

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

First Sitting

Tuesday 12 December 2023

(Morning)

CONTENTS

Programme motion agreed to.
Written evidence (Reporting to the House) motion agreed to.
Motion to sit in private agreed to.
Examination of witnesses.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 16 December 2023

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The Committee consisted of the following Members:

Chairs: † HANNAH BARDELL, SIR GRAHAM BRADY, DAME ANGELA EAGLE, MRS PAULINE LATHAM

† Costa, Alberto (<i>South Leicestershire</i>) (Con)	† Mann, Scott (<i>Lord Commissioner of His Majesty's Treasury</i>)
† Cunningham, Alex (<i>Stockton North</i>) (Lab)	† Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con)
† Dowd, Peter (<i>Bootle</i>) (Lab)	† Norris, Alex (<i>Nottingham North</i>) (Lab/Co-op)
† Drummond, Mrs Flick (<i>Meon Valley</i>) (Con)	† Phillips, Jess (<i>Birmingham, Yardley</i>) (Lab)
† Farris, Laura (<i>Parliamentary Under-Secretary of State for the Home Department</i>)	† Philp, Chris (<i>Minister for Crime, Policing and Fire</i>)
† Firth, Anna (<i>Southend West</i>) (Con)	† Stephens, Chris (<i>Glasgow South West</i>) (SNP)
† Fletcher, Colleen (<i>Coventry North East</i>) (Lab)	
† Ford, Vicky (<i>Chelmsford</i>) (Con)	
† Garnier, Mark (<i>Wyre Forest</i>) (Con)	Simon Armitage, <i>Committee Clerk</i>
Harris, Carolyn (<i>Swansea East</i>) (Lab)	
† Jones, Andrew (<i>Harrogate and Knaresborough</i>) (Con)	† attended the Committee

Witnesses

Chief Constable Gavin Stephens, Chair, National Police Chiefs' Council

Graeme Biggar, Director General, National Crime Agency

Gregor McGill, Director of Legal Service, Crown Prosecution Service

Baljit Ubhey, Director of Strategy and Policy, Crown Prosecution Service

Baroness Newlove, Victims Commissioner for England and Wales

Nicole Jacobs, Domestic Abuse Commissioner for England and Wales

Public Bill Committee

Tuesday 12 December 2023

(Morning)

[HANNAH BARDELL *in the Chair*]

Criminal Justice Bill

9.25 am

The Chair: We are now sitting in public and proceedings are being broadcast. Before we begin, I have a couple of preliminary announcements. *Hansard* colleagues would be grateful if Members emailed their speaking notes to them. Please switch off any electronic devices or turn them to silent. Tea and coffee are not allowed during sittings—only water please.

We will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication and a motion to allow us to deliberate in private about our questions before the oral evidence session. In view of the time available, I hope that we can take these matters formally. I first call the Minister or the Whip to move the programme motion, which was discussed yesterday by the Programming Sub-Committee for the Bill.

Ordered,

That—

“1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 12 December) meet—

- (a) at 2.00 pm on Tuesday 12 December;
- (b) at 11.30 am and 2.00 pm on Thursday 14 December;
- (c) at 11.30 am and 2.00 pm on Thursday 11 January;
- (d) at 9.25 am and 2.00 pm on Tuesday 16 January;
- (e) at 11.30 am and 2.00 pm on Thursday 18 January;
- (f) at 9.25 am and 2.00 pm on Tuesday 23 January;
- (g) at 11.30 am and 2.00 pm on Thursday 25 January;
- (h) at 9.25 am and 2.00 pm on Tuesday 30 January;

2. the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 12 December	Until no later than 9.55 am	National Police Chiefs' Council
Tuesday 12 December	Until no later than 10.40 am	National Crime Agency; Crown Prosecution Service
Tuesday 12 December	Until no later than 11.25 am	Victims Commissioner for England and Wales; Until no later than 11.25 am Tuesday 12 December Domestic Abuse Commissioner for England and Wales

Date	Time	Witness
Tuesday 12 December	Until no later than 2.45 am	Resolve; Crest Advisory
Tuesday 12 December	Until no later than 3.30 pm	College of Policing; HM Chief Inspector of Constabulary and HM Chief Inspector of Fire and Rescue Services
Tuesday 12 December	Until no later than 3.50 pm	Dame Vera Baird DBE KC
Tuesday 12 December	Until no later than 4.10 pm	Independent Reviewer of Terrorism Legislation
Tuesday 12 December	Until no later than 4.30 pm	Law Commission of England and Wales
Thursday 14 December	Until no later than 11.55 am	Police Superintendents' Association of England and Wales
Thursday 14 December	Until no later than 12.40 pm	Local Government Association; Association of Police and Crime Commissioners
Thursday 14 December	Until no later than 1 pm	Prison Officers Association
Thursday 14 December	Until no later than 2.20 pm	Kennedy Talbot KC
Thursday 14 December	Until no later than 3.05 pm	Union of Shop, Distributive and Allied Workers; Co-operative Group Limited; British Retail Consortium
Thursday 14 December	Until no later than 3.25 pm	Clare Wade KC

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 7, Schedule 1, Clauses 8 to 13, Schedule 2, Clauses 14 to 20, Schedule 3, Clauses 21 to 32, Schedule 4, Clause 33, Schedule 5, Clauses 34 to 68, Schedule 6, Clause 69, Schedule 7, Clauses 70 and 71, Schedule 8, Clauses 72 to 79, new Clauses, new Schedules, remaining proceedings on the Bill;

4. the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00pm on Tuesday 30 January.”—(*Chris Philp.*)

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—(*Chris Philp.*)

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—(*Chris Philp.*)

The Chair: Copies of written evidence that the Committee receives will be made available in the Committee Room and will be circulated to Members by email. We will now sit in private to discuss lines of questioning.

9.26 am

The Committee deliberated in private.

Examination of Witness

Chief Constable Gavin Stephens gave evidence.

9.28 am

The Chair: We are now sitting in public and proceedings are being broadcast. Before we hear from the witnesses, do any Members wish to make any declarations of interest in connection with this Bill? No, okay.

We will now hear oral evidence from Chief Constable Gavin Stephens. Mr Stephens, you are very welcome. Thank you for joining us as Chair of the National Police Chiefs' Council. Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed. For this panel, we have until 9.55 am. Would the witness introduce themselves for the record?

Chief Constable Stephens: Good morning, Committee. My name is Gavin Stephens. I am chief constable and chair of the National Police Chiefs' Council.

The Chair: Thank you very much. I call Alex Norris.

Q1 Alex Norris (Nottingham North) (Lab/Co-op): Thank you for your time this morning, Chief Constable. Your colleagues in the NPCC generally have talked a lot in the past couple of years about the misconduct and disciplinary processes for officers. Clause 74 relates to that to some degree. What is the NPCC's view on it?

Chief Constable Stephens: As you say, we have been doing a great deal of work in trying to strengthen the misconduct processes to ensure that those who have no place in policing are removed from the service with some speed and vigour. We welcome the additional provisions in this Bill to strengthen, in particular, the role of chief constables to have a say in who should be employed within policing. This is fundamentally an employment process. In particular, we welcome the addition to allow chief constables to have a route of appeal on decisions that, at the moment, could only be done through judicial review, so we welcome that additional measure as well.

Q2 Alex Norris: Is there anything on the NPCC wish list that you would have that would go further than what is in the Bill?

Chief Constable Stephens: We are very pleased with the progress that has been made. We see no need at this point in time for any additional provisions. The broader point perhaps is, in the service, we have been doing a great deal of work to ensure that we get the right colleagues entering and, where necessary, leaving the service. Our focus now is beyond the provisions of this Bill about professional standards throughout somebody's vocation and career and what we do to transform the culture of policing.

Q3 Alex Norris: Do you have any general comments about the antisocial behaviour provisions in the Bill?

Chief Constable Stephens: In broad terms, we welcome the antisocial behaviour provisions. There is clearly a great deal of detail in the Bill, and we have a short period of time. If it would assist the Committee, I am happy to do a written submission after this morning with some more detailed comments on the whole range of provisions.

We broadly welcome the antisocial behaviour provisions. There is one such provision around rough sleeping, if I can call it that, where it causes a nuisance or there is some criminality associated with it. Our view is that

that is something that needs very careful and measured consideration. We do not say in policing that rough sleeping is a matter solely for policing and, if the provisions are used, that should be done in conjunction with other local community safety partners and on the basis of necessity. For example, if rough sleeping is associated with mental ill health or homelessness, it is clearly not a matter for policing at all. If there are encampments that are directly associated with criminality, or where there is a direct risk to people in those encampments—because, for example, we do receive reports from time to time of serious sexual offences taking place in such rough sleeping groups—we would clearly want to act in concert with other community safety partners to ensure that people are safe. However, it is not a matter for policing to be removing tents in general, so that is something to which we would want to give very careful consideration.

