

Lord Carlile of Berriew CBE KC

House of Lords, London SW1A 0PW

carlilea@parliament.uk

Office: 02034329891

Matt Western MP
Chair
Joint Committee on the National Security Strategy

By email to the
Clerk of the Committee

20 October 2025

Dear Chairman

Chinese Spy case Inquiry

If it might be helpful to your Committee, I would welcome the opportunity to give evidence to your its Inquiry into the dropped Chinese spy case.

I am a former MP, a KC for 41 years very experienced in the criminal courts, was for 28 years a part-time judge from Crown Court to High Court , and Independent Reviewer of Terrorism Legislation 2001-11. I am a founder and now non-executive chair of a geopolitics consultancy SC Strategy Ltd, which I founded with Sir John Scarlett KCMG OBE. I continue to take a special interest in national security.

The essence of my potential evidence can be simply expressed:

1. The DPP made an incorrect decision in relation to the law as it affected the case. The available evidence was ample for a prosecution and clearly passed the CPS Code test, namely (1) was there a reasonable prospect of conviction? and (2) was it in the public interest to prosecute?

The DPP's decision was founded on consideration of part (1) of the test, and in my view was inexplicable. He answered 'No', whereas he should have said 'Yes'

He failed to assess the evidence correctly, or to appreciate that whether or not China at the time of the acts complained of represented a threat to the UK's national security is plainly a question of fact for the jury.

The case of *R v Ivanova and Roussev* [2024] EWCA Crim 808 (mistakenly described by the DPP in a letter dated the 7 October 2025 as a 'High Court

decision whereas it was decided in the Court of Appeal) supports my view, especially in paragraphs 36-61.

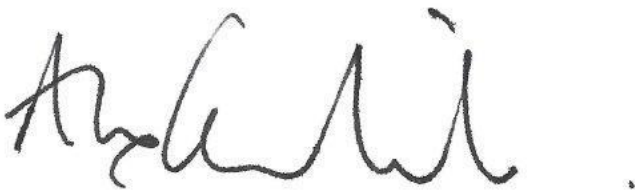
2. If he had doubts as to 1 above, the DPP could and should have charged an alternative count of attempting to commit espionage, clearly justiciable following the decision in the leading case of *Shivpuri [1986] UKHL 2 (House of Lords)*. This is a case well-known to all criminal lawyers.

There was ample evidence of the alleged perpetrators taking numerous steps with the intention to spy within the meaning of the legislation, even if the relationship between the UK and China would have meant that actual spying would not have taken place. That would constitute a serious offence of attempt.

The above were major mistakes and have damaged confidence in the Crown Prosecution Service.

I can expand on the above if required.

Yours sincerely

A handwritten signature in black ink, appearing to be 'A. G. M.', followed by a period.