



Home Affairs Committee

Oral evidence: The work of the Home Secretary, HC 500

Monday, 14 July 2014

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Members present: Keith Vaz (Chair); Ian Austin, Nicola Blackwood, Michael Ellis, Paul Flynn, Lorraine Fullbrook, Dr Julian Huppert, Mr David Winnick.

Questions 1 – 99

Witness: **Rt Hon Theresa May MP**, Home Secretary, gave evidence.

Q1 Chair: This is part of the normal investigations that the Committee conduct into the work of the Home Office. The Home Office comes before the Committee at least once a session. For those of you who expected this tomorrow, the time has been moved with the Home Secretary's agreement to today because some of the aspects that we wish to probe and examine the Home Secretary on concern the emergency legislation going through Parliament tomorrow.

Home Secretary, can I congratulate you, first, most warmly on becoming the longest serving Home Secretary since Rab Butler in 1962?

Mrs May: I expect it goes downhill from there, Chairman.

Chair: Did you celebrate that event?

Mrs May: No, I am not somebody who celebrates those sorts of things. Frankly, I just get on with the job.

Q2 Chair: As you get on with the job, the last couple of weeks have been somewhat shambolic. You have had the resignation of your special adviser, who I and the Committee know you valued greatly, for putting an unauthorised statement on the website. We have had the crisis in the Passport Office where thousands of British citizens have been waiting for their passports. We have had the revelation that 114 files went missing from the Home Office, something that the Permanent Secretary knew about in July of last year and you knew about in October of last year. Today we have had the resignation of Lady Butler-Sloss as the head of the inquiry that you had established. We all acknowledge that being Home Secretary is not like a walk in the park, but the last few weeks have been quite a surprise for a government department that we thought was extremely well run under your stewardship. What has gone wrong? Why is it all unravelling?

Mrs May: First of all, Chairman, I reject any suggestion that it is, in your words, "all unravelling". Yes, there have been issues we have had to deal with. If I look at the question of the Passport Office, we have obviously discussed this in a number of forums on the floor of the House of

Commons. The number of applications for passports this year has been significantly higher than we have seen at any time for the last 12 years. The Passport Office has now had well over 4 million applications for passports and the number of applications in June was the highest month in the last 12 years. The Passport Office over time was putting increasing contingency arrangements in place. Those contingency arrangements continue to kick in, in terms of their effectiveness, and obviously we watch what is happening at the Passport Office. As you know from the statement I made to the House, we put a number of extra measures in place to ensure that particularly those individuals who had an urgent need to travel and whose passport was not being dealt with in appropriate timescales were able to have an upgrade of dealing with it for free.

Q3 Chair: Yes. We will come on to the detail of the Passport Office later.

Mrs May: But that was being dealt with. This was an issue that had arisen over a period of time and it was dealt with properly, as it should have been. In relation to the other issues you mention, the 114 files—we may come on to the question of the reviews and so forth in more detail later—that was, of course, something that was uncovered as a result of the review that the Permanent Secretary very rightly put in place last year and reported to me last year.

I am very sorry that Baroness Elizabeth Butler-Sloss has resigned from the position of chairman of the review panel that was taking place into the whole question of how the state and other institutions protects children, has done historically and what lessons we need to learn from that. I recognise there has been a lot of suggestion and innuendo around in relation to Baroness Butler-Sloss. I reject entirely any suggestion that she was not the right person to do the job, but she has taken the decision herself. I am disappointed. I continue to consider her to be somebody of impeccable integrity.

Q4 Chair: Yes. First of all, I agree with you on that. I think all on this Committee regard Baroness Butler-Sloss as being a person of the highest integrity. There is no question of that, but we were only given her name last week, just before Mr Sedwell gave evidence, and I said to Mr Sedwell, “Was it wise to appoint someone who is a Member of Parliament into an inquiry that may well result in issues to do with Westminster being the subject matter of that inquiry?” Who did you consult before you appointed Lady Butler-Sloss to this very important job?

Mrs May: Obviously a number of discussions were held about the appropriateness of Baroness Elizabeth Butler-Sloss to head this inquiry. I myself believed that it was not only her integrity, her experience as a High Court judge, as President of the Family Division, but also, as the individual who oversaw the Cleveland child sex abuse inquiry as well and, therefore, bringing an expertise on historic issues into the inquiry, that I felt it was absolutely appropriate for her to be appointed to this role.

Q5 Chair: What is surprising is that if you had asked anybody the question about appointing Lady Butler-Sloss the first thing they would have said was that she was a Member of this House when this House is, of course, under scrutiny, even though she was a cross-bencher; secondly, that her brother was the Attorney General at the time when some of these allegations were being considered; and, thirdly, no Government Minister went on to television to defend the appointment that you had made over the last week. I think the only person up before the cameras was her nephew, who is an

actor and whose claim to fame is that he appeared in a very famous sitcom in the 1990s. I did not see you going forward to defend your choice of someone who you regard as being such an important person in order to run this inquiry. Nobody seemed to come forward to defend her.

Mrs May: The Home Office was very clear in the statements that were put out that we absolutely defended Baroness Butler-Sloss' appointment. Of course we did. I put the name forward and made the appointment of her and I continue to believe that she would have done an excellent job given her experience, her expertise and her absolutely integrity. You say that anybody would have said that she was a Member of Parliament, being a Member of the House of Lords, and you question the appointment of somebody as a Member of one of the Houses of this Parliament to chair this inquiry panel because, as you say, it could be that there were individuals formerly within this House, and indeed names have been raised in the press. However, I have to say to you that names of people potentially in a number of areas of activity or the suggestion that a number of areas of activity in public life might be involved—we have already seen some of the historic issues that are related to individuals who are, to use the term, “celebrities” and there are other questions that have been raised about the involvement of people. It is not the case that there is somewhere, somehow, a category of person who is in such a category that potentially there is not something—

Q6 Chair: But look how careful you were last year when you were offered a report that contained the names of senior politicians. You declined to even read that report. You said you wanted nothing to do with that report. In the case of yourself and probity, you decided to turn your face away from it, yet you appointed someone who had strong connections to the British establishment, obviously, as a former High Court judge, related to a former Attorney General who was a Conservative Party politician, and someone whose whole record would have been looked at very carefully in respect of these matters. Do you not regret making that appointment or, at the very least, do you not think that you should have had the panel of experts appointed with the chairperson at the same time that appointment was made?

Mrs May: I do not regret the decision I made. I continue to believe that Elizabeth Butler-Sloss would have done an excellent job as chairman of this inquiry. I think it is a mark of the woman that she has come to this decision. I respect it. I am disappointed, but I respect it. She has been clear in the statement she has made that she was concerned about the willingness of victims to look with confidence on the inquiry because of some of the suggestions that had been made and has come to her own decision.

Q7 Chair: But she has shown better judgment, has she not, than the Government? This is the due diligence that you and your officials should have carried out. You should not leave it to someone of the stature of Lady Butler-Sloss to say, “I cannot stay on. MPs are attacking me. Therefore, I have to go”. This is a matter of judgment. This is what you should have done.

Mrs May: Chairman, discussions were held. Of course consideration was given to the name of Elizabeth Butler-Sloss and to the appropriateness of her as an individual to chair this inquiry. I continue to believe that it is absolutely right that Elizabeth Butler-Sloss is a woman of impeccable integrity and I believe that her expertise and experience would have been valuable in leading this inquiry. That is the position that I continue to hold. She has taken her own decision that she does not feel it right for her to continue. As I said, I respect that decision. I am disappointed because I think she would have done an excellent job.

Q8 Chair: When do you think you will have the new name?

Mrs May: I am not able to give you a timetable on that at the moment, but I can assure you that, as soon as we have a new name, we will ensure that that name is made known publicly so that people are aware of it. We will not be hanging around, but I am sure you will understand that we will want to have discussions with anybody who is now approached and they will want to think carefully about the nature of the role.

Q9 Chair: Of course. Can I gently suggest to you, Home Secretary, that you should consult more widely than the current circle of people that you may be consulting, perhaps with some of the groups affected, the child victim groups and others, so that the person you appoint is someone who commands the respect of all and that there is no question otherwise that they would be in the invidious position that Lady Butler-Sloss appears to be where her background is being questioned in this way? Rather like on Levenson where the Prime Minister went out of his way to consult with Parliament and other party leaders, this should go beyond party politics. I am sure you agree. A wider degree of consultation may be wise.

Mrs May: I would want to ensure that, of course, the individual who leads this inquiry—and they will, as you have indicated, Chairman, be supported by a panel, but I think it is appropriate that the panel is appointed on consultation with the chairman rather than being a fait accompli presented to the chairman.

Q10 Chair: You do not think the panel might elect a chairman to let you off the impossible task of choosing someone who has the virtue of Mother Teresa? Anyone appointed is going to be subjected to a great deal of scrutiny. Do you not think you should have your panel of experts and allow them to elect their own chair?

Mrs May: I think it is appropriate that we appoint somebody to lead this inquiry, supported by a panel, as indeed has happened with previous panels of this sort, which are not obviously the full statutory public inquiry but this review panel model that we are using at the moment.

Chair: Thank you. Could I have questions from colleagues on Lady Butler-Sloss and we will move on to the other issues? Yes, Lorraine Fullbrook.

Lorraine Fullbrook: Chair, it is more specific about the two inquiries, if you do not mind.

