had said, “Look, we can’t meet political parties to discuss who’s wanted and who’s not. This has never been done. This is not what we do. I’m sorry; we’re not doing it,” what would have happened then?

Peter Sheridan: We were meeting political parties all of the time, Chairman. At that stage, as I said at the last session, I had responsibility for the transfer of national security back to MI5. I met all of the political parties throughout all of that.

Chair: Not to discuss individual people.

Peter Sheridan: We did not discuss individual people with them or name people with them either. We talked about what the process would be and Hugh Orde was very resolute that it would be on the basis of policing considerations.

Q3179 Lady Hermon: I just have a thought and then we can move on to other colleagues. I know that the Ombudsman’s report identifies that the terms of reference for Operation Rapid¹⁰ were shared with the Northern Ireland Office. If the line of communication between the PSNI was the DPP’s Office and the Attorney General’s Office, why on earth were you sharing the terms of reference?

Peter Sheridan: I copied in the Northern Ireland Office. It was simply a copying-in; I was not requesting them or asking them. I copied the Northern Ireland Political Directorate in, because we did that in quite a number of things, so that they were aware of it. I was quite aware that they were involved in meeting Sinn Féin around this, and I wanted them to be clear that this was the policing perspective. When we met Hilary Jackson, first of all at the very first meeting, I wanted them to be clear that from this perspective we would be doing it, from a policing perspective. It was only natural to share across that this is how we are doing it, so people understood.

Q3180 Lady Hermon: You did not think that was going to affect the operational independence of the PSNI.

Peter Sheridan: No, because I never asked for a comment. It was simply copied in so that they saw them. Those terms of reference, as I said, were easy for people to pick out single parts. I have looked at terms of reference for this inquiry; I have looked at the terms of reference for Lady Justice Hallett. I was not allowed access to the terms of reference for the Ombudsman’s investigation. In all of those, it was not about how you do; it is what you are trying to do. Terms of reference are meant to be an overarching document. I have never seen terms of reference yet that set down, chapter and verse, how you would do something. This Committee is not guided by the terms of reference to tell you verbatim what you will do. The notion that people now take these terms of reference and say, “Oh, they should have said that”—that is not what terms of reference are.

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

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

Q3181 Oliver Colvile: First of all, Mr Sheridan, thank you very much indeed for coming back, talking to us and helping us with our enquiries. I always wanted to say that to a policeman. Do you perceive, then, that it is actually very much a case of conspiracy, or do you think that it was just a big mistake that you were not kept more informed and briefed on what was going on?

Peter Sheridan: I do not think it was a conspiracy. I do not think there was one big system with two or three people trying to protect us. I do think that Lady Justice Hallett has got it absolutely right: this evolved and was not designed. It moved, shifted and nobody grabbed it. It should probably have been grabbed by the Northern Ireland Office, because they were the arbiters, but it was not grabbed by anybody. Again, I say that with hindsight. I am able to read across from 2002 right across the length of the system. I can see why that would have been the case.

Q3182 Oliver Colvile: We had recently come to see us Jonathan Powell, who as you may know was someone quite senior in Number 10 Downing Street. It is quite obvious, not only from the evidence that he gave, but also in books, letters and everything like that too, that he made quite clear that he went over the border and he met with Rita O'Hare, who I think you would have liked to have had a conversation with about how she skipped bail and all that kind of stuff. When you heard what the comments were that he had warned her not to come back to this country, did you think to yourself, "Well, thanks a lot. You ended up cutting the ground from underneath my feet," or did you think, "Oh well, there we go"?

Peter Sheridan: If you do not mind, Chairman, I will duck that question because, as I understand it, the Met and the PSNI are already looking at the legalities of all of that. It may not be proper for me to make any comment on it.

Oliver Colvile: I have written to both the PSNI and the Metropolitan Police, and I very much look forward to hearing their replies, when eventually they end up getting back to me.

Peter Sheridan: I did read your question. It was always in my head, particularly when the questions were being asked around the Northern Ireland Office to my deputy or to my staff officer at the time. It was the same as this issue: is it right and proper for the police to give information to the civil service about whether somebody is wanted and what they were wanted for, particularly when there are no procedures written down.

Lady Justice Hallett takes two separate paragraphs and she talks about there being no reason why you cannot share it with another police officer, share it with the DPP or the Attorney General, but she does not include in that paragraph the Civil Service and the Northern Ireland Office. That is why I talked about, regarding the report by the Ombudsman's Office, a lack of thoroughness. I would have wanted that tested and examined, not least for then but for now. Is it right that the police should pass routinely, just when they are asked, "Have you checked the PNC? Is that person wanted on it?" Should the police do that? It is not my understanding of data protection.

Q3183 Oliver Colvile: My concern is that due process has been totally and utterly ignored in all of this. That is the thing: when you are in Government, or for that matter when you are in Parliament, you need to make sure that there is a due process, which is carried the whole way through it, in the same way as in the police as well. The moment you do not end up doing it, if you do not have an audit trail to know exactly what has gone on, you end up with these kinds of problems as well.

Peter Sheridan: Chairman, I do not want to give the impression that mistakes were not made by the police. We knew that John Downey was wanted; we should have alerted the DPP. There were communications mistakes across the system, between Departments and between officers. I can see all of that now. This is not about trying to duck blame. I am fully clear of that, but what I am concerned about is that it is as if the police was the only part of it. I know the Ombudsman's Office, to be fair to the Ombudsman's Office, can only look at the police so, therefore, he cannot look across at the other parts of the system, but it means that there is another report that focuses on the police where the criticism is just about the police.

Q3184 Lady Hermon: Why was nothing done to arrest John Downey in 2008, when the PSNI knew that a mistake had been made?

Peter Sheridan: Arrest him—was he in the jurisdiction?

Lady Hermon: I understand he frequents the jurisdiction.

Peter Sheridan: He used to go in and out of Gatwick. I saw that in Lady Justice Hallett's report. Why he was not stopped and arrested, I could not answer that.

Q3185 Lady Hermon: Let us simplify the question: why was nothing done in 2008 when the PSNI knew that they had made a mistake? Why was no effort made to retrieve—

Peter Sheridan: Irrespective of that, it should have been. Those mistakes should have been corrected. Once we knew that, we should have advised the DPP.

Q3186 Oliver Colvile: Yesterday evening, we had a vote in this place about opting back into the European Arrest Warrant. Some people voted for it; some people voted against it.

Chair: It is not clear what we voted for. We are following your trail, Oliver.

Oliver Colvile: If the European Arrest Warrant had been in place at that time or now, do you think that we could actually start asking—

Chair: I think we will find it was in place in 2004.

Oliver Colvile: Would it be the case then that you could actually have used that in order to try to get some of these people arrested?

Peter Sheridan: We had discussed that with the DPP at the time. The problem with the European Arrest Warrant is that you have to have sufficient evidence to start a prosecution. It is not that you can use the European Arrest Warrant to bring somebody in for questioning. You have to have enough evidence to charge them.

Q3187 Oliver Colville: Coming back to the issue of Rita O'Hare, why did you end up using the European Arrest Warrant, as there must have been significant evidence, because she was charged and she skipped bail, to bring her back to this country?

Peter Sheridan: I would have to think back on the facts in order to get you the answer to that. I was not across any of that at the time. I would only be assuming something about the facts of it. I was not even in the department then.

Q3188 Chair: It does risk getting too much into last night's proceedings, but it certainly crossed my mind yesterday, when looking at the whole issue, of why it was not used on these cases. It seemingly was used to track down a couple who took their child for medical treatment, but it cannot be used to track down terrorists, when we were told yesterday that it is about stopping terrorists from proceeding. Without getting too much into yesterday, that is what this Government has very clearly said. It does seem surprising that it was not used.

Peter Sheridan: The extradition pact was still there, so it could have been used as well. I cannot answer that.

Q3189 Kate Hoey: Nice to see you again, Mr Sheridan. Did you meet Mark Sweeney ever?

Peter Sheridan: Yes.

Q3190 Kate Hoey: Could you just try to recall when you might have met him and in what circumstances?

Peter Sheridan: He was not in the role at the time, because Hilary Jackson was in that role; he was in a lesser role. Yes, I met him several times. He was an official in the Northern Ireland Office. I said at the last meeting I was never pressurised or I never got a sense of people trying to be clever about how you might deal with this. I found the people in the Northern Ireland Office honourable around policing. It is one of the difficulties in that whole ping-pong between Mark Sweeney and my staffer; he does not want to cross the line. That is what he is trying not to do.

Q3191 Lady Hermon: How can you say that? He wrote the letter.

Peter Sheridan: He assumed.

Q3192 Kate Hoey: That is what I was going to go on and ask you about. You met him on a number of occasions. You do know that he signed the letter to John Downey. You do know that he was copied in to the letter from the Attorney General not that long before saying that John Downey was wanted for serious terrorist offences.

Peter Sheridan: Yes, 2006.

Q3193 Kate Hoey: What is your reasoning of how he could have known of that letter coming to the Attorney General and going to Peter Hain¹¹ as well, copied to everybody who is at the top of the list? How could he then have not thought, “Why am I writing this letter?”

Peter Sheridan: I can only suggest what I think happened. He was aware of those things and he is desperately trying to check, without crossing that line.

Kate Hoey: Crossing what line?

Peter Sheridan: Asking about an individual, “Is John Downey wanted? Has the PNC been checked about John Downey?” He asks a broad question: has the PNC been checked on these individuals?

Q3194 Kate Hoey: Hang on; he got a letter from the Attorney General, the most important legal person in the whole of the United Kingdom. The Secretary of State at the time, Peter Hain, does not recall getting that letter, of course.

Peter Sheridan: He got it in February 2006. That letter is presumably on record. It comes my letter via the DPP that says he is no longer wanted for offences in Northern Ireland. Then what you say is that coming down the line to my staff officer. They are probably looking at a 2006 letter that says he is wanted for serious terrorist offences. It does not say Hyde Park; it says “serious terrorist offences”. It says he is not wanted in Northern Ireland, and they are trying to square these two things up.

Kate Hoey: You would have thought they would have erred on the side of being cautious.

Peter Sheridan: Everybody seems to have taken the view that, given what was sent back in my letters that the PNC had been checked, that inferred that everything was alright. We never said that in it. That was never said. We would have avoided that if the background to the system had been properly asked through the Attorney General and the DPP. I am convinced now, in hindsight, that that would have been the response.

¹¹ The letter from the Rt Hon Lord Goldsmith QC, Attorney General to the Rt Hon Peter Hain MP, Secretary of State for Northern Ireland dated 27 February 2006 can be found here:
<http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Lord-Goldsmith-to-Peter-Hain-February-2006.pdf>

Q3195 Kate Hoey: You have said nice things about Mark Sweeney, so you think he was perhaps under slight pressure from Secretaries of State to sort this, because they have had letters and telephone calls from Gerry Kelly saying, “Get John Downey sorted.”

Peter Sheridan: I could not tell you what the conversations were in there, but he gets those remarks. If I was sitting in his shoes, would I infer from what I got that, yes, the PNC had been checked so that means he did not say it was not clear, so it must be clear? Probably. If I am being fair, I would have to say probably.

Q3196 Lady Hermon: Do you not think it would be right and proper for him to come before this Committee and respond to these sorts of questions?