Q4 Alex Norris: I have one final question, if I may, Chair. Obviously, the purpose of legislation like this is that there will be new responsibilities and offences that come fundamentally to your members and their teams to enforce and to utilise those new powers. Do you have any concerns about your resourcing and ability to meet the new expectations?

Chief Constable Stephens: Last week, we held the chief constables' council in Edinburgh—that is, the gathering of all chief constables. One of the topics on the agenda was the financial resilience of policing. Our current estimate is that there is somewhere in the region of a £3 billion cash deficit in policing, which requires some difficult and careful choices about resourcing priorities. Where new provisions come forward—indeed, this was a recommendation in the recent productivity review of policing—they should be costed. Whereas we welcome many, if not all, provisions in the Bill—I am sure we will come on to talk about some of the caveats—there are no costings with them, and we will need to work through, in a very detailed fashion, what the additional burdens on policing will be.

The Minister for Crime, Policing and Fire (Chris Philp): Good morning, Gavin. Let me start by putting on record my thanks to you, as chair of the National Police Chiefs' Council, and to all your colleagues in policing for the work that you and officers up and down the country do daily. You put yourselves in the line of danger to protect the rest of us, and I am sure that I speak for the whole Committee and the whole House when I put on record our thanks to you and to police officers up and down the country for the work that you do daily to keep the rest of us safe.

Chief Constable Stephens: Thank you, Minister.

Q5 Chris Philp: Let me move on to one or two of the provisions. You mentioned a moment ago the provisions concerning nuisance rough sleeping, and you rightly said that partnership working would be needed to ensure that people get the support that they need. Could you first just outline the kind of joint working that you would expect to happen to address that? Secondly, would you agree that where rough sleeping or begging is causing a nuisance to the public, it is reasonable to expect some action to be taken to prevent it?

Chief Constable Stephens: Clearly, at local level, the work of community safety partnerships is really important to this. In different localities, they take different forms, but generally, in most borough and district areas, for example, there will be a meeting that talks about places that need particular attention from a range of partners.

If rough sleeping was causing a nuisance, we would not see that as an issue for policing solely, but we would take part in any joint problem-solving plans in order to address concerns. The issue for us would be if, for example, it was a place where criminality was being orchestrated or where people were particularly vulnerable to becoming victims of crime themselves. Clearly, there is a policing interest in that. We would support local partners, but what we would not want to see is a position where communities turn to policing in order to address the issue of rough sleeping on the streets. There needs to be something more than that that we would want to address in partnership with others.

Q6 Chris Philp: Would you accept that antisocial behaviour in general is something that the public and Parliament expect police to act on?

Chief Constable Stephens: Absolutely, yes. My experience in many years of policing is that communities often do not make a distinction between criminality and antisocial behaviour. If things are affecting their day-to-day lives, they often consider some of those things to be a crime, even if they are not on the statute book, and expect action against them. In this particular instance, we just need to be cautious that we are not using policing powers in order to address a wider social problem—particularly, for example, where it might be due to mental ill health and other complex factors.

Q7 Chris Philp: In relation to recovering stolen goods, members of the public often express surprise and frustration that when, for example, an iPhone is stolen and they can see where it is, the police do not necessarily go and retrieve it as quickly as the public would like and expect.

Would you agree that the warrantless powers of entry contained in the Bill, to enter premises to recover stolen goods where there is no other quick way of doing that and where there is a reasonable suspicion that the stolen goods are on the premises, will help the police to recover stolen goods and to arrest thieves who might otherwise go undetected and unpunished?

Chief Constable Stephens: Such a provision would be supportive to operational policing if implemented carefully and thoughtfully, and in conjunction with the other powers that currently exist. One of the topics about stolen property that has led to this provision is the theft of mobile devices that might emit a signal as to where they currently are. It is the view of police that those systems are not currently accurate enough to give a precise location on every occasion.

Clearly, there will be a significant difference between a rural area with dispersed properties and a dense urban environment where you might have maisonettes and blocks of flats when it comes to being able to precisely locate a stolen item. There are available to us under other legislation very intrusive techniques, to be used covertly, whereby we can accurately pinpoint devices,

but that is not what is envisaged, I believe, in this particular provision, and we would need to exercise the powers carefully.

Such a provision needs some level of authority. The Bill mentions an inspector authority, which would be commensurate with other search powers following arrest, for example. That would need to be used in conjunction with additional intelligence, bearing in mind that that power could be used at premises where we might not suspect the people inside to have anything to do with the crime. If we suspected that they did, other powers are available to us, such as power of arrest, power of search following arrest and inspector authority to search the premises. The powers contained in the Bill around searching the premises would not cover searching people within those premises, or, again, multiple occupancy.

The general tenet is, yes, this would be very operationally useful. There would need to be careful consideration about the interfacing with existing policing powers and the level of authority needed to exercise the powers. Fundamentally, in exercising those powers, we would need to maintain the consent of communities that they are being used proportionately, lawfully and only where absolutely necessary.

Chris Philp: Thank you, Gavin. I have one more question. As you know, we have been debating retail crime a great deal. The retail crime action plan, which Chief Constable Amanda Blakeman, in consultation with the Government, published just a few weeks ago, was extremely welcome. One thing that we have debated in Parliament, including during the passage of the Police, Crime, Sentencing and Courts Bill, which the hon. Member for Stockton South—I mean the hon. Member for Stockton North; we have to be very careful when referring to Stockton these days—and I remember very fondly was whether we needed a separate offence of assaulting a retail worker.

In that piece of legislation, we ended up not creating a separate offence and instead making it a statutory aggravating factor where the victim is a retail worker. From a policing point of view, do you consider that that provides adequate protection for retail workers? Do you think that there would be any benefit in creating a separate offence of assaulting a retail worker, or would you be concerned that, if you did that, you could then ask, “What about teachers? What about local councillors? What about minors?” and so on?

Chief Constable Stephens: On additional offences, we have provisions relating to emergency service workers, which is right and proper. In relation to retail crime, the important thing for policing is that we get a grip on the scale of the emerging problem, hence the action plan that you mentioned, Minster.

Police received over a quarter of a million reports of retail theft in the financial year 2022-23, and there has been a 29% rise in the number of arrests. We are clearly taking action, but there is much more to do. I would be concerned if we started adding to a list of additional assault categories, because where is the limit? People who provide vital public services—I would say that retail is a vital public service, and it is important to the vibrancy of local communities and so on—are worthy of particular consideration, but it is a question of where the limits would be.

Chris Philp: Thank you.

The Chair: Before I bring Jess in, four further Members have caught my eye. You have nine minutes between you, so bear that in mind.

Q8 Jess Phillips (Birmingham, Yardley) (Lab): Message received.

To take you back to the conduct questions that you started with, are you satisfied with the current system in policing for finding bad conduct where it has occurred?

Chief Constable Stephens: Once the new provisions are introduced, we will be more satisfied with the system. When the new provisions are in place, we in policing will need to work hard to make sure that we are getting through at more speed. The Metropolitan Police Commissioner has talked about the number of backlogs in the Met, for example. That is not just in the Met; it is replicated in our member organisations across England and Wales, so speed is definitely one thing.

Fundamentally—I have had these discussions privately with the Minister and others—we need to reclaim this as an employment process. It has become too legalistic over time.

Q9 Jess Phillips: Okay, but are you convinced that the powers in this Bill and the intelligence that you have currently is enough to identify misconduct such as—I declare a special interest—sexual violence and domestic abuse in offices?

Chief Constable Stephens: Yes, given the right emphasis and the right resourcing.

Q10 Jess Phillips: I know the answer to this question, but I will ask it anyway. Do you know whether the findings in civil courts in our country of a case where, for example, a police officer is found, in a finding of fact hearing in the family court, to have raped his wife, would appear on your intelligence system?

Chief Constable Stephens: I could not give a guarantee that it always would.

Q11 Jess Phillips: I guarantee you that it does not. Do you think that it would be helpful to have a repository of information from all of the courts in our land on safeguarding findings, such as on child abuse, for the police to access to ensure that conduct could be guaranteed?

Chief Constable Stephens: Yes, absolutely.

Jess Phillips: Thank you.

Q12 Vicky Ford (Chelmsford) (Con): On the issue of rough sleeping, I totally get that the police need to work with partners. By the way, I would just like to say that Essex police are doing phenomenal work on this and many other issues in the Chelmsford city centre, using hotspots and grid policing and so on, but occasionally, even though we are trying to give people support, there are some people with complex needs who are still sleeping on the streets, and we sometimes have the issue that they are sleeping in the fire escape of a large store, for example, which causes danger to others. Are the powers in this Bill the sort of powers that you could use to gently request that that person sleeps in another venue, without blocking a fire escape?

Chief Constable Stephens: Policing can gently request, persuade, cajole and encourage without powers.

Vicky Ford: Or stronger.

Chief Constable Stephens: Back to my earlier point, we would want to do so in conjunction with other partners that can provide the support. From a policing perspective, for us to get to the point where we would want to use powers, we would want to know that it is causing a danger to somebody or that there is real criminality. I can think of a number of ways in which we would be able to deal with the example you describe without resorting to powers.

