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CORRECTED TRANSCRIPT OF ORAL EVIDENCE To be published as HC 333-v

House of COMMONS

MINUTES OF EVIDENCE

TAKEN BEFORE

Northern Ireland Affairs COMMITTEE

policing and criminal justice in Northern Ireland

Wednesday 2 APRIL 2008

MS JANE WINTER

MR WHITE and MR LAMONT

Evidence heard in Public Questions 360 - 459

USE OF THE TRANSCRIPT

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Oral Evidence

Taken before the Northern Ireland Affairs Committee

on Wednesday 2 April 2008

Members present

Sir Patrick Cormack, in the Chair

Mr David Anderson

Mr Gregory Campbell

Mr Stephen Hepburn

Lady Hermon

Kate Hoey

Dr Alasdair McDonnell

Mr Denis Murphy

Stephen Pound

Sammy Wilson

Memorandum submitted by British Irish Rights Watch

Examination of Witness

Witness: **Ms Jane Winter**, Director, British Irish Rights Watch, gave evidence.

Q360 Chairman: Good afternoon and welcome. Could I also, on behalf of the Committee, thank you very much indeed for agreeing to come and give evidence. You are of course aware that this evidence is, although not being broadcast on the television, is available on the internet and of course everything is taken down and there will be a full published transcript. Are you quite happy about that?

Ms Winter: Yes, I am.

Q361 Chairman: Fine. You have been the Director of British Irish Rights Watch for how long?

Ms Winter: Since 1995.

Q362 Chairman: So you have done a good stint. Before we move onto the questions, is there anything that you wish to say by way of opening statement?

Ms Winter: Only to thank you very much for inviting me here today.

Q363 Chairman: You know that we are looking into the past, the historic enquiries, the work of the Ombudsman, the cost and whether it is proportionate, how long this should go on and all the rest of it. We will be making a report to Parliament which will of course be published and we will publish it with a press conference in Northern Ireland towards the end of June/early July time. We are about half way through now. We took evidence in Northern Ireland a couple of weeks ago and we shall be taking further evidence in Northern Ireland early in May. Did you hear the evidence we took in Northern Ireland?

Ms Winter: I have not, no.

Q364 Chairman: Have you read it?

Ms Winter: I have not yet, no. I have read some of the testimony you have taken here in London but I have not caught up with that from Northern Ireland.

Q365 Chairman: Can you give me by way of opening your views on the work of the Historical Enquiries Team? We have visited it; we have seen it at first hand. In your opinion is it achieving what it set out to do?

Ms Winter: That is actually a very difficult question for me to answer because my organisation is involved in quite a few of the cases that the Historical Enquiries Team is looking into.

Q366 Chairman: How many?

Ms Winter: It would be hard to give you an exact number, but somewhere between 30 and 50 I would think, spread across the whole time period that they cover, so some of them are more recent and some of them are quite old.

Q367 Chairman: Is your time span the same, 1968 to 1998?

Ms Winter: No, our time span is 1968 to today, but we have cases that coincide with their time span. So far we have not seen a final report from the HET on any of our cases so it is difficult for us to judge whether they are in fact delivering what they promised. However, we are obviously aware of other cases that other NGOs have been involved in where there seems to have been a somewhat patchy response. Some people have been very, very pleased with the work of the HET and feel that they have really achieved some closure to the loss of their loved one and others have been critical about mistakes in the report and so on. The one thing we have

always found is that the HET are very, very family friendly and if they do make a mistake and it is pointed out to them, they will do something about it; they do not insist on their version of events and they will look at it again. They do make real efforts to involve families in the work and to try to keep them informed.

Q368 Chairman: That very much bears out what we saw because we met a few families, obviously confidentially and we would never name them, but we did get the impression that the matter was being dealt with meticulously, that it was being dealt with sensitively and that even those families who could not be entirely happy with the outcome at least respected the integrity of the operation. That would seem to accord with your general comments.

Ms Winter: It certainly would, yes. As you say, for many families the truth is never going to be discovered. People are quite realistic about that, they do not usually have huge expectations that somebody is going to be prosecuted after 30 years or whatever. The families that we work with feel that the Historical Enquiries Team is doing its best to get to the truth and is also prepared to share with them as much information as they are legally allowed to share which, for many families, is a new experience.

Q369 Chairman: When we were in Northern Ireland we also went off to the Ombudsman's office where again we met with senior officials and we also met with representatives of some families. We had evidence which you will have read because it was here in London from the Ombudsman himself in which he expressed very great anxiety about being submerged in the past as far as his operations are concerned and about his ability to deliver what he believes the Ombudsman should be delivering now and also coping with the past. What views do you have on that?

Ms Winter: It is all a question of resources at the end of the day. I was having a look at the budgets available to the police, the HET and the Police Ombudsman and just on last year's annual figures it would appear that whilst the police have £2 million a day to run their operation the Police Ombudsman has only £24,500 and the HET has only £15,000 which are minuscule by comparison, and yet some of these historical cases are very, very difficult and they would, in my view, be a major crime operation if they were to occur today and yet neither the HET nor the Police Ombudsman has the resources to deal with that sort of work.

Q370 Chairman: What is your answer to that? Would you do as the Ombudsman has said he would like and have the operation divided into two so that there is not a drain on the resources for current work? Would you keep them together under his general oversight? How would you deal with that?

Ms Winter: I am well aware that Dame Nuala O'Loan, his predecessor, has proposed that there should be one unit which is made up of what is now the HET and the historical aspects of the Police Ombudsman's Office and that is actually quite an attractive proposition with some provisos. It is attractive because it would do away with any duplication between the two organisations of which there is inevitably some. It is attractive from the Historical Enquiries Team's point of view because it would get round the fact that it is the police investigating the police and therefore they are not compliant with article 2 of the European Convention in terms of independence. It would also overcome the problem that the Police Ombudsman has which is that his remit is limited to police misconduct and he cannot look at the bigger picture. From all of those points of view I think her idea has merit. The provisos would be that it must have the resources that it needs, the powers that it needs and hopefully it would not lose the learning that both the Police Ombudsman's Office and the Historic Enquiries Team have already amassed, which is quite considerable. One would hope that they would inherit the staff who had been doing the work anyway.

Q371 Chairman: You said very honestly that you could not deliver a verdict on HET apart from expressing a general satisfaction with the modus operandi. What about your experience of the work that the Ombudsman's Office has done? Are you well content with that or do you feel it has not been well done?

Ms Winter: We are in a better position to comment on that because his office has been around for longer and we have seen more cases that we have been involved in come to fruition. The outcomes there have been patchy. I think it very much depends on the quality of the individual investigating officers. Some of them are excellent and do a very, very thorough job and they explore every nook and cranny of the complaint; others seem to be much more superficial. As an institution certainly up until now we have found the Police Ombudsman's Office much less family friendly than the Historical Enquiries Team. They are much more concerned with confidentiality and not wanting to disclose more than the bare minimum of information to families which can be very, very frustrating because families are much more often interested in finding out the truth about what happened than in making a complaint against an individual police officer.

Q372 Mr Campbell: In your submission you talked about HET being given the tools it requires to finish the job. Can you put some flesh on that? What does that actually mean?

Ms Winter: As you know they have been given six years to try to cover all the murders that took place between 1968 and 1998. It is obvious when one looks at the sums and the number of cases they have managed to close so far that they are going to overshoot that target; they are not going to make it in six years. What I was trying to argue in my submission was that now that this enterprise has been started so many expectations have been raised amongst those families who come within the remit of the HET that it would be devastating for them if their case does not get looked at. I am arguing that they should be given the resources that they need to finish the job, even if it takes longer than originally anticipated.

Q373 Mr Campbell: You also said, "It is crucial in our view that whatever the cost, the HET should be allowed to continue its work", the relevant quote being "whatever the cost".

Ms Winter: I can see why those who hold the purse strings might not enjoy that phrase. I obviously do not mean that they should not be cost effective and that they should not be accountable for their money, but what I was trying to imply was that costs should not be the final arbiter in this exercise. This is a unique exercise, it has never been done before and, as I say, it has raised many expectations and to shut it down on financial grounds I think would have more detrimental effects than any benefit from saving money.

Q374 Mr Campbell: You go on a bit further than that and you have said, "If HET was not allowed to complete its work the expectations of a large number of victims would be dashed and public confidence in the police and the criminal justice system would be dealt a body blow from which it may never recover". Is that not a rather extreme statement to make?

Ms Winter: I do not think it is. I think it can be underestimated, particularly by people from outside Northern Ireland unlike yourself,

how difficult a job the RUC had during the conflict. The reason why it was not able to deal with what we would think of as ordinary crimes a lot of the time was because all of its resources and energy were focused on an almost unmanageable situation. We have found in our work right across the community that people on all sides have felt they have not had a decent service in the past. The Historical Enquiries Team, because of its openness and its willingness to engage in dialogue with families is, I think, helping to restore confidence in modern policing and some of that thinking is also taking root within the PSNI who are themselves becoming more family centred, better at family liaison than they used to be and so on. So there is a kind of symbiotic relationship there and I just think from the families we work with who have been engaging with the HET, if the HET rug was pulled from under their feet then they would lose faith in the police altogether.

Q375 Mr Campbell: I do not doubt what you say about the work of the HET. Everyone that I have spoken to and the Committee have spoken to speak very highly of the work of HET. However, are you saying that the work of policing in 2008 in Northern Ireland would be dealt a body blow from which it may not recover because of the attitudes of a number of people to investigations into events of some 30 years ago that were not satisfactorily concluded?

Ms Winter: Yes, I am saying that because there is a historical continuum. It is not true that this is now and that was then. For people who lost a loved one where there has been no resolution to the case it is as if it happened yesterday. Now that there is some glimmer of a possibility of some resolution and some closure to that, if you took that away that would affect, I think, people's attitudes towards the police now. That is partly because the HET is seen as part of the PSNI, which of course it is. Dave Cox is answerable to an assistant chief constable. It is part and parcel of the police and people are well aware of that; they do not see it as a separate organisation. One of the HET's difficulties is that it is not seen as being sufficiently independent by some people.