Peter Sheridan: Chairman, I encourage everybody to come before this Committee.

Q3197 Kate Hoey: Thank you. You do know, and everybody I hope knows, that the Secretary of State was trying to stop them coming in front of this Committee. Obviously we are very keen to see Mr Sweeney, because it is clear that he knows quite a lot.

Can I just say on the Police Ombudsman’s report, from what you have said, it does sound like it is a really shoddy report? In terms of checking things, it seems like they were asked to do it very quickly by the police constable at the time. It seems like they did not really do an awful lot of real work on it.

Peter Sheridan: It is not my phrase—the word “shoddy”. I do see parts of that report that, if I had been offered the opportunity, I might have been able to add a different perspective on. It may have made the same judgment; that is fine. I have no difficulty with people sitting in judgment of you if you have been given every opportunity to make sure you have been treated fairly. That is what frustrates me and disappoints me about that report. I attended the Ombudsman’s Office six years after I left the Police Service. I am there as a civilian. Part of the role of the Ombudsman’s Office is to build trust in the police within the community, but it is also to build trust within the police. I have to say, after my experience, I am less trusting today as a civilian of the Police Ombudsman’s Office than I was in the past.

Q3198 Kate Hoey: That is a very important statement you have made. It compares very unfavourably to the way you were treated by Lady Justice Hallett. It sounds like they picked bits of the Lady Justice Hallett report that suited them. Do you think the Police Ombudsman should consider its position?

Peter Sheridan: No, I do not. I have read other reports where I think he has done a first-class job. I want to be fair in this. I am only using this as an example. I do think it is opportunity for the Police Ombudsman in Northern Ireland to use the same standards and principles of fairness as are used by the IPCC and other inquiries. That is to give everybody who they are going to criticise the opportunity in advance to comment on any criticisms. They may continue to make those criticisms; that is fine. That is the change.

If that happens, I will continue to encourage police officers to co-operate. If it does not happen and I was asked to attend the Ombudsman's Office again, I would have to think differently.

Q3199 Lady Hermon: Do you think the Police Ombudsman should, in these circumstances, apologise to you publicly for the way you have been treated?

Peter Sheridan: I have one yardstick, Lady Hermon, about what I did, and that is my own conscience. Did I do my honest best? Did Norman Baxter do his honest best? I am clear that we did in the circumstances at the time, so I do not need an apology. I know where I stand in this. I am more interested in the bigger picture of this. I understand from former police officers that they have a real reluctance to take part in the Ombudsman's Office, because they feel they are not treated fairly. Someone even in this inquiry did not take part, because there is a real feel that they are not being treated fairly. One of the ways they could change that is to stand up to Salmon letters, like everybody else. Even a simple thing of, "Why can I not see the terms of reference for your investigation? What is wrong with being able to see those terms of reference?" I asked last week to see them and I was told I could not.

Q3200 Lady Hermon: Do you think an apology would help rebuild trust?

Peter Sheridan: No, an apology is irrelevant to me. What I want to see is a move that police officers can fully co-operate and feel confident in co-operating with the Police Ombudsman.

Lady Hermon: That they would be treated fairly when they do so.

Q3201 Kate Hoey: Just one final point on this, Chairman: I appreciate that you feel very strongly. Coming to the Committee and saying what you have said is very helpful. What I am trying to get to is why it is you think that the Ombudsman, given it is a public office, is well financed and so on, behaved like this. Why did it do it in this way? Is it part of this whole thing, which we seem to have picked up right from the very beginning, that somehow the easiest thing was to blame the police generally? "If we can blame the police, then it gets the Northern Ireland Office off the hook; it gets the Secretaries of State off the hook. Let us just go for the police." Am I being over-dramatic?

Peter Sheridan: I would not put it like that. I think what happened is that, Justice Sweeney had made comments about the criticism of the police, then the Ombudsman waited for Lady Justice Hallett's report to come out. With the benefit of, as Lady Justice Hallett said, considerable hindsight without the contemporary—what was happening on the day—in their mind, it is hindsight bias. That is what has happened with it.

Chair: Ian has been unavoidably delayed.

Q3202 Ian Paisley: Apologies, Chairman, I was with the Secretary of State. I apologised to our witness in advance, so he knows that I have been out. Just following on from what I picked up from what you said about your lack of confidence in the Office of Ombudsman, you will know that the Office of Ombudsman was created under very difficult circumstances and we were under different regimes and difficulties, but it never ever amounted to someone of your rank, of your experience, saying what you have actually said. That is quite alarming. Could I ask you, during this report and this investigation, did you and Dr Maguire meet and go through this, line by line, and your position?

Peter Sheridan: No. As I said earlier, I have never met the Police Ombudsman himself on this. Just to clarify, I did not say lack of confidence; I said I am less trusting today than I was before this started.

Ian Paisley: That is alarming stuff, Mr Sheridan.

Peter Sheridan: I am being honest about how I feel about it. In the future, when people have forgotten what the words say, you do remember how you were left.

Q3203 Ian Paisley: Previously you have met other holders of the Office of Police Ombudsman, and they conducted some pretty tough investigations and some quite critical investigations, of policing and the policing service. Is it normal form for the Ombudsman not to be there?

Peter Sheridan: Dame Nuala O'Loan was there at the time of the Haddock inquiry, when I was head of crime. I met with her several times. I met with her several times around the transfer of national security. We had some robust discussions, I can assure you. We did not always agree, but I did get the sense of somebody who, again like Lady Justice Hallett, was trying to find out and get below the depths of it. That is all I asked in this.

Q3204 Ian Paisley: The Ombudsman never looked you in the eye and went through these issues.

Peter Sheridan: No.

Q3205 Oliver Colvile: Can I just come back to the European Arrest Warrant, because I am really curious about this? Did you at any stage seek to try to get any of those people who you would like to come back to this country? Did you seek to try to use the European Arrest Warrant to get them back here?

Peter Sheridan: It will be very difficult for me to answer. First of all, this was seven years, and it would have been the crime department, although I was in charge of it. If I wanted to give you an accurate answer, I would have to go back and try to get the department to discover if any of that happened during the time. I could say yes or no here to you now, but it would be a guess.

Oliver Colvile: It would be helpful if you would come back to us.

Peter Sheridan: Can I suggest maybe the secretary writes to the current Chief Constable, because it is extremely difficult when you are outside the system?

Q3206 Oliver Colvile: In particular, what I would also be grateful for the Clerk to do is to write to him also asking if they, at any stage, tried to bring Downey back to this country in order to have a question with him. It seems to my mind, if that did not happen, that does send alarm bells ringing in no uncertain terms. After all, the then Labour Government had signed up to all of this. Not to have used it specifically on probably the most disastrous terrorist war that has happened on the British mainland is just appalling.

The other question I want to ask you is, on 19 May 2013, when Downey came back to this country at Gatwick Airport, he was arrested because the police wanted to have a conversation with him. Do you remember that occasion, or are you like it seems an awful lot of people who were involved in it, who keep on saying to me, “Oh no, we didn’t even recognise that that happened,” despite the fact that it was national news headlines? Did you remember it?

Peter Sheridan: I do not remember when it happened on the exact day, because the name “John Downey” would not have meant anything to me, but I remember very quickly afterwards, when the storm got up around it. I do remember when all of that happened.

Q3207 Oliver Colvile: We have had a number of witnesses who have come before us, including the First Minister of Northern Ireland, who have said, “I knew nothing about it until the day that the announcement was going to be made by the judge as well.” I just find that frankly stupefying.

Peter Sheridan: I think I said at the last hearing that his solicitor was in contact with me when it happened.

Q3208 Oliver Colvile: Did you think to yourself, “Gosh, that is wonderful. We can end up having a conversation with this man”?

Peter Sheridan: I did not imagine that the abuse-of-process case would happen at that stage.

Q3209 Lady Hermon: I am particularly interested in the fact that, when Operation Rapid was set up, one would have assumed, looking at the papers, that Operation Rapid, as I understand from the meeting that you had with the Sinn Féin leadership, was looking at those on-the-runs who had not been processed sufficiently quickly enough. The idea was that Tony Blair, who was going at the end of June as Prime Minister, wanted to expedite the OTRs so that they would all be dealt with. That being the case, why on earth did Operation Rapid go back over and look at all of the 132 OTRs who had already been cleared? Why did the operation choose to go back over all those cases?

Peter Sheridan: I think they did them to make sure that one standard was used across the board in them. I also think that, from Norman Baxter's perspective, he was not aware that the previous system had happened. That was a mistake on our part that we did not know that that previous review had happened.

Q3210 Lady Hermon: When did the penny drop then?

Peter Sheridan: Presumably when the detectives were looking at them; they could see that they had been reviewed a year previously or two years previously, but they continued to review them. The records would have shown that, and I think that is why some of them were reviewed pretty quickly. The information was in the file that had been gathered by the previous team.

Q3211 Lady Hermon: Operation Rapid was not a particularly big team—six or four?

Peter Sheridan: Six at the start, down to four.

Q3212 Lady Hermon: Six at the beginning and it went down to four. They were asked to look at not just the ones who had not been dealt with, like Mr Downey, but the 132 who had already been processed. You are telling us that, in fact, that was to make sure that it was the same standard across all of the cases. Can I just ask then, if that were the case, did the terms of reference of Operation Rapid apply retrospectively? Were they applied retrospectively to those 132 cases?

Peter Sheridan: The terms of reference were applied to all of them as they were. When they were reviewing them again, they would have used—

Lady Hermon: Forgive me for interrupting. The terms of reference for Operation Rapid were very precise. They were only looking for those who were on the run from the jurisdiction of Northern Ireland.

Peter Sheridan: Yes.

Q3213 Lady Hermon: Are you telling us that in fact they were the same terms of reference that were applied right across the 132 who had been dealt with before?

Peter Sheridan: No, there were no terms of reference previously. There was a set of guidance notes that Detective Inspector Davison at the time had applied, but there were no terms of reference.

Lady Hermon: When he was dealing with those, surely to goodness they were looking at on the run from the jurisdiction of the United Kingdom.

Peter Sheridan: It was from Northern Ireland, but they checked the PNC.

Lady Hermon: At all times they were on the run from Northern Ireland and not the jurisdiction of the UK.

Peter Sheridan: They were on the run from the United Kingdom because, if you are wanted for a criminal offence or a terrorist offence in Belfast and you go over to Manchester, you are going to be arrested in Manchester for it. What they were not doing is reviewing cases that happened in the rest of England. If there was a bombing in Manchester and somebody was wanted for it, there was no review of somebody who was on the run from there for that offence. There was no review of that case or Hyde Park or other cases. They only reviewed offences in Northern Ireland.

One of the things that happened at that time was that Rapid commenced in February 2007. In January 2007, the Omagh bomb trial was on; the Sean Hoey trial was started. There was a lot of criticism about the reliability of forensic evidence and so on. The PPS at that time then wrote to me and asked us to review all the cases where problems of continuity, forensic or other evidence, may arise.

Q3214 Lady Hermon: In relation to the OTR cases, so the DPP at that time specifically asked you?

