



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

PSNI Retention of Human Tissue and Body
Part Samples

17 May 2012

NORTHERN IRELAND ASSEMBLY

Committee for Justice

PSNI Retention of Human Tissue and Body Part Samples

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Seán Lynch
Mr Alban Maginness
Ms Jennifer McCann
Mr Patsy McGlone
Mr Peter Weir

Witnesses:

Mr Peter May	Department of Justice
Ms Jacqui Durkin	Northern Ireland Courts and Tribunals Service
ACC George Hamilton	Police Service of Northern Ireland

The Chairperson: I welcome to the meeting Peter May, director of the safer communities division in the Department of Justice (DOJ), Assistant Chief Constable George Hamilton from the PSNI, and Jacqui Durkin, head of business operations in the Northern Ireland Courts and Tribunals Service. I advise everyone that the session will be covered by Hansard. I invite officials to outline the issue, which has obviously got some coverage already in the media. Mr May, I will hand over to you at this stage.

Mr Peter May (Department of Justice): Thank you very much. I am grateful for the opportunity to brief the Committee, with colleagues from the relevant agencies, on the issues arising from the recent Association of Chief Police Officers (ACPO) audit of the retention of human tissue by police forces in England, Wales and Northern Ireland. In addition to those present today, I have apologies from Professor Jack Crane, the State Pathologist for Northern Ireland. He regrets that he is unable to attend at such short notice, given prior commitments, but has offered to come before the Committee at a later stage, if that would be helpful. I understand that, if the Committee has questions of detail and questions relating to professional expertise, that may be necessary. In addition, as the Chair is aware, the Justice Minister has indicated that he intends to make an oral statement about this matter in the Assembly on Monday.

I am going to be relatively brief in my opening remarks, before passing over to George Hamilton to say more about the detail. I will start by saying that all of the organisations involved regret the upset that will have been caused in relation to the retention of human tissues in cases where the families have not been made properly aware of the circumstances. While it has been explained previously that these are not matters of legal compliance, we all recognise that the outcome is not the right one in the

way in which we want families to be treated. We are here today to explain, in so far as we can, what has happened and what will be done about it, rather than to excuse or justify the past. We are doing so on a co-ordinated basis, seeking to cover as many of the organisations that have a role as possible.

George will say more about the process of the audit and its findings in a moment. In factual terms, I can confirm that there are 71 body parts affecting 63 individual cases in which samples of human tissue that incorporate a significant part of the body, such as organs or limbs, have been retained for many years after post-mortem examination. The retention was in circumstances where the families were not aware that they were retained, or where their views had not been sought on how the tissue should be dealt with when the police investigation had concluded. I hope the Committee will understand and agree that we will not be making comments on individual cases, but let me stress that we recognise that, in each case, a family will be deeply affected by the news.

In addition, while the ACPO audit did not cover the Office of the Police Ombudsman, the office today told the Department that it has undertaken its own examination as a result of the audit. As a result of that, it has identified four individuals for whom body parts are held but whose families were not notified. Each of the cases predates 2006, and it will issue a statement on the matter this afternoon.

Turning now to the holding of human tissues, I can confirm that all of the retained tissues were held for police purposes under articles 21 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE). Most are, in fact, held at the State Pathologist's Department, while some tissue is held on the police estate. In addressing the outcome of the audit, all of the organisations have been focused on seeking to minimise the trauma for the families affected. To that end, specially trained family liaison officers have been, and will be, visiting the families affected. Clearly, it would have been preferable for the families to be informed before the news was made public, but, in the event, the story came into the public domain before that was possible.

Although the audit has not yet been published, there will be a series of recommendations about future practice, which we will share with the Committee after publication on Monday. It is the intention of the organisations involved to implement those recommendations, and the Minister will consider the best mechanism to ensure confidence that that implementation has been completed across all the organisations involved.

Again, while this is not to justify the actions that were taken, we should recognise that family liaison arrangements have changed significantly in recent years. Those arrangements, taken together with the PSNI decision to implement the spirit of the Human Tissue Act 2004, while not bound formally by its terms, have led to a very significant change in current practice compared with those cases that have come to light as a result of this audit. It is important to stress that the evidence is that current cases are handled appropriately, in line with the intent of the 2004 Act, and that family views are at the centre of that process.

I will hand over to George, who will say something more about the audit and the steps that are being taken.

Assistant Chief Constable George Hamilton (Police Service of Northern Ireland): Chairman and Committee members, thank you for the opportunity to give some context and, hopefully, clarification around the human tissue audit that was commissioned by the Association of Chief Police Officers for England, Wales and Northern Ireland. As you are aware, the audit is due to be published next Monday, 21 May.

Before I give that context, let me say from the outset that I, the Chief Constable and the entire Police Service of Northern Ireland are deeply concerned about the anguish caused to families as a result of the distressing news that we are now passing on to them. Indeed, we offer our apologies for that anguish.

As the Committee will be aware, we are at the point where the audit of the human tissue that was retained for police purposes has been completed and is about to be published. The plan, of course, was that, once we had completed our analysis and research, we would have a window, which was going to be this week, to make sure that all the families affected by this information received it before any public announcement or debate on it. However, as Peter has outlined, the story has made its way into the public domain, and, unfortunately, not all families have been advised. As of this morning, family liaison meetings have taken place with 21 families, and we have passed on the information in

as sensitive and caring a way as possible. We are doing everything we can to communicate with the families as quickly as possible.

The families have been at the centre of our decision-making and our actions in conducting and responding to this audit. Unfortunately, some families who have lost loved ones will have been watching media coverage yesterday and today and will be suffering unnecessary anguish as they wonder whether or not they will be affected by this. This, of course, is due to the story having been leaked so that we needed to respond publicly in advance of all families being informed. We felt, on balance, that that was the right thing to do and was necessary.

There has, of course, been a lot of discussion about the Human Tissue Act 2004. Much mention has been made of it, and of our obligations under it, in media commentary. The position is that the audit does not strictly fall under that legislation. Items of human tissue that are retained for the purposes of police investigations are exempt from the Human Tissue Act. However, we recognise the good practice that underpins that legislation and, indeed, that is covered in the codes of practice that accompany it. Since 2006, our practices have developed and systems have been put in place so that our practices are consistent with the provisions of the Human Tissue Act.

The genesis of the ACPO audit was that, in 2009, the Human Tissue Authority (HTA), which is the regulatory body created under the Human Tissue Act, conducted an audit of a major hospital in the United Kingdom, outside of Northern Ireland. As a result of that, the authority issued a regulatory alert. That alert meant that each mortuary was required to carry out an audit of all human tissue that it retained. One mortuary in the West Mercia police area discovered that it was retaining human tissue on behalf of the police service for West Mercia. As a result, ACPO commissioned an audit of all human tissue retained for police investigations to find out how widespread this issue was, or whether it was a localised problem in West Mercia. In 2010, the PSNI agreed to participate in the audit, and, for the past 18 months, a huge amount of work has been done. We have been going through material and identifying items of human tissue retained in various places, such as the pathology department, our own police estate, the forensic science laboratory, and so on. To understand what the tissue was, material and documents had to be cross-referenced with various places and agencies. So, this was a huge task.