Chair: We will come on to that. Is there anything about Lady Butler-Sloss?

Q11 Ian Austin: It is now clear the child abuse inquiry has no chair. It has not terms of reference and it does not seem to me to have any agreed purpose. How can the public have any confidence in this process?

Mrs May: First of all, I have indicated about the membership of the panel. I think it is appropriate that that is discussed with the chairman. I think it is also appropriate on an inquiry of this sort that the terms of reference are discussed with the chairman. That is normal practice and that is the practice that we will be following. Of course, when we have a chairman appointed we will be discussing the terms of reference. There are some very clear points about this inquiry, talking about the more general inquiry that Baroness Butler-Sloss would have been chairing, which is

that it is looking at the issue of the protection of children. It is looking at what has happened. We have the experience of a number of historic cases. We have had a number of reports and reviews into hospitals in relation to Jimmy Savile, for example. There are other reports and reviews as well. They will look at documentary evidence. They will be able to call witnesses. They will look at those historic cases and say what went wrong. They will look at today and see whether this is something that could continue today. Is there more that we need to do today in order to protect children?

If I may make this other point because I think this is important. It is not an inquiry that is looking into individual allegations or allegations against specific individuals. If there is an allegation of abuse against an individual who it is alleged is a perpetrator that should go to the police. That would not be for this inquiry panel.

Q12 Ian Austin: Just to be clear, the purpose of this is to focus on lessons that should be learnt. It is not an investigating tribunal?

Mrs May: No, it is focusing on lessons that should be learnt, which is what both I and the Prime Minister made clear last week when it was announced.

Q13 Ian Austin: Will it be looking at the situation in relation to the barring register? As I understand it, there has been a 75% drop in the last three years of convicted sex offenders being barred from working with children, even though reported child sex abuse is up not down. Can you guarantee that none of those people will be working anywhere, even supervised, with access to children?

Mrs May: The reason the figures have changed in relation to the disclosure and barring scheme, which has taken over from the previous vetting scheme that was in place, is because it was considered it was better to focus on people who were working with children. There were certain categories of individuals who were not working directly with children who previously would have been included in the automatic barring regime. As to whether or not that regime is looked at by the panel, it will be for the panel to consider whether that is part of the issue they need to look at in looking at today's protection of children.

Chair: We will come on to the other inquiry in a second. We are just on Lady Butler-Sloss and then we will move on.

Q14 Michael Ellis: As far as the Lady Butler-Sloss issue is concerned, that panel inquiry is about institutions and about aspects of the British system such as the judiciary or the church or institutions like that. That is going to be different from the Wanless review, which is about following up the missing files. Can we just establish whether there is a difference between these two, because they are being conflated in some quarters? Am I right about that, first of all?

Mrs May: Yes, you are absolutely right about that. It is the case that I have seen some comments attributed to people where they do appear to be mixing these two. There is a review about lessons learnt and the protection of children. There is a review that is looking into work that was done in the Home Office that resulted from this question of whether Geoffrey Dickens had passed information to a previous Home Secretary and whether that had been properly dealt with or whether that had been in some sense covered up. There was a review on that, but we are now

having a further review to make sure that everything that was done by the Home Office was done absolutely correctly.

Q15 Michael Ellis: Lady Butler-Sloss has stepped down very early in the proceedings. No terms of reference have deliberately been calculated yet because you want to discuss those with whoever the chairman is, but do you anticipate a difficulty in finding a replacement? It has been suggested that a peer might not be suitable because of the connection to Parliament, but it has also been suggested elsewhere that a judge might not be suitable because of being part of the establishment. Potentially I suspect there are other leading figures in the establishment who might not be suitable either. How long do you think it will take to find someone who is going to accept this responsibility?

Mrs May: I cannot put an absolute timetable on it. I am sure we will be able to do so within what I will call a reasonable space of time so that there can be absolutely no doubt for people who will chair this. On the point you make, that obviously there are people who are saying that all sorts of categories of people should not be involved in this, what I think matters is the integrity of the individual concerned and their ability to lead this panel and do the job that we all want it to do.

Q16 Mr Winnick: I have no reason whatsoever to question the integrity of Lady Butler-Sloss. I am sure she has given distinguished service in the courts and inquiries, but would you have appointed her if you had known what has emerged later where her late brother tried to persuade Geoffrey Dickens not to use parliamentary privilege to name someone where he considered, and apparently was the position, that the person concerned was a paedophile?

Mrs May: A number of issues have obviously been raised in respect of the late Michael Havers. Of course, there was absolutely no doubt that Elizabeth Butler-Sloss was Michael Havers' sister. That was well known and indeed a number of issues around Michael Havers had been raised publicly in the past. What I look at particularly and will look at is making sure the chairman of this panel is somebody of absolute integrity and who will be able to conduct an inquiry that will be doing what we all want it to do, which is to say what went wrong, what should we learn and what more do we to do.

Q17 Mr Winnick: With respect, you have not quite answered the question. Were you aware, unless of course it is inaccurate, that Michael Havers as Attorney General tried to persuade Mr Dickens not to name the person concerned in the Chamber? Were you aware of that particular incident?

Mrs May: That is an issue that has recently surfaced, if I can put it in that sense. Of course I was aware of Baroness Butler-Sloss' relationship with Michael Havers as Attorney General—

Mr Winnick: Yes, but that particular incident.

Mrs May: —but what was important in my mind was the integrity of the individual and I believe that the experience that Elizabeth Butler-Sloss had and her personal integrity was such to—

Q18 Chair: Home Secretary, we all accept this. We are all great fans of Elizabeth Butler-Sloss' integrity. That is not in question. What Mr Winnick has put to you twice is, did you know of this specific incident involving Mr Dickens and Sir Michael Havers? Did you know about that? Not that

she is a great woman with great integrity; we all think she is. Did you know about that incident before you appointed her? It is just a yes or a no, I think.

Mrs May: This is an issue that has been raised in the last few days and has surfaced in the last few days, as far as I am concerned.

Mr Winnick: Do we take that to be a no?

Chair: Or a maybe?

Mrs May: I have answered the question the way I wish to answer it, Chairman.

Q19 Mr Winnick: It is a serious issue obviously, even though Lady Butler-Sloss has resigned and we respect her decision in so doing. If she had been a judge trying a case where it appeared that her late brother had been involved along the lines that I have mentioned would it not be the case that a judge in those circumstances would immediately retire or resign, whichever is the appropriate expression, from the case?

Mrs May: There are, of course, certain protocols in place in relation to members of the judiciary when they are trying cases. This is not a question of a member of the judiciary trying a case. It is a question of somebody with the appropriate expertise, experience and integrity being asked to chair this panel.

Chairman, you say that this Committee has absolutely no doubt about Baroness Butler-Sloss' integrity. She felt that she should resign from this position and I respect that.

Mr Winnick: As do I.

Mrs May: I am disappointed by it because, as I have made clear to the Committee, I continue to believe that she was a person who would have led this panel well and would have been able to do so in a way that I think would have commanded confidence from people in terms of coming out and looking at the issues that everybody wanted.

Q20 Chair: It is not her integrity that is at issue today. It is your judgment in appointing her in the first place. She is not sitting before us. You are. It is quite right that Parliament should ask a Home Secretary what due diligence was carried out. What knowledge did the Home Secretary have about past histories before you appointed someone to head the inquiry? Nobody is questioning her integrity. It is your judgment we are questioning.

Mrs May: But it is exactly my point, Chairman. My judgment was about her integrity and if you are not questioning her integrity then—

Chair: No.

Mrs May: Therefore, that is my point. My judgment is about her integrity to do this job. That is why I appointed her.

Q21 Chair: With respect, it is not and I am sorry to labour this point. The issue is whether you were right to appoint her in the first place knowing what everyone else knew about the fact that she had these relationships and because she was a Member of the House. We are obviously not going to win

on this because you think this is a question of whether you were right to appoint her in the first place because of her integrity. Her integrity is out there. We all have great respect for her. It is your judgment in not doing the due diligence that has led to the resignation of someone of great integrity today.

Mrs May: My point is very simple. In appointing somebody you look at that individual and their ability to do the job. That is what I looked at. Of course it was known that her brother had been the Attorney General. There are a number of issues that had been raised about the Attorney General publicly in the past. Of course that was a situation that was known, but it is important that I looked at the individual and my judgment was about the experience and integrity and I am grateful that this Committee and you are clear there is no question about her personal integrity.

Chair: We have never been unclear about her integrity and you keep going back to this. Let us be very clear with you that this is not about her integrity. When I raised this with Mr Sedwell last week it was about her being a Member of this House and being related to a Conservative politician who was an Attorney General. That is part and parcel of the baggage one gets when one looks at candidates. I have just been sitting on choosing a candidate for the police and crime commissioner for the West Midlands. All the people had great integrity. However, we had to look at their antecedents, who they were connected with and all these other issues that everyone has to deal with when they are appointing. It is your judgment, not her integrity.

Q22 Mr Winnick: Differing slightly from the Chair, the fact that she was a Member of Parliament would not have prejudiced me in any way, neither would the fact that her brother happened to be because she is not her brother. They are quite separate members of the same family. I would not say “prejudiced”, but what influenced me is the fact that her brother was involved in the very issue that she was going to look into, namely her brother apparently had tried for 20 minutes to persuade Geoffrey Dickens not to pursue a matter regarding child abuse and naming that person in the House of Commons. In my view, if you had probed more it would have been better for all concerned and avoided embarrassment to Lady Butler-Sloss.