Q13 Vicky Ford: Okay, but they are not doing it now, so they clearly do not have the power now. Will this give police the power to say, “No sleeping in this fire escape, which is putting hundreds of lives at risk if there is a fire”?

Chief Constable Stephens: This would give a power to move them on, but my previous points stand.

Q14 Vicky Ford: Thank you. On the issue of retail crime, again, my local police have been doing some very good work on tackling shoplifting, including of smaller items, but sometimes, obviously, there is concern about assaults on shop workers. How do you currently tackle assaults on shop workers? Would having a specific offence of assaulting a shop worker make a difference, or would you then say that we need to have offences of assaulting a teacher or assaulting lots of other professions as well?

Chief Constable Stephens: It would not make a difference in terms of the investigation and operational response, because clearly that is something that police would act on anyway. On whether you would want additional emphasis—whether it would be the will of Parliament to have additional emphasis—when it comes to sentencing, that is a separate matter. But it would not make a difference to the initial policing response to investigate the assault.

Q15 Vicky Ford: Okay. From time to time, we get very serious issues in the night-time economy, with people being spiked. The concern is often raised that although spiking is covered by law, it is a very ancient law, and if one had a specific offence about spiking that was crystal clear, that would act as a deterrent to the spikers. What are your thoughts on that?

Chief Constable Stephens: We are very concerned about drink spiking and its rise over recent years. Powers to give that additional emphasis, as a deterrent, would be welcome.

Vicky Ford: Thank you.

The Chair: I remind Members to try to avoid asking the same questions, because we are limited for time with our witnesses. I call Mark Garnier.

Q16 Mark Garnier (Wyre Forest) (Con): Chief Constable, thank you for coming. On this retail crime thing, obviously it is a big scourge—my congratulations to you on increasing arrest rates by, I think, 29%.

[Mark Garnier]

One complaint that I have heard from my local police is that, although they can come in, arrest people and charge people, and take them to court, quite often the retailer, who is the victim of the crime, may be reluctant, after a few instances to go to court and spend a day in court away from their shop. Then, quite possibly, it will be a suspended sentence and that criminal will be back in their shop the next day, after they have lost that day's work. Does this Bill address any of those particular problems, and do you, in your capacity, find that a problem in securing prosecutions against retail criminals?

Chief Constable Stephens: From the consultation that we have done with the team on this, that has not been reported as a particular problem. I think that the broader problem is the work we need to do in policing to regain the confidence of retailers that we are taking this seriously enough. If we regain that confidence, part of that is regaining the confidence of witnesses to come forward with evidence. New technology that has been discussed as part of the action plan, such as the use of CCTV and facial recognition and so on, when used effectively may well reduce the need for live witnesses to give evidence, if the evidence is incontrovertible.

Mark Garnier: Thank you very much.

Q17 Stephen Metcalfe (South Basildon and East Thurrock) (Con): Good morning. I want to talk a bit about knife crime. I am sure all of us have constituents who have been a victim of knife crime or affected by it. Can you speak about the work you are doing to reduce knife crime and whether you think the provisions in the Bill will improve the situation?

Chief Constable Stephens: Absolutely. The National Police Chiefs' Council has a knife crime working group, which has been working closely with colleagues in the Home Office for a number of years. I would say that the provisions in the Bill have been drafted in very close consultation with the team. We are very concerned about the use of weapons to intimidate and threaten, not least when they are used in violence. I am conscious of time, but I could provide the Committee with some written examples of where we think the new provisions would help—for instance, the taunting of rival gangs on social media using particular weapons—and the provisions that currently exist and would be strengthened by the Bill. We very much welcome these provisions.

Q18 Stephen Metcalfe: So there would be an offence of being seen with a weapon, as opposed to actually carrying it and using it. Is that what you are saying?

Chief Constable Stephens: There are a number of provisions here, including the ability to seize knives, even though they are lawfully being held, if we suspect they are going to be used in criminality. We see that as a very important preventive measure.

Q19 Anna Firth (Southend West) (Con): On that point, the ability of the police to seize knives that may be lawfully held in private but that the police suspect may be used to threaten is now contained in clause 18. Is clause 18 going to be very beneficial to you operationally?

Chief Constable Stephens: Yes. We agree that it is going to be beneficial.

Q20 Anna Firth: Coming to other areas of knife crime, can you give us some examples of how the new offence of possession of a knife or offensive weapon with intent to use in unlawful violence bridges the gap in legislation between simple possession and using a bladed article or offensive weapon to threaten or harm someone? How will that help the police to tackle knife crime in a more proactive manner?

Chief Constable Stephens: Again, I will keep it very brief, as I can provide written examples. We have seen on social media—on Snapchat-type channels—threats being made to rival groups. I have seen examples from colleagues in the Metropolitan police from the Notting Hill Carnival, where the threat was towards a group of people who might be present in a particular locality. The ability to have stronger provisions to prevent and disrupt potential violence is really important to us.

The Chair: If there are no further questions, I thank the witness for their evidence and we will move on to the next panel.

Examination of Witnesses

Graeme Biggar, Gregor McGill and Baljit Ubhey gave evidence.

9.53 am

The Chair: We will now hear evidence from Graeme Biggar, director general of the National Crime Agency; Gregor McGill, director of legal service for the Crown Prosecution Service; and Baljit Ubhey, director of strategy and policy for the Crown Prosecution Service. For this panel, we have until 10.40 am. Welcome to you all, and thank you for joining us. I know I have just done it, but could you all please introduce yourselves for the record?

Graeme Biggar: I am still Graeme Biggar, director general of the National Crime Agency.

Gregor McGill: I am Gregor McGill, director of legal service at the Crown Prosecution Service.

Baljit Ubhey: I am Baljit Ubhey, director of strategy and policy at the Crown Prosecution Service.

Q21 Alex Norris: Thank you, witnesses, for your time this morning; it is much appreciated. Graeme Biggar, clauses 1 to 8 relate to serious crime, theft or fraud. For us in this place, it can be a challenge to keep up with the new and novel tactics used particularly by organised crime enterprises globally, but also in this country. What are your reflections on those new provisions, and are they up to date enough to keep up with the changing challenges of organised crime?

Graeme Biggar: Sorry, I missed which clauses you referred to.

Alex Norris: Clauses 1 to 8.

Graeme Biggar: Can you just remind me which ones clauses 1 to 8 are?

Alex Norris: They deal with offences related to things used in serious crime, theft or fraud, such as SIM farms and 3D printers—the sorts of items that can be used in organised crime.

Graeme Biggar: 3D printers, concealment and pill presses are three different things that are used in crimes a lot. I will come to SIM farms later. We have seen 3D-printed

firearms emerge. They are a function of the fact that we have done well to control the availability of firearms in this country generally, but there is new technology available. We seized 17 weapons—3D-printed firearms—last year; we have seized 25 so far this year. At the moment, the possession of the blueprint to make that firearm is not unlawful, so we can go in and see there is a firearm there, and we can see it is a factory that is making these weapons, but we cannot do anything about it. The Bill could really help on that particular issue.

On pill presses, you will be aware of the number of deaths from drug overdoses, misuse and poisoning in the UK. In 2021—there is a bit of a lag on drug deaths—there were almost 1,500 drug deaths from overdoses on benzodiazepine, which is largely used in pill form. We get other drugs in pill form, such as ecstasy, most notably, but the Met seized 150,000 pills of fentanyl just a couple of weeks ago. Pill presses are used to create these pills and distribute them at the moment. We are unusual, globally, not to have regulation of pill presses. This legislation would make the possession and supply of pill presses without a good, legitimate excuse—there are some legitimate uses for a pill press, obviously—an offence, and that would really help us. In 2020, for example, we did a raid in which we seized 40 million pills from England that were being supplied up to Scotland.

Concealment is the final one of the three in that category. We can seize a vehicle at the border if we discover a sophisticated concealment that is built into a vehicle to hide drugs, cash or, potentially, people, but we cannot actually seize a vehicle within the UK unless we can also show that there is some criminal activity there. These concealments are purpose-built to enable stuff to be both brought across the border and then distributed around the UK. We have seized 438 vehicles over the past three years; about 150 of those were at the border, so we could do that just because there was a concealment. For the others, we had to demonstrate that there was also criminal activity, so that has largely been when we have found drugs or a gun in them. There are factories around the UK that are building these concealments, and people who specialise in building them. It would be really helpful for us to be able to seize the vehicles and prosecute the people who are building them.

You mentioned SIM farms as well. You will all be aware from your constituency correspondence of the amount of fraud there is in this country, and some of that volume is driven by the ability of fraudsters to use SIM farms to automatically generate tens of thousands of text messages. A SIM farm puts lots of SIMs together and does that in an automatic way. The vast majority of that happens overseas, but we have discovered a few SIM farms in the UK. Being able to take action on that would be really helpful too.