The audit revealed that we have retained, for police purposes, 71 items of category 3 human tissue relating to 63 victims. Clearly, some victims had more than one item of human tissue retained. Most of the cases relate to murders, suspicious deaths, road deaths and some suicides. The oldest case is from 1960, and, since then, there have been over 4,000 murders alone. You will remember that I have just said that this involves not just murder cases, but it includes them. So, since 1960, there have been over 4,000 murders in Northern Ireland.

Hopefully, that explains to the Committee why the task has taken us as long as it has. The work was commissioned in 2010, and it is now coming to a conclusion. We are at a point where the numbers have been finalised, and the publication of the full audit across England, Wales and Northern Ireland will take place on Monday. Of course, as part of a parallel piece of work to this public explanation, we are visiting families, and that is continuing as we speak. I am happy to take any questions.

The Chairperson: Thank you very much for that. Just before we start the questioning, I want to say on behalf of the Committee that our hearts go out to the families who are receiving this news. Our thoughts and prayers are with everyone involved in this very terrible incident.

Can you clarify whether the 71 items of human tissue are connected to 63 individuals? Are we talking about 63 victims? I am just not certain about that.

Assistant Chief Constable G Hamilton: It is 63 people. Therefore, there are 63 next of kin and 63 families, but some of those families will have to hear that more than one item of human tissue has been retained in relation to their loved one.

The Chairperson: You made a comment that the ombudsman has identified four individuals and will announce that this afternoon. Will you elaborate on that?

Mr May: I am afraid that I do not have any more detail on that. The message was passed to me shortly before this meeting, and I thought that it would be appropriate to explain as much as I knew to this Committee straight away. However, I do not have any further detail. The ombudsman's office is making a statement separately.

The Chairperson: Is it connected to the same human tissue retention issue?

Mr May: It is the same human tissue retention issue. The ombudsman's office was not subject to the audit. It was an ACPO audit of police forces and police services, and the ombudsman is independent. However, since the practice identified in the audit has come to light, it has undertaken its own examination of its own material.

The Chairperson: It has done its own investigations, which are outside all of what we are talking about this afternoon. So, it could be worse than we think.

Mr May: The statement that it is going to make is, I think, its view of the total facing the ombudsman's office, and it is looking to inform the families involved as well.

The Chairperson: Why it has taken a national audit to reveal this issue? Obviously, the law changed, and nothing of this nature happened after 2006. At that point, it was realised that this was now illegal because of the change in law. Why, then, has it taken six years to realise that this has been going on and that there is a need to tell the families that this happened without their knowledge?

Assistant Chief Constable G Hamilton: I am happy to try to offer some explanation on that.

The trigger for that happening was as I tried to describe it. The law changed, but the Human Tissue Act does not apply to material retained for police investigations. In my judgement, an overly straightforward approach was taken that that Act is for human tissue that is retained for all other purposes and we do not need to worry about that. Clearly, the point that we have got to now is that, with the audit having been prompted, almost as sub-collateral from another human tissue audit done under the legislation, the material that we are finding is more than we had expected. Material has been retained that the Police Service was unaware of, albeit that we are content that it was originally retained in good faith for police purposes. There was a communication issue about how much the police actually knew was being retained by pathology, for example. The number of items retained by the police for police purposes was in single figures. That is one explanation as to why it had gone on for so long and no one looked back. There was a lack of corporate knowledge in any repository about what we actually had. It was as clumsy as that, I am afraid.

The Chairperson: I think people will be amazed that, over a period of 40-plus years, no one thought that, although the police were acting within the law, it was just unethical not to tell families that they were going to retain an element of human remains, albeit for police investigations and with the very good intention of trying to solve a crime. I find it amazing that there was not someone within the organisation who felt that that was wrong and that families needed to be told.

Assistant Chief Constable G Hamilton: It is about a systemic failure and the lack of a process being in place. There will have been instances of individual officers being in charge of individual cases. Normally, when an officer has specifically requested that a body part — or an item of human tissue, as the legislation refers to it — be retained, they would have followed that up, even pre-2006, and made sure that the family knew that we were taking it and why we were keeping it. Some sort of review process would have been imposed by the individual as a human being. So, there has been repatriation or return of body parts to families, but not in a processed or corporate way. The material would have been taken by the pathologist, on our behalf, in good faith, for medical reasons and for reasons to do with expert opinion, but there was probably a lack of communication between pathology and police. There was also a complete lack of any review mechanism at a certain point, whether it was after the trial, after a case had been reviewed, or at whatever point made sense. There was no review mechanism in place to check whether it was still proportionate to hold an item; if the answer was yes, to update the family about why that was the case; or, if the answer was no, to have the conversations that we are now having — and I accept that we are having them much too late — so that we could, with dignity and respect, return those items of human tissue to the families.

The Chairperson: Are you able to elaborate on the nature of the human tissue that has been retained? I have read that a skull has been retained. Are you able to go into that?

Assistant Chief Constable G Hamilton: I am reluctant to go into a lot of detail about that, but I am happy to describe what category 3 material is in the broadest sense. It includes significant parts of the human body that are integral to the integrity of the body, such as bones, limbs, organs and that type of

thing. There has been much reference in the media and in other places to skulls. I do not really want to get into numbers, other than to say that the vast majority of items, by any measure, are not complete skulls or heads or anything like that. It would have been a specific skull piece relevant to the point of injury, for example, that would have been retained by the pathologist on our behalf. That is the type of matter. Obviously the analysis has been quite detailed, and we have that knowledge, but, while we are still in the process of informing families, we do not want any detail that could be even more distressing played out publicly, if that is agreeable.

The Chairperson: I appreciate that. As regards repatriation, when families are being told about this, will they be told that you will meet the costs of disposing of the remains? I take it that that will be par for the course?

Assistant Chief Constable G Hamilton: Yes. We have spoken to over one third of the families. The figure this morning was sitting at 20 or 21. The families need time to allow this information to soak in, as the grieving process can take time. We will be going back to families with further detail about why we have these items. We could give a generic reason and say that they are important for evidential purposes and are part of the police investigation, but we want to go back to the families with as much specific information as we can find in the records. So, we will do that. The decision about how returned items will be dealt with rests entirely with the family. If there are costs involved, the Police Service will meet those costs so that that can be done with dignity and respect.

The Chairperson: Let us hope that nothing like this ever happens again, but, obviously, this information got out before families were told about it. Will there be a review of how information like this is communicated to people in your organisation and to people connected to it, so that, in future, families will be told first? I do not hold you accountable for the leak, but it has caused unnecessary distress.

Assistant Chief Constable G Hamilton: We will need to think about that. The decision around any investigation into a leak is a matter for others. We have dealt with all this information in the Police Service with a great deal of sensitivity, even secrecy, for that very reason. Work has been ongoing over the past 18 months, but not at the current high-pitched level. Over the past six months, a dedicated team of a significant number of people has worked very hard over long days and weekends to get this done, and nothing emerged until the last few days, at this very critical point. While I have a frustration around that, the frustration is simply because that could cause excessive anguish and trauma for the families of the many thousands of people who could be sitting wondering whether the police will come knocking on their door. All we can do about that is ask people to be patient.