Mrs May: I will repeat the point that I have made. Of course consideration was given and due diligence was looked at. The issues were looked at. At the end of the day I judged that her experience and integrity were such that I believed she would do an excellent job in chairing this panel and I continue to believe, had she felt able to continue, she would have done an excellent job.

Chair: Thank you. We understand that.

Q23 Nicola Blackwood: Clearly everybody regrets the circumstances surrounding Baroness Butler-Sloss’ resignation, but I am very concerned that we are on the cusp of disappearing down a Westminster bubble of process-driven debate on this inquiry and forgetting the fact that this inquiry is about trying to get some transparency and justice for victims of some appalling child sexual abuse in the past that they have been denied for far too long. You have already said that you cannot give us a date for when you are going to appoint the chair of this inquiry, but there will be many victims who are waiting to hear when the inquiry will start, what it is going to be about and to find out what it will mean for them. Can I ask you why you would not consider announcing the whole panel at the same time, maybe after consultation with the chair, because then at least it would speed up the process a little bit and then you would have a more broadly-based team to announce who might

perhaps come from different sectors and might reassure victims that their concerns will be more fairly heard?

Mrs May: I will certainly give some consideration to the proposal that you make. I can see that there is an argument for trying to announce the whole team and, therefore, show there is a breadth of experience there that will take part in this panel. That would, of course, slightly delay the announcement in that, as I have indicated, I would think it right to talk to the chairman once they have been appointed, about the membership of the panel. There would be a slight further delay in announcing, but if it was generally felt that it would be better to give confidence for the inquiry for the whole panel to be announced at the same time I would certainly give consideration to that.

Q24 Nicola Blackwood: You have already said that you want the terms of reference to be decided by the panel, but have you considered putting in place some “in principle” agreements of co-operation? Already you have said that all government papers will be released, but I wonder how far that stretches back; whether that includes current papers and so on between different departments and how quickly those would be released on request; whether those agreements have been put in place; whether agreements about police co-operation and between different forces have perhaps been approached; and also the crucial one, which is transparency of local government between the different local authorities. That could take some time to put in place once the panel gets going and if some of that work could start now that might shortcut some of the problems they would have once they started.

Mrs May: I appreciate the point. I would hope that we would be able to have the chairman in place and either announce them individually and then the panel or collectively within a reasonable space of time. We are not talking about a very significant delay in dealing with this issue. In relation to the willingness to release documents by other organisations that are not part of central Government, obviously Government can talk about papers being released by central Government. I think it is important. We have set this up along the same model as the Hillsboro inquiry panel and indeed, of course, we have set the Daniel Morgan panel up in a similar way.

We must not try to do too much of the job of the panel because they obviously will have to consider how they wish to go about their business. They will have to determine what organisations they wish to approach, how they wish to do that and in what order they wish to do it. There are a number of decisions they will have to take in terms of how to do this work and I do not want Government to pre-empt that. It is an independent panel. It is important that we allow them their independence even on matters such as how they deal with things themselves and how they get documents from people.

Q25 Chair: In closing this section on Lady Butler-Sloss, can I endorse what Nicola Blackwood has said? Originally we were going to have one inquiry headed by one person, in the letter that Mark Sedwell sent to this Committee. This became an inquiry to be headed by two people, which you announced to the House last Monday. We have now had another inquiry. We believe it is important that you pause and consider very carefully who you want to appoint to chair this inquiry panel and, as Nicola Blackwood has said, there is merit in looking at announcing all the names together with the terms of reference. I do not think you will get any pressure from this Committee for a quick announcement, simply because we have seen what happens with quick announcements. They sometimes go the wrong way. I do hope that you will consider carefully what has been said by the Committee on the personnel issue regarding this inquiry and, rather than hastily appoint someone

else, take time to consult and appoint others. I know you will say your appointment of Lady Butler-Sloss was not hasty, but we just feel too much is happening very quickly without proper due diligence. Perhaps you could bear that in mind. I am sure you will have other voices in your ear, but I think this represents the voice of this Committee.

Can I go on to the Wanless-Whittam inquiry? We had some very interesting evidence from Mark Sedwell last week that he discovered there were 114 files missing as part of the original inquiry that was set up by him, headed by an unnamed person because he said the name was secret. For the purpose of this hearing we will call the first review “the Sedwell review”. He said the files went missing. You said to the House you were only told that the files went missing in October in answer to a parliamentary question that Tom Watson had asked. Are you telling this Committee that between July 2013 and October 2013 your Permanent Secretary did not tell you there were 114 files that had gone missing?

Mrs May: I stand by what I said in the House of Commons, Chairman. You referred to this point earlier. It was very clear for me internally that it was appropriate that this review was done at the instigation of the Permanent Secretary, that he decided who should undertake that review and that the full report should go appropriately to the police and not to me. I think it is absolutely right that any matters were dealt with by the Permanent Secretary.

Q26 Chair: We understand that, but it is just a long time to wait to be told, July to October, that 114 files had gone missing. When you found out in October of last year, did you ask the question that I think any of us would ask if somebody came to us and said, “You have lost 100 files in your office”, “What were the titles of those files?” Not the contents. I absolutely understand why you did not want to read the contents, but did you ask the question, “What were the titles of those files?”

Mrs May: Just as I do not think it was appropriate for me to be involved in the review that was taking place, I think it is appropriate now for me to leave the Permanent Secretary and, of course, now Richard Whittam and Mr Wanless to undertake the review of the work that was done.

Chair: We understand that.

Mrs May: I have not seen the titles of the files and I do not intend to see the titles of the files so that nobody thinks that I, in any sense, am trying to interfere with what is happening in relation to this review. That is important.

Q27 Chair: What surprised me in particular was the fact that you said you did not want to even read the report because you had heard that it contained the names of Conservative politicians. Now, in the past—

Mrs May: Sorry, what I said was there had been—obviously there were suggestions around in relation to the names of Conservative politicians. It was at the instigation of information that was put into the Home Office by a Conservative politician and there were certain suggestions being made that other politicians were involved. That is why I felt it was not appropriate for me to be involved in the review.

Q28 Chair: Your precise words were, “I did not see the full report for a very good reason. The matters that lay behind the report were allegations that senior Members of Parliament, and in particular senior Conservative Members of Parliament, may have been involved in those activities.”

It is possible, is it not, for you to see a report on process without seeing any names? I am just referring to the number of times we have written to the Home Office to ask for reports and you have written back to us redacting confidential names. We understand why you may not have wanted to see names, but is it not strange that the Home Secretary in charge of this very important department was not interested in the processes contained in those reports or how those files went missing. You did not even ask for a redacted report.

Mrs May: Chairman I have always taken the view, in relation to this matter, that what is important is that everybody is able to have confidence that the work that was being done was being done with absolute propriety and that there was no suggestion of any interference that could have led to any suggestion that somehow information was being kept back because of the implications it might have in a political context. That is why I do not think it was right for me to be involved in the review or indeed to be questioning the review in the sense that you refer to. I think the Permanent Secretary did absolutely the right thing last year. It was made absolutely clear in Parliament that that review had taken place.

Now obviously questions have been raised and it is absolutely right that there is a further review taking place. Of course, in this one I did get involved to the extent of saying I thought it was appropriate that, as well as the senior legal figure who Mark Sedwell was clear would be leading the inquiry, there should be somebody overseeing it who had the confidence of those people who are victims and those people who are concerned about what might have been going on. That is why I suggested that Peter Wanless be asked to undertake the—

Q29 Chair: Peter Wanless was your choice?

Mrs May: Yes.

Q30 Lorraine Fullbrook: On the Wanless-Whittam review that has been commissioned by the Permanent Secretary, Mark Sedwell, is it not the case that it is also looking at whether the police and prosecutors handled the information correctly?

Mrs May: Yes, that is absolutely right. It will go slightly further than the original review. The original review just looked at how the Home Office handled matters, but there are two ways in which this review has been extended. The first is that it will look at whether the police and prosecutors handled matters appropriately. Of course, because the prosecutors come under the remit of the Attorney General, in matters relating to them it will report to him as well as to me. Secondly, it will also look at the work that the Home Office did earlier this year to look at suggestions that have been made that the Home Office had in the past made grants to the Paedophile Information Exchange. There had been some questions raised about that organisation's relationship with Government and a review has been done about that as well. That report has been published, but this new review will look to see that that was done properly, too.

Lorraine Fullbrook: Yes, absolutely. Thank you.

Q31 Michael Ellis: On these 114 files, I raised this issue with the Permanent Secretary of the Home Office when he came before this Committee last week. I raised the issue of the file titles, which he has addressed in his letter, which the Chairman has referred to and you have spoken about, but I also raised the issue of the serial number of the files. If we can ascertain, with these missing files, that the files next to them in the registry are still there, that would imply a conscious hand in having

removed those files. It does not necessarily indicate malevolence, but it does indicate a conscious hand as opposed to lacklustre file keeping. He has been silent as to his answer on that point in his letter and I wondered whether you have any clarification for us. There are 114 child abuse-related files missing. If a file is numbered 30, for example, but numbers 29 and 31 are still in the files and number 30 has been taken out and that is the case with 114 files, that would be relevant, would it not? Do you have the answer?

