PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

First Sitting

Tuesday 12 December 2023

(Morning)

CONTENTS

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not later than

Saturday 16 December 2023

The Committee consisted of the following Members:

Chairs: † Hannah Bardell, Sir Graham Brady, Dame Angela Eagle, Mrs Pauline Latham

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

Simon Armitage, *Committee Clerk*

† 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 Servicel

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
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 MAPPA 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 MAPPA, 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 MATAC—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 MAPPA 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 MAPPA.

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 MAPPA 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 MAPPA can be used, and people who are lesser known, for whom there are other ways to mitigate risk. For example, Northumbria has MATAC—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.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

Second Sitting

Tuesday 12 December 2023

(Afternoon)

CONTENTS

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

The Committee consisted of the following Members:

Chairs: Hannah Bardell, Sir Graham Brady, † Dame Angela Eagle, Mrs Pauline Latham

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

Simon Armitage, *Committee Clerk*

† attended the Committee

Witnesses

Rebecca Bryant OBE, Chief Executive, Resolve

Harvey Redgrave, Executive Director, Crest

Andy Marsh, Chief Executive Officer, College of Policing

Andy Cooke QPM DL, HM's Chief Inspector of Constabulary and HM's Chief Inspector of Fire & Rescue Services

Dame Vera Baird DBE KC

Jonathan Hall KC, Independent Reviewer of Terrorism Legislation

Professor Penney Lewis, Commissioner for Criminal Law, Law Commission

Public Bill Committee

Tuesday 12 December 2023

(Afternoon)

[Dame Angela Eagle *in the Chair*]

Criminal Justice Bill

2 pm

The Committee deliberated in private.

Examination of Witnesses

Rebecca Bryant and Harvey Redgrave gave evidence.

2.3 pm

The Chair: We are now sitting in public and the proceedings are being broadcast. We will begin this afternoon's session by hearing oral evidence from Harvey Redgrave and Rebecca Bryant OBE, who is with us virtually. We have until 2.45 pm for this panel, so please keep your eyes on the clock. Could the witnesses please introduce themselves for the record?

Harvey Redgrave: Hi, and thanks for having me. I am Harvey Redgrave, chief executive of Crest Advisory, which is a specialist crime, policing and criminal justice organisation. I am also a senior fellow at the Tony Blair Institute, where I lead on home affairs policy.

Rebecca Bryant: Good afternoon, everybody. My name is Rebecca Bryant. I am the chief executive of Resolve. Resolve is a membership organisation focused on community safety and antisocial behaviour. Our members are housing providers, local authorities, police forces and police and crime commissioners.

The Chair: I begin this evidence session by calling Alex Norris for the Opposition.

Alex Norris (Nottingham North) (Lab/Co-op): Good afternoon to both our witnesses; thank you for your time. Rebecca Bryant, you mentioned Resolve's long-running interest in antisocial behaviour. Could you give us your views on the clauses in the Bill that relate to antisocial behaviour and whether there is anything you would add to them?

Rebecca Bryant: Thank you for the question. First of all, as a membership organisation, the views are of our members. We have spent time talking to them since the Bill was published. Quite a few different views have been put forward by our members and by Resolve ourselves as an organisation. Some of the clauses we agree with, and some of them we do not. I can take you through each particular one.

We absolutely agree with the clause on creating a duty for police and crime commissioners to promote awareness of the antisocial behaviour case review. I am quite happy to elaborate on that. On extending the power to implement dispersal orders to local authorities, our members generally agree that dispersal powers should remain with the police rather than being spread to local authorities, and there are very specific reasons for that. The police are required to enforce any breach of the dispersal order, and really these powers should be seen as a partnership response rather than a sole agency response.

When a dispersal order is being put in place, that needs to be considered by the local authority and with it as a partnership across the board through the community safety partnership. There should be an understanding as well that the police are on the ground and out on patrol 24/7, so are in a much better position to be able to use that power. They also have the skills and knowledge to use it.

That takes me on to extending the time frame for a dispersal order from 48 hours to 72 hours. All our members that we consulted are in favour of the extension of time. Our members are not in favour of extending the public spaces protection orders to the police because local authorities are very skilled in using them—that is where the knowledge lies. Significant expertise and a lot of consultation with the public are required before you put one in place. Rather than extending it, it should be used in partnership through the community safety partnership.

In relation to lowering the age for issuing a community protection notice from 16 to 10 and increasing the upper fine limit from £100 to £500 for breaches, members are mixed, particularly on the lowering of the age to 10. A lot of work goes into early intervention and prevention and how we deal with young people on the path to causing antisocial behaviour. Penalising young people at age 10 for antisocial behaviour by fining their parents if there was to be a breach is quite a significant step and flies in the face of our approach to early intervention and prevention, which uses positive mentoring and youth interventions for young people.