Our plan is that, by close of play on Sunday, we will have communicated with every family in Northern Ireland affected by this issue. We believe that is a realistic ambition. Of course, circumstances will dictate whether we achieve it, but we believe that we can achieve it, and we are well on our way to doing so. However, I suppose that these few days of uncertainty could mean that some families are experiencing unnecessary anguish because of the leak, and that is the concern that I have.

As regards where we go next, there are some partners, agencies, accountability bodies and others that we simply have a statutory responsibility to engage with and to share information with. I am not in a position to point the finger at anyone, other than to say that, in a general sense, it became necessary to consult and engage with a wider group of people within the Police Service and with external bodies and agencies. Coincidentally or not, it was at that point that, unfortunately, this reached the public domain.

The Chairperson: Do you plan to ask for a full review of how the police handled all of this over the past number of years, and should that review be independent?

Assistant Chief Constable G Hamilton: The position that we are taking is that the audit has been thorough. We believe that the numbers and the openness that we are showing add credibility and integrity to it. We are not looking for any praise for that, because, by any measure, this is a bad news story for the Police Service, and we are concerned about the impact on public confidence. However, we are content with the rigour of the audit. The audit that will be published on Monday will bring with it not just the numbers against police forces but a series of key findings and 10 or 12 recommendations that the PSNI will be happy to sign up to. That piece should bring some reassurance that it is fixed.

In some ways, the track record since 2006 has been very good. We have taken the principles and the spirit of the Human Tissue Act and applied it to the criminal cases to which the legislative provisions

did not strictly apply. Two things happened. There was a conscious decision to take the principles of the Act and apply them to police cases, and our family liaison structures within the Police Service became more joined up with the coroner's office and the community liaison officers in the coroner's office. There is better engagement with pathologists, so that they do not just retain items in good faith for police purposes, but the police officer attends the post-mortem and asks the doctor what they are keeping, why they are keeping it, how long they are likely to need it for, and what we can communicate to the family. Those very basic things, which should have been in place before, but were not, have been in place since 2006.

We have done the audit, and I take some encouragement from the fact that there have been no cases since 2006. There may have been one that was about a week into the new arrangements, and was just down to human error, but the systemic failure that allowed the pre-2006 failures seems to have been fixed by the arrangements that we put in place in 2006.

If there is some sort of a review, we will co-operate fully with that and engage with it, as we have with the audit. We will not be resistant to it, but it seems to me that the audit, coupled with the practice improvements that came about in 2006, has put the systems and processes in place to prevent that happening again. I am confident that our current mechanisms will ensure that there is not systemic failure like there was in the past. When you have human beings involved with human beings, there is always the possibility for error, individual tardiness, or whatever, but I have a high degree of confidence that we will not have the systemic failures for families that we had pre-2006.

Mr McCartney: Thank you very much for your presence here today. I will preface my remarks by echoing the sentiments of the Chair on the issue that we are dealing with. Families are watching and waiting for this. It is obviously a very sensitive and delicate matter. Even some of the commentary — not from you, but over the last while — has been insensitive, in my opinion, in the way in which it has been framed. That said, looking back, when should it have been addressed?

Assistant Chief Constable G Hamilton: I think the context is important. The first case that we had was from 1960 — 52 years ago. I suppose the ideal answer to your question is that there should always have been mechanisms in place, but that is taking the practice, standards and sensitivities of today and applying them to history. We are in a different place and a different context. I am not excusing the failures of the past, but we cannot rewrite that history. There was a feeling, even in the recent past — Professor Crane referred to it yesterday, so I am not in any way abdicating my responsibility towards him — that doctors, as professionally qualified people, were in a position to be making the judgements on those issues, and who were we to question them? We are still very respectful of the professionalism and expertise of our pathologists, especially here in Northern Ireland, but there is another side to it, which is about the feelings, the well-being and rights of the families of those who have died, in whatever circumstances. It was that second piece that was disconnected from the good, professional, medical judgement being made by pathologists. That is the bit that we have now fixed. So, in answer to your question, Mr McCartney, it should always have been this way. It was not, and we cannot change that.

Mr McCartney: I understand that aspect of it. One would think that, in 2006, when this became a very public issue, at that stage, someone in the system would have said that they had been involved in the process and that families had not been involved. The law is now changing. Whose responsibility was it to say then that that needed to be done?

Assistant Chief Constable G Hamilton: What happened in 2006 created a stimulus for the legislation. Although not applying directly to these police cases, it seemed that the penny had dropped, and that the principles of this should be applied to police cases. That is what we have done. The audit has shown that that has worked, maybe with the exception of one case. By and large, it is working.

Part of the problem is that there was no knowledge. That is not the police blaming pathologists for this. In the majority of cases, the Police Service would not have been aware of all, in fact, sometimes of any, of what the pathologist was retaining. That was seen as a decision for pathology. The pathologists did not think of telling the police; the police did not think of asking. That was a lack of communication between those two agencies.

Jacqui can speak for the coroner's office, but, likewise, there seems to have been a lack of communication between the coroner's office, pathology and the police that allowed this to happen. The arrangements since 2006 have rectified that, so that there are very clear lines of communication

and we know who is responsible for what. The police could say that we did not do anything about this because we did not know that pathology was retaining anything. However, that would beg the following question: why did you not know? There were police investigations, so the questions should have been asked. I am not trying to apportion blame away from ourselves. We take responsibility for this. These were police investigations. However, there was something about the police not knowing. That is where we were.

Mr McCartney: I am always loath to pull out a particular piece from a quote, but I am going to ask you to comment on this. You are reported as saying:

"it wasn't custom and practice to routinely advise family members of retention of human tissue".

Would some families have been informed that human tissue had been retained?

Assistant Chief Constable G Hamilton: There are anecdotal cases that we have uncovered in which families had been told. It is probably worth explaining to members that we are going to visit 63 families this week. We are visiting those 63 families because we have no record that they have been given an explanation or that the reasons have been explained to them. We expect, and already have evidence of this from the 21 visits we have made so far, that some families will say that the police officer, who dealt with them very sensitively, told them that. They may tell us that they knew. We can only work on what is in the records. The further back you go, the less comprehensive the records are. That is why we are in the position that we are in. To answer your question: some families will have been told, but it was not policy. Nor was it custom and practice to routinely tell families. That is the unfortunate reality.

Mr McCartney: I will come on to the processes of it, but are you saying that no one has nor can provide a record of how many pieces of human remains have been retained for investigation?

Assistant Chief Constable G Hamilton: No; I am not saying that.

Mr McCartney: If families did not have to be told that remains were being retained, did they have to be told that remains were being destroyed?

Assistant Chief Constable G Hamilton: No.

Mr McCartney: Is it possible that human remains have been retained and destroyed and no one has been told that that has happened? The only thing we have heard in public this week is that there is human tissue that will now be repatriated to families. Was there a scenario in which human tissue was retained and destroyed and families are not aware of that?

Assistant Chief Constable G Hamilton: I am satisfied that the police have not destroyed human tissue without taking the wishes of the family into consideration. However, I cannot answer for the department of pathology.

Mr McCartney: Who can?