Mrs May: I understand the point that you are making, Mr Ellis, but again I think this is a matter for the Permanent Secretary to consider. I see he has written further to the Committee, most recently on Friday. I would just say the term he uses for the files is “114 potentially relevant files”. He has not addressed the point, but I think, from the letter that Mr Sedwell sent in at the end of last week, the intention now is that any matters and questions relating to these files are now a matter for the Wanless-Whittam review. Of course, information subsequently will be made available because they will be reporting on that, but I think it is appropriate for them to look at these matters. It is now for that review to look at the handling of these files and potentially to identify the sorts of points you are raising.

Q32 Michael Ellis: Will the Wanless review also look at the issue of copies of those files that might have been made by the security services? This is another point that I raised with Mr Sedwell because it is my understanding that it has been the practice of the security services in files relating to Members of Parliament to take copies for their own archives. I wonder whether 30 years ago copies were taken of some of these missing files and they might in an archive somewhere else. I wonder if that would also be encompassed within the Wanless review.

Mrs May: I was looking for a phrase that I think did appear in the letter, but I cannot see it. The intention is that the Wanless-Whittam review will look to see that the original work was done properly but also, of course, will look to see if there are avenues that should be pursued that were not pursued as potential ways of finding access to these files.

Q33 Chair: Even though you do not want to know the contents of these files or the names of these files, even in a redacted form, which is what this Committee has been promised by Mr Sedwell—and can I say that Mr Sedwell has always been very open and transparent with this Committee and provided us with all the information that we require within the deadline that we ask for this information, unlike other parts of the Home Office—you do not want to know the process as to how these files went missing. I understand you do not want to know the contents, but the process is not of interest to you?

Mrs May: It is not a question of whether I want to know something. It is a question of whether I think it is preferable, in the situation that we have, that I ensure nobody can question the independence of the work that is being done in the Home Office to look at both processes and the relevance of these files and whether they were handled properly.

Q34 Chair: No, I understand that. No one is saying you should go round interfering. After all you are just the Home Secretary and he is responsible for the management of the department, but do you not want to know how they got lost? Not the subject matter, but if somebody came to me and said there was 114 files missing in my office I would like to know, maybe not the titles, though of course I would ask for the titles, “How on earth did we lose these files?” because I do not want to lose any of these again. Not these files, but any files.

Mrs May: The processes in the Home Office for the retention and indeed deletion of material, because Government does destroy material from time to time—files are looked at and destroyed, but the whole point about these files is that they are not there. The point is they are presumed destroyed, but the review did not identify whether they had definitely destroyed, whether they had been lost or what had happened to the files. The further review will now be able to look back at that to see if there are other avenues that need to be looked into in order to see whether it is possible to identify either whether these files do exist in some form somewhere else or to identify what happened to these files if they do not exist.

Q35 Chair: Basically, the military equivalent would be missing in action but they might return. They might turn up somewhere.

Mrs May: As I understand it, nobody is able to say absolutely what has happened to the files. Therefore, the review needs to look to see if it is possible to identify further what did happen to the files.

Chair: Indeed. Mr Austin has a question on the PIE.

Q36 Ian Austin: Were you surprised to discover that the investigator appointed to examine claims that the Home Office had funded the Paedophile Information Exchange did not bother to interview Mr Tim Halbert, who was the whistle-blower who had raised the concerns in the first place?

Mrs May: The point of the review, as I understand Mr Sedwell set it up, was that the individual looked at the Home Office and whether the Home Office had at any stage funded the PIE. There was no evidence that the Home Office had directly funded the PIE. There was evidence that the Home Office had provided small grants to two organisations that had had some dealings with the PIE, but no evidence that the money that had gone from the Home Office to those organisations had gone through them indirectly to the PIE. It was looking at the question of whether there was evidence that the Home Office had funded the PIE.

Q37 Ian Austin: How can you accept that when somebody who was a Home Office official in the 1970s says he recalls seeing these applications and the investigator did not even bother to question him on it? This was the whistle-blower who had raised those concerns. I do not understand how you could accept the assurance that funding could not have been provided when they did not even bother to speak to him.

Mrs May: They looked within the Home Office to see if any Home Office funding had been provided to the organisation in question. They reviewed the archives and open source records. I understand he did hear evidence from Home Office staff. He looked at files available.

Q38 Ian Austin: I do not think you have looked into this at all.

Mrs May: Yes, I have looked into this. If Mr Austin will just wait, Chairman. I am aware of information around this.

Chair: If you wish to consult your notes, please do so. We will wait for you. There is no problem.

Mrs May: I think it might be appropriate, given that this involves an individual, if I consider this and perhaps write to you as Chairman in relation to this matter. The matter is not quite as Mr Austin has put it to the Committee.

Chair: Mr Austin, I think that would be very helpful. If you could do that, that would be extremely helpful.

Q39 Michael Ellis: Just a quick question, Home Secretary, on the issue of the 1970s alleged funding by the Home Office of the Paedophile Information Exchange. Has there been any delay in the release of the report that has been referred to and, as far as you are aware, has that been released in good time?

Mrs May: It was not released immediately, but there has been no question of it being held on to for any particular reason. Obviously it was going to be released at some stage and, given the interest in this matter and the statement I was making last week, we felt that was an appropriate time to do so.

Q40 Chair: We will, as a committee, be calling both Mr Wanless and Mr Whittam to come and give evidence to us at some stage. We had sent a letter to Lady Butler-Sloss, but obviously she will not be coming now.

Let us move on to emergency legislation. Can you pass on my thanks to the Prime Minister and to others for briefing me, and I subsequently briefed the Committee on the conversation at No 10 last week? We know this is emergency legislation. The Prime Minister gave me an assurance, which I pass on to the Committee that this is not, in his words, a “land grab”. There is no question of more powers being sought. These are existing powers for existing work of the National Crime Agency and the security services and there is no question of us going beyond existing legislation. The reason why this has to be done as an emergency is because of judgments made elsewhere. Is that the case?

Mrs May: Yes, that is absolutely correct. We have certain capabilities that are used, in the vast majority of cases, in relation to serious crime and in relation to major investigations into terrorism. Those capabilities have come under threat. Particularly, the judgment of the European Court of Justice in relation to the data retention directive does potentially affect the ability to retain communications data. We are clear that our data retention regulations currently stand and continue to stand, but we feel it is imperative on us to put that into primary legislation. They are currently under secondary legislation. We will be putting that into primary legislation through this Bill. The other capabilities in relation to lawful intercept, it is the case that it has always been regarded, from Government circles certainly, that RIPA had an ability to operate extraterritorially, i.e. to serve a warrant on a provider that was overseas, and that a wide range of providers came under the definition in RIPA. This has been questioned and, therefore, we feel it is appropriate to put that beyond doubt in terms of legislating, but these are powers and capabilities that exist today and that are used today. It is not about extending those into any new remit.

Q41 Chair: The Committee supports what the Government is going in respect of a review of RIPA. We have suggested in so many reports that we have produced that it is not fit for purpose. It does need to be looked at again. Now, you are setting up a privacy and civil liberties oversight board. I assume that Lady Butler-Sloss is not going to be one of the candidates to sit on this board. Have you thought of names to put on this new board?

Mr Winnick: Lord Carlile?

Mrs May: The intention is that this will be building on the work that is currently done by David Anderson as the independent reviewer, who took over, of course, from Lord Carlile as the independent reviewer of terrorism legislation.

Chair: Do we have names, basically?

Mrs May: Obviously it is important for us to discuss with David Anderson, as it is his work that it will be building on, how this should be taken forward and the structure of the board and the names will be announced in due course.

Q42 Chair: You have David Anderson. This Committee is also on record as saying he needs more resources because I think he has a desk in an office somewhere where he does his work on counterterrorism. We have said this in the past. He will take the lead and the board will assist him. Will you be clearing names with David Anderson or will you be making your own appointments and presumably they will include civil liberty organisations? I do not want you to name names today, but the types of organisations that you anticipate might be sitting on this board.

Mrs May: I do not intend to name any names of any body or anybody who might be involved in this. It is right that we should be able to discuss that with David Anderson properly to ensure that, from his experience and expertise of the current role that he plays, we get this right in future, but the intention is that there is a body that would advise the Government on the appropriateness of legislation that is in place and advise the Government on privacy and civil liberties concerns as well as looking at the capabilities and requirements.

Q43 Dr Huppert: From our previous discussions over the Communications Data Bill, I think you know where I come from on many of these things and I am very pleased that is not what is at issue here. I have a number of questions. I hope they are mostly factual questions, which are just to establish some of the bases, because time is quite short. Can I first pick up on the Chair's question about the "no new powers" thing, because I think that is quite important? The wording of the legislation is very complex and, while I totally accept that the intention is not to have new powers, if you do find at some point that there were new powers that had been brought in, if somebody had brought a warrant that could not have been brought previously, would you be prepared to ensure that you would inform this Committee at least so that we something had somehow gone wrong?

Mrs May: When I made my statement on this matter last Thursday one of the questions that was raised, in fact by the Shadow Home Secretary, was a question of perhaps looking at the operation of this Act, once it is an Act, and having regular reports about the operation of this Act. That is obviously an issue that has been raised. Legislation is often quite complex in its language. It is absolutely the case that this is about taking what powers we have at the moment and putting them into the primary legislation, plus some secondary legislation as well to back that up, but having the core in the primary legislation to make the position absolutely clear.