Peter Sheridan: In relation probably to terrorism cases, because it was the Omagh bomb case. In the minds of the police officers who are doing it, we have just had weeks and months of criticism about the handling of exhibits that happened at the time, then the DPP or PPS asks for a review of cases. For the police officers who are doing that, that would have been the focus of their mind. As I understand it, since 2007, particularly around child abuse allegations, historical abuse and the use of historical information, it would probably have changed now but, at that time, that is what was in the mindsets of police officers. Sometimes we fail to remember that police officers are the same as everybody else; they pick up all of the information that is flying out. I do not know what impact that has on an individual's judgment, when they come under reasonable suspicion and so on. The criticisms that happened in the court at that time were pretty vociferous. In fact, there was an Ombudsman's investigation into two of the detectives at the time, so police officers become more cautious. I suppose that is what I am saying.

Q3215 Lady Hermon: Who actually drafted the terms of reference for Operation Rapid¹²?

Peter Sheridan: I am not a detective and was never a detective. They were drafted by Norman Baxter and his team—by and large probably by Norman. He then sent them into me. I had the human rights adviser next door; he then looked at them. I sent them to a legal adviser.

Lady Hermon: There is a human rights adviser legally qualified and there is a legal adviser, so at least two in-house lawyers looked at the terms of reference.

¹² The terms of reference of "Operation Rapid" can be found here:

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

Peter Sheridan: Matt Baggott gave evidence at this inquiry, where he said they were the most detailed and concise terms of reference¹³. He had no part of it. As a police officer, we do not see the things that other people seem to see in it. Again, it is a case that I do not think there is any document you could not pick something out of to try to make it fit.

Q3216 Lady Hermon: With hindsight, looking back now, when you look at those terms of reference, is there anything that you would have changed in them?

Peter Sheridan: Yes, I would probably have said less.

Lady Hermon: You would have said less in the terms of reference. They were too detailed.

Peter Sheridan: They were too detailed. I read the terms of reference for this inquiry and a whole host of others. I told Lady Justice Hallett I looked at 50 different terms of references for inquiries about water and about health. Our mistake was we tried to be too detailed in it, by the looks of things. We should have left them as broad as possible, as an overarching document.

Q3217 Lady Hermon: What would the consequence of that have been? How would that have changed Downey? How would that have changed any of these cases?

Peter Sheridan: It probably would not have changed any of that, because you still did not know about the letters in it.

Q3218 Lady Hermon: Precisely. If you regret the terms of reference being too broad or too detailed, so what would be the difference?

Peter Sheridan: Those were crafted at the time, and they were crafted by people who did their genuine honest best. They had not started the process. Like any process, when you start it, the terms of reference and things might change what you might do in it. You could never be prescriptive with the terms of reference like that; otherwise you restrict what the detective can do with it.

Q3219 Lady Hermon: Could we just double-check here, because they were shared with the Northern Ireland Office? Could I just double-check that they were not shared with the leadership of Sinn Féin?

¹³ A link to the transcript of the oral evidence from Chief Constable Matt Baggott CBE QPM, and (then) Assistant Chief Constable Drew Harris OBE, Police Service of Northern Ireland to the Northern Ireland Affairs Committee on 7 May 2014 (HC 1194) can be found here:
<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/9418.html>

Peter Sheridan: They were not shared with anybody other than the Northern Ireland Office but, if somebody had asked for them, I would not have any difficulty giving them to them. I did not see that there was anything that was unreasonable in them.

Q3220 Lady Hermon: Would they have been shared with the solicitors advising the OTRs at that time?

Peter Sheridan: No, they were not shared with anybody else, unless they asked for them.

Kate Hoey: Or unless the Northern Ireland Office could have given them.

Peter Sheridan: Unless somebody else passed them on.

Chair: Do we have any more questions?

Lady Hermon: Is there anything more that you would like to add?

Q3221 Chair: Is there anything else you would like to add that we have not asked?

Peter Sheridan: I go back to the point again about the terms of reference, because I have thought through these long and hard, and the one that creates a difficulty in people's minds is evidence the integrity of which would withstand a legal challenge within a judicial process. The Ombudsman says that was flawed judgment and it set the standard too high. Lady Justice Hallett says it is too early to say that.

Let me clarify what I understand at the time Norman Baxter meant by that comment. It was concerned with the probative value of evidence relied upon to justify an arrest. In many of the cases concerned, the information indicating a person's involvement in criminality was of historical nature, so it was information in the system of historical nature of somebody involved in the crime. Once that information was relied upon to justify an arrest, it would have to be used in evidence to show that the arrest was lawful. In cases where the information was obtained in dubious circumstances—you all understand that in Castlereagh there were allegations of torture and abuse, and even some of the information came out at Ballykelly from interviews in the army.

Lady Hermon: They were not upheld.

Peter Sheridan: It could be dubious information. Those factors led Norman and his team to be concerned that a reliance on it could result in legal challenges. The issue in Operation Rapid was not so much about the reasonable-grounds test for arrest, but rather whether historical information could constitute reasonable grounds, if you understand what I mean. In other words, reasonable grounds can stand up and that can allow for arrest. That is what he was talking about; he talked about the integrity of that information and that evidence. That is not what comes across in the reports.

Lady Hermon: No, it does not.

Q3222 Ian Paisley: On the broader issue, Peter, when we interviewed Lord Goldsmith¹⁴, he was asked very directly if this was a conspiracy or just a huge error. He said it was more than a huge error. He tended to lean us towards it being a conspiracy here. When we read the reports that have emerged to date there is, in my view, a very deliberate attempt to use the police as a scapegoat, to use you, frankly, and your senior colleagues as part of that scapegoat exercise, and to particularly pick on Norman Baxter, if we are being perfectly blunt and say, “Norman, you know the way it goes”. In your view now with hindsight—I know hindsight is being used—who was to blame here?

Peter Sheridan: I think Lady Justice Hallett got it right. I do not think anybody set out at the time to create these circumstances. I think, because it was not designed at the time, set down in policy, in structure, and “This is what’s happening; this is your responsibility,” it kind of ambled along and people then made their own bits to it.

Q3223 Ian Paisley: Did the lie get bigger basically?

Peter Sheridan: Did the lie get bigger? I do not know whether there was a lie in it, but the problem got bigger. Once you did not have that coherent system in place that you can follow from A to Z, you know what you are doing—the DPP was absolutely right, Sir Alasdair Fraser: once you start to contaminate or try to change the system and you contaminate in that way, it leaves it open to errors and that is what happened in this.

Q3224 Lady Hermon: He was very uncomfortable dealing with this system, Sir Alasdair Fraser.

Peter Sheridan: We all were. I remember having discussions with him and none of us were comfortable. It was an extraordinary thing that we were being asked to do. It was not something we jumped at.

Lady Hermon: I just want to go on the record that he was a man of the highest integrity.

Peter Sheridan: He was, absolutely.

Lady Hermon: Since he is not around to defend his integrity, it would be very nice to have that on the record. He was uncomfortable with it, I am sure.

Q3225 Kate Hoey: I just wanted to get on the record: would you be very surprised if Mark Sweeney did not appear here, putting himself in the same kind of category as Gerry Kelly?

Peter Sheridan: Gerry Kelly and everybody else should attend and give an account. That is what I am doing. I was not compelled to attend any of these, neither the Ombudsman or anyone else. I think, if you are in public office, you should stand up on merit.

¹⁴ The transcript of Lord Goldsmith’s evidence to the Committee on 2 July 2014 can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/11189.pdf>

Q3226 Chair: We believe so, and we have carried out this inquiry entirely in public, because we feel that one of the big faults of the scheme, one of the main faults, was it was secret. Whether it was intended to be or not it certainly was run in a secret way, and our inquiry is entirely in public. We believe everybody should come and give evidence. It may exonerate them in certain cases. That is the way we are viewing it.

Peter Sheridan: Chairman, can I just take one second, just because somebody asked me earlier on about it? The Ombudsman in his report looks particularly at an email that came to my office on 9 January: he suggests I should have been aware of, as a result of that email, that there was a bigger scheme in it. Having read the details of it again, I am fully satisfied in my own mind that my staff officer would have read the email. Do not forget that I have everything from murder investigations to rape to child abuse and national security, so I had a department where correspondence would have come in. It did not matter where it came from.

The officer would have read it and decided, “Does that need to go to the Assistant Chief Constable or does it go elsewhere?” There is a line in the email from Hilary Jackson that says, “But you may want to cross-check with [Detective Inspector of the Extradition Unit] that the information elsewhere in the table is up to date.” There is no doubt in my mind that what she would have done is passed it to the Extradition Unit. It did not need to come to me to say, “Pass it to the Extradition Unit”. I was clear with the Ombudsman that I had no recollection of seeing that email, and I just want to put it on record, because the Ombudsman infers that I should have known. Again, that is unfair.

Chair: Mr Sheridan, thank you very much indeed for coming to see us.

Examination of Witnesses

Witnesses: **Dr Michael Maguire**, Police Ombudsman for Northern Ireland, **Adrian McAllister**, Chief Executive, and **Paula Cunningham**, Deputy Senior Investigations Officer, Office of the Police Ombudsman for Northern Ireland, gave evidence.

Q3227 Chair: Dr Maguire, Ms Cunningham and Mr McAllister, you are very welcome. Thank you very much for joining us. You are aware of the inquiry that we are carrying out. I suppose the most obvious place to start, given the evidence session we have just heard, is by asking you to respond to the comments that you have heard and make any other fairly brief opening statements that you may wish to do. Thank you very much for joining us.

Dr Maguire: Chairman, thank you and thank you for the opportunity to meet the Committee and talk through this. I had some opening remarks, which take us through the report, but given the session that we have just had, it is probably better if we cut to the chase and talk about some of the issues. It seems to me that the risk with this kind of conversation is that, whether or not you accept an Ombudsman’s report¹⁵ is whether you

agree with it or not. One of the things that has plagued the Office, certainly since its beginning, has been people have taken a position on what the Office has said, irrespective quite often of what is in the detail of the report.

Can I say in the context of this report that it has been through a factual accuracy check with the police? Everything we have said has been given to the police and come back to us for factual accuracy. There is nothing of substantial difference between what is in this report and in Lady Justice Hallett's report.

The issue for me is around when we look at Operation Rapid as a scheme and reflect on Operation Rapid as a scheme, not with the benefit of 20/20 hindsight, but looking at it from the perspective of what should be in place in the context of what was a very serious issue. The consequences of the decisions that were being made were extremely important. I do not think it unfair that, when we look at a scheme and the way that it has evolved, we should make commentary around problems in relation to the way in which the scheme was set up; that information that was known within the police as an organisation was not necessarily shared with those who were involved on the operational side of it; that there was a lack of clarity and confusion, within those who were involved in the scheme.

For example, there was an issue that it was Northern Ireland-focused, yet the police were checking the PNC. I note that Mr Sheridan did say he would have liked Norman Baxter to have given the information that John Downey had been wanted by the Met, yet that was outside the terms of reference. All that tells me is that there was some degree of disagreement and confusion around the setting-up of the scheme and the terms of reference of how it evolved.