Q376 Mr Campbell: In terms of day to day policing where people are now phoning the police more and more in relation to antisocial activities, criminal activities, car theft, all of that where some people say they are achieving excellent results, some people say it could be improved, but the fact is that they are reporting to the police which historically they would not have done. Are you saying that all of that would be jeopardised for all the hundreds of thousands of people over a period of years from now on who have to report criminal activity, because of an uncompleted HET investigation the bulk of which relates to the 1970s and the 1980s?

Ms Winter: I am not sure that it would all be jeopardised but I think it would create a huge hurdle for the PSNI to have to get over. It has been building public confidence, as you rightly say, and people are much more willing to engage with the police now than they used to be. When somebody is murdered there is a ripple effect. It does not just affect the immediate family of that victim, it often affects an extended family and sometimes a whole community. People who were not directly involved in that murder nonetheless are intensely interested in the investigation and the outcome of that investigation. I do not think that should be underestimated. It is for that reason that I feel that to just disband the HET in the middle of its work would do more harm than good.

Q377 Mr Campbell: The Ombudsman and some other witnesses have suggested that it might be possible to hive off all of this work to separate agencies. Do you have a view on that?

Ms Winter: As I was saying earlier, I think that is what Dame Nuala O'Loan has been recommending. I certainly think it does have some attractions to it from the Police Ombudsman's point of view that he could get on with the current complaints system.

Q378 Chairman: That is very much his view.

Ms Winter: Yes.

Q379 Mr Campbell: Cost would be a secondary factor as far as you are concerned.

Ms Winter: As said earlier, it would need to be sufficiently resourced. It would need to be at least as good as what people have now.

Q380 Mr Murphy: When we visited the Historical Enquiries Team we had the opportunity to look at some of the evidence that had been collected. In some cases there was quite a bit, several boxes for an individual case, and yet in others there was very little, perhaps three or four sheets of A4 containing very little information. It is fairly obvious to us and a lot more people in Northern Ireland that information does exist out there. Individuals or organisations will have information on many of these murders. How would you see the HET changing to try to encourage these people to come forward? Would you consider amnesty to be part of it?

Ms Winter: I think one has to be very careful about amnesties because from a human rights perspective - which is obviously the perspective I am coming from - we would be very concerned about impunity and about the slate being wiped clean where people have done wrong. On the other hand there clearly is a trade-off - we have seen this in some of the public enquiries - between giving people at least a limited element of amnesty in return for information. I think it would really be a matter for the professional judgment of the HET whether they think that such an offer would help them or would possibly hinder them; for everybody who might come forward there might be somebody else who, disliking the idea of an amnesty, refused to come forward.

Q381 Sammy Wilson: At the beginning of your submission you gave your impression that British Irish Rights Watch is a body which deals with complaints right across the board and takes a fairly objective view of all of this. However, reading your submission and looking at some of the comments which have been made here, it does not seem very objective. Phrases such as "the police had a gentleman's agreement which meant that the RUC did not investigate them in any depth, accepting self-serving statements supplied by the Royal Military Police"; "It is a safe bet that many of the cases will turn out to be of major proportions" (this is in relation to the UDA); your contention that the Bloody Sunday Inquiry was full of flaws. It is not really a very objective assessment of the police, is it? None of these statements are backed up by any facts.

Ms Winter: In relation to the gentleman's agreement I can and indeed would be more than happy to send you or the Committee all the documentary evidence that exists. The term "gentleman's agreement" is not my term, it is the term that was adopted at the time. It came out of papers that came from the public records office. I would be very happy to supply you with that information. I do not believe that we were being in any way biased in referring to that agreement which is a historical fact, it did exist.

Q382 Sammy Wilson: The comments about the gentleman's agreement, who made them?

Ms Winter: The agreement was made between the RUC and the Royal Military Police.

Q383 Sammy Wilson: The comment about the gentleman's agreement, who used that phrase?

Ms Winter: I am afraid I cannot remember off the top of my head who said it.

Q384 Chairman: Is it a phrase you quoted rather than one of your own.

Ms Winter: Yes, it is one that I have quoted, not one that I have made up. As I say, if you would like me to send you the evidence I certainly will.

Q385 Sammy Wilson: Yes, we would like to see the source of that particular comment. You had also mentioned the activities of C Company of the UDA, "It is a safe bet that many of these cases will turn out to be of major proportions". "Safe bet" based on what? There is no evidence given in your submission as to how you came to that conclusion.

Ms Winter: I came to that conclusion based on the number of serious cases that have already emerged from that particular part of the UDA. Again I can send you details.

Q386 Sammy Wilson: You are actually referring to the future, not referring to past cases.

Ms Winter: If I recall correctly I had referred to the Police Ombudsman's Operation Ballast report and what I had in mind was that if anybody had the time or resources to go into some of the other things that have gone on in Northern Ireland - and I accept fully that they went on on both sides of the divide - I am thinking for example of the Stakeknife investigation, it is a safe bet that they would be just as bad. That was not an isolated, one-off case; I think that was the point I was trying to make.

Q387 Sammy Wilson: You are speculating.

Ms Winter: Yes, but I think by using the word "bet" I made that clear. In relation to Bloody Sunday it is not just me who thinks it was flawed: the Government went to the trouble of setting up a second inquiry and I do not believe they would have done that unless somebody somewhere thought that there really was something wrong with the first inquiry.

Q388 Sammy Wilson: Some people argue that it was a political decision to set up the inquiry. In relation to the cases you have taken on, you have mentioned there are about 30 to 50 cases that are currently being dealt with by the Ombudsman and the Historical Enquiries Team which are also being dealt with by British Irish Rights Watch. How many of those cases would relate to instances where terrorists have murdered, for example, a policeman or a member of the security forces? How many of those cases would relate to murders by terrorists?

Ms Winter: The majority of them relate to murders by terrorists. Some of them relate to members of the security forces, for example there is a police officer who was shot off duty. Obviously I cannot give names here for confidentiality reasons, but I am sure you will remember the dreadful atrocities of the human bombings where both civilians and a large number of soldiers were killed. That is another case that we have been involved in. It is the truth that we do act for anybody whose human rights have been violated because of the conflict, absolutely regardless of their status. We do not go to people; we do not chase. We do our level best for anybody who comes to us and asks for our help.

Q389 Sammy Wilson: In how many of the 30 to 50 cases would there be allegations of collusion by the security forces?

Ms Winter: I think probably about half of them. I am afraid we do not actually count all the cases that we have; we just get on with them and do the work. I am estimating here - guesstimating even - but I would say it is about half.

Q390 Sammy Wilson: The vast majority of cases that are being dealt with by the Historical Enquiries Team, there are no allegations of security force collusion. The vast bulk of your work would be cases where it is allegations of security force collusion.

Ms Winter: I would not call half the vast bulk, but I would also say to you that people who believe that there has been collusion in their case are more likely to complain to groups like mine than people who think that the case was already solved by police. Unfortunately we do not see the happy people in society, we see the unhappy ones.

Q391 Lady Hermon: In relation to the cases that you are taking forward with families, to what extent does your organisation actually supply or assist the families in presenting lists of questions to HET?

Ms Winter: It depends on what the family wants. Sometimes the family comes with their own list of questions that they have already developed. The attitude we have taken to the HET is that there is no point with an experiment like that - and it is a unique experiment - setting it up to fail. We have tried to assist them as much as we can. For example, they will tell us what cases they are working on at the moment and ask us if we have any information. If we do, if it is publicly available information, we will just point them to it; if it is confidential information we will ask the family whether they are happy for us to pass that information on. In some of the cases we worked on, partly because of the problem that Mr Murphy was mentioning of their being such a paucity of evidence available in some cases to the Historical Enquiries Team, we have done our own research and produced a report on the case and handed over to the HET everything we have discovered. We do not have their powers or their resources, but I do think that we are often able to suggest lines of enquiry to them that they have found useful to follow.

Q392 Lady Hermon: How is your organisation able to come forward with those lines of enquiry?

Ms Winter: It is very standard research work. We go to the cuttings library in Belfast. We get the inquest papers if there was an inquest - there usually was - and then there are witness statements there and so. We interview the family themselves and sometimes we will interview witnesses if they are still around.

Q393 Lady Hermon: Does your organisation actually supply questions on behalf of the family to HET?

Ms Winter: If the family asks us to, yes, but it is always in consultation with the family. They are not our questions, they are their questions.

Q394 Lady Hermon: Moving to the Police Ombudsman, I was quite disconcerted by some of the comments about the Police Ombudsman's work. You have made an assessment that in fact the investigation of the Police Ombudsman's Office is "patchy and superficial in some cases".

Ms Winter: Yes, in some cases.

Q395 Lady Hermon: Since those cases are presumably in the public domain already and the reports are published and therefore confidentiality does not attach to them, could you give us some examples of where it is patchy and superficial and some that you would say were good investigations by Nuala O'Loan and her team? She was there a very long time, seven years.

Ms Winter: Yes, indeed, and some of her investigations have been very good and Operation Ballast, which is very much in the public domain, she obviously spent a great deal of time on and went into matters meticulously. When I say "she" I obviously mean her office.

Q396 Lady Hermon: What about the patchy and superficial ones? That is quite a damning indictment and I would just like to know some examples.

Ms Winter: It is, yes. My difficulty in giving you examples is that although you say reports are published, reports are not published on all of the Ombudsman's cases and often the full report is not published.

Q397 Chairman: I do understand your reticence because these are highly sensitive matters, but would you reflect on Lady Hermon's question and would you please communicate with our clerk after this session. If you could just indicate for the Committee's information alone, with the assurance from me that we will not break any confidentiality, which cases were well dealt with and which were patchy. If you could do that sort of thing it would be very helpful. Could we ask you to do that?