Q44 Dr Huppert: If you were later to discover that somehow that had been mis-drafted, and I am not suggesting it has been, you would be prepared to tell us that somehow that had been done incorrectly?

Mrs May: Well, what I am saying, Dr Huppert, is that I think one of the questions is, if that were to be the case, and I certainly do not believe that will be proved to be the case—but, of course, the whole question of how our legislation operates is subject to a number of various arrangements at the moment in terms of oversight. One is, of course, the general oversight of the current reviewer of terrorism legislation and then you have the ISC, but then crucially the commissioners' roles. So are looking in a very practical way at how warrants are being served and will, therefore, be looking at how those warrants are being served against this new legislation.

Q45 Dr Huppert: I think they will have heard what the intention is. One last specific question on this particular issue. It has been suggested that, in some way, this is trying to authorise some things that were revealed by Snowden. Would this legislation have any change in powers over non-US undersea cable companies?

Mrs May: I know there are those who are trying to suggest that this takes us forward in some sense and addresses issues that have been revealed. It genuinely is about ensuring that the powers and capabilities that are there currently are able to continue, given the importance of those powers and capabilities. CD has been used in something like 95% of cases handled by the Crown Prosecution Service dealing with serious crime. This is not just about looking into things. It is about prosecuting criminals. It is certainly not intended to do anything other than ensure that the powers that currently exist in relation to communications data retention and in relation to lawful intercept continue.

Q46 Dr Huppert: The reviewers will have heard that. Can I move on to issues about the timescale? Why is it happening now and in such a rush? It seems there are two halves to the Bill. There are clauses 1 and 2, which respond to the data retention directive being struck down, and then 3, 4 and 5, which respond to other aspects. Perhaps we could take those separately. I cannot see why they are linked otherwise. You said earlier that your view is the data retention regulations currently still stand in this country. I think you said that earlier. I think I have been questioning you on this since 8 April. In that case why is this needed, in your view?

Mrs May: Well, because we have had a judgment from the European Court of Justice. We spent some time considering whether and how we needed to respond to that judgment from the ECJ. Of course, our data retention regulations do still stand but, of course, they were drafted in relation to the data retention directive. Given the ECJ judgment, we feel it is appropriate and it is right to put into the primary legislation, backed up by secondary legislation, the current position so we put it beyond doubt. I think that is important so there cannot be legal questions about the operation of those against the background of the decision taken by the ECJ. We want to make sure we have absolute legal clarity.

Q47 Dr Huppert: Why could that not be done in September?

Mrs May: I think it is important that we put this in place as soon as possible, before we have the possibility of legal question in relation to the issues that are before us.

Q48 Dr Huppert: Turning to the other part, because there are still a number of questions; the lawful intercept question that is driven by different issues. First, can you confirm that there are

current online providers in other countries—I do not expect you to name them necessarily—that have, in the past at least, complied with RIPA warrants? Is that correct?

Mrs May: As you will be aware, there are providers who have bases in a number of countries and we have compliance with a number of providers. I am afraid I am not able to talk about specifics in relation to individual providers. All I can say is that we have consistently been of the view, as I assume was the previous Government because I think this has been a view across Governments, that RIPA had that extraterritoriality. This has been questioned. I think it is right that we now put it beyond question.

Q49 Dr Huppert: Just to be clear, I am not asking you for names of individual companies or anything like that, but do there exist such overseas providers who have accepted and processed RIPA warrants? I presume you can say yes or no to that without disclosing any information about how they are.

Mrs May: I do not disclose who responds to warrants that we deal with and, just as I do not intend to give names, I do not intend to say anything that would lead people to suddenly start thinking of names or trying to identify names. What I have said is that we have consistently taken the view and operated on the basis that RIPA did have that extraterritoriality.

Q50 Dr Huppert: This is quite a key issue because, if the position is that there are no new powers, it depends whether those powers were being exercised before. If there were zero organisations that accepted these before, then this does look like a new power. I had understood that it was not zero, it was some number larger than zero, and I am surprised you feel that saying it was not zero might tell people who they are. I am not asking you what the companies are. I am not asking under what circumstances. I am not interested in any of that. Have any overseas companies ever complied with a RIPA request? Surely the answer is either yes or no.

Mrs May: Chairman and Dr Huppert, first of all, I would argue that the very fact of whether or not the power exists is not based on whether or not individual companies in certain circumstances have accepted that the power exists. What we are doing is making sure that it is put beyond doubt that that power exists and a number of companies of a variety of types have complied with warrant requests that have been made under RIPA in the past and we have always taken the view that it had that extraterritoriality.

Q51 Dr Huppert: They have taken that view in the past. Again, what is the time pressure? Why could this not be done in September?

Mrs May: Well, because questions have been raised about whether or not the extraterritoriality is there in the current legislation and, rather than be faced with the prospect of a legal situation arising where we find that we no longer have that capability, I think it is absolutely right that we take the action to make sure that we do have that beyond doubt in our legislation. What I do not want is a situation where we reach a cliff edge where suddenly somebody challenges our legislation and we find that we are not able to access the capability that we need.

Q52 Dr Huppert: A couple of other areas that hopefully will be briefer than some of these. The ruling from the court, how certain are you that what is being proposed is compatible with what the court has said?

Mrs May: We took time to look very carefully at what the ECJ said and there are a number of areas in relation to the ECJ judgment where we are making changes, which we believe will satisfy that ECJ judgment. I think it is fair to say that, in fact, the arrangements and the legislative framework we had here in the UK was stronger in any case in a number of the issues that the ECJ was concerned about, than others. For example, on scope, one of the issues the ECJ raised was that the scope was too broad in the data retention directive. We have always focused our scope. We will look again to make sure that we absolutely focus the scope of what is being done so that we address that particular issue.

Concern was raised about the fact that the period of retention was an absolute period for all types of data and there was no flexibility. In this legislation we will make the period a maximum of 12 months, rather than the absolute 12 months that it is at the moment, and when notices are serviced on communications services providers it will be open to us to serve a notice for retention of particular types of data for a different period of less than 12 months. That flexibility is there, so we are addressing the points in a number of ways.

Q53 Dr Huppert: There are a number of questions I was going to ask but, just to be clear, on all of the safeguards that you talked about, we have touched on some of them already, it seems to me not all of the information has been published on those; in particular, for example, the reduction in the number of public authorities able to access communications data. Has that been published and can you show us that all the documents that we would need around those safeguards will be published in time for the debate tomorrow?

Mrs May: Certainly the list will be available to people. My understanding was that would be more likely to be dealt with in relation to the secondary legislation that is coming through, but there is a list of a number of bodies that will no longer be able to access, which will be available.

Q54 Mr Winnick: The decision was made in April by the European Court of Justice and they decided that it was invalid for 10 principles, Home Secretary. Am I not right?

Mrs May: They identified a number of principles that they were concerned about.

Q55 Mr Winnick: Yes. The first was that it was necessary to restrict data, in the court's opinion, to a threat of public security and, in particular, "restrict retention to data that is related to a threat to public security and in particular restrict retention to a particular time period, geographical area and/or suspects or persons whose data would contribute to the prevention, detection or prosecution of serious offences." Would you say that what you are now doing is in compliance with that?

Mrs May: Part of my answer in terms of being in compliance relates to the situation we had anyway, but, as I have just indicated to Dr Huppert, there are certain aspects of this, like the period of retention, which we are changing to, we believe, be compatible with the judgment—

Mr Winnick: I understand that.

Mrs May: But, for example, on the matter of the geographical retention of the data, we have always made certain requirements in relation to the geographical retention of data. The notices

can do that and it is necessary anyway, as I understand it, in relation to data, that it is processed within the EU.

Q56 Mr Winnick: But the fact of the matter, is it not, that what is being proposed to push through in the House of Commons in one single day is, to a very large extent, what has been in existence before the court's decision, EU directive of 2006?

Mrs May: It is. We have the data retention regulations that did refer to the data retention directive, which the ECJ has now questioned and effectively has struck down the data retention directive. What we are doing is saying we are restoring the capability, but if you look at the aspects of the judgment that came out of the ECJ, in fact a number of the issues that they raised were already addressed by the situation we had here in the UK because of the strong legal framework we have in the United Kingdom—I believe one of the strongest, if not the strongest in the world—in terms of dealing with these sorts of issues.

Q57 Mr Winnick: Those who are opposed to the legislation, outside of the House of Commons as well as those within, Liberty and a number of such organisations, say that what is being put forward to be approved or otherwise in the House of Commons in one single day is in fact a blanket coverage, which is not in fact what the European Court of Justice said, as I quoted, in one. You disagree. You say otherwise.

Mrs May: What we have is primary legislation that is going through the House of Commons in one day. Allied to that there will be secondary legislation that will set out in more detail the various regulations. It is the case that some of the issues that have been raised—as I have indicated, we already impose data security requirements on CSPs. Storage of data was one of the issues that the ECJ mentioned. Those will now become part of the notice that is served on a CSP so that it will become enforceable. There are a number of ways in which, although we believe that what we were doing did address some of the issues raised by the ECJ, we will take that now further to make absolutely certain that we are complying with those judgments.

Q58 Mr Winnick: But as far as the core of the issue is concerned, all emails, not the content, and telephone calls, of anyone in the United Kingdom can be retained and will be retained.