Q22 Alex Norris: Just quickly, I have a question for colleagues from the Crown Prosecution Service. There are lots of new offences in this Bill. New offences mean new arrests, and new arrests should then lead to new charges and new cases. From a CPS point of view, how do you feel at the moment about resourcing and being able to take cases through speedily, and do you have any anxieties about new burdens and the extra support you might need in order to exercise those new burdens?

Gregor McGill: It is fair to say that resources are tight at the moment, so any new offences coming into the system will affect not only the CPS but other parts of the criminal justice system—the courts and the prisons—so that will have to be factored in. We are in the process of talking with the Treasury about resources, but that is a relevant factor. We do not know how many cases this will involve. What I can say is that our corporate position is that these will be useful offences to be able to work closely with our colleagues in the National Crime Agency and wider policing to affect criminality, but you are quite right that we will have to keep our eye on the resource implications of them and come back to Ministers if we find that there are issues.

Graeme Biggar: May I just add a comment? For a lot of these particular offences, it will shortcut our investigations, because at the moment we are finding 3D-printed firearms or concealments, but we have to do a whole bunch of extra work to be able to reach the criminal threshold for an actual charge, so in some senses this will actually make things easier for us.

Q23 Chris Philp: Graeme, thank you for all the work that you and your colleagues at the NCA do—and thank you also to the CPS for the work that you do prosecuting cases. Graeme, you mentioned in response to the shadow Minister, who covered many of the points I would have asked about, the articles used for serious and organised crime, including 3D printing templates for firearms. Do the clauses as drafted contain everything you would want to see in that regard? Are there any areas where the drafting could be improved or does this do the trick as it is drafted?

Graeme Biggar: The drafting for those items does everything I think we need to see regarding both possession and supply. There are other issues that, over time, we will want to think about adding. It is very helpful to see that the Bill allows a mechanism for secondary legislation to be brought forward in order to add other items. One issue that we are looking at currently is childlike sexual abuse dolls. We can seize them, as it is an offence to bring them across the border, but it is not an offence to possess one in the UK. That is an issue we would want to look at adding to that section.

Q24 Chris Philp: Thank you. There is a power in clause 21 to allow police and law enforcement, including the NCA, to access driving licence records to do a facial recognition search, which, anomalously, is currently quite difficult. When you get a crime scene image from CCTV or something like that, do you agree it would be useful to be able to do a facial recognition search across DVLA records as well as the other records that can currently be accessed?

Graeme Biggar: Yes, it would. It is really important for us to be able to use facial recognition more. I know that is an issue you have been championing. We use it within the NCA, but there is more we need to be doing within the NCA and across police forces in the round.

Q25 Chris Philp: Great. Can I just turn to the CPS? You probably heard us a moment ago asking Gavin Stephens about whether there is any merit in considering a separate stand-alone offence for assaulting a retail worker. Obviously, we made it a statutory aggravating factor in the Police, Crime, Sentencing and Courts Act 2022, which has really only just begun to come into

[Chris Philp]

force now. What is the view of the Crown Prosecution Service as to whether a separate offence is merited, or do you feel that we have an offence that covers it and continuously adding new groups of people through stand-alone offences might be counterproductive or unnecessary?

Baljit Ubhey: I think it is probably unnecessary. I would echo what Gavin has said about building confidence with the retail community. In the code for Crown prosecutors, it is a public interest factor in favour of prosecuting—where the crime is committed against someone who is conducting a public service—so we already treat that more seriously, and obviously there are a range of offences that cover a range of different assaults.

Q26 Chris Philp: Yes—so the CPS would not be in favour of creating a stand-alone offence.

Baljit Ubhey: I do not think it is necessary.

Q27 Chris Philp: No? Okay. Thank you very much indeed.

My next question is again for the CPS. In relation to the knife crime provisions, some of them are in this Bill and others are being taken forward via secondary legislation, of course; I pay tribute to my hon. Friend the Member for Southend West for her campaigning on this issue. Do you feel that the new offence being created, of possession of a weapon with intent to use unlawful violence, is a helpful addition to the statute book and might enable those who intend to use serious violence but have not yet committed it to be given longer sentences?

Baljit Ubhey: We recognise that this bridges the gap between simple possession and the different circumstances where violence is threatened, so we think it is a helpful addition.

Gregor McGill: It mirrors the offence in the Firearms Act 2023, which prosecutors use a lot and which is a very useful tool, so there is no reason to think that this would not be an equally useful tool.

Q28 Chris Philp: In relation to the firearms offence, do you find that in practice that has led to prosecutions with commensurately higher sentences?

Gregor McGill: Yes.

Q29 Chris Philp: Thank you. I have another question for the CPS. Can you give your views on serious crime prevention orders and say how we can make sure they are used as widely as possible?

Gregor McGill: They are used relatively frequently now; we use them a lot with our NCA colleagues. They are probably not used as much as they could be with National Police Chiefs' Council forces, so we could use them more there.

I was part of the group that negotiated introducing these orders in 2007. The limitation then was that they were not to be used as an alternative to prosecution, so I think that sometimes a rather restrictive view was taken about their use. They have been used a lot after a conviction in a Crown court trial, but they have not been used a lot as a stand-alone measure in the High Court, so there is more that we can do in consultation with our law enforcement colleagues to make sure that we use these measures more frequently.

There are some risks in using them in the High Court. As you know, costs follow the event in the High Court and cost orders can be high. Also, although the standard of proof is said to be on the balance of probabilities and the civil standards, we are seeing that what is required to obtain an order inch up in the High Court to close to the criminal standard. Therefore, by the time you have gone through all that and you are up near the criminal standard, if you have got the evidence, often you can prosecute rather than going for the civil sanction, and that is part of the problem.

However, I do not think any of this is not resolvable with proper communication between ourselves and our law enforcement colleagues. But these orders are a useful tool.

Q30 Chris Philp: The creep-up in the standard is not a statutory issue, is it, because the statute is clear that it is the balance of probability? It is the way that it is being applied judicially, with all due respect, of course, to judicial independence.

Gregor McGill: On the whole, I think there have been some concerns because you are putting limitations on people's ability to do things without them being convicted of a criminal offence. There is always a nervousness about that and a request for really quite strong evidence before that is done. I understand that, but it is an issue sometimes.

Q31 Chris Philp: Indeed. Parliament clearly considered that question in legislating and chose, deliberately and after consideration, to set the standard as the balance of probabilities, and one would expect the judges to apply that.

If I have time to do so, I would just like to ask a question to the NCA and to the CPS about the confiscation regime and the changes to that regime proposed in this Bill. I think that the Committee would be interested in hearing your assessment of the likely impact of the changes proposed in the Bill, particularly in clause 32.

Graeme Biggar: We really support these changes. There has been a detailed Law Commission review that has underpinned them. The Proceeds of Crime Act 2002 has been transformative for law enforcement, but it is also quite complex, and we have evolved ways of making it work.

All the provisions that are in the Bill, and there are obviously an awful lot, will simplify and codify some of what is current practice. It will take some of the work out of doing things; it will enable us to get to resolutions more quickly. It is an awful lot of individual measures, so it is quite hard to put a figure on how much more we will seize or how much less effort we will put into seizing, but we expect to be able to get to more. How much more? It is quite lumpy, as you will know, Minister. Some very large seizures of tens or hundreds of millions can change how much we get each year, but we expect it to make it easier for us, and expect to seize more as a result.

Q32 Chris Philp: These provisions are referenced in clause 32, but that references schedule 4, which is 38 pages long—even by the standards of primary legislation, that is quite extensive. Have the NCA and the CPS studied the draft in detail, and are you content with it, or not?

Graeme Biggar: Yes and yes, and we fed a lot into the Law Commission review. We looked closely at what they came up with, and we fed into the Government consultation. Yes, we are content.

Q33 Chris Philp: It does everything it needs to. This is your last chance to request changes. Are you content?

Graeme Biggar: Yes, we are happy. You did not direct the question to me on SCPOs, so unbelievably quickly on that, two things that will be easier as a result are our ability in the NCA or the police to put an SCPO directly to the court—in consultation with the CPS, rather than putting the burden on to the CPS—and the standard set of conditions. At the moment, we have to set out and justify every single one; in the future, we will be able to draw on the standard set of conditions, which will also reduce the bureaucracy. That should ease the burden on SCPOs as well.

Q34 Chris Philp: So you welcome these changes on SCPOs.

Graeme Biggar: Yes.

Q35 Chris Philp: Thank you. Same questions to the CPS on the confiscation provisions in schedule 4.

Gregor McGill: We had full consultation with the Law Commission. These proposals have been lifted out almost entirely from the Law Commission proposals, and we worked with the commission and supported the proposals, so we support them. I cannot say whether it will lead to more—we will have to see—but what it will do is to make the process more transparent and better for victims.

What we are particularly pleased with is the idea that you can go back to court to increase a confiscation order, which I think is better for victims. At the moment, we have a workaround, where we can go back to raise a confiscation order, but if the perpetrator is prepared to pay money direct to the victims, we will allow that money to go to victims, rather than towards the confiscation order. Putting this on a statutory footing, putting hidden assets on a statutory footing, and being able to be realistic where it is clear that some orders will never be enforced will improve transparency and the whole system.