Ms Winter: Yes, of course.

Q398 Lady Hermon: My final question relates to a wish, it seems, for the Police Ombudsman to be more "family friendly". What changes would you like the Police Ombudsman to make to be more family friendly?

Ms Winter: It would be helpful if they would keep families informed of progress on a more regular basis. That is one of the most common complaints we have about his office. A family will come to us and say, "I complained to the Ombudsman a year and a half ago, the last time I heard anything was six months ago and I have no idea what is going on".

Q399 Chairman: This is in contrast to the HET where you feel they keep the families better informed.

Ms Winter: Yes.

Q400 Lady Hermon: How many cases would you have had of families coming to you and saying that the Police Ombudsman has failed to keep them informed? What sort of numbers are we looking at?

Ms Winter: I am sorry I am not very good at giving you numbers; it is simply that we do not count them.

Q401 Lady Hermon: It would be helpful if you would send us a note.

Ms Winter: What I can say is that the majority of people who come to us - as I say only people who are unhappy about something come to us - have complained about these long patches of time where no information is forthcoming. I have met with Dame Nuala O'Loan when she was Police Ombudsman and discussed this issue with her. What she said to me was that their difficulty was that they were often waiting for information from other people and did not really have anything to tell the family. That is a view that I absolutely understand, but from the family's point of view silence means that nothing is happening at all.

Q402 Chairman: If the train comes to a halt the passengers like to know why, even if they are told repeatedly that they cannot establish the cause.

Ms Winter: Yes. Or just to know that the Police Ombudsman has been doing something but they are being held up by somebody else.

Chairman: You make the point very well. Anything you can do to flesh out that answer would be helpful.

Q403 Kate Hoey: I probably should know this, Ms Winter, but who actually funds you?

Ms Winter: We are a registered charity and about 90% of our funding comes from other charities who make charitable donations and those would include the Joseph Rowntree Charitable Trust, the Oak Foundation, the Hilda Mullen Foundation, the Atlantic Philanthropies. About 10% of our funding comes from individual charitable donations.

Q404 Kate Hoey: You have said quite a lot about the Lord Saville inquiry and you say here that Lord Saville wanted to conduct a "thorough and impartial inquiry, and by and large it would appear that he has succeeded in doing so, although his final report will be the ultimate measure of that". You are an organisation that actually represents everyone's human rights; how are you going to assess this very interesting term that it will be the "ultimate measure" of whether it has been thorough and impartial inquiry. Is that because

you have already decided what you would like it to say?

Ms Winter: I have no idea what it is going to say. I am very perturbed by the fact that it is taking so long to say it, as indeed are the victims. No, I am not prejudging the issue at all. What I meant by that was that our contact has primarily been with the victims and their families. Most of them were initially very cautious and suspicious about the new public inquiry and I believe that Lord Saville and his team won them over in the way he conducted the inquiry. Many of the relatives have said to me that whatever the outcome they feel as though they had a fair hearing. However, from our point of view, given that the Widgery report was so highly criticised, Lord Saville has expressed some consciousness of this and he knows that he will be judged at the end of the day on the product he produces. That is all that I meant about this.

Q405 Chairman: So we must not read anything too sinister into your submission.

Ms Winter: Not at all; I did not mean it in a sinister way.

Q406 Mr Hepburn: In your opinion, from your experience and the work you have done in the world of human rights in Northern Ireland over the years, how widespread do you think collusion actually was in Northern Ireland? Was it just the high profile cases that we have seen or do you think it went on to a greater extent?

Ms Winter: I wish I knew the answer to that question.

Q407 Mr Hepburn: Do you have an opinion on it?

Ms Winter: I suspect that it was quite widespread - I think the Operation Ballast report which came out with a catalogue of things in that instance that Special Branch were doing wrong - because it strikes me not just from reading that report but from having worked on other cases where I have seen some of the same things happen, those were ways of working, those were policies; they were not rotten apples in the barrel, as it were, they were shortcuts in lots of cases that should not have been taken. I tend therefore to think that that was systemic.

Q408 Mr Hepburn: At all levels, from your bobby on the beat to senior levels; it was just part of their every day work.

Ms Winter: I think it was possibly more certain parts of organisations, whether it was within Special Branch or within the army rather than the whole organisation. I think there were plenty of ordinary coppers on the beat doing their best to do a very good job, but when intelligence was not being handed to them by those who had that intelligence then they could not use it to prevent crime or detect crime. I have spoken to many police officers who felt as if they were operating with one hand tied behind their back. I am not saying that this was a complete culture but I think there were methods of working which made it more difficult for those who really just wanted to get on and do a good job to do their job properly.

Q409 Chairman: Bearing in mind the population in Northern Ireland is not a lot different from the population of greater Birmingham or Staffordshire, would you not think that any police force confronted with the repeated atrocities that happened during that period by whomsoever committed - IRA or Loyalists or whoever - would have been overwhelmed, particularly bearing in mind that police stations were continuously being targeted. We discovered when we were there that one of the reasons why evidence was in short supply was that there were 87 bombings of police stations, there were two very significant attacks on the forensic laboratory. It was a very real battle against the odds, was it not?

Ms Winter: It was, and I think we acknowledge that in our submission. For example, we mention 1972 when I think nearly 500 people were murdered in one year. No police force could cope with that adequately and for that reason I think that some of the criticisms that have been made of the RUC are not fair because any police force would have had difficulty. I would also, if I may, add to that that any police force anywhere in the world - I think human rights groups all over the world would back me up on this - will say that the less scrutiny you put your police under, the less well they behave. It is true that for a long time there was very little scrutiny in Northern Ireland. That has changed a great deal.

Q410 Chairman: They are probably the most scrutinised police in the world.

Ms Winter: Possibly. Certainly Sir Hugh Orde would say so.

Q411 Dr McDonnell: Before I start my questions on the Cory inquiry, I would like to commend you for your discretion and your diplomacy around Widgery because words like "whitewash", "dishonest" and "scandal" come to my mind. Have you any opinion on the Cory public inquiries and what benefits might we expect from the outcomes?

Ms Winter: Again it is always hard to anticipate. Things have already happened in the Billy Wright inquiry which is the most advanced which we would never have expected, so it is hard to anticipate exactly. I do not believe there are going to be any more public inquiries in Northern Ireland so these are significant for a lot of people. My hope would be that they will fairly and properly conducted, that they will not be obstructed which really does appear to have been a problem with the Billy Wright inquiry both by the prison service who destroyed 800 prisoners' files knowing that there was going to be a public inquiry. My hope would be that state agencies will not be in a position to stop an inquiry set up by the state; that should not be allowed to happen in a democratic society. If that does not happen and those inquiries are able to come to the truth about what happened in those cases, then I think that will do a lot to restore people's confidence in the public administration of justice.

Q412 Dr McDonnell: What do you see as the ultimate end point in terms of benefits from these? How do you feel that benefit relates to the cost? We heard many times that a lot of money had been poured into the Saville inquiry and the suggestion is that there will be no satisfactory outcome or no satisfactory conclusions and no closure.

Ms Winter: That would be a tragedy. I must say that is not my expectation of the Bloody Sunday inquiry from having seen how it was conducted. As we were all acknowledging at the outset of this session, inevitably not everybody is going to be satisfied, not everybody is going to find out exactly what happened to their loved one and that could be the case in any of these inquiries. This is a process of

an honest endeavour to come to the truth, done in the public gaze, for anyone to scrutinise for themselves, particularly in Northern Ireland where there has not been enough of that in the past. Remarkably the Saville inquiry was only the second public inquiry ever to have been held after Widgery and now we have another three (in my view there should be a fourth into the case of Patrick Finucane but that has not yet happened).

Q413 Dr McDonnell: Do you feel that with the high costs of these there is a cost benefit there? Would we not be better, as some people suggest, to hand the families and surviving victims of these situations a large sum of compensation rather than spend it on an inquiry.

Ms Winter: I certainly do not think that the families would accept financial compensation in lieu of proper investigation. I do not think that would bring them any closure. From their point of view this is not an exercise that is about money and very often the publicity that is generated by the inquiry makes it sound as if the families are somehow raking in huge sums of money whereas of course they do not get any money out of a public inquiry. What they are looking for is the truth and some resolution and, crucially, they do not want what happened to them to happen to anybody else. That is a thing that we find over and over again, whether people have an inquiry or not. What people say to us more often than not is that there is nothing they can do about what happened to their loved one but they do not want it to happen to anybody else.

Q414 Chairman: What do you say about people like Sir Kenneth Bloomfield who said to the Committee a couple of weeks ago in Belfast that the only people who get rich out of inquiries are the lawyers? We really do need, whilst recognising all the sensitivities, to have some alternative to just enriching the lawyers. How do you respond to that?

Ms Winter: I would certainly agree with you. I think that there are cost benefits to holding public inquiries, but whether the costs that are incurred are justified or reasonable is a different question. Judge Cory himself came up in his reports with several suggestions for ways of capping the costs and also making sure that things happen in a timely fashion instead of dragging on and on, which I am not sure have been taken fully to heart by the inquiries, although it may be early days yet especially since two of them have not actually started work yet.

Q415 Dr McDonnell: Is the public inquiry the only way to pursue the issues involved, or is there an alternative that might bring closure to the families and might bring closure to the victims who are left behind?

Ms Winter: I think it depends on whether you are looking to the past or to the future. If we look to the future there is a very cost effective way of ensuring that there is no need for a public inquiry, which is often really an admission of failure; everything else has not worked and you end up with a public inquiry. The way to avoid that is to have effective investigations in the first place. We are moving in that direction; we are getting better at it I think. That is by far and away the cheapest way of bringing closure and of dealing with serious crime. Of course you cannot make right the past where that has not happened. As I say, I do not think we are going to see any more public inquiries in Northern Ireland although there are many families who are calling for public inquiries. Many people feel they deserve a public inquiry and should get one but I do not think it is going to happen, so it is important that the ones that are happening do it right.