Mrs May: This is about the retention—

Mr Winnick: Of everybody.

Mrs May: This is about the retention of communications data, which is, you are absolutely right, Mr Winnick, not the content of a telephone call, for example—

Mr Winnick: No, we know that.

Mrs May: —but who phoned whom, when and where, and that is material that has been consistently used by the law enforcement agencies and the security and intelligence agencies to help keep this country safe. It is used in 95% of the cases that the Crown Prosecution Service deals with in relation to serious and organised crime. It has been used in all of the major

terrorism cases that have been dealt with in recent years. This is material that is essential in relation to being able to deal with people who would do us harm.

Q59 Mr Winnick: But what is the difference in that sort of argument that it is all for public safety, no one should feel concerned unless they have done something wrong, with the argument that was put forward in previous years that there should be 90 days pre-charge detention and 42 days or identity cards? The argument that you just put forward is along the same lines, is it not? No one need worry. It is all for public safety, and those who are opposed do not know what they are talking about.

Mrs May: With due respect, Mr Winnick, I was one of those who opposed 90-day pre-charge detention and, indeed, this Government changed pre-charge detention period from the 28 days introduced by the last Government down to 14 days. I came before this Committee and gave evidence on why we were doing that. In all of these matters, the issue of the capabilities and powers that are needed and the regulatory framework within which they are operated, it is necessary for Governments to come to a balanced judgment on what is necessary and what is appropriate; looking at the issues, yes, of privacy and liberties, but also at the issues of security. On the issue of the pre-charge detention period, I think you and I were very much in the same space in objecting to the 90-day period of pre-charge detention. On the issue of whether or not communications data should be retained in order to enable us to catch criminals and paedophiles and terrorists, I suspect, from your question, we may be in a different space.

Chair: We do not want too much agreement with Mr Winnick.

Q60 Mr Winnick: The argument I used about 90 days and 42 days and the identity cards is the argument that was put forward at the time along the lines that I have already quoted and you are doing precisely the same to justify what, in effect, is blanket coverage, quite separate from what the European Court decided.

Mrs May: No, this—

Mr Winnick: Look, can I put this to you, Home Secretary? You say it is not the content of emails or mobile phones. We know that. Fortunately, we have not reached that stage. Who knows what may happen in the future, but it is a fact that mobile phones and emails can be and probably will be retained of everyone in this country. Is that the position?

Mrs May: What we are talking about is the ability of the law enforcement agencies and security intelligence agencies, as they have been able to in the past, to be able to look at telephony data, about communications data, of who was talking to whom when, which is important in terms of their investigations and in terms of prosecutions of people who are criminals and paedophiles and terrorists. It is not a power that is used in a blanket way to look at everybody's information. It is used with very carefully controlled access arrangements to ensure that any request is necessary and proportionate to the investigation that is taking place.

Q61 Mr Winnick: If that is so, Home Secretary, should that not be more clearly defined in the legislation? The very opposite is the case at the moment. Would you consider looking at the criticisms that have been made, in the very short time available, and recognise the anxiety and amend the Bill accordingly?

Mrs May: I would suggest to you, Mr Winnick, that the Joint Scrutiny Committee that looked at the proposal to extend the powers in relation to communications data, which we are not doing currently, looked at the process of access to communications data. I do not have the direct quote immediately to hand, but they found that it was an appropriate and proper mechanism in place and indeed supported that mechanism.

Q62 Mr Winnick: The decision was taken in April by the European Court of Justice. Would it not have been far better if Parliament had an opportunity of looking at the legislation in the usual way? This has not happened. We have had the opportunity today of asking you questions, but pre-scrutiny legislation has not occurred on what is a fundamental principle of civil liberties.

Mrs May: Mr Winnick, what I would say to you is this. This is legislation that is ensuring that we maintain a capability, which was previously in the data retention directive and the data retention regulations and in relation to lawful intercept in the RIPA Act of 2000. These are all matters that have had, in the past, consideration in the House of Commons and been given proper and considerable consideration. We are now saying we wish to ensure that we put into primary legislation absolute clarity in relation to these matters so that we do not risk losing those capabilities.

Chair: That is very helpful. Can I just say to colleagues, the Home Secretary does have to be away and we have another area to touch on, so as quickly as we can?

Q63 Michael Ellis: Home Secretary, has Sir Bernard Hogan-Howe, the Commissioner of the Metropolitan Police, not spoken about this sort of data being a matter of life and death? I understand that CEOP's, the Child Exploitation and Online Protection Centre, head has also spoken of its absolute necessity in terms of fighting online paedophile behaviour. Is it your position effectively that this is something that is not changing the law as it has already existed for over a decade and, in view of the agreement of the Met Police chief and the CEOP chief, this is something that can be proceeded with uncontroversially?

Mrs May: I would certainly hope it could be proceeded with uncontroversially and indeed, of course, as well as briefing Select Committee chairs, we have been in discussions obviously across the coalition, but also with Her Majesty's official Opposition on this matter and the Shadow Home Secretary indicated support last week. It is the case that Sir Bernard Hogan-Howe has talked in those terms about the access to communications data and Keith Bristow, Director-General of the National Crime Agency, has made very clear the importance of this information to the work that the NCA does.

Q64 Michael Ellis: In the interests of fairness, when all three party leaders agree on something, there are still one or two individuals in Parliament who are disagreeing, and is it not right to look at those individuals? For example, David Davies has written in the weekend press, I think in *The Mail on Sunday*, about his opposition to it. Is it the Home Office's contention that this is not changing anything from that which has existed for over a decade? Do you want to expand on that?

Mrs May: It is absolutely the case. This is why we have been very clear that this is legislation that will be sunsetted, so it will last for a limited period of time. It is to ensure that we do not see a capability gap opening up. There is a wider discussion to be had, which will be had following the

review that has been indicated that will take place in relation to these powers and the regulatory framework, but this is simply replacing what exists at the moment.

Q65 Ian Austin: Just following on from that very quickly, without wanting to return the discussion we had earlier, current live investigations into child abuse are reliant on the use of communications data. That is correct, is it not

Mrs May: That is correct, yes.

Chair: That must be the shortest question and the shortest answer in the history of this Committee.

Q66 Lorraine Fullbrook: Why exactly does this Bill have a sunset clause?

Mrs May: Obviously questions have been raised about this whole area and, as members of this Committee know, the Government brought forward a draft Communications Data Bill that would have extended the ability to access communications data into different types of communications data. I think it is right to say we will sunset this Bill so that a wider discussion can then take place on the basis of well-informed reviews and assessments of the capabilities and powers that are needed and the right regulatory framework within which those can be operated, and then further legislation can be brought forward by the next Government and, I would hope, legislation that would last for a significant period of time.

Q67 Nicola Blackwood: You have raised this with some colleagues, but I just wanted to clarify. You have mentioned the fact that about 95% of the serious organised crime cases are dependent on communications data. I just wondered how many cases that are currently being prosecuted would depend on communications data and if you had received any legal advice about what would happen if there was a legal challenge to the current legislation to those cases progressing through the courts.

Mrs May: I do not know the figures for cases that are currently being prosecuted. I certainly know that it is the case, as I said, that, if you looked in recent times, 95% of CPS cases involving serious and organised crime did use communications data. I can certainly undertake to check this, Chairman, and send it to the Committee, but I think I am right in saying that the former Director of Public Prosecutions, Keir Starmer, was very clear, when the debate was going forward about extending communications data, about the extent to which the Crown Prosecution Service did depend on communications data. I am very happy to look that out and make that available to the Committee.

Q68 Chair: Thank you. Just finally on counter-terrorism and emergency legislation measures, and I am not just saying this because Germany won the World Cup, I understand that you are following the German model or suggesting the German model, of de-radicalisation of individuals who come from countries abroad. Germany has adopted a scheme that I understand that Charles Farr is looking at where those who return go into de-radicalisation programmes, which will mean that they will be integrated into the community rather than be prosecuted. Is there any truth in this? Are you looking at new models other than what you have at the moment? Obviously the numbers going to Syria

have increased. I know it is a concern to you. You have used your powers over passports. How do we stop them going? How do we make sure, when they return, that they are de-radicalised?

Mrs May: Of course, we consistently look to see if there are other ways of doing things that others have adopted that would be of benefit to us. In the Prevent area, in the de-radicalisation area, we do a lot of work in talking with others about what we do here in the UK, which many look to as a very good example of what is done in terms of the Prevent programme, but, in relation to those who are returning from Syria radicalised, we are constantly looking and I do work with colleagues across the European Union on this issue because there are many countries in the European Union who are seeing people going out to Syria to fight and come back.

Q69 Chair: France has a bigger total than us, but the worry is a country like Turkey—the two young ladies from Manchester, the twins who went over to join the fighting in Syria allegedly as jihad brides, they seem to have gone through Turkey. I accept what you say about EU countries. You obviously get to meet them an awful lot, but what are we doing about countries like Turkey that have become a hub for this kind of activity?

Mrs May: Of course, we talk to the Turkish Government about this issue and indeed there was a meeting, I think it was about three months ago, that was held. It was a group of EU member states together with some states from outside the EU, including Turkey, talking about exactly these issues and how we can work together on these matters.