You then get into the operational delivery of the scheme itself. As the report shows, there were a number of issues that emerged in the context of the way in which the scheme evolved. Issues were raised within more junior members of staff that were not actually dealt with as the scheme developed. When you get into the specifics around the issue associated with this, we cannot get away from the fact—Mr Justice Sweeney says it, Lady Justice Hallett says it, we say it—there was a mistake. There was a mistake in the context of the letters that went from the police to the PPS, whenever Mr Downey was wanted and that information was not shared, and whenever the opportunity was given to correct that mistake it was not taken. Fundamentally, those are the issues that we cannot get away from in relation to this.

This report was undertaken because of a referral by the Chief Constable. I think it was entirely appropriate that the Chief Constable refer an issue like this to me in the context of a matter of public interest. We started the report much earlier than Lady Hallett's; indeed, we briefed her team as the process evolved. It took us a bit longer to finalise it, but that is just the nature of the business.

In the context of the report, I do not think I have been unfair to Mr Sheridan. I think I would have been extremely unfair had I made comments like he was aware of what was happening in relation to the role of the NIO, because he had lots of meetings with the NIO.

¹⁵ The Police Ombudsman for Northern Ireland's 'Public Statement on PSNI Operation Rapid, matters arising from the ruling in R v John Anthony Downey' (21 October 2014) can be found here: <http://www.policeombudsman.org/PONI/files/9d/9d6aa90c-5429-43cd-9f66-8ed229fde238.pdf>

Whatever Mr McGinty says, everybody involved in the scheme knew there was a product and issues like that. I do not say that because I do not believe it. What I do say is that, in the context of the scheme and the way in which it was involved, as a senior officer, in thinking about this, there are issues of accountability in relation to Operation Rapid and that is surely the basic point of this.

I cannot look at the role of the NIO. I cannot look at the PPS. I cannot look at any other agency involved in this. My remit is exclusively on the police. In that context and the issue of the seriousness of it, the issues that we identified as the process evolved, when it comes back to the report, for me it is about dealing with issues of accountability. We can get into a situation in a report such as this.

Q3228 Lady Hermon: Why on earth was Peter Sheridan not given the opportunity of a right to reply to the criticisms contained in the report?

Dr Maguire: Peter Sheridan was given the opportunity. Peter Sheridan was told in advance that we were going to publish the report, and he was offered the opportunity to see the report. He did not take up that opportunity.

Q3229 Lady Hermon: Sorry, Dr Maguire, with the greatest of respect, did you offer him a right of reply before the publication of the report? We understand that, while your office contacted him and said yes, he could see the report before publication, it was suggested to him it would not change a line, a dot or a comma in the report. Is that the case? He was going to be shown it before publication, but without any right of reply or opportunity to amend its content. Was there any opportunity to amend the content?

Dr Maguire: The email that we sent to him actually says, “As a key witness to our investigation we would like to offer you the opportunity to read the report prior to public release. I must emphasise that a reading of the statement would be for your information purposes only and is to ensure fairness to key witnesses whose accounts are subject to our findings.” He was given a very clear message that there was an opportunity to look at this report.

Q3230 Chair: Can we have a bit more structure to this? The question is: would that have enabled Mr Sheridan to change anything in the report.

Dr Maguire: We did have some correspondence with Mr Sheridan and we looked at some of the points that he made. As matters of fact, it did not change what was in the report, no.

Q3231 Kate Hoey: Did you meet him personally?

Dr Maguire: No.

Q3232 Kate Hoey: Who met him personally? Did anyone meet him personally?

Dr Maguire: Paula.

Q3233 Kate Hoey: How long did you spend with him?

Paula Cunningham: Initially we conducted an interview. This was on the basis of the referral that occurred on 26 February. As soon as Mr Sheridan was available to see us, we conducted an interview and that was prior to us gaining and receiving the majority of the material. That was I would say an hour's interview. That was just an introductory interview. Once we had received all the material and wanted to explore a number of the inconsistencies that were emerging through the investigation, then we conducted another interview with Mr Sheridan.

Q3234 Kate Hoey: Who did that interview?

Paula Cunningham: Again, myself and a colleague, an investigations officer.

Q3235 Kate Hoey: There is this very senior officer, who was very intricately involved in all of this. Would it have been right for you to see him, Dr Maguire?

Dr Maguire: No, it would not.

Q3236 Kate Hoey: What do you do then? What does your job actually do? What do you actually do?

Dr Maguire: The way in which the Office works is that I get presented with an investigation report. I am kept briefed as the investigation unfolds. I look at lines of enquiry. I ask questions about lines of inquiry. I allow officers to progress the work that they have been tasked to do. On occasion, I will look at the transcripts of interviews, which I had done in this case. By the time I get an investigation report, I am apprised of the process; I am apprised of the issues; I am apprised of the people I have spoken to, so that then I can make my judgments and conclusions around an issue in an investigation report.

Q3237 Kate Hoey: Do you never meet anybody who is being investigated?

Dr Maguire: I have not, in the context of the job that I have been doing, no.

Q3238 Kate Hoey: You do in some others, do you?

Dr Maguire: In the context of my job as Police Ombudsman, I have not. I did it in my previous role, as Chief Inspector of Criminal Justice but, in the context of the Ombudsman work, I have not, from memory, met with anybody.

Q3239 Ian Paisley: Is Ms Cunningham a former police officer?

Dr Maguire: Paula has been trained by the Office.

Ian Paisley: Are you a former police officer?

Paula Cunningham: I am not, no.

Q3240 Ian Paisley: I am just wondering in terms of the expertise or skill that you would have had in examining previous very highly serious organised crime investigations.

Paula Cunningham: Mr Paisley, we are probably getting to the crux of what is considered a civilian oversight body. We are trained investigators. We are trained in national occupational standards. In fact, even police officers who come into our office also have to go through the same training that I have gone through to make sure that our skills, in terms of investigations, interviewing skills, etc, and our knowledge of the law, would be of the same standard. It is the nature of a civilian oversight body, where you must have that.

Q3241 Ian Paisley: It is an oversight body that has quite a number of former police officers on it.

Paula Cunningham: It certainly does.

Ian Paisley: I think Mr McAllister was very senior—a Chief Constable?

Adrian McAllister: Assistant and Deputy Chief Constable.

Q3242 Ian Paisley: Some very senior ranking officers would have had experience in dealing with and handling serious organised crime investigations and murder investigations. Were you properly skilled to conduct that investigation against Mr Sheridan?

Paula Cunningham: Certainly, Mr Paisley, I was. My team, and I report to a senior investigating officer, consists of persons who have come from different investigative agencies, not only the police, but also, as you say yourself, senior police officers as well. Bear in mind this was an investigation team that conducted this; it was not just one investigator.

Q3243 Ian Paisley: Your hour-long interview with Mr Sheridan, was that one-on-one?

Paula Cunningham: Along with a colleague who actually is also a retired senior police officer. It was not one one-hour interview; that was the introductory interview. The second interview was much longer again, and we went through all the inconsistencies that were explored. My colleague investigating officer is a former retired officer, who would have worked in murder investigations.

Dr Maguire: Can I say just one point I forgot to make? In relation to that email that I sent to Peter, his response was, “Paula, many thanks for the update, but I am content to wait until the report has been formally issued.”

Q3244 Ian Paisley: That was because he could not rebut it. I do not know how long you have known Mr Sheridan. I have known Peter for about 18 years. I find him to be most placid, laidback, almost horizontal, in terms of his conduct, given where he has had to live. The fact is he comes from a minority community and has policed the minority and the majority community. He has come from very difficult circumstances, and he is still one of the most laidback, easy-going, cool-tempered individuals and gentlemen you could possibly meet. Today, I saw a Peter Sheridan I have never seen before. If you were not in the public gallery, I would say your ears would have been burning, because he was very cross. I have never seen him, I would say, actually angry with the way in which he was treated. I find that unexplainable. What I find even more unexplainable is that he said he was really reserving his trust now in the organisation. Given the senior rank that he came from that is a body blow to the Office.

Dr Maguire: I do not accept that.

Ian Paisley: Really, Michael? You do not accept that.

Dr Maguire: There has always been criticism of the Office by retired officers.

Ian Paisley: Yes, by politicians.

Dr Maguire: By officers.

Ian Paisley: But not of his rank.

Dr Maguire: By senior retired officers at ACC level, there has been criticism of the Office since the day in which it began. The important thing for me in the context of this—and I have to say I have absolute confidence in the work that Paula and her team did in relation to undertaking these investigations—is this is an issue that comes down to accountability. Peter was in the chair. Peter was the Assistant Chief Constable with overall responsibility. We can take the issues about process aside and talk about those but, in the context of the report, this was an issue in relation to the way in which the scheme was set up and the way in which it evolved, and the—

Q3245 Ian Paisley: If you had to do it again today, would you give him the right to rebut?

Dr Maguire: Peter had the opportunity to rebut.

Ian Paisley: No, he did not.

Dr Maguire: I can put it this way: if Peter was very unhappy with the way in which he had been treated, he can make a formal complaint to the Office and we will deal with it in that process.

Q3246 Chair: Can I just bring some order to it? With regards to investigations, is there a facility for anybody to feed in officially to it and put their paragraph at the end of it? Is that the normal way of doing things or is there not that facility?

Dr Maguire: I am glad you raised that, Chairman. It is a very interesting point. One of the issues that brought me to the Office of Police Ombudsman—and some Committee Members may know that, prior to taking on this job, I was Chief Inspector of Criminal Justice—was we had undertaken a very critical review of the Police Ombudsman's Office. One of the issues that came out of that review was the way in which the Office was buffeted—buffeted by family members, buffeted by police, and buffeted by retired officers.

One of the things that I have done in the past two years is to play a very straight line in relation to the way in which investigations have unfolded. They have been subject to internal quality assurance, internal checking, by very senior police officers as well as those who are sitting in the oversight body. We have been through that very robust process. Those systems and processes have been externally validated by the criminal justice inspectorate. There was a report published in September, which said the independence of the Office had been restored. That tells me that the process we have adopted is the right one.

What I cannot do is—and there was a suggestion earlier that this may have happened—for the sake of the integrity of the Office and the integrity of the report, sit down with someone who I am criticising and go through it line by line to see whether they like it or not. That is simply not the way in which business is done. It undermines the integrity of the Office, it undermines the independence of the Office, and it is something that I cannot allow to happen in the context of what we do.

In relation to the report and the work that was carried out, there were a number of interviews with Mr Sheridan, and those interviews were reviewed by senior staff. The integrity of that investigative process was overseen and, therefore, that fed into a report that led us to the conclusions that we have. I still have to come back to the point, Chairman—and remember I am only looking at policing—that this is about accountability for Operation Rapid and ACC Sheridan was the accountable officer.

Q3247 Chair: Can I take you up on that point, then? I accept it is just about policing, but neither Mr Sheridan or anybody else is in position to, for example, criticise the NIO, and yet we certainly, when we come to our report, will criticise the NIO, among other things, for the pressure they may have put on the police, in terms of time, in terms of getting the sorts of results that they wanted to see, because they were dealing with Sinn Féin who wanted results, and there was this peace process. How far can you put that into the balance? Those surely

are relevant considerations, because you have to understand what pressure the police must have been working under?