Q416 Dr McDonnell: Is it a good thing that there will be no further public inquiries?

Ms Winter: Not for the individual families; for them it is a tragedy. I have been using the word public inquiry rather loosely but of course inquiries under the Inquiries Act are not really the same as public inquiries like the Saville inquiry was. I think it is generally felt that public inquiries are not the best way of dealing with things. When everything has gone wrong to have a hugely expensive, very time consuming public inquiry does not seem to be the best way of dealing with it. It cannot be beyond the wit of human kind to come up with something better.

Q417 Dr McDonnell: What do you say to those who suggest that the reputation being built for the PSNI is being undermined and damaged by some of these inquiries even though they are inquiries into the activities of the RUC as it was then?

Ms Winter: I think that that is currently a matter which is in the hands of the PSNI itself in that if they are seen to act properly now and if they also make it very clear to the public that they operate very differently nowadays than the RUC used to, then it is a hearts and minds exercise that they have an opportunity to win. I also think that if people come to a public inquiry and give an honest account of what happened, however wrong what took place may have been, that does actually reinforce public confidence because they say, "Well, at least this person is being honest; we are now getting to the truth, we are getting to the bottom of it and we can put it in the past where it belongs".

Q418 Stephen Pound: Good afternoon, Ms Winter. Thank you very much for finding time to come and see us. We seem to be spending so much time talking about costs that I think I would say that many of us respect the fact that you set up British Irish Rights Watch on an entirely voluntary basis and for the first five years you did not even get paid for it. You said something extraordinarily interesting a moment ago. You said, "It is not beyond the wit of human kind to come up with a better way of doing it". Could I refer you specifically to the issue of historic inquests? There are about 100 historic inquests outstanding and about half of them could reasonably be classified as contentious. Sir Hugh Orde has said that his concern is that every one of those could end up as a mini public inquiry, particularly because of the requirements of disclosure. Bearing in mind that you have talked about article 2 earlier on and bearing in mind there have been rulings on about six of those cases, could you apply the wit of human kind to come up with a better way of addressing that issue? Do you think that those inquests, if addressed through the Winter mechanism, would provide what you referred to earlier on as closure?

Ms Winter: I am afraid that I probably need the collective help of some other bits of human kind to come up with a proper blue print.

Q419 Stephen Pound: Give us a clue. Give us the shape of it. Who would it consist of? Would it be people from Northern Ireland or would it be people from outside?

Ms Winter: Your question was about inquests specifically but you seem to me to be asking more about something like a truth commission perhaps.

Q420 Stephen Pound: I was piggy-backing on your statement.

Ms Winter: In terms of the inquests themselves, they have been held up for years and years and years by legal arguments about the scope of the inquest and about disclosure of documents. Those, at long last, have been resolved by the courts and it is true that this backlog has arisen. I can see that that is a real headache for the PSNI but, on the other hand, it is a headache that will eventually go away because it is a historical backlog which will disappear over time. I do think - certainly talking from Dave Cox and the Historic Enquiries Team about this whole issue of how much evidence can be found about cases within the police estate - that if the PSNI were to have a dedicated disclosure unit which actually cooperates with the HET who have already done a lot of this evidence collecting to find what they really have got that they can disclose to the coroner and do it as promptly as possible, that would be a cost effective way of doing it. I get the sense that different teams of police officers, who perhaps have no experience of doing this, are detailed to go away and find the documents and the evidence to give to the coroner and that is not a very good way of proceeding. I think there may be ways of making it a more streamlined and effective process that is not as expensive and difficult as it might appear if you look at each case on its own.

Q421 Stephen Pound: Would it bring closure?

Ms Winter: I certainly hope so because now that inquests can look not just at the means by somebody died - for example, they were shot - but the circumstances surrounding the death, there is the scope to bring closure through an inquest. I would hope that if those inquests are conducted properly and there have been, as I am sure you are aware, many reforms within the inquest system - there is now a senior judge presiding over the whole process and there are full time coroners rather than part time coroners - I am hoping that they will bring some closure to those families who have been waiting far too long.

Q422 Sammy Wilson: I want to deal with the question of covert sources and I notice in your submission that you say British Irish Rights Watch find yourselves wondering about the issue of covert sources was being raised as a matter of concern. You accept, first of all, that for the police to have covert sourcing is important and, secondly, that they do have a duty first of all to protect those covert sources and to protect the handlers of those covert sources.

Ms Winter: I certainly accept that they have a duty of care towards their covert sources and their handlers. I have given this a lot of thought because the issue has been much discussed in recent times. I have thought about it in terms of the so-called war on terror, international terrorism. I do think it is time to re-think the way informers are used because at the moment we base informers on money; we pay for information in many, many cases. I think that that is inherently likely to produce unreliable information and we need to look at the whole way informers are used in society. We need to find ways whereby we can encourage people who do have information, in whose own interests it is not to be blown to bits - nobody wants to be the victim of terrorism at the end of the day, or very few people - to come forward with no question of payment but because it is their public duty to do so and to be, if necessary, in confidence recognised as having been a useful person in society who has done a good thing instead of being this kind of rather shady person who is marginal and on the sidelines and comes up with information in return for money.

Q423 Sammy Wilson: Some people might regard that as a very naive view of how you get informers. Sunday school teachers do not actually make good informers.

Ms Winter: Sometimes they do.

Q424 Sammy Wilson: The chief constable, in his evidence to us, told us that the reassurance of police officers saying, "We can protect your identity" is not true any more because of the Inquiries Act. That is the chief constable whom I would imagine has some knowledge of the impact this has had on intelligence sources, *et cetera*. You beg to differ; why?

Ms Winter: I think that the chief constable, if he had ever made that promise to any of his agents or informers, was mistaken to do so because the law of the land is that if a matter comes to court the police can apply for a public interest immunity certificate in order to protect information about sources and about methods of working, but it is for the courts to decide whether, balancing the public interest, national security and these days, thankfully, human rights, it is necessary to disclose that information. That has always been the case. There is nothing new in the Inquiries Act, for example, that makes it more difficult to protect sources or methods. There are all sorts of other methods of protection like screening, like giving evidence by video link, anonymity, all of which are used by the courts whenever they are needed.

Q425 Sammy Wilson: We have already seen, as we have seen with the Police Ombudsman and with the Historic Enquiries Team, that more and more people have access to information. The Historic Enquiries Team have told us that they could go and look for any intelligence that there was gathered, ask for that intelligence, that then increases the circle of people who know about it. It is the same with the Police Ombudsman's Office, sometimes the reports themselves I suspect have been very useful to terrorist groups because, by a process of elimination, they can identify who might be referred to there. Is it a fact of life that if you allow inquiries to have access to intelligence information and more people have that, there is a greater chance of it being leaked and therefore a greater chance of risk for those intelligence sources?

Ms Winter: I think one has to look at the other side of that coin which is what happens if nobody has access to that information. I have a case like this in the Republic of Ireland where a soldier was dismissed from the army on account of a handwritten note in pencil that was not signed. He had no court martial, no due process and he has been trying to clear his name for 25 years. That is what happens when you do not have some checks and balances on the informers. I just think that - maybe I do sound like a Sunday school teacher - people who work for the Historic Enquiries Team and the Police Ombudsman should be under a duty of confidentiality and there should be very strong sanctions if they break that. In my own organisation nobody works in my organisation without understanding very clearly that confidentiality is rule number one and anybody who does not obey that rule would be sacked. I would expect the same to happen in any organisation.

Q426 Sammy Wilson: The point I want to get to is that on one hand the chief constable says there is a problem, on the other hand British Irish Rights Watch are dismissing that there is a problem. I really wanted to establish that you accept that the wider you make intelligence information available - which unfortunately is what happens when you have these types of inquiries - the greater the chance is that those intelligence sources will be compromised.

Ms Winter: I think that would be a risk if the reports really did contain that kind of information. If one looks at the Operation Ballast

report, for example, which we have done in detail, I can see very little comfort for criminals in that report that they would be able to outwit the police from anything that they read in that report. I think the Police Ombudsman is very, very careful about that. She talked about things that had not happened that should have happened and talked about things that did happen that should not have happened, but they were in very general terms. I think unless one already knew about the case in some detail one would not have known who she was talking about, except in relation to witness A about whom there had been endless publicity long before her report. Three years before her report there were newspaper reports naming that individual.

Q427 Chairman: This is obviously a point with which we will have to wrestle. I am bringing the session to a close now because the division bells will go in a couple of minutes. Could I just ask you one final question? In taking evidence in Northern Ireland a couple of weeks ago and evidence here, the question comes up time and time again: should a line be drawn? The expression is sometimes disputed but we all know what that means. If we are to have a future for Northern Ireland, if we are going to capitalise upon the remarkable events of the last year, should a line be drawn? The Ombudsman tended to think there should be and it might be three, five, seven years, he did not have a fixed view on that. Should a line be drawn? If your view is that, when?

Ms Winter: I do not think anybody can draw a line on anybody else's behalf. Unless victims are ready to draw a line in their own case then the line is a non-concept. In terms of mechanisms if, for example, Dame Nuala proposal for merging the HET and the historical parts of the Police Ombudsman were to be followed, then I think that could be given a realistic time scale and it could be said perhaps that if you do not raise your case with this organisation within this time span you have had it.

Q428 Chairman: What would be a realistic time scale? You have had a lot of experience and you have been involved in this for a long time.

Ms Winter: I would say it would be at least ten years, and from now not from when the HET started.

Chairman: Could I thank you very much indeed for your evidence. If there are things you wish to supplement it with please write to our clerk. I declare this session suspended.

The Committee suspended from 4pm to 4.25pm for a division in the House

Examination of Witnesses

Witnesses: **Mr White**, Chairman and **Mr Lamont**, Northern Ireland Retired Police Officers' Association, gave evidence.