Q70 Chair: Let us move to our final area, relatively briefly compared to the other two, which is policing and immigration. We have the Immigration Minister before us next week, so we will not detain you too much on that. I was present when you gave your speech to the Police Federation, along with Sir David Normington and others. It was a fairly uncompromising speech. You just replied to our report that we produced and we were saying before you came in we do not think there is another report in which you said the words “I agree” as many times as you did when you replied to us about our Police Federation report. Are they now on the right track? Are you now happy that things are going according to your views?

Mrs May: I have spoken to the new chairman of the Police Federation and I believe they are putting the changes into place. There are, of course, a number of issues, on which we will be acting as the Government, as I indicated in my speech, and we will continue to watch what they are doing to ensure that the momentum is maintained. Obviously, they did vote at their conference to make all of the Normington recommendations, to make those changes, and have started to put those in place.

Q71 Chair: On the issue of water cannons, which I know other colleagues will come in and ask you about, the Mayor has now ordered these water cannons. They have arrived in the United Kingdom. They are second-hand German water cannons that are hidden somewhere in London or we do not know where they are hidden. You have not authorised the use of these water cannons, although they have been purchased, brought here secretly and hidden. What are your views on this? Are you going to authorise the use of these vehicles?

Mrs May: I suggest that the degree of secrecy that you suggest in relation to the water cannon does not exist, given that the Mayor announced that he was buying these water cannons and bringing them to the United Kingdom.

Q72 Chair: Where they are hiding at the moment is secret, is it not?

Mrs May: You are right, I have not authorised use of water cannon. These matters are still being looked into. There are still some issues around the scientific and medical assessment of water cannon that needs to be clarified.

Q73 Chair: The Mayor has offered to be one of the people who can test out these water cannons, in the way in which he does. I am not suggesting that you should join him, but the issue is this. Is it not very odd that so much money should be spent on equipment that is from another country, brought over here, hidden—because, yes, he did make a public announcement about it, but nobody knows where these are, although you might know—and you still have not authorised them. You still do not believe the case is there. They may make the case to you, but at the time of purchase and arrival the Home Secretary has not signed this off. Would it have been better for them to have waited for you?

Mrs May: The situation we have here with directly-elected police and crime commissioners, of whom, of course, the Mayor is one, although he has other responsibilities as well, is that it is a matter for them and their chief constable to discuss these matters and to make decisions about the purchase of operational kit. That is not a matter for the Home Secretary. The Home Secretary's task is in relation to whether or not certain items of kit should be authorised, but it is entirely up to the individual forces as to whether they wish to purchase certain items or not.

Q74 Chair: What you are telling us is they can buy what they want but, at the end of the day, the buck stops with you. You will decide whether they are going to be authorised for use and nobody else.

Mrs May: I will decide whether they will be authorised for use. It will then be up to each individual police force to decide whether they wish, if that authorisation is positive, to avail themselves of it. We have seen that in relation to Tasers, for example, where the take-up of Tasers was different across police forces despite the fact that they have been authorised.

Chair: You could not be clearer than that, Home Secretary.

Q75 Dr Huppert: I had some very interesting conversations with current and former police officers with experience in public order who have often been very concerned about whether water cannon were that useful, highlighting in particular there were three vehicles and probably only one of them could be used once you allow for recharging and refilling. That would only allow them to protect one corner of a building. I had one who said that would put him in a worse tactical position than he was without it. Will you be looking to views from police officers such as those?

Mrs May: There are a number of operational questions that are being raised, because I think it is important. There are differing views among police officers as to the value of them. Obviously water cannon have been used by the PSNI in Northern Ireland and have been used in Northern Ireland for a number of years, but obviously there are certain operational situations in which they are less useful than others.

Q76 Dr Huppert: I have lots more questions about the legislation, but I think we are running out of time. I think you have to go, so we will have to discuss that tomorrow. Could I ask another data-related question? There was a report that recently came out from the Health and Social Care Information Centre, which found that over the last few years the Home Office made more than 12,500 requests for records from the NHS's national back office, for immigration purposes as I understand it. What are the safeguards when the Home Office wants to go through the NHS records?

Mrs May: Obviously the Home Office looks to use information as far as possible across Government in dealing with immigration cases. As Dr Huppert may know, as I think he was very close to the Immigration Act as it was going through, there are a number of aspects in relation to health where we have been working with the Department of Health to ensure that we are better able to deal with the situation of people who come here and are accessing health without the right to do so or should be paying for their access to health and do not do so, but I can assure you that, when the Home Office requests information and it is not right for that information to be given to the Home Office then other departments will not do so.

Q77 Dr Huppert: I understand the records were released under the Data Protection Act exemption for serious crime. Are you saying that there were 12,500 allegations of serious crime in this case?

Mrs May: I think you have answered your own question. If they were released under a derogation that relates to serious crime then, by definition, they must have been cases that people thought came under the definition of serious crime.

Q78 Dr Huppert: We can expect 12,500 prosecutions to be launched shortly? How can we be certain that there was genuinely a serious crime here and not an effort to use NHS data for what may be seen as inappropriate purposes?

Mrs May: I think what we are talking about is an attempt to ensure that we have access to information that is used in dealing with crimes that are taking place. If you are saying to me that you think there is certain information that should never be available to be used in terms of dealing with crime, I have to say I take a different view.

Q79 Paul Flynn: Thank you for the way you very valiantly and speedily apologised for the crisis in the passport service. What remedies are you thinking of using to make sure there is no repetition of this crisis? One point is the costs. £1 million spent on overtime in June. It will be an extra £5 million this year. The bills for compensation have yet to come in. Do you not think it was probably a mistake to cut the service down by 20% in 2011 to 2013 and leave it in the state where it cannot cope with unusual demand?

Mrs May: First of all, of course, initially when we came into Government we made a decision in relation to scrapping the ID card scheme, which meant that changes took place in personnel at the Passport Office. We have seen over the last year that numbers have increased in the Passport Office anyway. In terms of remedies for the future, I have asked the Permanent Secretary to put in place two reviews. One of which is looking at the efficiency of the Passport Office and whether any changes should be put into place as to how it operates, and the other is to look at the structure of the Passport Office and, crucially, obviously it is still an agency. Unlike parts of the

immigration system through the abolition of the UKBA when they came into the Home Office, it is still not part of the Home Office in that sense.

The Passport Office will also be looking at their modelling for the future and work is being done to look at the likely demand for the future. There is a question for them. Will demand return to what it used to be like or will it stay at the sort of levels that we have seen in recent months? Obviously they will have to look at their operating model in relation to their forecast of demand.

Q80 Paul Flynn: We have looked at their operating model and it is management by panic. When you look towards strengthening the passport service, do you feel under obligation to replace those jobs in areas that suffered grievously last time, particularly areas of high unemployment like Newport?

Mrs May: First of all, I would say that it is not management by panic, but what we need to look at for the future is to make sure that we have the question of the forecasting model right so that predictions of demand are better made. This year demand was significantly higher than it was forecast to be. That is why they have had to put a number of measures in place to deal with it. For the future going ahead they need to look at the forecast demand and make sure that their forecasting model is the right one, and then look at what is needed in order to be able to ensure that they can provide the service that is required against the level of that demand.

Q81 Paul Flynn: The forecasting model for this month showed a sharp decline, but the number of applications showed an almost vertical line upward. It could not be worse. I do not want to suggest that you are entirely responsible, but this is a crisis that was made under your watch or under the watch of this Government. Do think there should be a little more contrition and a desire to restore the service to the strength that it once had so that it can withstand a future crisis?

Mrs May: As you did indicate in your opening remarks, Mr Flynn, I have already apologised if anybody has suffered as a result of what has happened in the Passport Office. What we are talking about here is very high levels of demand, significantly higher levels of demand than had been forecast, and the Passport Office has, over a number of months, put in place a number of contingencies to increase their ability to deal with that demand, but the demand continued. I am pleased to say that, as a result of the measures that have been taken, we have seen the input in terms of number of applications start to come down and output has increased. We are now seeing a reduction in the work in progress, but we need to keep on top of that and we need to keep ensuring that the service is being provided that we all want to see being provided in terms of people getting their passports.

Q82 Paul Flynn: But would you not agree that the latest figures that I have seen show that the number of applications categorised as “work in progress” have risen from 483,000 at the start of June to about 537,000 three weeks later? Is the crisis not continuing?

Mrs May: That figure has now come down and it is now below 500,000.

Paul Flynn: That is still an increase. Thank you very much.

Q83 Chair: Since we are on to passports, and this is the last area, although I know Mr Ellis has a question on water cannon and he will come in—we will somehow combine water cannon and

passports, quite how I do not know—we were concerned at the huge increase in passports in terms of the work in progress. Just factually, when were you aware that there was this huge surge? Clearly, when this matter came before the public, you announced a great deal of emergency measures in the House, but, prior to that, when were you first aware that there was going to be a problem this year?

Mrs May: The Passport Office had been looking at this issue for some time and Ministers were looking at it. We did not suddenly become aware of it in the week that I made the statement to the House of Commons. We had been looking at this issue with the Passport Office for a period of weeks. They had been putting in place contingency arrangements. It was the case that, as they put contingency arrangements into place, demand continued to increase. Of course we then saw a particular spike in demand, as I can describe this, because demand carried on increasing. When there was obviously considerable publicity, people were concerned about their passports and so we did see more applications coming in.