Adrian McAllister: That is a very fair point, Chair, but the evidence that we have received and have seen as this Committee has unfolded convinced us that the police were very clear that they knew the political context they were operating in, but were very clear they were carrying out a distinct policing role. They did not bend to the pressure that they may have been put under, explicitly or implicitly. They carried out a very clear policing role with what they describe as some clear terms of reference. We have made comment on those terms of reference and I am happy to comment on those terms of reference, but the police have been consistent: that they did not bow to that pressure. If we had found evidence or thought that they had bowed to that pressure, we would be talking about a very different type of report today.

Q3248 Chair: We have been given evidence to the solicitor who acted for Sinn Féin at the time, called Barra McGrory¹⁶, who is now the head of prosecutions in Northern Ireland, who told us—and it is there on the record—that under ordinary circumstances the police would have wanted to speak to some of the people who received letters. To me, there is some suggestion of a corruption of ordinary practice there.

Adrian McAllister: I do not think there is a corruption of practice. There were questions and there are questions for us about the terms of reference, but the terms of reference were explained to us and why the terms of reference were written as they were. We have made comment on those terms of reference, as indeed has Lady Justice Hallett. There are certainly two aspects of those terms of reference that are very questionable. They led to cases being looked at in a particular context. Those terms of reference were done with the best intentions and in good faith by the police. Whether they were right or not is a different question altogether, but they were done in good faith. I do take Matt Baggott, Peter Sheridan and others at their word, because I think they are genuine people, that they were not bowing to political pressure here.

Q3249 Chair: Is it right to focus entirely on the police? I accept you are the Police Ombudsman. You look at the mistakes that the police have admitted making, but we are also aware that the Attorney General wrote to the Secretary of State for Northern Ireland at the time saying that Mr Downey was wanted for serious terrorist offences¹⁷. To look at it purely in isolation with regards to the police, is that not to miss the bigger picture, even given the constraints on your inquiry? Surely you have to look a little bit wider than just that?

¹⁶ The transcript of the oral evidence of Mr Barra McGrory QC, Director of Public Prosecutions for Northern Ireland to the Northern Ireland Affairs Committee on Tuesday 10 June 2014 (HC 177) can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/10426.html>

¹⁷ The letter from the Rt Hon Lord Goldsmith QC, Attorney General to the Rt Hon Peter Hain MP, Secretary of State for Northern Ireland dated 27 February 2006 can be found here: <http://www.parliament.uk/documents/commons-committees/northern-ireland-affairs/Letter-from-Lord-Goldsmith-to-Peter-Hain-February-2006.pdf>

Dr Maguire: It is indicative of the role of the Office in the context of a scheme such as this. We can only look at policing. For example, there was a case I looked at recently where there was a suggestion that the army may have been involved. I could not look at that, because we only deal with policing. It is the remit of the Office to look at policing. Adrian is right: I would have taken the criticism if we had suggested that there was some degree of impropriety in the way in which the police conducted their business with regard to responding to political pressure. We are not saying that. What we are saying is that the police undertook the job that they were given to do; however, there were issues about the way in which it was set up and the way in which it was delivered. That catalogue of issues fundamentally led to a mistake in that being delivered. That is the nature of the focus that I had to give policing. This Committee is much better placed to judge and take a much broader view in relation to where that sits in the overall jigsaw that exists.

Q3250 Ian Paisley: How do you respond to Peter Sheridan's rebuttal of that: that he has been admonished by you because him and his senior team were too open and too transparent, and have now been caught in the crossfire? They should have battened it down, narrowed it down, played the game.

Dr Maguire: That reinforces the sense that the police did do the job that they were asked to do. If there was a "conspiracy", in inverted commas, I suspect the terms of reference would not have been as detailed as they were.

Ian Paisley: You just admonished them for that.

Dr Maguire: I did not admonish them for having terms of reference. I admonished them for the way in which the terms of reference were set out and the lack of clarity around what was being looked at in terms of Northern Ireland versus outside Northern Ireland. I was critical of the way in which the scheme was managed as it evolved. I have to say it still comes back to the point that, if we look at the letter, for example, as we say in the report, no one who we have been able to speak to has put their name to that letter and said, "Yes, I drafted it". What you cannot do in that sense is to allow the minutiae of any one individual piece of information to deflect from the overall nature of what it is we are trying to look at here, which is the way in which the process evolved.

I am firmly of the view, as Adrian said, that I do not see the police being involved in responding to the political pressure in the way in which has been suggested. I do think the police took on that role in the context, but there were problems with the way in which the scheme was delivered and those are the issues we have identified in the report.

Adrian McAllister: I just wanted to say, in terms of what Mr Paisley said about the terms of reference, that I do not happen to agree with Peter Sheridan in terms of what he said about those terms of reference. My experience of doing this kind of work is that you do have terms of reference. It is a matter of judgment as to what goes in those terms of reference. If you keep them lightweight, what sits under that then are tight procedures. There are two documents: there are strategic terms of reference and then, sitting under that, is something else that takes you line by line through what you should do; or you have terms of reference that have a lot of information in them, one of the two.

When you are dealing with something as serious as this—and I think it was Drew Harris who said that these were some of the most serious criminals that Northern Ireland was facing at the time and potentially continue to be—this is as a serious matter. Whatever the terms of reference looked like and whatever the document sitting underneath that looked like, the detail needed to be there. I go back to the point that I personally think at least two elements of those terms of reference were flawed. We did not fall on the back of Lady Justice Hallett's argument on that; we had identified that as an issue well in advance of Lady Justice Hallett even getting there.

I remember having a discussion with Paula, who showed me those, and I said, "No; from a policing perspective, those two elements of the terms of reference are patently wrong to my mind. That is not the evidence test that should be applied." I understand Peter's point that they were applying those terms of reference in the context of the police having had a really difficult time over the forensic evidence, so I understand the context within which they were drafting those terms of reference, but I do not think they were right. Going back to the fundamental point, I think you should have detailed documentation, which makes it clear to everybody what their role is and that was not there.

Q3251 Lady Hermon: Dr Maguire, can we just establish one or two of the facts here? The email that you read out, which either you or Paula sent to Peter Sheridan, did it at any stage, in any line in that email, invite Peter Sheridan or give him the opportunity to address criticisms in the report, or was it simply a pre-publication read-through?

Paula Cunningham: Would you like me to read the full email?

Lady Hermon: I think that would be helpful.

Paula Cunningham: Absolutely, and you can have a copy of the email. This was sent on 30 September, so it was a considerable period before the release of the report, which was 21 October.

Lady Hermon: Just three weeks.

Paula Cunningham: "Dear Peter, re: a PONI investigation into matters arising from *R v. J Downey*. Hope you are well. The purpose of this email is to advise you of the Police Ombudsman's intention to release the public statement of the investigation and findings. It is intended to schedule the release for 21 October 2014," so it is to advise him of the date. "In respect to statutory reports, we are obligated to share a draft with the PSNI for fact-checking comment only. The draft is currently with the PSNI." In the same—

Lady Hermon: Just continue with what you were reading.

Paula Cunningham: Thank you. "As a key witness to our investigation we would also like to offer you the opportunity to read the report prior to public release. I must emphasise that a reading of the statement would be for your information purposes only and to ensure fairness to key witnesses/subjects whose accounts are subject to our findings. Should you wish to do so, I can arrange a reading of our statement at our office." It just goes on to say, "It is not expected that there should be any changes to the release date, but I would notify you at the earliest opportunity. I would also like to take the

opportunity to thank you for your co-operation during this investigation. It is greatly appreciated.” Mr Sheridan responded on—

Q3252 Lady Hermon: So you can confirm to us, having read that into the record—and that was very helpful—that at no stage was there a line or suggestion that Peter Sheridan had an opportunity to reply before publication. It is for information only. Dr Maguire, you were present—in fact all three of you were present in the public gallery—when Peter Sheridan gave his evidence to the Committee. He emphasised, not just once but he certainly emphasised twice, how supportive he was of the Police Ombudsman’s Office, and he has been consistently supportive of the Police Ombudsman’s Office and of your predecessor, Dame Nuala O’Loan. He did say that their conversations were robust. He is not one of those retired officers who has been critical of the Police Ombudsman’s Office, and you would accept that, Dr Maguire.

Dr Maguire: I would.

Q3253 Lady Hermon: The suggestion earlier on to the Committee that of course the Police Ombudsman’s Office is being criticised by a retired officer—he is not one of those. Given that you have also told us that the purpose of your inquiry, at the behest of the Chief Constable Matt Baggott, was to look at the scheme—I have taken down here the way it was “set up” and the way it was “delivered”. That is what you were looking at. Surely to goodness, in fairness to Peter Sheridan and to getting the best report that you possibly could have and the best informed report that you could have, when it is published, Peter Sheridan and everybody else are left with no right to reply, apart from judicial review, which nobody is going to do unless they are extraordinarily wealthy and have grounds for doing so. What justification could there possibly be in not giving Peter Sheridan, the man at the centre of this report, the opportunity to address and inform your report, so it is a better report? Why?

Dr Maguire: There are a number of issues, Lady Hermon. The first is, in relation to checking the factual accuracy of the report, we gave that report to the police well in advance of publication and we had very limited commentary back from the police, in relation to the factual statements that are in that report.

Lady Hermon: Bearing in mind that this is 2014 and we are dealing with a set of facts in the Downey case that arose, and the letter was issued, in 2007.

Dr Maguire: I have to deal with the framework within which I work, so there is a factual accuracy check for that.

Q3254 Kate Hoey: Who replied on those factual things? Who actually signed it off?

Dr Maguire: From memory, I think it may have been the Deputy Chief Constable at the time, but I will come back to you if that is not the case. From memory that is who it was. From a factual accuracy point of view, the police is the organisation, because it is a report to the police; it is a criticism of the police or a supportive document of the police—

whatever it happens to be. The police, as a key organisation, have to respond back to the factual statement to say whether or not, in their view, we have the facts right and they also offer, on occasion, other commentary that I may or may not take on board.

At the other end, I cannot allow, for the purpose of the independence of the Office—there is a middle ground here—individuals who we deal with in the report the opportunity for a pre-release copy and to go through that line by line. I can tell you that the criticism the Office would get for doing such a process would be profound and—do you know what?—it would be right, because we cannot do that. May I finish this point? There is a middle ground where, as we did, we offered Peter the opportunity to see the report.

Lady Hermon: Yes, just before it was published but no opportunity to change it.

Dr Maguire: Well, three weeks.

Lady Hermon: He was going to read it three weeks in advance, but there was no opportunity to change it. We are agreed on that; he had no right of reply. We are agreed on that.

Dr Maguire: I do not think we are agreed on that, because I gave him the opportunity to see the report. He did not take up the opportunity. He then subsequently made some commentary to us on the report, which actually did not change in substance the comments that were in the report itself, because he was making some legal arguments that actually our own advice did not accept.

Q3255 Lady Hermon: If it is the case that in fact nothing that he said changed a jot or a tittle in the report, why did you not give him that opportunity before publication?

Dr Maguire: He did get the opportunity.

Lady Hermon: No, he did not get an opportunity to respond.

Q3256 Chair: I thought we established earlier that there is not the facility for anybody to change what you are about to write. Is that roughly what you are saying?

Dr Maguire: If Peter Sheridan had taken up the opportunity to see the report and he had said to me, “Actually, Michael, there are things in this report that are factually incorrect—”

Q3257 Lady Hermon: Ms Cunningham, you read out the email to us. At any stage in that email was Peter Sheridan invited to make prior comment and respond to the report? Absolutely not. It was for his information only. He was not invited to have a response.