Q36 Chris Philp: To be expressly clear, may I confirm with you that the CPS has reviewed all 38 pages of schedule 4, and you are happy with them?

Gregor McGill: I have not personally, but my specialist proceeds of crime team in the CPS tell me that they have.

Chris Philp: And they are happy?

Gregor McGill: And they are happy.

Graeme Biggar: The Minister gave me a last chance to come in, and I said no, but there was one other thing we would appreciate. At the moment, people who are subject to these orders will sometimes stall, they do not meet their deadlines and the process can drag on for years—we have just concluded a case in which the conviction was in 2018 and we only got the order last month—so amendments to the Bill that would require people to meet the deadlines, giving them a penalty if they did not, would be helpful.

Chris Philp: That is a very good point, which we will undertake to take away to look at. It sounds like a very fair request. I will get on to it now.

Q37 Mrs Flick Drummond (Meon Valley) (Con): I am looking at clause 20, “Suspension of internet protocol addresses and internet domain names”, and schedule 3. Two thirds of online fraud and purchase scams are done through social media platforms. Do you think the Bill gives enough power to ensure that social media companies take those platforms down quickly enough?

Graeme Biggar: We are getting to definitions of the different tech companies. The social media companies are not often the ones that have the IP addresses and so on. We absolutely support this measure, and we have argued for it in the consultations on both this Bill and the Computer Misuse Act.

By and large, the organisations in the UK—the registers here of IP addresses—do act when we put a request in to take down, but not in every single case. Internationally, that happens less often. This would give us that ability—we absolutely would go for voluntary first, and we should stick with that process, because it largely works, but if that does not work, we would then be able to compel the suspension of the domain or the IP address. That would help.

Internationally, we have less success. The very existence of a court order that most other countries have and then companies act on would be really help. It would still be hard to implement in some countries, but it would still increase the amount of positive action taken on the basis of our requests.

Q38 Mrs Drummond: This will definitely make things like Meta, which I think most of it comes through, be able to access the domain names and take them down quickly.

Graeme Biggar: This is a bit less relevant to Meta, but we have worked hard with the Home Office on the fraud sector charter, which was published the week before last. It encourages Meta and other companies to take more action to try to stop fraud, which remains really important. They have a huge responsibility that they are currently only partly living up to, but they have signed the charter to make big steps forward, and we look forward to seeing what they will do as a result.

The Chair: Before I call the next question, I remind Members to catch my eye as early as possible. If you do not, I will give leeway to those who caught my eye earlier and you may not get in. I appreciate that points may occur to you as discussions develop, but it would be helpful for timing. I call Jess Phillips.

Q39 Jess Phillips: Specifically to the NCA, what is not in the Bill that would help your work? For example, I take a personal interest in the NCA’s work on people smuggling and human trafficking, and—no offence to the CPS—the woeful levels of conviction in that space. What is missing from the Bill that would help you?

Graeme Biggar: There is nothing missing on people smuggling that we would need at the moment, to answer that direct question. I mentioned child-like sexual abuse dolls. Another issue that you care about is child sexual abuse websites. At the moment, it is obviously a criminal

offence to possess or distribute indecent images of children, but it is not a specific criminal offence to be a moderator or an administrator of the dark websites that hold millions of images and videos of children being raped. We often investigate and we prosecute individuals for viewing and distributing the images, but there is not an extra offence for being the person who runs and sets up that kind of website.

Q40 Jess Phillips: Currently, there is no legal definition of adult sexual exploitation in our country, only child exploitation, and there is no strategy on adult sexual exploitation. What work does the NCA actually do in the space of huge grooming gangs, for example, or does it not matter when the people are over the age of consent?

Graeme Biggar: We do work on grooming gangs when people are below the age of consent, as you know, with Operation Stovewood in Rotherham. We also work on sexual exploitation of adults. We have had a number of investigations recently into women from Romania and Brazil being brought into the UK.

Q41 Jess Phillips: What about women from Britain?

Graeme Biggar: We have come across less of that in our investigations, but we will work with the NPCC.

Jess Phillips: I'll take you on a night out, mate. I could show you it in every single part of the country.

Graeme Biggar: We focus on the ones who cross the border; it is the NPCC that focuses on adult sexual exploitation within the UK.

Q42 Jess Phillips: So the NCA would not undertake work on large-scale criminal gangs in our country that are exploiting British adults?

Graeme Biggar: No, we would. If we could see large-scale, organised crime that involves modern slavery, which includes the sexual exploitation of women, we would investigate it. We have not yet come across such a case—certainly not in my time in the NCA.

The Chair: Order. I remind you that you need to focus on the scope of the Bill rather than the general work of the agencies, not to in any way diminish the importance of the issue. Do you have any further questions, Jess?

Jess Phillips: I am done.

Q43 Anna Firth: Back to knife crime and clause 10 of the Bill. As you know, clause 10 will introduce a higher maximum penalty for manufacturing, importing, supplying or selling offensive weapons such as zombie knives and flick knives, especially to under-18s—to children. Amazingly, at the moment the penalty for that is only six months, and it is a summary-only offence in the magistrates court. Under the Bill, it will become an indictable offence carrying a penalty of two years. Do you think that is a good change, which will lead to longer sentences? Because it is indictable, it will give the police more time to investigate these crimes, particularly when they are online sales using web app groups and so on, and it takes a lot longer to get the data.

Baljit Ubhey: Certainly the fact that it is an either-way offence and you do not have the challenges of the six-month time limits that summary-only offences create

—given, as you say, the complexities of how these knives are manufactured, sold and so on—will helpfully close a bit of a gap.

Graeme Biggar: We agree with that point and the points that Gavin made earlier in relation to it.

The Chair: Apologies to Vicky: I understand that you could not hear me, down at the bottom. If any Members cannot hear, please raise your hand to let me know and I will endeavour to speak up.

Q44 The Parliamentary Under-Secretary of State for Justice (Laura Farris): I have just one question for you, Mr Biggar. You were talking about child sex abuse material. I want to ask specifically about border services. At the NCA, have you encountered as a limiting factor the fact that border services cannot search electronic devices such as laptops and iPads for potential child sex abuse material, even when they have intelligence or evidence to suggest that a person entering or leaving the United Kingdom may be an offender in that way? Are you aware of that? If so, can you comment on it? Do not worry if the answer is no.

Graeme Biggar: No, but let me write to you and the Committee about that.

Q45 Vicky Ford: May I ask the question I put to the previous witness about spiking? It comes up from time to time in the night-time economy in my constituency. If there were a modernisation of the law that made it very clear that spiking is a legal offence, could that act as a deterrent?

Baljit Ubhey: I think it could be helpful in communicating very specifically. At the moment, there is a specific offence under the Sexual Offences Act 2003. In addition, there is the Offences against the Person Act 1861, which is old legislation although we still use it for a wide variety of criminality. I take the point, however, that the language of some of the offences under that Act may not be as explicit. We can prosecute spiking, whether it is related to sexual offences or otherwise, but modernising may be helpful.

Alex Cunningham (Stockton North) (Lab): If there is time, Chair, I would like to ask a couple of things.

The Chair: Absolutely. There is time. So that Members are aware, we have until 10.37 am. Please make the most of our esteemed guests.

Q46 Alex Cunningham: There are some proposals in the Bill relating to attendance at sentencing hearings. I am mindful that somebody has to deliver the individual to the court. Are there potential pitfalls with that in the proposed legislation?

Baljit Ubhey: It is an important measure, given some of the high-profile cases we have seen and the impact they have had on victims. We will have to look very carefully at how we apply for that power—which allows the court or the prosecutor to apply for compulsory attendance—and seek victims' views. The consideration to think about is whether that would cause extra violence. There is something in the Bill about the use of force, which prison custody officers would need to think about. As the provisions stand, I think prison officers will still have the discretion even if there is an application. I can see why it is in the Bill, but we will have to wait and see how it operates in practice.

Q47 Alex Cunningham: We will put the question of how it will be managed to the Minister during the line-by-line scrutiny. We are supportive of the idea, but we want to understand how it can happen.

The Bill also proposes to transfer prisoners to foreign prisons. That will require international co-operation. I am interested to know whether the police or anybody else have any reservations about transferring people to foreign prisons.

Graeme Biggar: It is probably more a matter for the police than for the NCA. The challenge for us will be our ability to demonstrate that there will be human rights protections in the jurisdiction that the individuals are being transferred to. If we are trying to extradite people from the UK and cannot guarantee where they will be in prison, that will be a challenge in getting the extradition. That will need to be worked through as this proposal is taken forward.

Gregor McGill: I think that is right: I echo what Mr Biggar said. In the extradition world, extradition is a state to state agreement. One state negotiates with another state about returning someone to a state. Bring a third state into that equation and it becomes much more complicated. When we are bringing someone over here, we have to give assurances about prison conditions, and so on. It will become more bureaucratic and more difficult, potentially, in those circumstances. We will have to see what the regulations say.