On extending the time frame for applying for closure orders from 48 hours to 72 hours after serving the notice, everybody was in favour, but they would like to see more explicit guidance and support around magistrates courts. On giving the closure power to housing providers, everybody who is a housing provider is absolutely in support of that; Resolve has been lobbying for that for some time now, particularly as it is a very good tool to use for more serious types of antisocial behaviour, such as cuckooing and exploiting vulnerable people.

In terms of the power of arrest for all breaches of civil injunctions, on the whole most of our members are not particularly swayed by that because the power of arrest is a very serious tool. It requires the police to conduct that power of arrest, and it will mean significant resource implications for the police. Not only that, but we would have to get past the courts on proportionality and reasonableness for the power of arrest to be attached to any clause. It would also significantly impact on the court system, particularly if someone was arrested. They would have to be presented to court the next day, so there would be issues around cells and also the management of community expectations once we had got an injunction with the power of arrest. For the CSOs who enforce breaches of community protection notices, it was felt that this would be positive because having more resources with which to be able to enforce those breaches would be welcome.

Q76 Alex Norris: May I come back to the point on the minimum age for community protection notices? When responding to the Government's antisocial behaviour action plan, you talked about how we need to think about children as victims of antisocial behaviour—I think your phrase was "silent victims". Could you briefly talk us through that?

Rebecca Bryant: Yes. I would like to bust a few myths, if that is possible while giving evidence. There is a perception in the media and the community that young people are the main perpetrators of antisocial behaviour when, in fact, they are not: the vast majority of antisocial behaviour is perpetrated by adults.

In focusing on young people, we should be thinking about how they are impacted by antisocial behaviour. They are often victims. You will have seen terrible films on TikTok and social media outlets of fights, violence and aggression. That means that those young people are victims rather than perpetrators as a whole. We certainly need to recognise that if we can get in early and use the early intervention and prevention tools available to us to stop the antisocial behaviour or stop those young people becoming antisocial, we will be able to reduce antisocial behaviour as a whole.

Antisocial behaviour is often a precursor to more serious crime, so if we can use our opportunity—I call it a "golden moment"—to intervene with a young person, perhaps with an alternative trusted adult from outside the home, and work with them to understand the impact of the behaviour that they may be perpetrating, that in itself does not fall into the idea that we should be reducing the CPN to the age of 10.

Q77 The Parliamentary Under-Secretary of State for Justice (Laura Farris): Mr Redgrave, may I ask you a bit about some of the section 16 provisions about drug testing? You may be familiar with the ambition to give greater powers to test for controlled substances—class B and class C drugs—with a view to directing the person into appropriate treatment at an earlier stage; the idea is that that will intercept more serious offending further down the line. You have written something about this, for the Tony Blair Institute for Global Change, I think—or, at least, the Institute has done so. Can you comment on the provision, and what is your view of a wider form of testing in police stations?

Harvey Redgrave: I am in favour of this measure. I think it was used relatively effectively under the last Labour Government in relation to prolific offenders. *[Interruption.]* Sorry, do I need to speak a bit louder?

The Chair: Please try to speak up a bit.

Harvey Redgrave: I am in favour of the measure. It is right to test more offenders, particularly prolific offenders, many of whom are driven by addiction. The more we can divert offenders into treatment to address their offending behaviour, the better. I think there needs to be a broader look at how we deal with prolific offenders who recycle around the system sometimes tens or hundreds of times before they stop their offending. There used to be something called the prolific and other priority offenders programme, which was disbanded along with the whole infrastructure around it.

There is a need to place this drug-testing measure within a broader set of interventions that look at how we grip prolific offenders, how judges are able to defer sentencing, and how offenders are able to be rehabilitated and dealt with much earlier on rather than them serving short sentences, coming out, reoffending and going back in at great expense to the taxpayer.

Q78 Laura Farris: I think that some of that is in the Sentencing Bill, which is running in tandem with this legislation.

The other question I wanted to ask is about Crest Advisory's role in Baroness Casey's review—again, if you were not personally involved in that, you can correct me. I think Crest Advisory played some role in supporting her review into the misconduct issues in the Met police, and there are two provisions in this Bill that at least partially respond to that. I would like to look at clause 73, which is on ethical policing and the duty of candour. In the light of your work with Baroness Casey, do you think it is important, and if so why? What does it answer in relation to her findings about failings in the Metropolitan police?

Harvey Redgrave: To clarify, some of my team at Crest Advisory were seconded in to support Baroness Casey on her review, but obviously she led the review and wrote it herself. It is really important that we look at the ethics and systems around misconduct within policing. There is a crisis of public confidence in policing at the moment, particularly among women. The Commissioner of the Met has spoken repeatedly about wanting to have more say and control over getting rid of officers when there are cases of misconduct, and I think the Government have acted on some of that.

I support the measure, but I would argue that there is a case for going even further and looking at the whole system around vetting and how that takes place within policing, and the system of who really upholds the professional standards within policing. Which body do we hold responsible—the College of Policing, the National Police Chiefs' Council, or the Home Office? It feels to me like there is a slight lack of clarity at the moment about where the buck stops on some of this at a national level, with each force able to adopt slightly different practices.