Q84 Chair: But in respect of the reporting back to you, if they were part of the mother ship of the Home Office as opposed to being an agency, which is why we have not called Ministers on this—the Committee has called the head of the Passport Office. That is what he is paid to do. It is an agency. You do not run it. You do not have operational control. I know you have initiated some more work by Mr Sedwell on whether it should be part of the Home Office. Would that have helped in terms of information coming before you? How often would you get a note of work in progress? Is it weekly or monthly?

Mrs May: If I take Ministers collectively, obviously it varies in terms of different areas of the Home Office, but I think that this is the very question. What we have seen from abolishing UKBA, it is partly about creating the separate parts, the Immigration Enforcement, UKVI and the Border Force, and bringing them into the Home Office. It has been easier to focus clearly on the operations of those parts of the system and to ensure that steps are being taken, hence my request to Mark Sedwell that he looks at the relationship with the Passport Office. I daresay he will look at exactly this question: if the Passport Office had been part of the Home Office would things have happened in a different way?

Q85 Chair: I know that you did not make the original decision—it was done under the previous Government in 2009—that overseas application for passports should be conducted on-shore, but you and other Ministers, presumably Mark Harper, sanctioned it in 2011. It was successive Governments that accepted the case for this. Given that we have had over a third of a million of these passports coming back to the UK, mostly going to Durham, I have had many examples, the Committee received 200 emails before Mr Pugh arrived, of people who had been waiting for passports. A lot relate to babies who have no huge history of involvement in unsavoury activities. Could we not look again at perhaps issuing in the posts abroad as one of the measures to be taken to reduce the volume coming to this country or is that a done deal and closed?

Mrs May: There were very good reasons for bringing the work into the UK and you are absolutely right. I understand originally it was a National Audit Office proposal in 2005 that raised this particular issue, and then the last Government in 2009 agreed it and this Government carried on and took that forward and put it into practice. There were very good reasons for doing it. Partly it is about ensuring a greater consistency of approach if you have it in one place rather than it being done in posts around the world and in relation to making sure that the security and fraud checks and so forth are being conducted properly. It is not the case that it is—

Q86 Chair: But it is a done deal; it cannot be revisited?

Mrs May: It is not the case that it is the overseas applications that have caused the huge increase in numbers in demand that we have seen in the Passport Office. The balance of increase in demand is clearly mainly in domestic applications.

Q87 Ian Austin: I am not persuaded of that because 54% of the total additional demand this year is foreign applications and over the last two months 84% of the additional demand is foreign applications. It was your decision and your ministerial colleagues' decision to bring that back to the UK. Mr Pugh came and apologised to the Committee but should you not also be apologising to people who have been caused unnecessary stress, delay and cost through all of this?

Mrs May: I did so in the House of Commons and I have just done so in front of this Committee. I think you might not have been in the room when I did so, Mr Austin.

Chair: I think that Mr Austin would like an apology every hour to make up for what has gone wrong.

Q88 Michael Ellis: Can I just go back, Home Secretary, to water cannon? I understand that the Mayor of London's office undertook an opinion poll or survey and that the general public, or at least the London public, agree that water cannon could fill a gap in the Metropolitan Police toolkit. I think I have read in the press that they bought them cheap from the German Federal Police, which is perhaps why they bought them early, but do you have a view on this as far as your own inclinations or are you going to be guided by the reports that you receive and what sort of timeframe, roughly, are we talking about?

Mrs May: First of all, as I am due to take a decision on authorisation, I think it is appropriate for me not to give a personal view but to wait and look at the evidence that comes before me and make a judgment on the basis of that evidence. I am not able currently to give a timeframe because, as I indicated earlier, there is an issue about scientific tests that need to be done in relation to the water cannon. This is, of course, a matter that was first raised following the riots in 2011, and I think the police first showed an interest in getting water cannon in 2012 and we received the request from the police in the spring of 2014.

Q89 Michael Ellis: It has only been with you at the Home Office since the spring of this year?

Mrs May: Yes.

Q90 Michael Ellis: Can I just ask about passports? Just very briefly, moving on from water cannon. As far as the passport situation is concerned, as the Chairman has pointed out, we heard recently from Paul Pugh. Has there been an improvement in recent days as far as the input and output and work in progress is concerned? Do you have the latest data?

Mrs May: The latest data I do have is that there has been an improvement. In fact, in the last two weeks we have seen the number of applications going down. In the week ended 13 July the number of applications had shown a drop from the two weeks previously. I am pleased to say

that the number of passports being processed had increased and has increased in fact over the last few weeks. We are now seeing more passport applications being processed each week than new applications coming in. That is what has led to the work in progress falling, and the work in progress is now below 500,000.

Q91 Mr Winnick: Home Secretary, have the police or anyone else suggested that the use of water cannon, when the disturbances took place in the summer, would have helped in any way?

Mrs May: You are referring to the riots that took place in August 2011?

Mr Winnick: Yes.

Mrs May: Yes. There was a report that was done by HMIC following the riots in which they raised the issue of the use of water cannon. I do not have the report in front of me, but I think the point was made that they are not relevant in every circumstance. The general view is that water cannon are capable of being used where you have a standoff situation but not where you have the rapid movement of small groups of people.

Q92 Mr Winnick: In your own assessment as Home Secretary, obviously you took the closest interest first and foremost as the Minister responsible for security in such matters within the Cabinet, was it your view that water cannon would have helped in any way?

Mrs May: As I have indicated, I wish to be very careful in my answers in relation to water cannon because I have to take that decision of authorisation based on the evidence that is available. I will look at the operational points that are made to me by the police. I will look at the scientific and medical evidence about the use of water cannon in coming to the authorisation. As I have said, there was a general view at the time of the riots that water cannon are of use in a standoff situation but of less use or indeed not of use in a situation where you have small groups of people moving very rapidly around an area, which of course was predominantly, but not totally, the situation in relation to the riots.

Q93 Mr Winnick: Water cannons, of course, have been used in Northern Ireland. No doubt that will be a factor in your mind, how far it helped or otherwise the security situation in Northern Ireland.

Mrs May: There are a number of aspects, and of course the operation of water cannon in Northern Ireland has been done over a number of years and gives an example of how they can be operated in certain circumstances.

Mr Winnick: Some would say should not have been operated, but there you are.

Q94 Chair: Indeed. I think Sir Hugh Ward is on record as saying, from his Northern Ireland experience, he does not support the use of water cannon, but you will have all this evidence before you when you make your decision.

Could you just reaffirm the evidence you have given to us previously that you anticipate that the net migration figure will be below 100,000 next year? Are you confident you will get there?

Mrs May: The evidence I have given, Chairman, and will give today is it remains my aim to work towards that particular outcome.

Q95 Chair: Are you confident that you will achieve your aim, as you have done on other occasions?

Mrs May: I am doing everything I can to ensure that I am able to achieve that aim.

Q96 Chair: Finally, the reshuffle is about to begin, I understand, and there is feverish speculation. The speculation is that you will still be the Home Secretary on Wednesday, although of course in the end it is a matter for the Prime Minister. One of the issues that has come before the Committee is, following the resignation of Mark Harper, the doubling up of the immigration and security portfolios. Do you have any changes that you want to make to the architecture of your department that might interest this Committee or is that a matter for the Prime Minister?

Mrs May: These are matters for the Prime Minister, but I am comfortable with the architecture of the department.

Chairman, if I might just make one point. I said I would write to the Committee on this matter, but I have checked and I am able to give the Committee certain information. Mr Austin asked me about the PIA review into the relationship between the Home Office and the PIA. I understand the investigator did, before publication of the report, seek to speak to the whistle-blower and this was arranged, but the individual then indicated that he would not attend for interview and instead provided a statement to the Met, which could be shared with the investigator.

Q97 Ian Austin: That was not my understanding. My understanding was that he provided the information and then wanted to discuss it, but those discussions did not take place. I am not sure that is entirely right.

Mrs May: I am happy to go away and check that, but the information I have is that he was invited for an interview and then decided not to undertake that. I will check that to make absolutely certain.

Q98 Ian Austin: Just on the question on the net migration target, the Prime Minister pledged to reduce annual net migration to under 100,000 by 2015. At the end of 2013 net migration stood at 212,000. Now, let us be honest about this. Everybody knows that you are not going to hit the target; that is just obvious. Is this refusal to admit what everybody knows, that this target will not be hit, not just part of the sort of problem that destroys trust and confidence in politics? Everybody knows you are not going to hit the target. Why do you not just admit that?

Mrs May: I have to say that I think that what helps to restore trust in politics is when people see a Government that has said, "We are going to do something about the high levels of immigration into this country", and then goes ahead and does it. The figures do show that net migration is down by almost a third from the peak that it was at under the last Government. They do show that we have reduced net non-EU migration into this country to levels closest to the lowest levels they have seen since 1998. We are dealing with those aspects of the immigration system. Against all of those where we have been able to make changes, we are seeing an impact from those changes. I think that is what people will see.

Q99 Ian Austin: What would you do if by 2015 you did not hit the target?

Mrs May: I will continue to work to do what I can to hit that target, to ensure that we are reducing levels of net migration.

Chair: Anyway, I wish you good luck in the reshuffle because we confidently expect to see you in September in your place answering questions from us for the next session, but thank you very much for giving evidence. We know you have a very busy week with the Bill tomorrow and we are most grateful to you for coming in today. Thank you.