Q429 Chairman: Mr White and Mr Lamont, could I welcome you both. You are here to speak on behalf of the Retired Police Officers' Association. We are grateful to you for agreeing to a public evidence session. If there are matters that you would like to raise in private with the Committee after the public session perhaps you could indicate to me and we will make arrangements for that. We are allowing up to an hour for this session but if we can get through it before then I know it will assist you in your journey back. Is there anything that either of you would like to say by way of opening statement before I start the questioning?

Mr White: On behalf of the Retired Police Officers' Association thank you for the opportunity of having us here. It is a refreshing experience in that more often we are an organisation or a group of people talked about rather than talked to. We see ourselves as being major stakeholders in all the events that are now being examined and yet there is a paucity of contact with us. We find ourselves having to elbow our way into the space that others occupy. Why that is we have not yet resolved, but sometimes a good conspiracy theory can be destroyed by our presence because we introduce such things as fact and that may not please some people. As I say, it is a delight to be here and if we can assist your Committee in any way we will do so.

Q430 Chairman: Thank you; we are very grateful to you. Could I just say that we have regular and frequent contact with the PSNI and with Sir Hugh and his senior colleagues in particular. This is our first contact with your Association but I know that I speak for all members of the Committee in saying that we have an enormous regard for the courage and the stamina of those who served first in the RUC and more recently in the PSNI. We know that you and your members suffered greatly during the troubles and although no record is ever totally unblemished the award of the GC was more than justified and we pay tribute to you. Thank you for what you have done.

Mr White: Thank you.

Mr Lamont: Thank you.

Q431 Chairman: As you know we are looking into the whole business of the past, how it is dealt with, for how long, by whom, the cost, whether it is proportionate or disproportionate, whether there should be no limit. All those things are within our remit. How do you, as retired officers, see the work of the Historic Enquiries Team? There have been, from time to time, criticisms that there has not been the greatest cooperation that there might have been, but would you like to tell me how you see things and how you deal with that criticism which does, from time to time, come up?

Mr White: We see the core of the work that the HET does as a very essential requirement, and that is the capacity to feed back to those people who seek information, that particular information or whatever can actually be released. In that sense we have met with Mr Cox on two occasions to ensure that he understood that insofar as retired police officers are concerned we would give every cooperation in that respect, balanced against the requirement as we saw it, that whatever information he did release he released it with a contextual dimension attached to it because the earlier releases that were being made by HET were simply based on the record in respect of what was written but gave no feedback to those who were seeking information as to what the actual policing context was or what environment we lived in. A simple example of that was that quite often bodies had to be left at roadsides for maybe a number of days before they could be lifted and taken to a mortuary. To any young person reading about that, about what happened to his uncle or his father two decades ago, it would be offensive for any body to be left in those circumstances. It needs to be explained to

that individual that there was immense danger quite often in recovering bodies, especially in border areas, when the body itself would be booby trapped and you were totally dependent on the army technical officer saying to you that the pathway is now clear to collect that body. We were asking of Mr Cox to make absolutely sure, when he was bringing it home to these people, that he explained the policing environment which perhaps foreclosed on us being able to do things with the speed or in the manner which perhaps one would expect of policing today. I accept that from the HET perspective and the giving feedback of information, it is difficult, but we do have concerns. We have concerns from the point of view that £34 million has been ring fenced and, speaking as an ex-police officer, if you tell any police officers anywhere in a policing environment that there is a specific sum of money to be spent I can almost assure you that the structures will be put in place to spend that money. What I fear now to some degree is that a Rolls Royce industry has been somewhat created. We are told that the HET exists to review all murder cases as such, and our members look to see what the purpose of the review is. In part we are told it is intended to run with prosecutions where such prosecutions are available. We know from experience that the reality of achieving a prosecution is extremely limited in relation to such cases, especially so with the older cases involved. Matters were investigated under different legislation; suspects were interviewed under different conditions, investigating officers who were in charge of those inquiries are now deceased and forensic evidence was collected and stored under different rules and requirements. The opportunity of bringing all that together in 2008 to launch a prosecution for an offence that occurred, say, in 1977 we would say is unrealistic. What we do worry about is that there is still an element of people within the province who look to HET in a sense to deliver up to them justice in the form of making people amenable to the courts for past offences. The other side of the work of HET is overlaid to some degree in our mind by the political situation. The Maze Prison was emptied under the Northern Ireland Sentences Act and in reality we do not see politicians of whatever persuasion seeking to refill the Maze by putting people back before the courts. From our perspective the retrospective investigation dimension of HET we see the clock is already ticking in a run down fashion from the point of view of further investigations in that respect. In our submission to Eames-Bradley and in anticipation that the vast majority of people would be asking that group to look forward to the future as such, we said that as an Association we felt that the time has arrived for a good hard-nosed stock taking of exactly how the work of the HET can be taken forward and in what areas it is likely to be effective in rendering the information people are looking for. I see from the evidence that has been given to you, and from your visits, you met with eight different family groups who no doubt expressed an element of satisfaction for what they have got from the process. We have not canvassed or looked for anything in relation to how HET has done its work, but in at least two cases we know there has been an element of re-traumatisation by the fact that HET has come back into the lives of people when they had to some degree come to terms with those issues. I would simply caution that there are always two sides to what HET does. It is a little bit 'in a sense' cold calling on families and inviting themselves in to make comments.

Q432 Chairman: Is it logical to draw the inference from what you have just been saying that there should be some time limit put on this, and that in the fairly near future? Is it also fair to draw the inference that the logic of your argument is that perhaps a general amnesty should be issued?

Mr White: There are two issues there, one is how you bring some element of closure to the investigative dimension; that is the investigative dimension I would say by HET and by the Ombudsman's Office. Both are basically left with the requirement to look backwards. It certainly goes against the grain - for myself, my colleague and the rest of our Association as ex police officers - to close the door on any crime. A recommendation we made for consideration by Eames-Bradley was one that we felt might offer some way forward and that was not an absolute closing of the door, but in fact a drawing of the line in the sand that people have asked for, and then allowing there after a very controlled mechanism that would enable retrospective investigation to take place as and where it was deemed to be required. The line in the sand we saw being drawn was to keep the Sentence Review Act as it currently stands, which designates that offences that occurred before April 1998 as being offences for which the maximum period of imprisonment, should you ever be found guilty, will be two years. The Ombudsman's Office, when it was originally set up, had a retrospective period attached to it of two years which took it back to 1999. Our suggestion was to use the earlier date of 1998 as a mechanism for drawing that particular line in the sand. Thereafter we suggested that there should be looked at what you could call a two-tier requirement. One was that there should be credible evidence brought forward in relation to any case that people would seek to have retrospectively investigated. At this moment in time all you really have to do is turn up at the office of HET or the Ombudsman or anywhere else and simply allege collusion, conspiracy or something else. You do not have to go into any detail as regards the evidence you wish to put forward. What we suggested was that there should be a basis of credible evidence, in other words that you have to establish a *prima facie* case. You have a perpetrator who has made an admission; you have eye-witnesses who have now come forward having been silent for whatever period of time; you have turned up fresh circumstantial evidence; something that gives a credible base for that investigation to be launched. The second tier of that was that it had to be in the public interest, in other words if Eames-Bradley are told that the majority of people wish to be forward looking, then in acknowledgement of that forward looking dimension, it has to be asked whether it is in the public interest that this investigation actually takes place? The public interest may be: has this person appeared before the court on other offences? In other words, was he convicted maybe 15 years in the past for, shall we say, possession of a firearm that was used in a murder when in actual fact he is now coming forward and admitting that murder? Anything put before the Director of Public Prosecutions or a judge would have to be considered on the basis that if the two offences had been before him then he would have dealt with it by way of consecutive sentences as opposed to now sentencing the individual for a new offence. The age of the individual may be of concern for if you are dealing with somebody who is perhaps in their late 70s or 80s now, is it in the public interest to go forward if you apply the two-tier test to it? The other recommendation was that this should all be controlled through a Victims' Commissioner with a Victims' Commission in support of him, in other words they would take the issue on board as part of the determination as to what a particular victim or a victim's family wanted.

Q433 Chairman: Have you submitted this to Eames-Bradley?

Mr White: Yes, we have given it to Eames-Bradley.

Q434 Chairman: Have you given it to us?

Mr White: I cannot answer that.

Chairman: I am told we have a copy. Obviously we want to take that into account.

Q435 Sammy Wilson: On the first point where there has to be some credible evidence, is there a danger there that it is only those families who may well have the resources or some other backing to dig into a case and find out about it and go and talk to witnesses or get someone to do some private work on the case? Only those people would have the chance of getting the case re-opened and others who did not have the resources or some group backing them would not get access to have the case re-opened.

Mr White: We saw the opportunity being fairly flexible, in other words it was all based on the fact that we were envisaging a one-stop shop for everybody that considered themselves to be a victim. If you came along to the particular body that we envisage within the Victims Commission and they, having the capacity through their legal representatives to note the detail of what was required, the

Victims' Commissioner would then commission from HET from the PSNI or from the Ombudsman an initial look to see whether there was a credible body of evidence there, taking on board whatever the family was able to submit. The problem at the moment is that the system is totally open. You do not have to establish any credibility in order to make the allegation of collusion for the issues to be examined. It was trying to bring in some element of order to the process but in such a way that you were not allowing every case to invite itself to be opened up. We have acknowledged that we have not gone through the minutia, it was simply put forward as a possible tender for consideration as a way forward, not to close the door entirely on criminal offences, be they committed by police, the military or paramilitaries.

Q436 Lady Hermon: I wonder if I could draw your attention to some of the work of the HET in particular. At every stage you have, as we have just heard, indicated to the Director, Dave Cox, that the Retired Police Officers' Association are perfectly willing to work with them, provided that there is a confidentiality that is attached to information you might give that might lead to disclosure of the identity of the source. Is that right?