Dr Maguire: It does say, “to ensure fairness to key witnesses/subjects whose accounts are subject to our findings”.

Lady Hermon: In other words, “I am sending it to you so that, in fact, you know three weeks in advance that you are going to be criticised in it”. There was no opportunity to change it.

Dr Maguire: If Peter had taken the opportunity to see the report and he had identified issues of facts, we would have been under an obligation to make those changes.

Q3258 Lady Hermon: Why was what you have just told this Committee not included as a line in the email that was sent to Peter Sheridan?

Dr Maguire: It was.

Lady Hermon: “If there are issues of fact that are incorrect, you have the opportunity to correct them.” Was that in the email?

Dr Maguire: As Peter says, he is a very experienced officer and he is very aware of the way in which the process works.

Q3259 Lady Hermon: Sorry, that is precisely the point that Peter Sheridan made. He made the point to this Committee that, in a previous Ombudsman’s report, there was a right of reply; there was a right to have the report corrected. That is what has changed and that is what has cost him his confidence in the Police Ombudsman as presently structured.

Dr Maguire: To be fair, when Peter made those comments he was a serving officer. In the context of my dealings with serving officers, I do have robust conversations with the police in the context of reports. I am sure, if you brought in Drew Harris or others, they would say, “Yes, the Police Ombudsman has given me the opportunity to me, as a police officer, to comment on those reports.” I am not aware of conversations that Peter has had on reports that have been published since he left office.

Q3260 Lady Hermon: Dr Maguire, let us just pick up what you said about Mr Sheridan: that, as a retired police officer, he has been very supportive of the Ombudsman’s Office. Correct?

Dr Maguire: He has.

Q3261 Lady Hermon: You also told this Committee that, subsequently when the report had been published, you do not feel his comments—the ones that Peter Sheridan did make to you after the publication—would have changed your report.

Dr Maguire: In terms of what I saw in the email, it did not change substantively what we said in the report, no.

Q3262 Lady Hermon: Why was he not given an opportunity to have that conversation with you or even to meet with you? This was a very serious issue. You are nodding in consent; it is a very serious issue. Dr Maguire, you are the Police Ombudsman for Northern Ireland. It

is shocking to find that ACC Sheridan, retired, comes before us today and said that he has never met with you over this report.

Dr Maguire: Overt his report that is the case, because I have confidence in my staff to do the interviews. I have confidence in the quality assurance process.

Lady Hermon: Out of a mark of respect for the most senior officer, who was criticised in this report, I do think it ill behoves the Office not to have given him the opportunity to reply. Let us move on.

Q3263 Ian Paisley: Can I come in on that line? I just do not understand, Dr Maguire, why you are holding on to this fictitious point that you would have been compromised by having someone read the report and offer their suggestions as to how it might be altered, made better, improved or indeed made more accurate if they felt there was an inaccuracy. I was a member of the Policing Board, which I sat on for seven years. We conducted investigations as an oversight body into the Ombudsman, into ACPO, into senior police officers and senior investigation officers, and vice versa; ACPO conducted investigations into us, and the Ombudsman conducted investigations into us in the Policing Board. On every single occasion, bar none, we were given an advance copy; we could go through and, I remember on occasions, in one of the ACPO reports, we were able to amplify a position that had been made in one of the reports. It did not jeopardise the standing, morality, ethos or independence of the body doing the investigation into is. I just do not understand why you felt you would have been compromised in offering that facility. What you are doing is quite unique.

Dr Maguire: In the context of what you just described, I would do exactly the same, because I gave the police the opportunity to comment on the factual accuracy of the report. You were there as the Policing Board, so I gave the police, as I would have done any organisation, as I did with the criminal justice inspectorate—the organisation that is subject to an investigation gets an opportunity to comment.

Q3264 Ian Paisley: Is what you are saying that, because he is now a civilian, he has been treated differently?

Dr Maguire: No. First of all, he was given the opportunity to comment on the report; he did not take it.

Ian Paisley: We are disagreed on that.

Dr Maguire: Secondly, the issue for me is I cannot allow a situation where any one individual—we do reports into very sensitive issues all of the time. If I sat down with a retired officer and allowed them to go through that report line by line that would compromise the integrity of the Office.

Ian Paisley: That is what happened with ACPO and us in the Policing Board. Remember, we are a civilian oversight board. I remember we did an investigation into the former head of Special Branch, who was no longer a serving officer. Those facilities are frequently open and

they do not compromise the independence. In fact, they make it stronger because they are able to do that. I just do not understand why you are holding on to this shibboleth that I do not think actually serves your office well.

Q3265 Lady Hermon: Do you think you owe Peter Sheridan an apology?

Dr Maguire: No.

Q3266 Chair: If I could come in, I do think there is a situation here where the Ombudsman has a different role perhaps from other committees. What I am hearing from you—and please correct this if this is wrong—if Mr Sheridan had said, “It was not a Tuesday when I met such a body; it was a Wednesday,” or factual information like that, you could correct it, but if he wanted you to put a different spin on something that would compromise your report. Is that basically what you are saying?

Lady Hermon: I do not think Mr Sheridan was asking for spin.

Chair: I am putting my own question forward based on what I am hearing from the Committee.

Dr Maguire: He was interviewed twice, let us understand. He did have an opportunity to say his piece, as it were.

Q3267 Nigel Mills: Just moving back to the on-the-runs issue rather than the Peter Sheridan issue, the question that keeps coming up to me is, especially at the time of Rapid is: was this actually deliverable at all or was this just something about which the police should have said, “Look, we are not touching this. This is wrong”? In your report, did you consider whether this was just inappropriate for the PSNI to have done in the first place?

Adrian McAllister: No, I think it was deliverable. The police by and large showed that they could deliver it, but there were mistakes made. The process was set up. I have talked already about the terms of reference. They have to do some checks and they had to do some quite fundamental checks. There was some confusion about those fundamental checks: whether they were being carried out and why they were being carried out, and when the result of those checks was known, if and how that information was shared.

The answer to the question is: yes, it was doable, but it needed to be done well against tight terms of reference and against clear operating procedures, which meant that people across the scheme—and I do not think this is just about Mr Sheridan, in fairness; I think this is across the scheme—knew precisely what was going on, what was being communicated to who and for what reason. The police were part of that scheme and in the element that the police were responsible for, there were mistakes made. It is not much more complicated than that from a policing perspective.

Q3268 Nigel Mills: You were not concerned, then, that the police were engaging with one political party in an exercise that looks a little abnormal in normal criminal justice processes. You did not think that was something they should have said, “This is not policing”.

Adrian McAllister: I think that was for others and other inquiries to establish that or take a view on that. We were looking at the policing procedure. We were satisfied, as I said earlier, and as repeatedly senior police officers have come here and said, that this was a policing process. They understood the wider context; there was a political context. They had a policing role in that. The policing role was to check whether people were wanted in Northern Ireland, whether they were on the run—whether they were wanted in Northern Ireland. There was some confusion about what the checks on the PNC meant, because they were carrying out checks on the PNC and they were getting results from those checks, but there was some confusion about how that information could or should be shared. We now know that it was not shared in one particular circumstance, but the police carried out a policing function and we were satisfied that they did not bow to any political pressure, albeit these are top police officers. They know they are operating better than I did. They understand the political context a lot better.

Q3269 Chair: When you say it is doable, you will be aware that Drew Harris came last week and they are reviewing the 95 cases that they have intelligence against in relation to almost 300 murders¹⁸. That could take him up to nine years. It is a little bit difficult to square that with the fact that this was doable, in your words, in a short space of time. The two are a little bit contradictory perhaps.

Adrian McAllister: I think of the police at the time. If they did not think it was doable, they should have said it was not doable, but they had already done quite a considerable amount of work, of course, in respect of these people. They chose to do an amount of that work again, but they had a body of information that they then reviewed and they had to do some relatively straightforward checks then, in terms of the PNC.

Lady Hermon: I wonder—

Chair: Sorry, I should have brought Oliver in.

Q3270 Lady Hermon: Oliver will be delighted that in fact the question is going to be about extradition, but not about the European Arrest Warrant. I leave that to you, Oliver. I notice that in fact at paragraph 4, sub-paragraph 17, in your report that you do note that there was no attempt made by the Metropolitan Police Service to extradite Mr Downey, but it would be their intention to arrest should he come within their jurisdiction. Did you pursue that further? Why was it that the Metropolitan Police—and we are going to have the reply that, “We can only look at the Police Service of Northern Ireland”? Surely when you are questioning police

¹⁸ The transcript of Drew Harris’s evidence to the Committee on 4 November 2014 can be found here: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/northern-ireland-affairs-committee/administrative-scheme-for-ontheruns/oral/15103.pdf>

officers and senior police officers, and in line with the question that my colleague has asked, why did the Metropolitan Police make no effort to extradite Mr Downey from County Donegal?

Dr Maguire: Unfortunately, my reply is what you said; I had no remit to look at the Metropolitan Police.

Q3271 Lady Hermon: Yes, but you do have a remit to investigate the Police Service of Northern Ireland. They were working in conjunction with the Metropolitan Police. We would hope that in fact it was all joined-up: that Mr Downey would have been arrested and would have been duly charged with all of these. In any of the questioning by your investigation team, was the question not posed to the Chief Constable or to any of the current serving members of the Police Service: why did the Metropolitan Police not extradite Mr Downey? That is a legitimate question to have asked, I would have thought.

Paula Cunningham: In terms of when we interviewed the senior investigating officer, the Detective Inspector of Operation Rapid, he would have talked through his assessment templates at the time when he was considering each individual case. Mr Downey was being considered in relation to five incidents in relation to Northern Ireland, and the Hyde Park bombing was referenced in that. I think it would be fair—it is not for me to speak on behalf of the SIO—to summarise that he took the view that it was a matter for the Metropolitan Police to pursue this particular incident in respect of it. What he was trying to do was ascertain if there was any basis underneath that question.

Q3272 Lady Hermon: Can I just repeat my question? My question was: did the Ombudsman's investigative team ask the current Chief Constable or any of those officers who in fact were co-operating with your inquiry, who asked to be involved in this inquiry and who volunteered to give evidence to the Ombudsman's Office? Were they asked why the Metropolitan Police had not sought the extradition of Mr Downey, since that was a perfectly legitimate question for the PSNI to have asked of the Metropolitan Police? You note it in your report, but it does not seem to have been followed up.

Paula Cunningham: That is recorded in our report, the records that were made by the police at the time. That was our assessment of what they knew with the Metropolitan Police Service at the time. That specific question certainly was not put to any of the officers.

Q3273 Lady Hermon: Why was that left out? That would seem to be a very key question to have asked the PSNI.

Paula Cunningham: Respectfully, I believe that would have been a matter for the Metropolitan Police Service and would not have been within the remit of the PSNI to consider.