There is also another pitfall.

Q48 Alex Cunningham: Sorry, can I interrupt? What should the regulations say?

Gregor McGill: It is not for prosecutors to say what the regulations should say; that is political. As I say, extradition is an agreement between one state and another to transfer one person from one jurisdiction to another. That transferring country could become a little bit more concerned if they think they have to deal with a third state down the road, because they lose control over it. That is the point I was going to make. Once you send someone to another jurisdiction, you lose control over that person; they become subject to the laws of the country to which they are being sent. That can be another complication. If they commit an offence while they are in custody, over there they would have to be dealt with for that offence. If they escaped from lawful custody when they were there, that would have to be investigated by that new country. Those matters are political decisions, but the issues are practical. Echoing what Graeme said, I would have thought that there will be human rights challenges.

Q49 Alex Cunningham: They are political decisions, yes, but we face a situation where, as you mentioned, if somebody commits an offence or if a prisoner assaults a prison officer, the person will then be subject to Dutch law, if we are using the example of a Dutch prison—not British law.

Gregor McGill: Yes, they would.

Alex Cunningham: So, as you say, it is quite complicated.

Gregor McGill: It adds a further layer of complication to an already complicated process, if I may put it that way.

Q50 Mark Garnier: I want to pick up on a question I asked the previous witness about prosecutions of retail criminals such as shoplifters and people who assault shop workers. One of the complaints I have had from the police in my constituency is that where they do make an arrest and bring a prosecution, two things happen. The first is that, more often than not, the criminal gets a suspended sentence and is then back to commit more crime the following day, which is very frustrating for the retailer. The other problem is that the retailer will have to give up a day to give evidence to the court; and quite often they work in a small, one or two-man or woman business. You have a loss of earnings for that retailer, who then suddenly finds the same criminals back in their shop the next day.

Baljit Ubhey indicated assent.

Q51 Mark Garnier: Baljit, you are nodding very enthusiastically. I will go to Mr McGill first and then Baljit. Generally, do you have any comments about that? Is it a well-known problem and does the Bill in any way come to help in that?

Gregor McGill: It is difficult to say. Sentencing is a matter for the court. The police investigate and arrest, send the file to us, we make a decision, take to the court and the court sentences if there is a guilty verdict. The kind of person who regularly does retail theft will often—not always, but often—have addiction or illness issues, which will mean that they will often be stealing to fund an addiction.

Speaking as someone who has been a prosecutor for 33 years, I can say that I recognise what you are saying. When I went to the magistrates court, I regularly saw the same people attending for the same offences, so I accept that it must be frustrating. We are beholden to the law, we have to apply the law and the law must take its course. People serve their sentence and that is what happens. There is not much more we can do in those circumstances, but I understand the frustration.

Q52 Mark Garnier: You end up with a negative spiral, where you have less enthusiasm from the victim to prosecute the crime. Baljit, do you want to leap in on that?

Baljit Ubhey: I recognise the frustration, the challenge and, as you say also, having to give up time to give evidence. Unless you can prove the case without having that witness give evidence, it is challenging. We spoke earlier about CCTV and other ways. Where we can look at using other evidence, we should do that proactively, but often in these cases currently, we need the individual who has been the victim to give evidence. I can absolutely understand the frustration if the person is back. If they have a suspended sentence, which can be triggered, but I recognise the frustration.

Q53 Mark Garnier: Are the courts letting down the CPS, the police and the victims?

Baljit Ubhey: I would not say that. I do not think it is a question of the courts letting down. Sentencing, which is a matter for the courts, is a complicated and difficult balancing exercise, as my colleague has just said. Often, the people who are committing the offences have a range of issues that will go into the balance when looking at sentencing. I certainly would not say that people are letting down; I think it is just a challenge.

Mark Garnier: That is helpful. Thank you.

The Chair: I thank the witnesses for their evidence.

10.32 am

Sitting suspended.

10.39 am

On resuming—

Examination of Witnesses

Baroness Newlove and Nicole Jacobs gave evidence.

The Chair: We will now hear oral evidence from Baroness Newlove and Nicole Jacobs. For this panel we have until 11.25 am. Welcome to you both. Would you please introduce yourselves for the record?

Baroness Newlove: I am Baroness Newlove, Victims' Commissioner for England and Wales.

Nicole Jacobs: I am Nicole Jacobs, the Domestic Abuse Commissioner for England and Wales.

Q54 Alex Cunningham: Good morning and thank you for being here this morning to give us your evidence. The Victims and Prisoners Bill is still very much alive in Parliament—some of us would have it improved considerably—but there are provisions in this particular Bill that affect victims. What are your general thoughts about how this Bill furthers the cause of victims?

Nicole Jacobs: There are several provisions in the Bill that I am interested in and support, and then there are a few issues that I feel are not currently in the Bill that could be and should be. First, on measures that are in the Bill, are some of the sentencing provisions that stem from Clare Wade's review of sentencing, which I fully support. That was a range of recommendations, some of which have been picked up and some of which have not, but they were really put forward by Clare Wade KC to be taken as a whole. I am very supportive of the fact that in this Bill, murder at the end of a relationship is a statutory aggravating factor; there are other recommendations to be looked at and considered to see whether the legislation could be improved in any way, but I am certainly supportive of what is there already.

Another point is MAPPA—the multi-agency public protection arrangements between police, prison and probation—and adding coercion and controlling behaviour to that. I am very supportive of that, but I would have some comments, if you wanted to hear them, about the limitations of what that will achieve. There is also the College of Policing issuing a code of practice about ethical policing, which I obviously welcome, but I have a few comments that relate to improving it. Then there is the issue of police-perpetrated abuse or misconduct. There are provisions in the Bill that address how that will be dealt with if the chief constable does not feel that the outcome of the police tribunal is appropriate. I support those provisions, but I have more concerns about the police and crime commissioner being involved if there are concerns about the chief constable. Those are some of the main points.

Q55 Alex Cunningham: I could stop you there, but I am more interested now, as I hear you say that there are things that are not there. What are the things that we should be building on in Committee?

Nicole Jacobs: Police-perpetrated domestic abuse related issues—and that means three key things to me. One is being more proactive about removing warrant cards if someone is under investigation for crimes relating to violence against women and girls or domestic abuse. The second is the specified offences that I believe should be listed that would constitute gross misconduct; again, I think they should be defined as domestic abuse, sexual harassment, assault and violence, so-called honour-based abuse, and stalking. The third is stronger provisions in relation to police vetting—requiring that every five years, and ensuring that if there is a change in force, police vetting takes place. Tightening up those provisions is not currently in the Bill and I think it should be.

Q56 Alex Cunningham: That is very helpful. Baroness Newlove?

Baroness Newlove: I was brought in to scrutinise the Victims and Prisoners Bill. What is in this Bill that is not in the Victims and Prisoners Bill is recognising victims of antisocial behaviour. That is why I have written to Ministers. In fact, there will be something going their way on antisocial behaviour. I welcome that we are dealing with antisocial behaviour in the Bill. However, to me it is still about hitting the mark that it should be hitting—recognising victims and the impact of antisocial behaviour. I say that because the police really are the people they go to and they do not make that criminal threshold—joining all the dots together—beforehand.

For me, it is about getting the right priority. It is not about making more enforcement powers for the police, because there are that many pieces of legislation that the toolbox is overflowing; it is about ensuring that the range of powers is used correctly, and that the police are made aware of them. Further down the line, it is also about looking at the appeal route of antisocial behaviour case reviews, which I addressed in my final report, "Living a Nightmare". That is one of my asks of this Committee: to look at the PCC reviewing the appeal, but also at having an independent person, because it is very much all about people who have looked at it in the first place marking their own homework. My second ask is having the victim impact statement involved in the appeal system. We do it in parole, and we do it in court trials.

Q57 Alex Cunningham: That is very helpful. Could I refer you to clauses 11 and 12 on assisting serious self-harm? Do you think the provisions go far enough, or too far?

Baroness Newlove: That is not an area I work on. I would have to write to the Committee on that. For me, it is about victims of crime per se, so I have no real evidence to answer that. All I can say, from anecdotal evidence, is that self-harm is a big issue in this day and age, and it was highlighted in the Online Safety Bill. I would not like to recommend anything when I do not have the evidence to support it.

Q58 Alex Cunningham: You have both welcomed clauses 23 and 24 relating to aggravating factors. Do they go far enough?

Nicole Jacobs: The Clare Wade review stemmed from the Victims' Commissioner and my office writing to Robert Buckland asking for the review to be undertaken,

and it was really welcome. I suppose she was weighing the difference between simply raising sentencing thresholds and having a more nuanced response. What she came up with was a set of recommendations to add what she feels are the key contexts to domestic abuse, which we are seeing in sentencing being chronically overlooked and misunderstood.