Assistant Chief Constable G Hamilton: The State Pathologist, who is unable to be with us today. Although your question is valid, Mr McCartney, this audit was not about that. It was about identifying what we had, rather than what we do not have.

Mr McCartney: It is a very obvious question.

Assistant Chief Constable G Hamilton: It absolutely is.

Mr McCartney: It is obvious in the sense that there is a process in place whereby agencies of the state can retain human tissue and not tell anyone. You previously painted a picture of no communication between the pathologists, the coroner and the police.

Assistant Chief Constable G Hamilton: Well, limited, yes.

Mr May: Insufficient communication.

Mr McCartney: Right. I cannot remember the exact words, but I did not get the impression that it was insufficient. I think they were saying —

Assistant Chief Constable G Hamilton: No, it was insufficient and problematic. I would stop short of saying that there was none, but that is —

Mr McCartney: Well, maybe not none. I am trying to say that, therefore, you could have a scenario where someone can retain human remains and destroy them and still not have to feel that they were legally bound to tell anyone.

Assistant Chief Constable G Hamilton: Hypothetically, yes, but I cannot say that that happened, because I simply do not know. It may have happened, but what I can say is that the Police Service has not done that. I cannot speak for the department of pathology.

Mr McCartney: You are making that categorical statement that the Police Service has not done that.

Assistant Chief Constable G Hamilton: Yes.

Mr McCartney: OK. That is fine. I do not know whether Ms Durkin can answer for the coroner. It is unfortunate that the State Pathologist is not here, and we accept his apologies, but perhaps a representative would have been appropriate.

Ms Jacqui Durkin (Northern Ireland Courts and Tribunals Service): From the records that we have prior to 2006, the Coroners Service can say that there were inconsistencies. You could not say that, in every case, the coroner was always advised that the pathologist had retained human tissue. We are working with the police and state pathology to look at the records that we each hold and at each individual case that has been identified through this audit. We have done that to determine what information is on file to say that families were ever advised that human tissue was held, and if they ever expressed any view about how that material should be dealt with when the police investigation had concluded.

Mr McCartney: Is there any documentation that you have seen that indicates, perhaps, that human tissue has been retained and destroyed and the families concerned were not informed because they were not informed that it had been taken in the first instance? I am not saying that it would not be possible, but it stretches credibility to say that you would tell someone that you had destroyed something that you had not told them in the first place you had kept.

Ms J Durkin: As far as I am aware from the files that have been reviewed so far, there is no information of that nature, because this audit has focused on material that is in still in the custody of the State Pathologist or the police.

Mr McCartney: Is it something, perhaps, that you could try to ascertain? It is an obvious question that people are going to ask. We have already said that we are talking about the possibility of more than 4,000 people wondering whether you are going to visit them. When that process ends by Sunday night, I think that you can assume that people will ask whether it was possible that remains could be destroyed. I take it that there is a process for the destruction of human tissue.

Assistant Chief Constable G Hamilton: Yes, but under the current arrangements that would happen in conjunction with the family unless there were very exceptional reasons.

Mr McCartney: This is the point that I am trying to make. If people did not think that it was a consideration, it was not necessary to tell families. From the state agencies' point of view, the material was held for a legitimate reason. They concluded investigations but never told the families in the first instance. Could that material, potentially, have been destroyed? Body tissue could have been retained and destroyed and the families would not have known. Do we have a responsibility to find that out and inform people at this stage, rather than this being something that takes another four or five years after which we will find ourselves in exactly the same position?

Assistant Chief Constable G Hamilton: I understand the points that you are making. That is the right thing to do, but we need to be clear that this audit was not about that. It was about identifying what we had.

Mr McCartney: I will go back to the original point. In 2006, there was a public outcry, for want of a better word, about hospitals that were involved in this type of process. People then said that there was an opportunity to tackle the issue and remove the possibility of any person feeling that, somewhere in a hospital or state agency, human remains were being held without them knowing. Part of this process addresses that, so 62 families will be relieved. Maybe "relieved" is the wrong word, but they will certainly be informed. I want to know whether there are other families who may find out in the weeks or months ahead that —

Assistant Chief Constable G Hamilton: Their loved ones' human tissue was retained and then destroyed, and they were never consulted in any shape or form.

Mr McCartney: Yes.

Assistant Chief Constable G Hamilton: I do not know the answer to that.

The Chairperson: Can you find out? Can you review that?

Assistant Chief Constable G Hamilton: Anything can be reviewed, but the answer lies with the department of pathology.

The Chairperson: Can the Department ask the pathologists to do that?

Mr May: I can certainly take it away and discuss it with the Minister. The question will be about the quality of the record keeping that was in place and whether that will support such an endeavour if it were considered the right thing to do. I am happy to take that matter away.

Mr McCartney: It is more, Peter, than just the thing that the records might be poor. People will ask about this, and they are entitled to an answer. If you are telling me that the records are so bad —

Mr May: The answer is that I do not know. I am merely surmising that, if a record was not kept of whether the family was told at the start or the end, I do not know whether there will be clear record keeping.

Ms J Durkin: It would be fair to say that, from the volume of cases and the volumes of individuals whom we know about, given the number of police investigations or police-related files in the pre-2006 period, it must be assumed that there was material and human tissue that was retained and probably dealt with without families being advised. We know that there was no legal obligation to return to the families and seek their views. Given that we now know the number of cases that are involved in the audit, I think that is most likely. However, as my colleagues said, Professor Crane may be best placed to answer that.

Mr McCartney: When you say "dealt with", do you mean that there is a possibility that it could have been destroyed?

Ms J Durkin: Yes, I think so.

Mr McCartney: In relation to the 62 cases, is there a breakdown of which agencies have retained the material and whose responsibility it will be to take charge of the repatriation?

Mr May: Are you asking who retains the information?

Mr McCartney: I think that there was some suggestion that not all of the human remains are now in the police estate, as it is described.

Assistant Chief Constable G Hamilton: The majority of the retained tissue is held by the department of pathology. The breakdown of that is that there are 71 items of tissue; 11 of them are retained in the police estate, and the other 60 are retained by the department of pathology. You need to understand

that this is a snapshot in time; that is where the items are now. For example, it may well have been that some items were at the forensic science laboratory a few months ago, and, after the examination that was undertaken for the police, we were given them back. That was part of the audit. As we stand today, there are 71 items of concern to us; 11 of those are held in the police estate and the remainder are in the department of pathology.

Mr McCartney: Are the ones in the police estate collectively held together? "Police estate" is a very vague term.

Assistant Chief Constable G Hamilton: There is a specific facility that is appropriately equipped to retain those in the police estate. The serious crime exhibits store is a huge warehouse that has the appropriate facilities and technology to know what is in there and what is coming out and to maintain the security and the integrity of all exhibits. Of course, we are talking about human tissue, which is much more emotive and deserves much more dignity, but all police exhibits would go for serious cases, and, by definition, that is what we are talking about: murders and suspicious deaths. So, that serious crime exhibits facility is the storage facility in the police estate.

Mr McCartney: Are you saying that a review of procedures will be carried out by the Department or the PSNI? Is a review in place?