Mr White: In relation to the identity of sources we did not have any discussion with HET. Our concern with HET was simply to say to people you have to be more fulsome. In other words, rather than simply giving people the benefit of a written record what we were saying was that we, as retired police officers, are a resource and on occasions, if you wish, we are prepared to meet with the relatives and explain to them what the policing environment was in 1979 or 1982 or whenever if that helps them fulfil their job. We made the offer but, to date, it has not been picked up on in any shape or form.

Q437 Lady Hermon: You have not been asked to speak to any of the families?

Mr White: We have not, although I think Mr Cox has amended the practice and they are trying to put a contextual dimension to it.

Q438 Lady Hermon: Can I ask the view of your Association on the other aspect of HET which did, I must say, come as some surprise to me. I thought HET was actually looking at unsolved deaths in Northern Ireland but actually it is looking at all deaths in Northern Ireland since 1968. Does the Association have a view about the re-opening of all RUC investigations, even those where people actually served a term of imprisonment?

Mr White: It is entirely a matter for the chief constable and the HET as to how they structure themselves in what they review. We live off it - as most of the public live off it - simply on the documentation that HET has released as regards its role. If I can go back to what I said before, this is where some of the confusion seems to exist. HET is all things to all people. Some people look on it for the primary task of: will these people make somebody amenable for the atrocities that were visited upon our family? Others are quite content to simply see inquest papers or to ask very simple questions in relation to why it took so long for the release of a father's body or the collection of it. The HET in those circumstances, if nobody has been charged, obviously cannot give the identity of the people who were responsible but they may be able to indicate an organisation or something of that nature. We have not had any further views or engagements in relation to HET. The one question that our membership by and large ask of us is: what is the output of HET? We constantly look to see what cases are under investigation at the moment. I think the evidence given to yourselves indicated that eight cases have been referred for advice to the DPP and one case has been referred for possible charging out of some 900 that have been examined. We balance that against the 48-odd cases that have already been handed over by HET to the Ombudsman for investigation and there are 300-odd possibly in the pipeline that might have some connection with police activity. Our people ask: where is the balance in terms of what actually has been done here? The focus does not seem to be on the 2000-odd murders that were carried out by the paramilitaries in relation to the Republicans or the 1200-odd that were the responsibility of the Loyalists. When they add to that the public inquires that are taking place, the perception is that they are not focussed on anything else other than the alleged misdoings of the police service. We have already mentioned the inquests which again are totally focussed on it. People ask within our Association: when does closure come in relation to the police officers who served on a daily basis and who dealt with the outcome of atrocities? We are not automatons; we have lived through these things. We have somewhere in the region of 5000-odd officers identified as having suffered from post-traumatic stress. If we are going to go on continuously without a deadline, trawling the most dark recesses of the past, then people in their late 60s and 70s are to be invited back to revisit the minutiae of how they dealt with those incidents. We now have a retrospection industry growing up in Northern Ireland in terms of people looking backwards and we feel that most of that retrospection, including a large proportion of HET, is looking proactively at what you would call alleged police misdemeanours. We have an element of HET, as I am sure you are well aware, which does not serve in Northern Ireland but seems to serve here in London looking at intelligence papers as opposed to reviewing old offences.

Q439 Lady Hermon: We heard when earlier evidence was given to us about a proposal to amalgamate because there is obviously duplication between the work of the Police Ombudsman's office and the HET. What is the Association's view about the proposal that the historic investigations of the Police Ombudsman and HET should be merged?

Mr White: The merger, is that under the umbrella of what you are calling a historical Ombudsman or simply HET?

Q440 Chairman: We have heard various proposals. We have heard the proposal referred to this afternoon of Dame Nuala O'Loan which would be the hiving off and the creation of an independent agency that would embrace the two. There is the proposal that this Committee has received from the current Ombudsman which is slightly different because he wishes to concentrate on the present and he believes that he is going to be overwhelmed by the past if there is not a division. There are a variety of suggestions, but what is your general view? Would you hive off? Would you create something separate? Would you let both organisations continue in spite of what Lady Hermon refers to quite correctly as the inevitable duplication?

Mr White: Certainly we would aim for the line in the sand aspect of it. We think that an historical Ombudsman would simply be perpetuating a process where we see the time clock running down with no great prospect of making anybody amenable before the courts for old offences. I think hard decisions have to be made by our political representatives of whether the time has come, whether, in essence, they will have the majority of the public behind them, to make that decision and say that we have to bring our past to a close and leave history to the historians to write. You will recall that the Irish Rebellion of 1641 is still being argued over in terms of how many people actually died as a result of the pogroms there in Ulster. It was interesting to read that in 1644 as part of a settlement with King Charles, the Irish aristocracy were trying to bring in an Act of Oblivion to officially wipe out the history of the past. You mentioned before an amnesty as a mechanism for bringing things to a close. We certainly would not subscribe to that if it is linked to the declaration that in actual fact we were engaged in a war. I think any examination of the statistics will clearly show that a war was being waged only against civilians on both sides. In actual fact, when you look at the "success" records for the paramilitaries, the Provisional IRA managed to kill 30-odd known members over three decades of those who were in the Loyalists organisations and the Loyalists in turn managed to kill 42-odd people who were in the Republican paramilitaries. The remainder of their targets were innocent members of both the Roman Catholic and the Protestant communities. Anything that would attach it or give it the dignity of

viewing those people as combatants abiding by what you would call the normal conventions of any war would certainly be abhorrent to ourselves and our Association.

Q441 Mr Murphy: Following on from that, in your submission you quite rightly point out to the Committee the trauma faced by the vast majority of your members. Do you meet on a regular basis with them? Do you offer any help and support apart from the counselling that you mentioned some are now receiving?

Mr White: Yes, indeed, there is a benevolent association and there is an organisation known as the PRRT which has been given very kindly a government grant which provides psychological support services for these people and helps them resettle themselves back into their families and retrain for other employment. So there is a fairly proactive management process there that these people in retirement can still have access to.

Mr Lamont: I think it is important to point out that within our ranks we do have many victims and survivors as well. Indeed, it is not just the members but it also has a knock-on impact for their families and their loved ones that have to live with their continuing and recurring nightmares. Certainly a number of our members have highlighted to us the fact that the retrospective industry keeps dragging them back to very dark places and reminds them of standing on roads in places like South Armagh surrounded by bits of bodies and things. I think sometimes, when we are looking at victims and survivors, the police family can be overlooked.

Q442 Mr Murphy: You have actually touched on my next question, Mr Lamont. Do you not see any value at all from the Historic Enquiries Team for members of your Association who themselves have been directly affected being able at least to try to find out? From the evidence we saw, even with some police murders, there are perhaps only two or three pages of A4 available; there is very little evidence for them. Do you not see that it could also be beneficial to their families to be able now at least to try to find out what happened?

Mr White: I go back to what I said at the very beginning. We fully support that particular aspect of access to what you would call the historical archive of police investigations and files for materials that both assist police families, especially younger members who were in their childhood when their father or their mother or their brother or uncle died, and where talking about it within the family circle was taboo because it only upset their mother. They are now in the late 20s, 30s and 40s; they have had questions burning in their minds for a long time and are now seeking the capacity to understand how their relative was targeted and how did it take place in detail. Under the old process, because there was no legal aid in respect of inquests, quite often families were never notified of the inquest taking place or else nobody wished to attend in that respect. Those people have a right now to get the information they are seeking. HET and the work it does in the business of providing that information we 110% support.

Q443 Mr Murphy: You would not say that it is necessarily unfair that their remit is to re-examine every single case from 1968 with a view to seeing how it was investigated, what information currently is available, what other information that perhaps could be found and make that information available to as many people as possible.

Mr Lamont: I think it is important that it is victim centred and you need to know what the families actually want to know and where possible that information has been given to them. I can certainly tell you personal anecdotes of standing on a road in South Armagh, colleagues having been murdered, and us not being able to recover the body overnight because the army technical officers was telling me that the light was failing and there was a danger of a secondary device and possibly a tertiary device. His advice was that the body should lie on the cold road all night until daylight came and he could guarantee the safety of the officers and soldiers that would be going in to do the body recovery. The family might want to know why their loved one lay that length of time and I think it is important that information like that should be made available to them. However, it has to be victim centred; it should focus on what they want to know. Very often, from what I am led to believe, there may be very simple requests that could be quickly and speedily dealt with and may bring some comfort to those families.

Q444 Chairman: Spontaneous and automatic examination of every case is something that should give way, in your view, to the response for information from people who are seeking it.

Mr White: We are saying victim driven as opposed to victim centred. Victim centred allows you certainly to have that overview but victim driven means that I knock on the door and I request information. It is terribly hard to define exactly who family is. Is it simply the siblings? Does it spread out to cousins or relatives? It should be open to all who feel themselves requiring information and have a relationship with a particular victim, but they should be the ones that commission the provision of the information, not the reverse as it appears to be at the moment with an element of cold calling.

Q445 Mr Murphy: In your view, in the event of the HET writing off to what they consider to members of the family of a case they are currently reviewing and they receive no response for whatever reason, then in your view they should not go ahead with that inquiry?

Mr White: I am uncomfortable because a lot of families have through this past ten, 15, 20 years come to terms with it. It does not mean that they have written it off and forgotten in any shape or form, but by and large they have come to terms with it. I lost my brother-in-law to an under car booby trap bomb; who is the family in our circumstances? Am I part of that family? Does it extend to cousins and relatives? Who exactly does HET write to? Do they write to the widow? Is she supposed to raise the issue with her two daughters and canvass whether or not they and their husbands want that information? To turn it round the other way, use mechanisms of publicity that are there - leaflets, websites, television adverts and everything else - and simply leave it or else wait, as we have suggested. If there is a Victims Commission with a Victims' Commissioner, then I could present myself in front of him as a victim and simply say, "These are the things I would wish you to attend to on my behalf".

Q446 Chairman: We have come across cases of this. The widow, for whatever reasons, wishes it to be over. The widow dies. The son and/or the daughter take a very different view. How do you react to that?