Q79 Laura Farris: Do you think it is helpful then that the duty of candour, and what is required underneath it, will be set by the College of Policing? Do you think that will help ensure consistency?

Harvey Redgrave: I think that it is helpful and is a welcome step, but I am not sure that, in isolation, it will be enough to bring about the kind of culture change that Baroness Casey believes is necessary, within not just the Met but policing as a whole.

Q80 Laura Farris: My final question on this topic is about the other highly irregular employment-law-type power in the Bill: the right conferred on a chief constable to appeal against a disciplinary outcome for one of their subordinates. I think we can put that in plain English: if they do not like an acquittal, essentially, they can submit an appeal. Do you think that is an appropriate power for a chief constable to hold? I think Baroness Casey dealt with that; I recall reading about senior officers who were unhappy about the fact that they suspected problematic people were still part of the team.

Harvey Redgrave: It comes back to the question of whether the chief constable should have more discretion over being able to hire and fire people, and to be able to get rid of people they are unhappy with. We have created systems and processes over the last 20 or 30 years that have taken some of that discretion away. It is a balance, and we need proper professional standards to be upheld by the College of Policing. In general, I think it a good thing for there to be greater discretion for chief constables to be able to act when they believe there is misconduct within their force.

Q81 Laura Farris: Okay, that is helpful. My final line of questioning is about one of the issues that has been debated in Parliament, not just in relation to this Bill but previously too. It was about having a stand-alone offence of assaulting a retail worker. I do not know whether you are familiar with the contours of that debate.

We heard from the Crown Prosecution Service this morning, and it said that it did not think such an offence was necessary because the mechanics of an assault charge apply anyway—obviously, with actual bodily harm and grievous bodily harm, if that should arise. There is also a statutory aggravating factor for assaulting a retail worker. Do you have a view on this? If you do, could you set out what it is and why?

Harvey Redgrave: Shoplifting is a real concern and we need some deterrents in the system, but I am not sure that we get those deterrents through harsher sentencing. A bigger problem is whether we are catching offenders, charging them, and convicting them. All the evidence shows that for this type of offending, it is swiftness and certainty that deter rather than severity. Not many shoplifters are thinking about aggravating factors or how long they are going to spend in prison.

Q82 Laura Farris: Just to be clear, is your view basically that the police response needs to be more uniform, rather than we need a distinct offence?

Harvey Redgrave: In general, the Bill probably focuses too much on sentence lengths and not enough on what is happening at the front end, around the police's ability to catch, detain and bring offenders to justice. That is where I think the real gap is.

Laura Farris: Okay. That is all from me.

Q83 The Minister for Crime, Policing and Fire (Chris Philp): I would like to ask Rebecca Bryant some further questions about the antisocial behaviour and nuisance begging and rough sleeping measures.

Rebecca, thank you for joining us this afternoon. In response to the shadow Minister, you raised questions about reducing the minimum age for community protection notices from 16 to 10, which is enclosed within clause 67 of the Bill. Do you agree that bringing 10 to 15-year-olds into the scope of CPNs provides an opportunity to halt a path into criminality that might otherwise occur? Combined with that, there is an opportunity to make other interventions to try to prevent the young person from getting into crime.

Rebecca Bryant: It is using a hammer to crack a nut. For 10 and 11-year-olds in particular who are on the cusp of causing antisocial behaviour, there are many other tools available to partners. I am not necessarily thinking about fining parents, because a lot of the young people who are involved in antisocial behaviour come from more deprived backgrounds, and breaching and fining is not going to enable change.

What we are looking for is a change of behaviour in the longer term. Yes, we are looking to prevent in the first instance, but then we look for change. Being able to engage with a young person and their parents by putting in positive mentoring and other youth interventions would surely have longer term success than a community protection notice would have. Also, there is a community protection warning before a notice; that kind of warning and discussion between a parent, a child and the authorities, which could be the housing provider, the local authority or the police, has much more impact when you are offering a positive intervention.

Q84 Chris Philp: Those interventions are likely to be tried prior to the use of a CPN. Do you not agree that a CPN would be a welcome alternative to prosecution in the more extreme cases?

Rebecca Bryant: More extreme antisocial behaviour is often a criminal offence, so potentially there would be criminality and therefore a charge. That may be welcome in some cases, but not a blanket reduction to say that anybody from the age of 10 could have a CPN, which could then lead to breach and fine. As I say, from our members' perspective, that seems too young.

Q85 Chris Philp: Thank you. I would like to move on to the nuisance begging and nuisance rough sleeping measures. First, do you support the plans to implement the repeal of the Vagrancy Act 1824, and do you agree that repealing that Act potentially leaves some gaps in the law? I would like your views on the nuisance begging and nuisance rough sleeping provisions in clauses 38 to 62, which are designed to replace the 1824 Act measures where nuisance is being caused, but not otherwise.