What she has recommended does not cherry-pick one or two or three, but says, “If we want a nuanced, really informed approach to understanding domestic homicide review sentencing, we have to look at these in the whole.” One of those is obviously homicide after separation. That is the most common time we see domestic homicides. It is totally reasonable for that to be recognised in this Bill. The trouble is, several things are not. Things like non-fatal strangulation, which is one of the most common ways people are murdered in domestic homicide cases, is not there, nor is overkill—the context of controlling and coercive behaviour. I understand that the Law Commission is consulting on some things, but it seems to me a missed opportunity to not move forward on some of those recommendations, which were so carefully thought through.

Q59 Alex Cunningham: That is very helpful. Baroness, I wonder if I might ask you about the sentencing provisions in the Bill in relation to having defendants forcibly attend court. There are some victims who want to face their perpetrator in court, while others have different thoughts. What do you see as the positives and the downsides to those provisions?

Baroness Newlove: In terms of victims and their families, both personally and professionally assumptions are made about them when people do not even understand the victim’s journey. I get annoyed at that. I think this is a very important point, because victims sit there for weeks or months on end, listening to evidence and having no voice at all. Part of the victims code is to have the victim impact statement, and there is the ability to read it out if there is conviction. I think it should be respected that the family have that kind of relationship, because they have listened to that evidence about their loved ones. Personally, I can say that I have sat there for 10 weeks and not been able to say anything.

I also think that you do not know how to judge an offender. They could say that they are coming in the dock and then not play ball. I have seen for myself—evidence shows this—that even through the court trial they will turn their backs, goad you and do everything. If it is still to the judge’s discretion and direction, I would like—I have said this previously—for the judge to own the courtroom if the offender does play in the dock and does not respect the perimeters. Victims’ families are told to respect the perimeters of the courtroom, and the judiciary needs to have that respect. If it happens that they do not want to turn up in dock, a deadline should be put on what is going on. If not, put something in their cell if they are in the court building.

Anecdotally, I used to work in the magistrates courts and we had stipendiary magistrates. You never messed with them. You had to have all your ducks lined up. We would visit the prison cell if they did not want to come down. There is a way of dealing with things, and we have moved on a lot since then—I am talking about many years ago.

Q60 Laura Farris: I will start with the Domestic Abuse Commissioner. First, I want to provide some reassurance; statutory instruments are being used to implement more of Clare Wade’s recommendations, including both the mitigating and aggravating nature of the coercive control, depending on whether it is victim or perpetrator. On that note, could you comment specifically on the section 30 provisions that deal with the MAPPAs management of someone who has a serious conviction of coercive control, so a sentence of longer than 12 months? Could you explain how you think that multi-agency arrangement will improve public protection on this issue?

Nicole Jacobs: Because it is a multi-agency arrangement and intelligence is brought into that process, it is extremely important that you have monitoring and supervision of an offender. The nature of that is much more active because you have prison parole and the police working together. We have a long-standing view that more offenders of domestic abuse should be monitored and overseen in that way. The last report from His Majesty’s inspectorate of probation showed that about 75,000 people who have committed domestic abuse are supervised in that way, and it probably could be more, considering our numbers.

As I commented earlier, because conviction rates of coercion and controlling behaviour are relatively low, the provisions are welcome and will add people to that list, but it is not the only way in which we are monitoring and overseeing perpetrators in the community. It is very important, but I suppose it is not everything. If it is in legislation, there is a real case to be made for more consistency force by force about arrangements where people are not meeting thresholds of MAPPAs, but equally are posing risk to victims who would not be meeting those thresholds or levels. That needs a lot more focus and attention.

Some forces use something called MATAAC—multi-agency tasking and co-ordination—where they bring information in not just from the police but all sorts of places. It was pioneered in Northumbria, and several forces’ areas have adopted that. Other force areas will implement something called the Drive Project, which is quite similar. It is essentially recognising that so many perpetrators of domestic abuse will not have even touched the criminal justice system. Only one in five victims will ever even disclose to the police, yet there are people who cause quite high harm.

Those arrangements are taking in wider information from a variety of sources and deciding their resourcing and tasking. Whether or not that is addressed in legislation, we have a real need in general in England and Wales to have a much more uniform and clear approach as to how that is addressed. We often hear people say, “I want to see a perpetrator register.” Well, what people mean by that is this aim to have proper oversight of perpetrators, and it is not quite as simple as putting someone on a list; it really means undertaking these more meaningful multi-agency exercises. We do not have a very consistent approach just yet. There is obviously excellent practice, but we need to see a more comprehensive practice.

Q61 Laura Farris: On that, the principal conclusion of Clare Wade’s report was that coercive control underpins most domestic abuse. Do you think that if there were consistency in the application of that, the MAPPAs arrangements would ultimately catch the most serious domestic abuse offenders?

Nicole Jacobs: To some degree—they certainly would catch the ones who are known to the system. We need to do more to ensure that police are confident in the way that they are investigating coercion and controlling behaviour, and we would want to see that. The Government have certainly made efforts to train police forces. I would think most people would agree that that offence is fairly underutilised at the current time. As that grows, and as improvements are made, you will find more people subject to MAPPAs.

The more comprehensive win will be having a consistent approach across all forces so that there are other multi-agency arrangements in place for people who have not had convictions and are not subject to MAPPAs but represent a huge risk for victims of domestic abuse. We should distinguish between perpetrators who are well known to the system, in relation to conviction, against whom the powers of MAPPAs can be used, and people who are lesser known, for whom there are other ways to mitigate risk. For example, Northumbria has MATAAC—multi-agency tasking and co-ordination—and it has said that the majority of the people it is tasking and putting resource into do not have convictions and yet are understood by multi-agency partners to pose high risk. That perhaps just means that they are so good at their perpetration and the fear they impose that there has not been support for prosecution and other things. I suppose what I am trying to get across is that conviction is not the only risk factor to keep in mind; there are many, many more.

Q62 Laura Farris: You have already answered the question about domestic homicide at the end of a relationship. On a point of clarification, may I ask you about the right of the chief constable to appeal a subordinate's disciplinary outcome? That is a highly irregular employment law arrangement. Can I clarify that I understood your answer correctly? I think you welcomed that right, but you said that PCC should have an ultimate oversight role in the event that there is deficiency down the chain. First, do you support that external right of appeal in principle? I cannot think of any other model whereby somebody else can appeal against your disciplinary. Secondly, can I clarify that you were saying that there should be an extra buffer?

Nicole Jacobs: In cases where the chief constable overrules something, the important thing for me is that provision is in place to ensure it is independent. I understand that it would be irregular, but you must consider the background and history of how police misconduct has been mishandled. The Home Affairs Committee, the Casey review and many other people have laid that out; I am obviously not the only one saying that.

There is a lot of evidence that the way these things have been handled over time, including through the vetting of the misconduct itself, has been far from ideal, and has been deprioritised to the point where many victims of domestic abuse are starting to lose faith in the criminal justice system. I find that very troubling. The police should be the first port of call, and yet the fact that there are so many instances of misconduct leads to a deterioration of our confidence in policing. Certainly, that is the case for victims.

Anything you can do to strengthen that would be helpful. Considering the removal of warrant cards is really important. We can see from many sources that that would be effective. Refuge did a freedom of information

request that showed that that happens only about 25% of the time in police forces. There should also be suspension from duties for domestic abuse and sexual violence-related offences. One of the most common reasons for police officers to be called to the attention of the Independent Office for Police Conduct is that it has used its powers to pursue sexual misconduct and sexual violence. There are chronic problems, and we have to be more assertive in this Bill about warrant cards and in specifying offences that constitute gross misconduct if there is a conviction. That seems quite reasonable to me.

The vetting needs so much more care and attention. I think right now it is at 10 years; I would say that it needs to be five years, and certainly it should be every time a police officer changes forces. There are things that we can do that we know will fix the chronic problems. I am less comfortable with the idea of a police and crime commissioner getting involved, in relation to a chief constable. I think it should be a more independent body, such as the IOPC, or the inspectorate, just because police and crime commissioners are elected. That was the discomfort I talked about earlier.

Q63 Laura Farris: Baroness Newlove, on the antisocial behaviour suite of legislative measures, I wanted to ask you about the clause 71 provisions:

“Reviews of responses to complaints about anti-social behaviour”. It is that package of measures. Given your work on that, what could you say about that providing adequate coverage of some of the issues that victims have reported to you in the past?

Baroness Newlove: In an antisocial behaviour case review, first and foremost, we have to ensure the victim understands what an antisocial behaviour case review is. However, for those who sit forward to do the review and appeal through the PCC, there should ideally be a chair who is independent. If the notion now is that the review is merely a tick-box exercise and it feels to that victim that they are not involved—as I just said, there is no victim impact statement—an independent person should look at the overall evidence to come to a better conclusion.

It feels like there is an incestuous ring of people making a decision, who, in the first place, do not get the impact of antisocial behaviour. That is the problem with antisocial behaviour; nobody really gets the impact. I welcome anything that makes victims' lives better, but you can have as many powers as you want, yet if you do not understand the impact on that victim and on that community, they really do not help the victim get through better in life. It ends up being them investigating their own powers.