Mr May: A series of recommendations will have emerged from the audit. I said that the Minister will look at how to give confidence that all of those recommendations are properly implemented. The whole purpose of the audit was to examine and explore the nature of the problem and to recommend how practices should improve. I understand that those recommendations do not apply simply to the PSNI but to the Coroners Service and pathology department.

Mr McCartney: Will the part of the review's recommendations entail strengthening areas in which people did not fulfil their responsibilities at the particular time? I know that I am hypothesising, but what if communication was so poor that a police officer's decision that a case had ended was not passed on and something was retained for years? It seems a bit long since 1960; I do not know the case involved and I do not want to speculate, but 52 years seems a long time.

Assistant Chief Constable G Hamilton: This is the bit where we have to understand some of the context. We have not been treating human tissue and families and victims in that way since 2006, when things changed significantly and for the better. For example, the pathology is a significant line of enquiry in any murder investigation — knowing the cause of death and being able to prove it is fundamental to prosecuting that case. So, for example, 10 days into a murder investigation, there is the first stage of review — known as a peer support group — where a couple of independent senior investigators come in and act as a critical friend for the person in charge of that murder investigation. This obviously applies to unsolved cases. At that point, all the various lines of enquiry are reviewed. That review includes all the usual but fundamental good policing things, such as the CCTV, the house-to-house enquiries, the witness and forensic strategies, and pathology forms part of that. So, right away, at that 10-day point, questions are asked and internal challenges made. If a case is not solved, there is 28-day review. Again, part of that will be the pathology strategy — what is happening with it, what is the engagement with the department of pathology, what is coming back from the lab and what other specialist forensic facilities need to be brought to bear on the pathology? There is then a review of exhibits at various points, as a case is being built in the weeks and months leading towards court. Before trial, there is a fundamental review with the Public Prosecution Service (PPS) to make sure that all the evidence is in place.

At each of those review points, pathology will be considered and decisions revisited. Questions will be asked about why we have got this and whether we still need it. There are lots of drivers for that: there is the ethical driver in relation to human tissue; on less emotive issues, there is the driver of the space that is available to store all this stuff in the police estate. However, on this issue, at all of those review points — even if a case is not going to trial because we have not managed to charge someone — a formal review process kicks in every two years. At each of those, we review what we know now that we did not know then, what new technology there is, whether there is any new intelligence or whether anybody has changed allegiance. We do all of that every two years for those unsolved cases. That is another filter, if you like, another safeguard, because we ask what is happening with the pathology, what human tissue we have retained, why we have retained it, what we are getting out of it and whether it still necessary to retain it.

All of that has kicked in as we have modernised and professionalised the investigative process. The family liaison strategy, which came in around 2004-05, fits with that. Combining all of that with the good practice that we have borrowed from the codes of practice of the Human Tissue Act, although we are not legally compelled by it, has put us in a much better place. I have seen a very early draft of the review recommendations. I cannot remember them in detail, but I understand that they take cognisance of the improvements that have happened since 2006. Those are refinements on that process, as opposed to rewriting something that, effectively, we rewrote in 2006 but did not apply retrospectively. The recommendations will come.

The audit in itself has been, effectively, a review. It is telling us what we have got and telling us the key learning that has come out and what we need to fix. If there is a further review by statute or by ministerial appointment, of course we will engage in that. If things get better as a result, that is good. However, this audit will deliver a series of recommendations, and what has happened since 2006 shows that the systems are in place to prevent the inappropriate practice or the lack of process that was in place pre-2006.

Mr Weir: Obviously, there is a lot of sensitivity around this. A lot of the issues have been covered already. I will look at one particular aspect. We will see the report on Monday, and it is important that, comprehensively, it deals with what has happened in the past and ensures that we are watertight so that it does not happen in the future.

As regards the notification issues, there is a lot of anxiety out there among relatives of victims. Are you confident that you have identified and have contact details for all 63 families, or is there a danger of somebody being left out.

Assistant Chief Constable G Hamilton: We are struggling to identify a next of kin in a small number of cases. That does not mean that we do not know anybody connected with that person; it is a matter of ensuring that we sensitively find the right person.

Mr Weir: It is unfortunate that events have overtaken the publication, as that has damaged the opportunity to be able to speak to those families in a sensitive manner to the extent that you had hoped to in the timescale. You said that it was your aim to have everybody spoken to by the end of Sunday. Can you give us a cast-iron assurance that that will be the case? Obviously, people will be wondering whether their relative is one of those involved. It would give at least some peace of mind for people to know.

Assistant Chief Constable G Hamilton: I have a high degree of confidence that all the families who we need to speak to in Northern Ireland will be communicated with by close of play on Sunday. There are one or two cases where we are struggling to identify who, technically, is the next of kin, but that will come down to a balanced judgement. We will communicate this with our best judgement. In some cases, we are going back 52 years, and I do not mean that that necessarily applies to the first case. However, the passage of time is making it difficult for a very small number of cases. Some families are outside the jurisdiction — outside of these islands, actually, the UK and Ireland. We want to treat everyone with the same level of dignity and decorum, and I am not in a position to give a cast-iron guarantee that we will have communicated with people overseas by Sunday. However, I have a high degree of confidence that the vast majority, and certainly all of those living in Northern Ireland, will be dealt with by close of play on Sunday.

Mr Weir: Obviously, there will be families out there who will be anxious as to whether their relative is one of those to whom this relates. Have you established any mechanism to deal with contacts from families to establish whether, for example, their late father, mother, brother or sister is one of those, so that you could, at least, provide reassurance to people who are not affected?

Assistant Chief Constable G Hamilton: No; people may phone in to the police to ask about this, and all our call handlers have been briefed about how to deal with that as we realise that there will be a degree of anguish and concern. We will take their details and pass them to the team that is working on this full time and that has an intimate understanding of it. They will process those details and get back to the family concerned on the same day. I appeal to people to be patient with us on this, because, if we bombard —

Mr Weir: Just to clarify, George, when you say that you are getting back to the people concerned, is that in both the case of somebody who is directly affected and the case where you are able to give somebody the good news that, no, this does not relate to their relative?

Assistant Chief Constable G Hamilton: We are not going to do any of this by telephone.

Mr Weir: I understand that, and I am not suggesting you are. However, you are getting calls and are processing them by telling people that you will get back to them. You are contacting some people, perhaps by way of a visit or some face-to-face contact, but are you also getting back to people to give some reassurance to those whose relatives are not one of the 63 people?

Assistant Chief Constable G Hamilton: Of course we are. We will communicate with those people. We have to keep our priority of dealing with the 63 families, so I cannot guarantee that everybody who phones in will have firm answers, because there are some very common names in Northern Ireland, and we are not going to speak to people until we have fully researched them and made sure that there is not some —

Mr Weir: I understand that. You have to be careful that it is not somebody on a fishing expedition, wanting to use the information for purposes that it should not be used for. I am trying to establish what the situation would be if someone who does not know whether a relative has been affected contacts you. Would you be able to give them some reassurance rather than telling them that you are going to look into it and get back to them, and then they do not hear anything until after —

Assistant Chief Constable G Hamilton: I do not want to give assurances I am not going to deliver on. I cannot guarantee that at this late stage. Bear in mind that we have been taken over by events beyond our control because of the leak. My focus with the team working on this is on the 63 families. If people ring in, of course we will try to deal with it expeditiously and as diplomatically and sensitively as possible, but I am not going to have those resources distracted from that to go to tell people that they have nothing to worry about.