Q3274 Lady Hermon: That is exactly what I would expect the PSNI to say, but that is a question that should have been put to the PSNI. One would like to think that the Police Service of Northern Ireland works in conjunction with the other police services throughout the United Kingdom, including the Metropolitan Police Service. It just seems very unusual to me that the Chief Constable at the time that Mr Downey receives this letter—and this is not a criticism of Hugh Orde—it seems to me very odd that Hugh Orde has come as a very senior commander within the Metropolitan Police. He is a very long-serving and distinguished Chief Constable of the PSNI. It just seems to me to be an appropriate question for the Ombudsman’s Office to have asked: why was it that the PSNI, in conjunction with the Metropolitan Police, did not know why Mr Downey was not sought for extradition?

Dr Maguire: I think it is a very interesting question, but we did not ask it.

Lady Hermon: You did not ask it, okay.

Adrian McAllister: A point worth making on that perhaps is that the requirement to expedite extradition proceedings—the threshold for undertaking those is much higher than it is to arrest somebody. I am not putting words in anybody’s mouth, but I can understand why the Metropolitan Police might—

Lady Hermon: Exactly, but you are speculating, because Dr Maguire has just confirmed that the Ombudsman’s Office did not think it worth asking the question. That question was not asked.

Q3275 Chair: On that point, Mr McAllister, Mr Downey did get to trial, or he got to a position where a stay was put in the trial. The threshold could well have been there. I do not know at what point that threshold was reached.

Adrian McAllister: There is the key point. Clearly he was arrested and things might have changed subsequent to his arrest, etc, but, of course, I can only imagine the Metropolitan Police at that time had decided, along with the prosecuting authorities of course, that there was not sufficient evidence to expedite extradition proceedings, because it is a very different scenario, is it not?

Q3276 Lady Hermon: That is your imagination of the situation, because the question was not asked. Can I just ask, then, how many PSNI officers actually were interviewed by the investigating team? They are putting together this very significant report into a highly controversial issue, which has hurt, upset and caused a major trauma to a huge number of victims right across the United Kingdom. How many PSNI officers, retired and otherwise, were interviewed? At the introduction to your report, you say that in fact a number of police officers were interviewed, including retired officers. How many in total were interviewed?

Paula Cunningham: I would not be able to give you the rounded figure. I would have to look back into the investigation to give you the exact figure, but we interviewed all of those who were associated with the Operation Rapid team, so that would have been the initial six officers who were involved. Also, in our initial enquiries, what we wanted to do was establish the processes that were taking place before Operation Rapid, and we spoke

to a considerable number of officers who were involved in that as well, who potentially were back in the police in a civilian capacity. There was quite a range of different avenues that we went down and spoke to. We focused our report within Operation Rapid as well, in terms of the accounts.

Q3277 Lady Hermon: The words that I have not heard you mention are “the Chief Constable at the time”. Presumably you interviewed the Chief Constable at the time.

Paula Cunningham: No, we did not.

Lady Hermon: You did not interview the Chief Constable at the time.

Dr Maguire: No, because we were concerned with the operational delivery of Operation Rapid, on behalf of the current Chief Constable.

Q3278 Lady Hermon: Even though reference is made in your report to meetings that the Chief Constable and ACC Sheridan attended, including the meeting with Sinn Féin, you did not see fit to interview Sir Hugh Orde, who was the Chief Constable at the key time in 2007.

Dr Maguire: No. We listened to Hugh Orde’s evidence to the Committee.

Lady Hermon: You listened to his evidence to us¹⁹.

Dr Maguire: Yes, and we took the judgment that we did not need to interview him at the time when we were producing the report. That is correct.

Lady Hermon: You actively took a decision, within the Police Ombudsman’s Office, not to ask the key player, the Chief Constable of the PSNI in 2007, when Operation Rapid commenced.

Dr Maguire: I am not sure that he was the key player in the context of the delivery of Operation Rapid. Yes, he was Chief Constable at the time. In our view, the focus of this report was looking at the delivery of the scheme and we interviewed the key officers and the accountable officers in terms of the delivery of this scheme.

Q3279 Lady Hermon: That being the case then, who actually gave the instructions that Operation Rapid should be set up? Your inquiry confirms who gave the instructions.

Dr Maguire: To Peter Sheridan?

¹⁹ A link to the transcript of the oral evidence from Sir Hugh Orde OBE QPM, President, Association of Chief Police Officers and former Chief Constable, Police Service of Northern Ireland to the Northern Ireland Affairs Committee on 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>

Lady Hermon: To Peter Sheridan. Peter Sheridan did not just wake up one morning and go, “Oh yes, I must set up Operation Rapid.” He is an ACC; he is an Assistant Chief Constable. Who directed Peter Sheridan to set up Operation Rapid?

Dr Maguire: That would have been the Chief Constable.

Lady Hermon: That would have been the Chief Constable, but you did not interview him.

Dr Maguire: No.

Q3280 Lady Hermon: You do not think that is a flaw in your report.

Dr Maguire: In the context of the commentary that we made in terms of how the scheme was set up, how it was delivered and the specific issues around the way in which the letters were sent and the failure to follow through in the checks, no, I do not.

Q3281 Lady Hermon: Can I just then ask? Your report said—and I am quoting here—and it is paragraph 4.24 of your report, that Operation Rapid “emerged as a result of a number of meetings held in 2006”. What evidence is there that Operation Rapid emerged as a result of a number of meetings held in 2006?

Paula Cunningham: Mr Sheridan would say in an interview that that is how it emerged—through these meetings.

Q3282 Lady Hermon: Yes, but if we look at the one key piece of information, the letter from Tony Blair to Gerry Adams, the President of Sinn Féin, after Christmas of 2006. We know from the Downey judgment that he specifically gives a guarantee that he will expedite the OTR cases. Within six weeks we have Operation Rapid set up. We have just had Dr Maguire suggest that it was the Chief Constable who would have given the instructions for Operation Rapid to commence at the beginning of February.

Paula Cunningham: Operation Rapid is a policing initiative. Mr Sheridan confirmed it emerged as a result of these meetings. Obviously what happened within the political dimension is not for us to account for.

Q3283 Lady Hermon: Absolutely not. I am not asking you to talk about the political interests. I am asking you to tell us, when the Police Ombudsman chose not to interview the Chief Constable, how on earth you, and the wider public, can understand how Operation Rapid came into being. How can you be so sure?

Dr Maguire: We spoke at length to Peter Sheridan about this.

Lady Hermon: So there is a missing piece in your report.

Dr Maguire: In the context of our commentary around how the scheme was set up operationally, how it evolved and the specifics around the letters, no, I do not think there is a missing piece.

Q3284 Lady Hermon: Your report also mentions, and it does make reference in paragraph 4.53, an email sent by a senior police officer to a number of other police officers in the parent criminal justice department, which details that the OTR work had become a priority. The email reads—and I am quoting here directly from what is in your report—“Due to the renewed progress on the political front, the NIO is pushing strongly to have the outstanding cases reviewed as quickly as possible and the 54 OTRs.” You have quoted that email and the words were within the PSNI that the NIO is pushing strongly to deal with the OTR scheme. You cannot look at the Northern Ireland Office and you cannot ask for them to account for themselves, but were you concerned, as the independent reviewer of the Police Service of Northern Ireland, that this was political interference by the NIO in the operation of the police function?

Dr Maguire: I think that is a hugely important question.

Lady Hermon: We are agreed on something.

Dr Maguire: In the context of this, as Adrian said earlier, it would have been unfair for me in the report to suggest that the police, in the context of what Peter Sheridan, Norman Baxter and his staff did, were responding directly to political pressure and trying to come up with a solution that met the political masters. You are entering into criminality there, if that were the case. In the context of what we looked at, we were of the view—and we were very clear in the context, which I think was very measured—that the police, within the remit that they were working, tried to do their policing job. That was one piece of the jigsaw in the context of a much broader jigsaw, I accept. The police tried to do their job to deliver a policing response.

Lady Hermon: Despite the attempts by the NIO to interfere with the police’s operational independence.

Dr Maguire: The police did their job as a policing response. As Adrian said, there are issues and difficulties with the way in which they did it, but we do not say in this report—and we are very clear—that this was the police responding directly to political pressure to do something that would meet the demands of their political masters. They did a policing job, and our commentary was around the way in which, as police officers, they did that job.

Q3285 Lady Hermon: Do you have some compassion and some sympathy for Mr Sheridan and Norman Baxter, and indeed other officers, who had absolutely no idea that the Northern Ireland Office officials were busy sending out letters to OTRs? Those in fact were secret letters.

Dr Maguire: In the context of the job that they did, what the NIO did, to some degree, is a separate issue. As Adrian said, and I agree in the context of the report, their intentions in

trying to do the policing job within that ring-fenced focus were to try to deliver that policing objective within a broader political context.

As I think Kevin McGinty said in evidence to the Committee, all of those who were involved in this process knew—I cannot remember the exact words. He is saying they knew there was going to be a product or outcome. I cannot remember which word he used, but he knew there was going to be consequence from all of this but, to some degree, that is a separate issue in the context of the police doing their job to deliver a policing response to that. I think that we have actually been quite measured in the context of trying to articulate the way in which this programme evolved. At the end of the day, it still comes back to the point that this is the Police Ombudsman; we are looking at operational policing activity and we are looking at the accountability for problems where they arose. Those are some of the issues that emerge out of this report.

Q3286 Lady Hermon: Let us just focus on that, then. I will ask you the question that I asked Mr Sheridan: what if Mr Sheridan's letter²⁰ had not been amended, unbeknownst to him, by the Northern Ireland Office official, Mr Mark Sweeney²¹? ACC Sheridan said, in 2007, about Mr Downey that under the terms of reference of Operation Rapid he was not wanted in Northern Ireland, full stop. Unbeknownst to him, the Northern Ireland Office, courtesy of Mark Sweeney, altered that letter and said he was not wanted in the United Kingdom, which was factually incorrect. What would have been the consequence for Mr Downey if the letter had been issued as it had been drafted by Mr Sheridan?

Dr Maguire: I will have to plead the fifth on that. I have no idea. You are asking me to speculate on the consequences. I do not know.

Q3287 Lady Hermon: No. We are now being told that in fact your Office, which has all of this investigative training—I have asked you a straight question: that, in fact, a letter has been drafted by ACC Sheridan that said that Mr Downey, who is a resident of County Donegal, was not wanted in Northern Ireland. We all know—everybody in this room knows—that he was wanted for the Hyde Park bombings by the Metropolitan Police, who did not bother to seek extradition. It is in your report. What if Mr Sheridan's letter had gone out un-amended and Mr Downey flies into Gatwick Airport with a letter that only said he was not wanted in Northern Ireland? What would have been the consequence for the Metropolitan Police in taking forward the Hyde Park prosecution?

Adrian McAllister: He would clearly have a very different letter in those circumstances. It may well not have led to the same abuse of process, but we do not know that, do we? What we do know is the focus becomes on the letters, of course. I am not here to defend the NIO or anybody else—

²⁰ 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)

²¹ 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>

Lady Hermon: I hope not.

Adrian McAllister: But what we do know is, from an NIO perspective, they tried to establish very clearly with the police what the police were doing, in terms of the checks.

Q3288 Lady Hermon: No. With the greatest respect, they did not try to establish very clearly. Mr Mark Sweeney emailed and telephoned the office of Mr Sheridan. He did not speak to Mr Sheridan. He did not explain to the office of Mr Sheridan why they were seeking that information.