Rebecca Bryant: First, our members absolutely welcome the repeal of the Vagrancy Act. It is outdated and clunky, and has not been fit for purpose for many years. The replacement powers suggested in the Bill are generally welcomed by our members. I think there is some movement around more community rehabilitation. The people we are talking about here are particularly vulnerable members of society who have been through significant trauma or who have significant mental health problems, drugs and alcohol addiction, and their behaviours and rough sleeping are due to those underlying facts. Thinking about community rehabilitation and support to change is as important as moving people on and creating the powers to do that.

Chris Philp: Thank you, Rebecca. Those are all my questions.

Q86 Jess Phillips (Birmingham, Yardley) (Lab): Harvey, do you think that there is the capacity for police forces across the country to drug-test everybody who comes through their doors?

Harvey Redgrave: No, it needs to be attached to more resourcing.

Q87 Jess Phillips: So if this law passes, it will not be able to be enacted?

Harvey Redgrave: I am assuming there is an impact assessment and a cost that has been attached to the Bill.

Q88 Jess Phillips: Never assume, Harvey. So currently, across the policing estate in our country, this would not be able to happen.

Harvey Redgrave: I do not think it would be able to happen if you took current resource levels as the baseline. Some piloting is already going on in some forces, I think. I do not know how much of that has been allocated in future years.

Q89 Jess Phillips: Okay. As the conversation was about Louise Casey's review, I was remembering some of the highlighted things in that review—testing samples left in fridges with sandwiches and things. I cannot say I have noted that the police estate across the country could cope with anything like this law, so I just wanted to check. Going back to Louise Casey's review and the issue of vetting and suspension, do you think that what is in the Bill is enough?

Harvey Redgrave: No. It is a good step forward, but not sufficient.

Q90 Jess Phillips: Okay. Have you seen evidence that where police officers are suspected of violence against women and girls or child abuse they should be suspended from duty, not just put on paper-based activities?

Harvey Redgrave: I would agree, yes.

Q91 Jess Phillips: You would agree that they should be suspended, as a teacher would be.

Harvey Redgrave: Sorry—I would agree with the premise of your question.

Q92 Jess Phillips: Okay. But currently that is not in the Bill.

Harvey Redgrave: If I could also add one further thing on violence against women and girls—

Jess Phillips: Please feel free.

Harvey Redgrave: One of the good developments that has taken place in the last couple of years is Betsy Stanko's work on rape and Operation Soteria, which is now being rolled out across the country. As you know, it takes a new approach to the way that rape is investigated. There is a very good case for widening that to look at all violence against women and girls, because some of the same principles apply. I would look very closely at whether that requires legislation, and if it does not, at what is required to broaden that approach.

Q93 Jess Phillips: So you think there might be a legislative solution by writing that into primary legislation or secondary legislation.

Harvey Redgrave: Potentially.

Jess Phillips: I will crack on with that, then.

Q94 Vicky Ford (Chelmsford) (Con): Rebecca, when you were talking about clause 67 and the CPNs, I think you suggested at the beginning of your comments that this was not a unanimous view from your members. Is that correct?

Rebecca Bryant: Yes, it is.

Vicky Ford: It is not a unanimous view from your members.

Rebecca Bryant: No, it is not a unanimous view. There are some mixed views. Some people represented by some organisations suggested reducing the age to 14 rather than 10, particularly when we are talking about the 10 to 13 age group, who are particularly young. Yes, of course they have criminal responsibility in this country, but we are talking about antisocial behaviour here rather than—

Q95 Vicky Ford: I just asked a very simple question: were your members unanimously opposed to this measure? And you said no, it is not unanimous—correct?

Rebecca Bryant: Yes, that is what I am saying.

Vicky Ford: Thank you.

Q96 Stephen Metcalfe (South Basildon and East Thurrock) (Con): I have a question for Harvey—a point of clarification, really. You mentioned that you did not think that there was any need to increase the sentence for shoplifting; you thought that it just needed to be applied more uniformly. Is that right?

Harvey Redgrave: I suppose it is more about saying where I think the priority should be. I do not have a particular problem with increasing sentences for shoplifters; it is just that I do not think that that is where the biggest challenge is.

Q97 Stephen Metcalfe: I think the Minister started by asking about the creation of a new stand-alone offence of assaulting a retail worker. By association with your previous answer, do you think that that is unnecessary, or do you think it would be a helpful deterrent?

Harvey Redgrave: I think it is fine; I do not have a problem with it. I am broadly supportive of it, but I do not think it will act as a particular deterrent when we are not catching enough shoplifters to begin with. That would be my slightly—

Q98 Stephen Metcalfe: Sorry to interrupt, but are you saying that all assaults on retail workers tend to be associated with shoplifting?

Harvey Redgrave: Yes.