The principle is that we are going to discuss this with concerned families face to face. As soon as you say to somebody on the telephone, "Do not worry about it, you have nothing to concern yourself about", and someone else is asked to come to a police station or asked whether we can come to their house, we are effectively giving a different message. This has become very untidy because of the leak.

We will do our best to respond to everybody who is concerned, because everybody who is concerned, possibly apart from some people who are doing some mischief-making by phoning in, has a genuine, legitimate concern and we want to address that. What I would say to them is that we cannot guarantee that we will get back to them before Sunday. We have a process where every family who is affected by this in Northern Ireland will be contacted and will have a proper meeting by close of play on Sunday. I do not mean to be evasive, but I do not want to give assurances that I cannot deliver on.

Mr Weir: I understand that; it is about providing assurances. Finally, if I can just ask about the time frame in relation to the human tissue samples; reference has been made to documentation dating back to 1960, although I think you have given indications that it might not necessarily be that the oldest tissue sample dates from then. Does the range of the 71 samples run from the early 1960s through to 2006, or is there an earlier cut-off point?

Assistant Chief Constable G Hamilton: I cannot remember the final date, but it runs right through to the significant moment when our practice changed in 2005. I cannot stand over that, but it is certainly into the 2000s, and it is pretty much a consistent distribution throughout.

Mr McGlone: Thank you for presenting to the Committee today on what is a very distressful issue. I beg to differ with your emphasis slightly. The real distress is not because of the leak; the real distress is because this was happening to families. It may occasion it to become untidy for some people in terms of media management, but the real difficulty is with families who are going through this. It is quite unbelievable.

I noted there was a lot of emphasis on systemic failures. One phrase that was used is:

"the practice, standards and sensitivities of today".

That leads me on to something. I find it utterly incredible that good police officers then, whenever that might have been — or good people in whatever walk of life — would not have followed what their

heart was telling them, as opposed to what some rule book was telling them, and done what would have been seen by many people as the decent thing.

Following on from that, we have 71 body parts of 63 people. I presume that that is, if you like, the baseline, and in many other cases where body parts had been retained, families were liaised with and contacted as part of what would just be normal, decent good practice, by police officers or otherwise. That is our baseline figure, I presume and hope. Can you tell me, please, the other aspect, which is at what point people were going to be notified? This has been an issue since it has come to a head from 2006 onwards. That seems to be the applicable date when this started to kick in, and we have been reading about other issues and hospitals and the like as well. At what point was the plan to notify people?

One final thing: you will forgive my ignorance on this, but this is probably the bit that puzzles and disturbs me. While an unclosed police investigation was continuing, there did not seem to be any knowledge or awareness that body parts could have been held somewhere else that could potentially have been material to that investigation. That begs a big question for me as well.

Assistant Chief Constable G Hamilton: First, can I clarify that in relation to the distress caused, I was one of the people who made a comment about that, and the point was not just about distress being caused to the 63 families because of the leak. My point was that this is going to be a nightmare for those families, it is horrible, and we deeply regret it and apologise to those families. Additional distress and anxiety is being caused to the other 4,000 families who potentially could be wondering if the police are coming to their door because their loved one has not been returned in their entirety. It was that analysis that I was presenting to the Committee as a concern for us. We do quite honestly feel a degree of frustration that we lost control of this because of the leak, not because we need to be in control but because of the impact on the other 4,000 families who could now be suffering some distress unnecessarily because the 63 are in this very difficult place because of our shortcomings over the years.

You made a very valid challenge about how, back in yesteryear, good police officers and good people in all walks of life would still have been compelled to do the right thing. If they were retaining human tissue in this category, of course they would go and explain and try to pursue that and make sure that it was not held any longer than necessary. I agree with that analysis, but the reality is that those good police officers may not have known. It links to your last point. Pathologists did this on behalf of the police, and we do not dispute the medical expert necessity to have done it, but there was not the communication between pathology and police to ensure that police were equipped with the information to exploit the opportunity for the investigation or, as importantly, go and communicate with the family and do the right thing. I am not being critical of my colleagues of previous generations; I am simply saying that they could only work with the information that was available to them. I do not think that there was any intention or any underhand agenda on behalf of pathology not to tell police officers things. That was the custom and practice. It was wrong and we have put that right. Unfortunately, between all of that, there are 63 families who are going to have to suffer this horrible hurt and additional anguish as a result.

I agree with your last point. The fact that investigators did not know that items of human tissue had been retained for investigative purposes and, therefore, could not exploit that investigative opportunity begs a question and is slightly concerning. This is slightly divorced from the impact on families; it is about cops securing evidence and getting that before a court. I agree with you. That is why the 2006 reforms have primarily been about treating families the way they should have always been treated but were not. The practice is far better as well.

The review mechanisms in a murder inquiry that I explained to you — the 10-day point, the 28-day review pre-trial, post-trial and pre-appeal and the review every two years, if there has not been a court case — provide a good safety net for us now in respect of doing the right thing for families. However, it is also fundamentally about what, investigatively, we can gain the most benefit from and what we can exploit, in a positive sense, to bring those responsible for a horrible crime to justice. It beggars belief that investigators did not know that material was there that could be used in an investigation.

Records would have been kept. Even from my experience, there were times when we went back to pathology and said — let us use the example that Professor Crane used yesterday — "We have now recovered this blunt instrument, and that person died from blunt instrument trauma, so does this fit with that?" Police officers would have naturally gone back to pathologists anyway expecting a view either because, in Professor Crane's example, the pathologists could transpose the skull on to the instrument or just to get an expert opinion from them about whether that instrument could have caused

the injury that was recorded in the notes, photographs, scans or whatever. So, even pre-2006, there would have been a steady run back to pathologists to ask their opinion about certain things to do with an investigation. However, the critical piece of information that in most cases was not, in fact, communicated to police was that pathology had retained certain organs or other human tissue. I cannot offer that to you as reassurance; I offer it to you just to try to give you a full and open answer. That is just the way it was.

Ms J Durkin: By way of completeness, most post-mortem reports would have said whether any organs or body parts had been retained. Post-mortem reports are produced by state pathology and provided to the coroner. Again, pre-2006, that might not have happened uniformly.

Mr McGlone: That was not being done either.

Ms J Durkin: Pre-2006, post-mortem reports produced by the pathologist would have usually stated which organs or body parts had been retained.

Mr McGlone: You say "usually", so presumably there were cases where that did not happen. Is that now standard guidance/practice?

Ms J Durkin: Yes; since 2006, the procedures have changed. At preliminary post-mortem or cause of death stage, the coroner would be advised which organs and body parts had been retained. Again, post-2006, there has been very close liaison between Coroners Service liaison officers and family liaison officers from the police. The family liaison officers are the key point of contact for families. They tell them what has been retained, and, when a case has concluded, they seek their views on what they wish to happen to retained items.

The Chairperson: Can you clarify who takes the final decision to retain? Is it the police or the pathologist?