Q64 Laura Farris: Do you think the review-type arrangement—the engagement by the local policing body and more widely—is better at addressing, for the victim, that sense of their voice not being heard?

Baroness Newlove: I think it is better, but again, it has to be shown that it is independent. More importantly, it has to have the victim's voice in there. If you do not listen, you do not have that victim's voice right through the file, or whatever they call it. It ends up being that you really do not understand the impact on the victim. How can you make a decision when you do not have the victim's voice in there? That feels very much like you are looking at legislation, how you can tick a box or how

the powers that be are using the powers. Most importantly, however, you have to bring the victim along and have that voice in there. Then, you really can make a true decision on how you can absolutely solve the problem.

Q65 Laura Farris: My final question is about the minimum age provisions in that. I know that the age of criminal responsibility begins at 10, but based on your work, was that an area where you found that antisocial behaviour was perpetrated a lot by youngsters in their teens?

Baroness Newlove: I have not specifically looked at that. Looking at all the reviews I have done, I have said outside this role that parenting is the most difficult job anybody can do, but you have to be accountable for the actions.

I have concerns: yes, the age is 10, but there could be other areas in which that person is suffering, such as dyslexia or autism. Also, the parents could be suffering domestic abuse. How do you make them pay that fine, at the end of the day? If you go back to that, we had that kind of language in the riots, where we were going to get the parents and take them out of their homes. For me, there has to be accountability, but how would you get that parent, who is probably suffering from domestic abuse or may have mental health and addiction issues, to fully understand the impact that their child is having? They may need support to rectify that. Also, that child could have other issues.

I can see where you are going from that. I welcome anything, but I am just stepping back a little to consider how that would have an impact on the rest of the family to make sure we can get a better solution.

Q66 Jess Phillips: Nicole, give the Committee an idea of the number of domestic abuse incidents a year.

Nicole Jacobs: Well, according to the Office for National Statistics, it is 2.3 million.

Jess Phillips: And then those that get reported to the police?

Nicole Jacobs: One in five. Sometimes the research says one in six, but we can say one in five.

Q67 Jess Phillips: One in five of those, so you can all do the maths quickly—because the Prime Minister tells us that that is important. Last year, the conviction figure on coercive control was 564, so we have gone from 2 million down to 564 that will be affected by this Bill. Of course, it only affects those over 12 months, so I think that is 10% of that 564. Is that correct?

Nicole Jacobs: Yes.

Q68 Jess Phillips: So we are getting down to under 100 victims of domestic abuse actually affected by this Bill. I just want to make sure that I have got that right. Is that correct?

Nicole Jacobs: That is correct for that provision, which is really why I was making the point about the wider work required. Or, as the Bill progresses, I am sure you will have people who might put forward other offences that ought to be included. However, that is correct, and I suppose that not every dangerous perpetrator of domestic abuse will be subject to MAPPA, because of the fact of the lack of convictions.

Q69 Jess Phillips: Yes. So, as you have said, the MATAC and Drive programmes, and actually what is going on in the Metropolitan police at the moment, look beyond a conviction rate. Therefore, actually, with this Bill, when we are talking about victims of domestic abuse with regard to MAPPA, I would say that a “drop in the ocean” would be an understatement, numbers-wise.

Nicole Jacobs: Numbers-wise, it would be modest—

Jess Phillips: It is about 56.

Nicole Jacobs: But I would not be against the principle of that, because I recognise that coercion and controlling behaviour is a known high-risk factor. Some of the policing risk assessments are really geared to understanding that better. There is obviously no harm in doing that, but I suppose that it is just that the ambition of us wanting to monitor and have a lot more active oversight is more geared towards those other programmes on recency, frequency and gravity—the algorithms that police use.

Q70 Jess Phillips: So would you like to see those in the Bill, rather than just this MAPPA situation?

Nicole Jacobs: I would love to see you consider ways that you could have a more active oversight that could be consistent.

Q71 Jess Phillips: And, just to be clear, on the number of people who go on to murder, is it the group who would currently fall under MAPPA in, to use the Minister’s words, the “most serious” domestic abuse incidents who largely go on to murder their partners and children, or is it other perpetrators of domestic abuse?

Nicole Jacobs: It is usually others.

Jess Phillips: Yes.

Nicole Jacobs: I will send the Committee a report that I just published last week, which is a compilation of findings from 300 domestic homicide reviews. We published four reports: one about children’s social care, one about adult social care, one about health-related recommendations, and one on criminal justice. That might be useful for this discussion because, in that report, you can see the numbers of perpetrators who have committed murder, how many had criminal convictions and what the nature of those recommendations were, so I would be very happy to send that.

Q72 Jess Phillips: On the vetting issue—I raised this with the chief constable who was in front of us earlier—you have eloquently said that the vetting of police officers should be taking place every five years rather than every 10 years, and I know that your offices have undertaken quite intricate work into the situation within the family courts. In the vetting of police officers, and, in fact, in the targeting of domestic abusers more broadly, do institutions such as the police or the courts use the evidence—proven evidence and found evidence in British courts, such as the family courts—in our criminal institutions and in the vetting of police officers?

Nicole Jacobs: No. The reason that they would not is that those IT systems would not speak to each other, even to know the fact finding within family court, for example. We are doing that; we are going into three court areas and actually looking at the domestic information. We have done a lot of legal academic preparation to do

that. It is not even easy to get that from the family court system itself. In other words, that kind of fact-finding information is not quite readily available, even though it would have been found as fact in front of a judge and used, so that would not factor in.

Q73 Jess Phillips: So there is a situation in our country today where somebody could be found in the family court to have multiply sexually abused a child in that home, and that would not appear on the police's vetting system.

Nicole Jacobs: Not to my knowledge. There was, for example, Project Shield in North Yorkshire where even orders of protection were having to be manually entered into the police national database. People underestimate the extent to which police have all the information they need at their fingertips to understand the whole picture and risk of a perpetrator of domestic abuse, and there is huge scope for improvement there.

The Chair: Do we have any further questions? We have 12 more minutes, if anyone want to take the opportunity.

Q74 Jess Phillips: Baroness Newlove, although Nicole could undoubtedly answer this as well, in your work with victims of serious child sexual abuse, sexual violence, domestic abuse—in fact, any victim of any crime, specifically childhood abuse—what do you think the incidence is of those people ending up in the criminal justice system or, for example, with substance misuse issues, which may lead to homelessness?

Baroness Newlove: I have not done any specific research on that, but there is probably a synergy of reasons. When I spoke to child sexual abuse victims when I worked on IICSA, I saw that there is a reason for survivorship. They have been made to do things—not because they are criminals, but because they are absolutely fearful for their lives. But I have not done percentage research and, as you know, Jess, I am more of a people person in the sense of really putting it as it is. A lot of victims were writing to me before I came back into this role who felt that that is not being recognised. Through no fault of their own, they have had to turn to things they did not wish to do, and they have turned to substance misuse to get them through the absolute harm they have gone through.

Nicole Jacobs: Again, I can send this to the Committee, but there is a really excellent piece of academic work, recently published in the form of a book, that makes a

clear link to the anecdotal things we know, which is that it is related to experiences of domestic abuse as a child and how that impacts behaviour into adolescence, particularly with boys. I think that is something that could be considered.

One thing I was hoping to touch on and make the link to earlier was the extent to which we really struggle with registered social landlords confusing domestic abuse with antisocial behaviour, and others reporting it as noise nuisance and that type of thing. There has been a lot of reform over the last five years in particular to really help registered social landlords disentangle those things, so they are not misinterpreting domestic abuse as antisocial behaviour. That is worth considering in the provisions.

On rough sleeping, St Mungo's will tell you that some 50% of female rough sleepers are there because of domestic abuse. We have to really think and consider how that impacts particular people in the wider context of some of the provisions of the Bill.

Q75 Jess Phillips: For women who are offenders, there is a pattern to the abuse they have suffered—all the research shows that in the high rates of, certainly, domestic and sexual violence in the prison population of women. As the Domestic Abuse Commissioner, how would you feel about those women being sent to a foreign country should they commit a crime?

Nicole Jacobs: I think the Ministry of Justice's own female offender strategy is much more about diversion from prison, so you see women's centres undertaking a lot of that kind of work, which I think is right. My view is that people who have been involved in crime who are subject to domestic abuse and that abuse is linked to their offending have very little place in prison, full stop. We have to understand the context of the offending and the extent to which doing so would be in the public interest. I would like to see them not in prison in general, but being supported in the community.

The Chair: If there are no further questions, I would like to thank our witnesses, Baroness Newlove and Nicole Jacobs, for their evidence and for their time. That brings us to the end of the morning session, and the Committee will meet again at 2 pm here in the Boothroyd Room to continue taking oral evidence.

Ordered, That further consideration be now adjourned.
—(Scott Mann.)

11.15 am

Adjourned till this day at Two o'clock.