Mr White: If the son requires the information then I think he is entitled to have it, but it is terribly hard simply to do that by the issue of a letter. The other side of the coin is this, what exactly more, in a large number of circumstances, can HET add to the situation? If nobody has been charged in relation to it immediately HET has to say to the family, "I am sorry, whilst intelligence may indicate who was responsible I can say no more than that it was the responsibility of the UDA and that your father was targeted as a result of the work he was doing". They cannot go into the detail that says that it was somebody within the same employment as himself that provided the name that helped target the deceased. That would be stepping over the mark altogether and they certainly cannot put

names to it. Quite often, especially in rural communities, people want to know, "Was it my neighbour? Or was it somebody in the community that provided a service to me? Or was it somebody in the community that my father provided a service to that actually, as it were, colluded with the paramilitaries to set him up?" To my mind that information would be simply intelligence and I do not see the need to discuss that information because you cannot prove it and you are simply fostering suspicions that can linger on and on within communities. You are not healing in any sense of the word: you are poisoning.

Q447 Mr Hepburn: It has been suggested to us that one of the possible, very serious consequences of digging into the past and putting pressure on police officers is that one of your retired members may snap and blow the gaff and start to mention these things such as he informed this or he informed that, or he did this. Have you had any representations from retired police officers who have suggested anything in this way?

Mr White: I am not entirely following you.

Q448 Mr Hepburn: We have taken evidence where it was suggested that one of the possible dire consequences of keep probing into police officers and how they did this and how they did that could be to put an extreme amount of pressure on them. If you have somebody who is 70 he may turn round and say, "I'll tell you everything. Joe Bloggs down the street was an informer and this one did this." Have there been any suggestions from the members of your organisation that this could happen?

Mr Lamont: No, not that we are aware of. Recently for all police officers in Northern Ireland, especially those who served in the Royal Ulster Constabulary, there has been a campaign almost of demonisation in certain sections of the press and through some of the highly contentious reports that have been publicised. So there has been a whole process of demonisation and there is no doubt that many of members are suffering from stress and some of them may crack and indeed you could end up with suicides and all sorts of things, but not for the reasons you are suggesting because what you are suggesting almost predicates the fact that there is something there for them to blow the whistle on. It would be our Association's strong contention that that is indeed not the case. There are many, many conspiracy theories out there. We would contend that they do not have the reality that many people are attributing to them. There is a lot of stress on retired officers and a lot of stress on their families at the present time, but I do not think it is likely to bring that outcome.

Q449 Chairman: Can we move on to this whole business of covert sources? You appear to suggest that the Police Ombudsman's publications would lead to the identification through a process of elimination and what you described as interrogation by terrorist godfathers. Can you just develop that a little?

Mr Lamont: One of the big dangers here is that there are a awful lot of people talking about intelligence who have very little experience in the intelligence arena. People who have worked with intelligence for a long time within terrorist organisations with highly sophisticated security teams and highly sophisticated mechanisms have their own ways of sitting down and reading everything that is published and trying to join the dots as to who the informant is. Your previous speaker alluded to a system for public interest immunity and said that the chief constable has the ability to ask for public interest immunity. In many court cases as soon as you ask for public interest immunity the terrorist organisations know straight away that there was an informant involved and you are actually protecting the informant. Straightaway a security investigation inside that terrorist organisation is initiated. I would also suggest that there have been examples in some published reports where it would be possible to follow - if you have the inside knowledge in the terrorist organisation - a chain of events back to who you believed the informant was. For me there is a significant danger as we move forward with the public inquiries and some of the inquests that are coming because I think we would be naive to assume that everybody is looking to know who the informants were for honest reasons. There will be those who will be looking to exact revenge; there will be those who are looking to know who betrayed them so that in some way they can make their lives or their families' lives much more difficult.

Mr White: You asked for examples and I think we would simply quote here Operation Ballast that has already been referred to. As part of Ballast one agent provided, shall we say, live explosive material which was neutralised and returned and was subsequently planted in a bomb. Obviously the bomb was not going to explode. As part of the police reaction to that no arrests were made; it was an effective bomb as far as the paramilitary members were concerned. The Police Ombudsman's report published in detail the fact that substitution had taken place and then castigated the police for not making a suitable response and arresting people. If we had arrested in those circumstances I would have been duty bound to serve on the persons arrested a statement from the forensic science service saying that this was a neutral device with no explosive content. Immediately the charges that I would have preferred would have had to be set aside and any paramilitary organisation reading that report would know immediately what it referred to. They knew to whom they had delivered the explosive device and they knew then subsequently who had basically assisted in the planting of that. It does not take Einstein to make the deductions, especially when you work in a cell structure. The second example is in relation to the killing of Mr Restorick, the last soldier to be killed in Northern Ireland. Extensive details were released as part of that investigation into the methodologies that had been used, and currently are being used, not only within the jurisdiction of the UK but elsewhere. It was a case where the MoD and others had to lobby the Ombudsman to have the report taken off the website simply to try to preserve the viability of that methodology. It is quite often a case, with the retrospective industry that we are now under, that the overseer of the practitioners downgrades the position of the specialist, to one that is subordinate to their own judgment and where they supplanted it with two instruments, one of total transparency and the other of total accountability as being the mechanisms by which they demonstrate that they have fulfilled their function. The victim of that process is that secrecy and applied intelligence becomes subordinate or else they are overlooked altogether. That is the fear we have. We have not yet had any examples of the effects of the Inquiries Act 2005 as to how it will work. All we can do at this moment in time is look back to see how others with an oversight requirement have applied it.

Q450 Sammy Wilson: You heard the evidence of British Irish Rights Watch who claim that the Inquiries Act has got all of the safeguards in it which are required to ensure that intelligence methods and sources are not identified. Can you elaborate how you think the Inquiries Act is defective insofar as it could well lead to either police methods or police informers being identified?

Mr Lamont: The very simple one is the impact that it will have on the current CHIS within the police service. One of the big concerns we have as an Association is that we have many members who have worked in the intelligence field who now fear they are not going to have this technique in the PSNI, in the future, because you cannot offer some sort of reasonable guarantee to those who have information. I was interested in your interchange with the previous speaker when you mentioned about Sunday school teachers. The reality of working with informants is that you need someone who can actually tell you what is happening within the terrorist group so they have to be on some peripheral capacity at the very minimum to be able to pass on the intelligence you need. No-one in my long years of experience working in that field is going to come forward and give you information unless you can offer them some reasonable guarantee about how they will be protected. The first thing every potential CHIS - as they are called nowadays - wants to know is: "If I speak to you what are the implications for me? Am I going to die as a result of trusting you and passing information on?" The sad

reality in Northern Ireland is that there have been around 60 deaths that have occurred during the troubles could be attributed to people who, it is alleged, were informers. So there is a well established fact in Northern Ireland that if you inform there is an ultimate sanction that you pay. That is the biggest problem, that we do not know yet what will come out of the inquiries that could have an impact on the capacity to get agents to pass intelligence on. I also think there is a second dimension to that because I also think that the demonisation that has occurred is not encouraging many young members of PSNI to move into the field of intelligence as a chosen career path because there is a stigma attached now to working in that area. So not only will you have no CHIS, you may end up in the future with no police officers to actually work any CHIS that you may have because they are shying away from it as it is a difficult, contentious and, at the present time, political part of policing that many young officers do not want to know about.

Q451 Kate Hoey: We are all immensely grateful to you for coming in and we are all aware of the heavy price that your members have paid over the years for the protecting of people in Northern Ireland. On this whole question of informers and covert intelligence, do you see any double standards in terms of the way we are treating Northern Ireland and the historic inquiries and our attitude perhaps on mainland UK to terrorism and information and covert intelligence? Do you think there is something that is slightly hypocritical about the way we are acting?

Mr White: Absolutely.

Mr Lamont: Perhaps I could give you a personal experience. I was still serving at the time and I was coming across to a meeting in London. It was after one of the bombings here on the mainland, one of the al-Qaeda attributed bombings. I remember picking up the newspaper and reading the recommendations that the Home Secretary was putting forward for things that should be applied here on the mainland. Every one of them was familiar to me because they had been tried and rejected at some stage in Northern Ireland, but the knee jerk reaction here seemed to be that this was the way forward. If someone had been asking my advice, I would have said that none of those methods that you are proposing are going to work because as soon as you go to Strasbourg to the Court of Human Rights they will all be protected. I very much think that there has been a double standard. I think one of the dangers of that is that many people working in Special Branch and in the security service nowadays will think about whether they will be sitting here in 20 years time before your successors, explaining why they carried out certain activities against Muslim extremists here in GB.

Mr White: There is a moral ambiguity which those who do not work within the field of intelligence gathering find quite incomprehensible at times and very difficult to deal with. You do not destroy a terrorist organisation by retrospective investigation of offences or making public calls for witnesses to come forward and give evidence. Terrorist organisations are destroyed almost like a cancer; you destroy it from within it. The people who provide that information are two-legged individuals like ourselves. I would like at this moment in time to put on record my admiration for those who did act as informers or agents or CHIS or whatever you wish to call them throughout the Northern Ireland campaign. There are an immense number of people alive today as a result of the work that those people did. Anybody who seeks to draw a comparison between somebody who acts as an agent in the intelligence world and an agent in the drugs scene is in error, they are as different as chalk and cheese. I certainly would not take on the role of being an informant, not from the point of view that I would have any loyalty to a spurious paramilitary cause, simply because I am a moral coward in that respect. I could not live the double life that these people live. I think it is an aspect for which retrospectively some government minister needs to put on record an acknowledgement that these people were human beings who made a moral choice. They may have had blood on their hands at some stage, but they took the courageous step of acting as informers on behalf of everybody who lives in Northern Ireland. There would be no peace process today without such people.

Q452 Chairman: What would you say to our previous witness? I do not know whether you heard what she said about informers; she recognised the need for them and suggested it was all done for money.