Q99 Stephen Metcalfe: Thank you. Rebecca, can I follow up on Vicky Ford's question? You made it clear that opposition to reducing the age to 10 was not unanimous. There were some people who thought that 14 might be more appropriate. Were there any who thought it should go up?

Rebecca Bryant: No.

Q100 Stephen Metcalfe: So it is really just a question of finding the right level. Is that correct?

Rebecca Bryant: Yes, I think so. When I say it was not unanimous, I am saying that a few members said that they agreed with 10. The vast majority said that they did not.

Q101 Stephen Metcalfe: Okay. The problem is that between the ages of 10 and 16 there is a vast range of maturity, shall we say. Presumably, if some discretion were exercised, it might well be an appropriate measure for some 10-year-olds but not for others. Would you agree?

Rebecca Bryant: I would suggest that if the behaviour were serious enough to warrant a CPN at the age of 10, there would be other significant issues within the family environment. You would be looking at a huge range of interventions. Unless a particular scenario is presented, it is quite difficult to say what type of intervention you would try in order to reduce or stop the antisocial behaviour, but I do not want to get away from the point

that early intervention and prevention work. If we invest in early intervention and prevention, you would expect antisocial behaviour cases involving young people to reduce. The enforcement side would therefore become less necessary.

Q102 Stephen Metcalfe: Finally, with an understanding of everything that you have just said, do you think that the measure proposed will be detrimental, or is it just unnecessary?

Rebecca Bryant: I think it is unnecessary, and I think you will find it is very rarely used. There are other enforcement tools and powers available for young people that are also rarely used, because the focus of the sector is very much on early intervention, prevention, restorative justice and community remedies. There are all sorts of other tools that are perhaps more appropriate, particularly for dealing with young people who are on the cusp of causing antisocial behaviour.

Stephen Metcalfe: Thank you very much.

Q103 Alex Cunningham (Stockton North) (Lab): Rebecca, I am really interested in the stuff about 10-year-olds. You said that if there were a situation in which one of these orders would be applicable, there would be other issues in that child's life that were affecting their behaviours and everything else. What would be better than imposing this sort of order on a child of 10?

Rebecca Bryant: Look at how we respond to antisocial behaviour. It is a partnership response—things like Supporting Families, which used to be Troubled Families, and those types of interventions and support provided to the whole family, which are trauma-informed and understanding of adverse childhood experiences, and recognise that behaviour is often a symptom of something happening within the family environment. We should be taking a whole-family approach, rather than looking at a young person, a 10-year-old, as an individual on their own. There is something there about the drivers of why that young 10-year-old is behaving in the way that they are. It is much more complex than focusing on a specific incident perpetrated by a child at the age of 10.

Q104 Alex Cunningham: Would you accept that a family that has a child with challenges in his or her life may not be the best equipped to ensure that the child adheres to any order placed on them, and the child may therefore end up in the criminal end of the business rather than the supported end of the business?

Rebecca Bryant: That is a fair assessment. Civil enforcement powers do not enforce; all they really do is set out very clearly how society expects individuals to behave. There is an expectation when that order is given that the person is able to comply. If a young person aged 10 or 11 is perpetrating and demonstrating this type of behaviour, are you setting them up to fail if you are not thinking about different sorts of interventions and support? You could think of supporting the parent to become a better parent, able to set boundaries and support longer term change, or using other trusted adults and other types of intervention and remedy to support that young person to change.

Alex Cunningham: That is very helpful. Thank you.

The Chair: Thank you. It looks like there are no further questions from Members. I thank the witnesses for their evidence. We will move on to the next panel.

Examination of Witnesses

Andy Marsh and Andy Cooke gave evidence.

2.37 pm

Q105 The Chair: We will now hear oral evidence from Andy Marsh and Andy Cooke. We potentially have until 3.30 pm for this panel. Would the witnesses please introduce themselves for the record?

Andy Cooke: Good afternoon. I am Andy Cooke, His Majesty's chief inspector of constabulary and His Majesty's chief inspector of fire and rescue services.

Andy Marsh: Hello, I am Andy Marsh, the chief exec and chief constable of the College of Policing of England and Wales.

Q106 Alex Norris: Thank you both for your time this afternoon. Andy Marsh, I would like to start with you. The point about vetting has come up frequently. You may have heard it in the previous panel, and you may be aware that we also discussed it this morning. What is the College's view on vetting?

Andy Marsh: I am of the view that there has not been enough rigour in the way in which vetting responsibilities and duties have been conducted. I am also of the view—significantly because of high-profile cases, but also because of inspection work by Andy Cooke's team—that not only have vetting processes been inadequate but they have not been complied with. The College has done two things as a start: we have rewritten the code of practice for vetting to introduce new standards, and we are about to launch a new authorised professional practice for vetting that will set new, more rigorous standards across England and Wales that address all of the areas for improvement addressed in Mr Cooke's inspection report.