Adrian McAllister: I accept that, but they asked a very straightforward question: “What checks are being carried out in respect of these individuals?” They got a letter back from Mr Sheridan saying, “The PNC has been checked; we have checked with the An Garda Síochána and we have checked international arrest warrants.” That was a letter signed by Mr Sheridan. On that very same day, the letter went to Mr Downey. Now, if you are sitting in the NIO’s office and asked the police, “Has the PNC check been done—”

Q3289 Lady Hermon: Sorry, why was it proper for an official from the Northern Ireland Office to be phoning? It is wholly improper for an official to be phoning the private office of a senior police officer. Surely that has crossed the threshold.

Adrian McAllister: I do not know whether it is improper or not. A fairly straightforward question was asked and the question was answered. If it was felt improper that the question should have been answered, then that should simply have been stated and the Northern Ireland Office should have been told, “We’re not answering that question”.

Q3290 Lady Hermon: The difficulty was, as Mr Sheridan put it very well to us today, there were two different tables being played here. His office was not aware; Lady Justice Hallett confirms that Mr Sheridan and Mr Baxter had no idea—in fact no idea at all—that letters were going out to the OTRs. On the one hand, a lady is sitting or a gentleman is sitting in the police headquarters, but not Mr Sheridan sitting in his private office, and a phone call comes and an email comes from the Northern Ireland Office, Mark Sweeney, asking if the national police computer has been checked. There is no explanation given by Mr Sweeney as to why he wants that information. Unbeknownst to Mr Sheridan’s office, the reason the Northern Ireland wants it is to be able to sign out. They alter a letter drafted by Mr Sheridan, but do not tell Mr Sheridan’s office. Do you accept that?

Adrian McAllister: I accept all of that.

Lady Hermon: Thank you. It is factually correct.

Adrian McAllister: It is absolutely factually correct, yes.

Q3291 Lady Hermon: I am just asking you again, then: what if Mr Sheridan's letter had gone out un-amended by the Northern Ireland Office: that Mr Downey was not wanted only in Northern Ireland.

Adrian McAllister: That letter would have been factually correct.

Q3292 Lady Hermon: Perfectly correct, thank you. It was perfectly wrong and the fault lay with whom?

Adrian McAllister: It is very difficult to lay the fault.

Lady Hermon: Oh, no, it is not difficult. You have just answered the question; it was altered by Mr Sweeney. The fault lies with the Northern Ireland Office.

Adrian McAllister: With respect, I have answered the question, yes. What was sent back to the NIO—whether that request was right or wrong, it was responded to by Mr Sheridan's office.

Lady Hermon: But Mr Sweeney got it wrong. A catastrophic error was made by Mr Sweeney and the Northern Ireland Office.

Adrian McAllister: The question was asked of Mr Sheridan's office: what checks have been made in respect of these individuals? That was responded to. If I had received that letter, it was telling me that the PNC had been checked, etc, and all the other checks had been done. It tells you what you need to know: that checks had been done and this man is not wanted.

Q3293 Lady Hermon: It tells you, but it does not tell you why you are looking at that information. It certainly does not tell you that the Northern Ireland Office is altering the letter. Sorry, Dr Maguire, am I not correct? The Northern Ireland Office at no stage explained to Mr Sheridan's office that his letter was being altered.

Dr Maguire: I must assume that that was the case, yes.

Q3294 Chair: The letter said that, "The Police Service of Northern Ireland are not aware of any interest in you from any other police force." It almost puts words into the mouth of whoever in the PSNI wrote that letter. That is the bit that is particularly worrying us. It says the Secretary of State of Northern Ireland had been informed by the Attorney General that there was no outstanding direction for prosecution, yet the Attorney General wrote to the Secretary of State saying they did want him. The Police Service is not going to write that letter. This has been put together by we do not know whom in an extraordinary way.

Lady Hermon: You are nodding your head, Mr McAllister.

Adrian McAllister: I have accepted that that letter was written on the basis of a request and that information came back from the office, and it was then written. I am not

suggesting for one minute that that was a correct process; I think it was for others to judge whether it was a correct process, but that was the process. A request was made and a response was made to that request.

Q3295 Chair: One of the many things that concerns us is, if the Attorney General wrote to Peter Hain, as he did, saying that Mr Downey is wanted, who told the Attorney General that he was wanted? The Attorney General will not access the police computer any more than I could. Somebody, presumably either in the Met or in the PSNI, told the Attorney General that Mr Downey is wanted. It is all very confused.

Dr Maguire: In looking at this exclusively from the policing point of view and setting that review within the context that the Operation Rapid tried to deliver it within a policing perspective, there was a good deal of confusion. There was a great deal of lack of clarity around what the purpose was, what was being checked and what was not being checked. That is very clear as the process evolves. You then layer a whole set of other organisations around this and you have, in the context of what one of your colleagues said, at the very least, an example of not very good joined-up government. I think that was the phrase used before, and absolutely I would say that.

Q3296 Oliver Colvile: First of all, can I thank you very much indeed for coming and thank you also for going through the whole process of actually hearing? I am not quite sure about this, so bear with me for a second. Are there any other ombudsmen of police forces as well within the whole of this country, or are you the only one?

Dr Maguire: In Northern Ireland—

Oliver Colvile: There are others in the rest of the United Kingdom.

Dr Maguire: There is the IPCC in England and Wales. There is the police accountability in Scotland, and there is the—

Q3297 Oliver Colvile: How much liaison have you had with those other services, which do something similar to you here in England and also elsewhere?

Dr Maguire: In a general sense, quite a lot. We talk at different levels.

Q3298 Oliver Colvile: Specifically on this issue to do with Northern Ireland, terrorists and all of that, have you been speaking to anybody else, any of the other ombudsmen services within the rest of the United Kingdom?

Dr Maguire: No, because I am not aware of any investigations that have been undertaken in that regard.

Q3299 Oliver Colvile: Maybe it is one of the things, given the breakdown in this letter, which nobody seemed to be aware of, that it would be wise for the police here in London to end up having an investigation done by the ombudsman as well. In your journeys through all of this, can I ask if you came across anybody who had—how the extradition, from the Northern Ireland police, ended up by happening from Southern Ireland back into Northern Ireland? Did you come across any of that at all?

Dr Maguire: Not that I am aware of.

Paula Cunningham: Not in respect of this particular investigation. Bear in mind we were focusing in relation to the Downey considerations.

Q3300 Oliver Colvile: Generally speaking, are you aware of the PSNI trying to use extradition?

Paula Cunningham: Certainly, yes.

Q3301 Oliver Colvile: Do you have any idea as to how many?

Paula Cunningham: No, I would not be able to provide you with figures. Obviously it has changed over time as well, in relation to the proceedings.

Oliver Colvile: It may be something that we want to try to pursue with some parliamentary questions and things like that too, because I think we need to find out why it was that the police have not been successful in getting people extradited back to the United Kingdom, especially when they are a bunch of terrorists. Thank you very much indeed.

Q3302 Kate Hoey: Mr McAllister, sorry if I misheard briefly there, but what exactly do you do? What was your role in this whole investigation? You are the Chief Executive of the Office.

Adrian McAllister: I have a dual role. I have responsibility for the day-to-day running of the organisation, the finance, the HR and the IT side.

Q3303 Kate Hoey: How many people work for the Ombudsman?

Adrian McAllister: Just shy of 150.

Q3304 Kate Hoey: 150 people? In this investigation, what did you do?

Adrian McAllister: I would have conversations with Paula. I had regular briefings on the direction.

Q3305 Kate Hoey: You did not meet anybody.

Adrian McAllister: No, I did not, no.

Q3306 Kate Hoey: I think you have explained your role, Dr Maguire. You sort of oversee it all.

Dr Maguire: Yes.

Q3307 Kate Hoey: How much did the whole investigation cost?

Dr Maguire: I could not give you a figure. We do not cost our investigations like that.

Kate Hoey: It is all staff time; that is what they are paid to do.

Dr Maguire: Staff do not fill in time sheets and they are not costed by the hour.

Q3308 Kate Hoey: Do you think in hindsight that Matt Baggott was right to so quickly rush in and say, “We’ve got to get the Ombudsman to look into this”, or was it just another way of finding a job for the Ombudsman to do?

Dr Maguire: I will answer your second question first. The Ombudsman is not in difficulty getting work. Last year, we had a 70% increase in complaints to the Office, more complaints than at any other time in its history.

Q3309 Chair: How many complaints was that?

Dr Maguire: 3,700 or thereabouts.

Q3310 Kate Hoey: From individuals?

Dr Maguire: From individuals, yes. On an annual basis, we would get a number of referrals from the Chief Constable. Some of them are immediate, in the context of a particular issue that is of immediate public interest. Others are cases that have emerged in the context of events that have unfolded, and some are because, by statute, we are required to deal with those cases. For example, there were some fatal car crashes recently where there was death after contact with the police. We would look at those automatically. There is a variety of ways in which the Office gets work, in a sense.

This particular issue, because of the seriousness of it, I did not have a difficulty, given that the judge had said it was a catastrophic mistake by the police. The Chief Constable had

apologised for it. I think it was entirely appropriate that he gave that referral to the Office and said, “Look, can you do an independent investigation into what happened?”

Q3311 Kate Hoey: Do you think it has achieved anything? What has it actually achieved—all this work, time and money? What is it saying? Is there anything in it that is really different from what we learned from Lady Justice Hallett?

Dr Maguire: That is a sequencing issue. We were actually ahead of the game first and we briefed Lady Justice Hallett’s team as they progressed, so we were developing many lines of enquiry before the Lady Justice Hallett investigation was completed. In the context of this report, because we had had it referred to us, I had a statutory obligation to finish it. The fact that yourselves are doing this work, the fact that Lady Justice Hallett then was subsequently appointed, meant that I did not have the option to stop. We finished the job that we were asked to do.

Q3312 Kate Hoey: Do you think, in the long-term history of Northern Ireland, it will go down as something that people will be referring to in years to come as being a major work?

Dr Maguire: I have no idea. I do think it was a very serious issue that required independent investigation.

Q3313 Lady Hermon: It was a very serious issue indeed and, unfortunately, we have had a very senior retired officer leave the room today and give us evidence, saying that his confidence in the Police Ombudsman’s Office has been dented by this. Those are not his exact words, but that summarises. That does not help confidence in your Office and that is most regrettable, I must say.

Dr Maguire: I am disappointed that Peter has said that. It does not make it right.

Q3314 Kate Hoey: You do not think you owe him any kind of apology of saying, “Maybe we could have handled this differently in hindsight”. Everyone has hindsight these days.

Dr Maguire: Everyone has hindsight; we can all do things differently. I have to protect the independence and the integrity of the Office. I did not want to be sitting here facing any Committee that is saying, “Hang on, Dr Maguire. Are you telling me that the officer who was subject to complaint, you actually sat down with him and went through the report on a detailed basis?” I could not justify that.

Lady Hermon: Yes, you could, because in fact you were looking at the way the scheme was set up and the way it was delivered.

Chair: We have covered this extensively earlier. I do not think there is great appetite to go through it all again. We have heard what Mr Sheridan has said. We have heard what you

have said, Dr Maguire, and your colleagues. Unless there are any more different questions, we will conclude there. Thank you very much for joining us.