Assistant Chief Constable G Hamilton: The decision to retain, in effect, is made by the pathologist, albeit for a police investigative purpose under the legislation. I would not try to get police officers, effectively lay people in this regard, to second-guess the experts. In all this, there is no question about our confidence in the technical ability of the State Pathologist's Department in Northern Ireland; it is outstanding. It is not about that. We rely heavily on its expertise and judgement in these matters. It is about the follow-through piece in respect of how we engage with families.

The Chairperson: So, the pathologist took the decision, but it would have been for the police to inform the families.

Assistant Chief Constable G Hamilton: Yes, if they had known.

Mr Dickson: Thank you for coming and speaking to us today. I wish to express my concern about this issue and to say to those who will be advised on this matter that it is and will be distressing for those involved. I hope that what is now happening will bring some closure for people. However, it will be very difficult, particularly if you are dealing with families that are once removed; in other words, if there are no immediate family members remaining.

You made the comment that a police officer may very well have said to a family member, at the time, that something was being retained. However, it may be that that information has not been passed on inside a family. So, this will be a very difficult situation for you to deal with.

This goes beyond Northern Ireland. As the information is in the public domain, there will be families across the UK who will be having exactly the same thoughts as some of the 4,000 families here in Northern Ireland. When ACPO set up the audit in 2010, was it done confidentially, or was it noted in the public domain?

Assistant Chief Constable G Hamilton: There was openness about all of this. Each police service is responsible for its own activities, but there clearly needs to be some co-ordination across the 44 police services. So, the Deputy Chief Constable was appointed to do that. She gave press conferences and so on, explaining that the audit was happening. Although this has re-emerged locally —

Mr Dickson: It was not unknown that this investigation was under way.

Assistant Chief Constable G Hamilton: That is correct.

Mr Dickson: I would like to follow through a little on the point that Mr McCartney made earlier. It is a very distressing thought that samples may have been destroyed without the knowledge of the families concerned. I wholly accept that the PSNI told us that it does not have records on or responsibility for that, and you are satisfied on that count. I believe that it is important that Professor Crane and others from the state pathology service appear in front of us and deal with that question. Perhaps Jacqui could answer this question for me: how many chief State Pathologists have there been in Northern Ireland since 1960?

Ms J Durkin: I am sorry, but I am going to have to pass that question to Peter. The Department has responsibility for the State Pathologist, not the Coroners Service.

Assistant Chief Constable G Hamilton: I cannot be held to this, but it would be two or possible three since 1960.

Mr Dickson: It is important that we explore that question. I know that it is a very painful area, but I think that it is important that that area is explored.

As regards current cases, are you satisfied that, from 2006, all families are clear about the current situation?

Assistant Chief Constable G Hamilton: Yes, the mechanisms are in place to show that either human tissue has not been retained, and families have been informed of that, or that, if there is ongoing retention, which is more likely in the more recent cases, families are aware of that. That is one of the assurances that the audit has been able to give us.

Mr May: And they would be consulted about what will happen at the point when the investigation ceases.

Mr Dickson: Thank you for that. Chair, I ask that we make appropriate arrangements for Professor Crane and others to answer further questions for us.

Mr Lynch: I have two quick questions. You said that, from the outset, families were at the centre of this process. Will you give us an update on what support measures have been put in place for families?

Assistant Chief Constable G Hamilton: Yes. We have engaged with and have taken advice from a number of organisations that specialise in helping families to deal with grief and trauma. They have been very helpful in advising us on our approach. Family liaison officers, who have been trained and accredited to engage with people in these circumstances, are also being used.

West Mercia Police had a high number of similar cases. They seemed to deal with those very well in the thoroughness, openness and transparency of what they did, and we benchmarked many of our practices against theirs. When the family liaison officers were being put in place for this two or three months ago, we brought the West Mercia Police lead family liaison officer over and they gave two days' training. Our family liaison officers are well used to dealing with here-and-now trauma, and, if someone were to unfortunately lose his or her life tonight, they would be deployed and would support the family over a number of days or weeks. This is slightly different, so we brought in family liaison officers from West Mercia Police who had experience of dealing with that exact issue. We downloaded their experience, and, hopefully, that will pay dividends.

Before a family liaison officer visits a family, risk assessments are carried out on the likely issues that that family will have. A whole range of factors are considered. As part of that, we are prompted to ask whether the police are the best people to deliver that news, or whether there is a specific person we should engage with to understand some of the nuances and sensitivities of a particular family or set of circumstances. We do real in-depth research and risk analysis to inform them. Family liaison officers are not expected to have a full range of counselling skills. They have some competence in that area, but their job is largely one of supporting families, acting as a conduit for information and signposting families to groups or individuals in the wider community that will be able to help them.

Mr Lynch: You may have to deal with elderly parents and may not know what effect hearing that news might have on them. Would your assessment also involve consideration of that?

Assistant Chief Constable G Hamilton: Yes; absolutely. The assessment would come right down to the date of the death, the date of birth of the next of kin and the date of birth of the deceased, and the making of judgements about timing. A lot of thought goes into it.

Mr Lynch: I have one other quick question. Were any of those involved from across the island of Ireland? Have you been in contact with the authorities in Dublin and the Twenty-six Counties?

Assistant Chief Constable G Hamilton: No. My understanding is that that has not been necessary. You will probably have noted from my hesitancy that I have some doubt about that. That is the best that I can remember, and if there is any change I will come back to you and clarify that. However, as best as I can recall, that has not been necessary.

Mr McCartney: Are you liaising with the police services in England that are also carrying out this process? If they were to find that they had retained human remains from someone from the North, have you ensured that they will not come over your heads to contact the family concerned?

Assistant Chief Constable G Hamilton: We have actioned that and made sure that that is the case. Before an external police service from England or anywhere else would come to break bad news to anyone, they would engage routinely with us. We have specifically asked that question, but it would be normal police practice for that to happen.

Mr S Anderson: Thank you all for coming along to the Committee. Like others, I feel that this is a difficult and stressful time for all the families concerned. Whatever comes out of this, the families need to get closure and comfort in the most sensitive way possible. George, can I go back to the issue of the 63 people and 71 body parts? Is it possible for a family, at the outset, to have been told that the police or someone else was retaining a body part, and, after that, more body parts were retained but they were not told?

Assistant Chief Constable G Hamilton: I am sorry; I do not understand.

Mr S Anderson: Say a body part was retained from one person. Their family was told at the time that a body part was being retained for an investigation. Is it possible that, then, the family was not told that a second or third body part from the same person was being retained? Do you see where I am coming from?

Assistant Chief Constable G Hamilton: Yes. Pre-2006, the unfortunate and regrettable situation was that families were probably not told anything, other than in rare exceptions. Are you asking whether, if we were retaining one body part and then decided to retain a further one, we would go back with a second piece of information?

Mr S Anderson: Yes, because I think that I picked that up somewhere along the line. Someone said that they were told that a body part had been retained. Then, they were told that another body part had been retained. Do we know how that came about? Was there a breakdown in communication?

Assistant Chief Constable G Hamilton: No. I think that maybe relates to a specific case that has been in the media in the past 24 hours so I do not really want to discuss that without providing an explanation to the family because that just would not be appropriate.