Is that enough? In my opinion it is not enough. When the spotlight moves on from this important area of safeguarding the public and the reputation of policing, will chiefs and police forces continue to apply the scrutiny and effort that is going into this at the moment? It is my intention—I have expressed this—for this to be an area of service provision that is high-risk and which the College proposes to license or authorise in each force vetting unit each year. There will be training and support for personnel, and there are good people in those force vetting units, but in my plan, if they do not achieve the required standards, they will not be allowed to do vetting. It will have to be done by another police force.

Q107 Alex Norris: I might come to you, Andy Cooke, in a second for your reflections on that, but very briefly, when you write up your expectations, are you likely to put a new time limit on the period of vetting or do you have an alternative way of doing that?

Andy Marsh: I am unlikely to put a new time limit on the period of vetting, because I think in the 21st century when people—I am talking about all employees and police officers—commit a misdemeanour or when something occurs that throws into doubt their vetting status, that

happens in real time, and our vetting systems should be good enough to pick them up in real time as well. We cannot wait for periods of time.

I used to be responsible in England and Wales for firearms licensing, and that period I was responsible for saw a shift in doctrine from revisiting a licence every three or five years to revisiting someone's safety to hold a weapon 24/7, 365 days a year. Our approach in principle, while complying with the code of practice and the authorised professional practice on vetting, is that there will be time thresholds for hard stops on renewal, but in my opinion and assessment, there is an expectation that vetting should be under constant review.

Q108 Alex Norris: Do you think that is technologically possible?

Andy Marsh: I do.

Q109 Alex Norris: Andy Cooke, is the inspectorate of a similar mind to the College on this?

Andy Cooke: I am fully supportive of the College's desire to license vetting officers to practise. As you are well aware, the vetting inspection we conducted not too long ago had more recommendations than any inspection previously done. It showed policing in a pretty poor light. Some forces were doing okay, but overall it was not sufficient to protect the public or the reputation of policing. If policing cannot be sure it has the right people in it, that is a sad indictment on the force or forces across the country. There needs to be a continued focus on this area of policing. Licence to practise will assist in that, and the inspectorate will continue to look at these issues right across the forces across England and Wales.

Q110 Alex Norris: Andy Cooke, clause 19 allows entry, search and seizure without a warrant under certain circumstances. Do you have any concerns over that power and how we can have confidence that it is being exercised properly?

Andy Cooke: It is a power that will need to be closely monitored, but it is a power I am supportive of. The ability to recover stolen property in such circumstances is a real issue if policing is going to catch the people it needs to catch, particularly around the likes of mobile phone theft, which is endemic across large parts of the country. The inspectorate will obviously keep a close eye on it as part of the legitimacy of policing and the ethical context in which policing is conducted. It will form part of future inspections when necessary.

Alex Norris: Thank you very much.

Q111 Chris Philp: Welcome Andy Marsh and Andy Cooke. Let me take the opportunity to say thank you for all the work you and your teams do supporting policing across England and Wales. It is very much appreciated by all of us, both in Government and in Parliament.

Andy Marsh, can I continue the line of questioning about the warrantless power of entry where it is necessary to recover stolen goods when there is no time to get a warrant? Andy Cooke just mentioned that the inspectorate would keep a close eye on whether that power, if granted by Parliament, is being exercised properly. Could you confirm for the Committee's benefit whether you would in due course, if this were passed, produce some authorised professional practice to make sure that police forces exercise the power in a way that is responsible?

Andy Marsh: Minister Philp, as you are aware I am strongly supportive of police officers conducting all reasonable lines of inquiry to catch criminals and keep communities safe. It caused me great frustration as a chief if ever a letter landed on my desk to say, "My bike's on sale on eBay, my daughter's phone is in a house and you said you couldn't do anything".

We have already started our plans to hardwire this new power into our guidance, our training and our standard setting to do our very best, along with working in partnership with His Majesty's inspectorate of constabulary and fire and rescue services to ensure that we use this power consistently in two respects. I do not want to see circumstances where the power should be used, where it is not and people could be caught and property returned; and I certainly do not want it to be used in such a way that would undermine confidence in policing. As in many things in policing, we need to get this just right. The College has a fundamental role in achieving consistency and getting it just right.

Q112 Chris Philp: So do you, like Andy Cooke, support the inclusion of this measure in the Bill?

Andy Marsh: I do.

Q113 Chris Philp: And are you confident that, with the right guidance and inspection regime, it can be implemented in a reasonable and proportionate way?

Andy Marsh: I am.

Q114 Chris Philp: Thank you. Let me ask Andy Marsh again, about the statutory ethical policing code contained in clause 73, which includes a statutory duty of candour, which was one of Bishop James Jones's recommendations following Hillsborough. Can you tell the Committee what kind of impact you think that will have on police conduct in general and, specifically, the duty of candour going forward?

Andy Marsh: It should be a very significant moment in policing. The first code of ethics was put in place in 2014. I could explain to the Committee why we think we are able to improve on that, but we have to talk about why it is going to make a big difference. The College is able to put a code of practice in place which requires a chief constable to have due regard.