Mr White: Any examination of the public record in respect of what informers were paid will show that the money would hardly have kept you in beer and cigarettes in respect of what you were getting. Money would never drive me to live a life as a model terrorist with all the risks that were associated with it in terms of discovery by the security team, with the constant 24-hour awareness that I would have to have, where even the most innocent of requests to attend at a given venue would result perhaps in me never being seen or heard of again because I could be destroyed by the organisation itself simply on mere suspicion. As I say, on behalf of those who did put their trust in police handlers and then allowed the information they provided to be used in such a way that people were made amenable before the courts, I have full admiration. There is probably a massive misunderstanding in relation to actually what happened and how many people are involved. Every operation that resulted in somebody being arrested in relation to information used, resulted in the intelligence service having to make available to the Director of Public Prosecutions a full picture of the involvement of the informant, so that he could satisfy himself that the police did not act in a way of agent provocateur, or else in a way where we had incited or procured the informant to act in a principal role in that respect. Before he would even consider charges he needed to be satisfied. As I say, it was a rigorous test that was applied before it went forward. You then had the issue of disclosure in terms of the police case to the defence and you run a risk there in terms of what actually was said. Within the system there was a standard process of accountability that went on each time the information from an informant was used and one could argue from an intelligence perspective that quite often you actually lost a little bit each time you used an informant's information. If it happened to be the second or third time you were using that information you had to be extremely selective in what you actually did act upon, because you were leaving a trail behind that quite easily, by deduction, would identify who the informant was. That has been a contentious area with those who have stepped in to look at certain activities and they have seen evidence of intelligence left on the books and not acted upon, and that has brought serious criticism of evidence not being disclosed to CID which allegedly amounted to collusion or concealment, a failure or almost a willingness not to accept that it had to be left there to protect the source.

Q453 Chairman: You have made your point very effectively about the importance of informers and protecting them. In what way is the existing system deficient in protecting them? What should we, as a Committee, be recommending to ensure that the protection that these people have is watertight and enhanced in the future?

Mr White: The duty of care is there and the chief constable has acknowledged that. The Regulation of Investigatory Powers Act (RIPA) certainly puts it on the chief constable to provide that. The dilemma occurs for him obviously with the Inquiries Act 2005 and the knock-on impact that that might have. I am content in my own mind that there is, shall we say, a system in place. The problem is that we have recently seen an outing of alleged informants. I am sure the headlines are familiar to yourselves. This is one of the most recent ones: "Agent was Scap's ally in IRA 'nutting squad'". That gets itself repeated in the *News Letter*: "Focus back on IRA as spy flees Ulster". Every one of those headlines is a result of some disclosure having taken place. You do not have to look far beyond the death of Denis Donaldson to see that, but where is that information coming from? Who has released it? Our problem with this large body of inquiries is that they are not focussed on considering the issues relative to article 2 in relation to any informant. The message needs to be brought home to those people that there is a requirement to take on board very seriously what the chief constable has asked him to do and to cull their press releases and their release of documentation to make absolutely sure identities are protected. Once these people's identities are out, it is a life sentence, it is banishment and you do not come home for anything. You live abroad;

you live outside the family support. We think there should be a stronger duty of care emphasised in that respect.

Q454 Dr McDonnell: I listened with interest to your comments there, but I would have to add a question in that I think the serious public concern is not about the use of informants and about the lives they saved, but it is about the fact that some of the informants - I could go through a whole litany of examples - committed murder while under protection in circumstances when they were under supervision and they used their informant status to some extent to escape the penalty. How do you balance that? What are the rights and wrongs there?

Mr White: I can only answer in respect of my own stewardship. No informant that we had on the books was there in the full knowledge that he had or she had been involved in murder. The rules and procedures were such that if we had that intelligence that was given to CID and CID had the capacity to arrest and interview those people. In the aftermath of that capacity being exercised by CID to see if they could put those people before the courts, it was not necessarily the case that we abandoned them entirely and did not use those informants. Terrorist organisations do not exist for any charitable purposes: they exist with one thing in mind and that is murder. Every individual who is in a terrorist organisation is a potential murderer. So do we draw down the shutters and say that absolutely nobody who is in a terrorist organisation should be capable of being recruited and handled? There certainly is a taint of blood on the hands of any intelligence officer who is handling people within a paramilitary organisation but what I can categorically say to you is that to my knowledge no member of the RUC handled any informant under my stewardship who had live intelligence in front of him that said that this individual had committed murder and had not been questioned or dealt with in that respect. The moral ambiguity is there: do you deny yourselves the intelligence from that individual if he decides to turn over and provide information? Do you close your eyes to that? In relation to 9/11 people ask themselves, if they had had the opportunity to recruit somebody who was a member of that organisation, would they say no? Would you take that person on board? This is a dilemma that we all faced in that respect. The rules were quite clear internally within the organisation: nobody who had the capacity to have intelligence against them was allowed to remain on the books if they had not been dealt with by CID.

Q455 Chairman: You make your points very clearly. You had had an hour of giving evidence in public, before I close the public session do you wish to have a private session with the Committee or are you content with what is on the record?

Mr White: We are here to facilitate the Committee.

Chairman: Are there any other questions that colleagues wish to put to our witnesses?

Q456 Lady Hermon: The mood within the Retired Police Officers' Association is obviously one of feeling rather humiliated and demoralised.

Mr Lamont: I think you are being very polite; I certainly subscribe to those sentiments. I think a number of our members are feeling very much under siege at the minute and have felt like that for a growing period of time. When the Good Friday Agreement was signed people were promised the opportunity to move on but it would certainly be the contention of a good many of our members that they are not being allowed to move on because they are constantly being taken back. A lot of them are in employment but have to take days off to go and be interviewed by solicitors and public inquiries. It has a knock-on effect in terms of welfare issues in that time when they should be with their families they are having to give up to be interviewed by the Ombudsman's Office and by various inquiries. There are a core number of people who, because they worked in a difficult and contentious area of policing - and were brave enough to work in a difficult and contentious area of policing - are now disproportionately being brought to these inquiries and being asked questions. As I say, it does have an impact on them and their families.

Q457 Sammy Wilson: Is that not the difficulty in persisting with the Historic Enquiries Team, the Ombudsman or whatever we call it, this is bound to be a one-sided process? All of the documentation, all of the knowledge that can be delved into will be in relation to state organisations such as the army or the police who have records of terrorist organisations. Is this not a consequence of having any kind of inquiry type system at all, that it will be a one-sided process?

Mr White: Exactly, and that sort of tiredness is there amongst the officers, many of whom have given 35 years of service. They feel that this re-writing or revision that is going on is a desire almost to come up with some form of equivalence between deaths that occurred at the hand of the state and those that were carried out by terrorists. The simple answer to that is no police officer ever rose from their bed in the mornings saying, "I am going to kill someone". We did our duty and it was a duty that, by and large, was focused on providing a regular police service and on top of that an anti-terrorist service each day. When we had to use firearms we used them in defence of ourselves. The records would show that the RUC was responsible for 55 deaths. They are not police statistics; they are statistics provided by the University of Ulster. In that sense all this retrospective looking seems to be occurring around state issues and we feel it is to try to provide some sort of equivalence of responsibilities. In other words, if we could only get the RUC and military to admit to wrongdoings on their part, then perhaps that might be a mechanism through which we can invite the coroner of these to make a partial apology or admission that they were wrong, perhaps in what they did, and then when those two agencies have done that, everybody can move on. That is a let-out clause for the paramilitaries. You know as well as I do that paramilitaries did not act in a vacuum; they acted within communities. Communities colluded with them to provide safe houses, to provide protection for firearms, to provide vehicles, to target people they thought were members of the opposition in terms of being police officers or whatever. People who lived in communities commissioned the paramilitaries to punish other people in their communities by kneecapping and whatever else and those that were kneecapped, through their silence and their refusal to identify who dealt with them, bought their way back in. If people want to look at what was involved, do not just keep it an issue between the police, military and the paramilitaries. If Northern Ireland wants to come to terms with itself, then look at the collusion that communities on both sides of the fence were engaged in.

Q458 Chairman: You open this up in a very graphic way. I now want to draw this session to a close by asking you a question similar to the one I put to our previous witness. You talked about a line in the sand.

Mr White: Yes.

Q459 Chairman: She talked about a ten year period being necessary as the limit if we were going to have a limit. A number of our witnesses have said that if Northern Ireland is to enjoy the promise of a bright new future something has to be done to bring to an end the delving into the past. You have made the point that it should be possible to go back on specific things at the particular request of a victim, but what would your limit be? Do you think we should be coming to a close very shortly? Do you think we have to acknowledge that we have another decade of this? What do you think?

Mr White: I think, on a realistic acknowledgement of the situation, there is neither the political will nor, shall we say, the professional capacity or reality to effectively investigate the vast majority of those issues that are outstanding simply because of the technical difficulties from the police perspective. It is misleading to perpetuate the myth almost that the retrospective investigative process is a mechanism for dealing with the past. I think that the corner has to be turned. It will not bring closure to a lot of people who still hanker after justice, but is there justice for anybody that would be brought before the courts today? You could spend a quarter of a million pounds on a court trial that would last for three weeks or more at which a judge would pronounce that the most heinous of crimes had occurred, and the defendant would simply say, "I've done six months on remand; I'm entitled to remission. Can you order a taxi to take me to wherever I can appear before the Sentence Review Commission and get my release document now?" Is that justice? There is an ambiguity there in terms of what already exists. We are simply saying: face up to those issues; draw that line in the sand; take on board what the majority of the people we hope will tell Eames-Bradley and that is to be forward looking and only allow retrospective investigation where you can come up with credible information that will show on the face of it that there is a case to be answered here and you apply a public interest test to it to ask is really worth the while. If you must retain a re-investigative capacity, then control it, limit it and make it applicable to all in an equal fashion, in other words, paramilitaries and the police, not the police alone.

Chairman: Thank you very much indeed. That is very clear and we are grateful for your evidence.