What you asked about is highly unlikely because post-mortems generally take place within a number of hours rather than days, and any decisions to retain human tissue would be taken during or at the conclusion of the post-mortem. So it is extremely unlikely, whatever happened, that pathologists would decide to retain one organ, for example, and then, some time later, before the coroner allows the body to be released, would then decide to retain something else. I cannot imagine circumstances in which that would happen.

Mr S Anderson: I do not know what happened between the police and maybe the pathologist. Maybe someone had not passed the information on because it was initially decided to give the information, but then something happened further down the line that maybe was not reported. That is where I am

coming from. I realise that it is maybe one particular case, but I am wondering whether there were other cases where that could have happened.

Assistant Chief Constable G Hamilton: No, I think that is highly unlikely. I am not necessarily referring to the case that was in the public domain yesterday, but it is possible, because of inadequate record keeping, that an item of human tissue, say an organ, had been retained, a police officer was aware of that at the time, went and told the family, but that was not written down or recorded. Then, we do an audit, identify that the organ is still retained, see no record of the family ever being told, so we, appropriately, go to tell the family about a organ that has been retained. They could well say to us, "We know that. Detective Inspector Bloggs told us that at the time." We are, therefore, having to have those difficult and potentially distressing conversations unnecessarily because of bad record keeping. I am just telling you the way it is.

Mr S Anderson: That is fine. You have a big job on your hands between now and Sunday. Did I pick up that you had contacted 21 families until now?

Assistant Chief Constable G Hamilton: I did say 21, but I have just received a text to say that it is now 24, so we are working hard at this.

Mr S Anderson: How do you make that contact? It is a specialist area to tell families about issues like that at any time. How do you approach families?

Assistant Chief Constable G Hamilton: As I explained earlier in answer to Mr Lynch's question, there is quite a bit of research and risk assessment before we ever go near the families, so that we know what we are dealing with and we understand as much as possible about the family, without being overly intrusive, just to make sure that we are sensitive to their needs, religious traditions, political views, experience of the police in the past, and all of that. So there is no one way. We would always have the comprehensive conversation face to face, but the initial contact might be a police officer in plain clothes knocking on the door, explaining who they are and asking for access to the home to convey some news to them. It might be that, depending on how recent it is, the original family liaison officer might be asked to make telephone contact and say, "I need to come out and update you about something". That has been happening routinely since 2006. There is a variety of mechanisms. Ordinarily there would either be someone calling at the door or a phone call with a very limited explanation, in general terms, of what we need to talk about. It would depend; we make a judgement based on what we know about the family.

Mr S Anderson: It is a call to the door; it is not a phone call or something like that.

Assistant Chief Constable G Hamilton: No. There may be times, depending on local connections with police or with other people whom we would go through, when a phone call might be used to facilitate the conversation. It would be to make sure that the person is in to arrange a suitable time to call and that sort of thing. However, we will not be phoning up to tell someone what we have retained in any detail. Part of the problem is that, because this has leaked in the way that it has, if somebody who has lost a loved one gets a call from the police, they are probably going to make the right assumption pretty quickly. Again, that is just part of the frustration for us and the distress that the leak has caused for the families.

Mr S Anderson: It is a difficult job that you have to do. I think that everyone realises that. With a timescale of between now and Sunday, it is a big job.

The Chairperson: Under normal circumstances, would the ombudsman's office review this type of thing?

Mr May: Because this involves wider, systemic issues, it would not automatically be a matter for the ombudsman's office. We are looking into this in more detail, not least in terms of what the right organisation would be to oversee the implementation of the audit recommendations, for example. George mentioned the existence of the Human Tissue Authority, and I am aware that that authority already regularly inspects the premises of the state pathology department here. It may be that that is a more appropriate organisation to oversee this. That is something that we are still looking into the detail of, so I do not want to be definitive today. That is an initial view, as it were. Because this is a specialist area relating to human tissue, it may be better to go with that organisation. If there is an issue about police conduct, then clearly that is an issue for the Police Ombudsman's office.

The Chairperson: I make that comment because I, too, got a note to say that the ombudsman's office has now confirmed that it retained body parts without notifying the families. If the ombudsman's office has failed in this, obviously we need a broader review of how this has happened. To be honest, I am surprised, given that it was only recently established. The police have a long history of custom and practice; one would have thought that that would not have been the case in that organisation, but it appears to have been so.

Mr May: My understanding is that the cases are all pre-2006, for similar reasons to those George has explained in relation to the PSNI, and that the ombudsman's practices since 2006 have been in line with the principles of the Human Tissue Act.

The Chairperson: Jacqui, you made a comment earlier about an assumption being made that human tissue will have been disposed of without families ever being notified.

Ms J Durkin: That comment was in relation to pre-2006 cases. I think that Professor Crane would be best placed to answer that. That relates to the question that Mr McCartney asked about the volume of cases.

The Chairperson: To me, that is a startling admission as well. The assumption is that there are cases where families have not been told that human tissue has been disposed of. The ombudsman is now involved and the police are involved, so there needs to be a very broad review of how this has happened, because it impacts across so many organisations within the justice system. I expect the Minister to allude to that on Monday when he makes a statement in the House. Can that be conveyed to him? Certainly, I am sure that Members will convey that to him when he is in the House.

Mr May: I will make sure that it is.

Ms J McCann: I will be very quick because most of the points have been covered and I do not want to go over them again. I am conscious that it is a very sensitive issue for the families. I have a concern that it took the audit to expose it because we had a situation here before where babies' organs and peoples' organs were held. You said earlier that you are putting things in place, but it is sad that it took an audit for this to come out because it is not the first time that this type of thing has happened here. We need to be extremely sensitive to the families' feelings, and, as Seán said, we need to have a support mechanism there for them. This will be very traumatic for them, and they will be reliving everything. You said that you hope to have informed all the families by Sunday. I want that to definitely happen; to make the families wait any longer would pile it on them again. That is just a point. As I said, the points have already been covered, and I do not want to go over them again.

Mr Dickson: Apologies for coming back to this, but something simply does not ring true with me about the 2006 situation. A broad range of organisations, including the pathology service, the Department, the police and the ombudsman, all came to a protocol, which seems to be what you have come to, whereby everything after 2006 was notified. One organisation may not have thought about what to do about pre-2006 cases, but, given that such a broad range of organisations is involved, particularly the ombudsman's office, it is extremely difficult to understand how and why the pre-2006 issue did not immediately come to mind and was not tackled until 2010. That is maybe not just a Northern Ireland question; it is perhaps a UK-wide one. Is the ombudsman in Northern Ireland unique in that situation or are others in a similar situation?

The Chairperson: Today's comments suggest the need for a lot more investigation into this. We await the Minister's statement on Monday about how he wants to take it forward. I thank you for coming. I appreciate that it is difficult for you, and people often forget that officials and people behind a uniform are human beings. I do not envy you your job, and I particularly do not envy the officers who are liaising with the families their job. My thoughts are with them as well as with the families and the next of kin who are involved.

Assistant Chief Constable G Hamilton: Thank you, Chair. I will pass that on.