We wanted to make that code of practice as strong as possible around a duty of candour, but there were many other things in it—for example, a duty on a chief constable to ensure ethical behaviour in a force, through their processes, policies, reward recognition, promotion, application of the victims code, challenging unprofessional behaviour, looking after staff welfare, dealing with misconduct and vetting properly.

Even before we get to the duty of candour, which is very strong, this is the strongest lever the College of Policing can pull in order to bring about cultural change around standards in policing. We will be working with the launch of the second two parts of the code in January, which is different from the legal code. We will be working on supporting policing over a change programme to secure that cultural change, over many months—possibly years.

Q115 Chris Philp: Great, thank you. May I ask Andy Cooke and Andy Marsh each in turn a question which has arisen a few times, both in this Committee's proceedings today but also over the last year or two? It relates to the question of whether there should or should not be a separate offence for the assault of a retail worker.

As you know, we made assaulting a public-facing worker a statutory aggravating factor for other assault offences in the Police, Crime, Sentencing and Courts Act 2022. We have already created a separate offence of assaulting emergency workers. Some people now say that we should have a separate offence for assaulting a retail worker, to give it more prominence. Others say, "Well, where do you draw the line?" You could have an offence for assaulting a teacher, a local councillor—and so it might go on. What is your opinion about whether there is any use in creating that separate, stand-alone offence?

Andy Cooke: I think I am right in saying it is an offence in Scotland, but I do not know how much that has resulted in a change in offending behaviour. I have not particularly looked at that point. It is a question of where you draw the line. The key issue is not whether a new offence should be constructed for assaulting a shop worker. It is more about how well, or not, policing is dealing with assaults, full stop; and how well police officers are dealing with the offence of shoplifting and the ancillary offences that sometimes go with that. I am aware that the National Police Chiefs' Council is doing an awful lot of work around this at the moment, working with the PCC for Sussex and yourself, Minister.

Certainly, there has been a large reduction in the number of positive outcomes or detections for shoplifting over the last five or six years. That is not acceptable. It is in line with an awful lot of the other core charge and outcome rates that we have seen across policing. This is more about ensuring that the police across England and Wales treat this more seriously, particularly where there are aggravated offences alongside, such as assault. That is what Chief Constable Amanda Blakeman is attempting to do on behalf of the National Police Chiefs' Council. Rather long-windedly, to come back to your initial question, without seeing the evidence for how that reduces offences or increases detections, I would not necessarily be in favour of a separate offence.

Q116 Chris Philp: Before Andy Marsh answers the same question, you referred to the recently published retail crime action plan, which Chief Constable Amanda Blakeman authored in close consultation with me as Police Minister and with the Home Office. You highlighted the unacceptably low charge rates, which I agree with. What level of confidence do you have that that retail crime action plan will deliver those results? To what extent will you be able to follow that up in your regular PEEL inspections and your "all reasonable lines of inquiry" thematic next spring to make sure that that action plan, which is good on paper, is actually delivered in practice and delivers the results, which are more detections and arrests?

Andy Cooke: All those issues will be captured by the police effectiveness, efficiency and legitimacy inspections that we do every two years on every police force across England and Wales. We will look at reasonable lines of inquiry particularly and at the overall outcome rates—not just charge rates, because the out-of-court disposals are important as well, as it is whatever is the best sanction to fit the individual and the community at the end of the day. We look right across that to ensure that policing is doing what it should be doing, as we do every week of the year, and will continue to do so.

This is a really important issue for me, because these are crimes that strike at the heart of communities and neighbourhoods. It is really important that policing gets confidence and trust back. Whether that is the confidence and trust of shop workers or across neighbourhoods and communities, whichever way it is, a large part of getting that confidence and trust back is by the police showing themselves to be effective in what they do. The police need to increase their efforts to do so.

Q117 Chris Philp: I completely agree, as you know. Without the zero-tolerance approach, there is a risk of escalation. Andy Marsh, may I put the same question to you about the utility or not of a separate offence?

Andy Marsh: The College is supporting policing with guidance around dealing with retail crime, particularly persistent offenders. I agree with everything that has been said: much more needs to be done in order to deal with this crime type.

In relation to the specific offence, I can see that there are two purposes to it. The first is that it might well act as a deterrent. The College of Policing holds the evidence base for policing. We cannot categorically tell you there is an evidence base for deterrence, but that would be one of the reasons for putting it in place. I think the second, more important reason is for Parliament to signal its concern about a particularly disruptive crime that damages the fabric of our communities and society. This sends out a signal that the police need to do better. I am supportive of the proposal.

Q118 Chris Philp: It is not a proposal; it is from the Government—it is an idea that has been floated from time to time.

Moving on to a proposal contained in clause 21, which relates to giving police access to driver licence records—particularly the photograph—which currently are only readily accessible for road traffic purposes. The idea is that they can be used for facial recognition searches, where an image is retrieved from a crime scene from CCTV. That might include a shoplifting offence. This would make the DVLA driving licence database searchable by the police, in the same way that other databases are, including for facial recognition purposes. In your view, both Andy Marsh and Andy Cooke, would that assist the police in investigations? Is that a measure you would support?

Andy Marsh: I am supportive.

Andy Cooke: Yes, I support it. What goes alongside that is ensuring that the actions of the police on facial recognition are ethical and lawful. I am a big supporter of facial recognition used in the right way, and I think that opening up that database would benefit the detection of crime.

Q119 Chris Philp: Excellent. My final question relates to clause 74, which is concerned with the appeal mechanism after a misconduct hearing. At the moment, if an officer is dismissed by the panel—which remains an independent-majority panel with the chief chairing it—the officer

who has been dismissed can appeal to the police appeal tribunals. If the officer is left in post, however, there is no appeal the other way, so if the chief constable wants to sack the officer for misconduct and disagrees with the panel, there is no right of appeal. This clause would introduce such a right of appeal.

Do you agree with the Met Commissioner, Sir Mark Rowley, in saying that this measure will help chief constables better to manage their workforce and root out officers guilty of misconduct where appropriate and where necessary?

Andy Cooke: It would certainly help in relation to that. At the moment, the only recourse is judicial review, which as we know can be exceptionally expensive and difficult, so I see no problem at all in having that right of appeal for a chief constable.

Andy Marsh: The code of ethics, which we have just been talking about, puts a responsibility—in fact, a duty—on a chief constable to discharge their responsibilities around standards, conduct and behaviour; and I have been in a position, as a chief, where I have not been able to do that because ultimately I haven't had the decision on who I ultimately have serving alongside me as a police officer. They are not employees—they are servants of the Crown. I have found that to be a deeply unsatisfactory position, so I am supportive of this.

Chris Philp: Good. Thank you.

Q120 Jess Phillips: My first question is to Andy Marsh on the issue of vetting, which he very eloquently said needs to be a constant. Do you not think, then, that there needs to be at least some guideline in law about the regularity of that vetting?

Andy Marsh: Yes, I do. That is a periodic hard stop, let us say, where there is a full review, but there should be a number of different control measures, both automated data searches and a duty—a responsibility to report and self-report—that will occur in real time between those vetting periods.

Q121 Jess Phillips: Okay. What sort of timeframe would you put on that hard period?

Andy Marsh: Whichever timeframe you chose, you could see reasons why it wouldn't be right.

Q122 Jess Phillips: Ten years is currently the suggested—

Andy Marsh: Ten years is the current one. I think to change that without massively increasing the capacity of vetting units would be to, let us say, write a cheque they couldn't cash.

Q123 Jess Phillips: So currently, even if we were to legislate that the vetting had to be improved—

Andy Marsh: If you were to legislate then the police would have to find the money, and it is often—

Jess Phillips: And it is currently not available.

Andy Marsh: Difficult choices.

Q124 Jess Phillips: Difficult choices would have to be made in order to ensure that vetting was happening. I appreciate your honesty.

Andy Marsh: I would say, "What is the best way of ensuring a trusted, ethical workforce that actually is enforcing highly frequent—I would debate highly frequent—more frequent, hard-stop vettings which would be very costly, with back-office capability?" That might, in my opinion, not be the best way of doing it. I would rather move to a more agile, 21st-century—

Q125 Jess Phillips: Automated.

Andy Marsh: Yes, automated.

Jess Phillips: Database, AI and so on.

Andy Marsh: Yes. So many of the searches that are required for vetting can be put into robotic processes, with ultimately the human being making the decision at the end.

Q126 Jess Phillips: Of course. You talk about there being an automated system. I have asked everybody who has sat in front of me today this question. Currently there is no crossover between behaviours found in courts in the United Kingdom; so in family courts, in civil courts in our country, that would not currently be being used in the vetting. Let's say a domestic abuser was found to be a multiple domestic abuser of various different women, in the family courts in this country. Would that come up in your vetting?

Andy Marsh: To directly answer your question, I don't know. Possibly not.

Jess Phillips: The answer is no. I do know.

Andy Marsh: But actually, if you had a multiple domestic abuser, I am pretty confident that they would be flagging on other systems.

Q127 Jess Phillips: Except that less than one in five people come forward to the criminal justice system.

Andy Marsh: Excepting that.

Jess Phillips: Okay. Excepting the four in five that don't come forward.

Andy Marsh: I take your point.

Q128 Jess Phillips: Okay. But an automated system that had all of that data on it for vetting would be helpful?

Andy Marsh: Yes.

Q129 Jess Phillips: What is your view on the suspension issue? I have unfortunately heard of a case where a police officer was suspended for safeguarding concerns, shall we say, and was put on paper-based duty, and the thing they were doing was the vetting. Do you think that officers who are under suspicion of issues of domestic abuse, sexual abuse, child abuse and safeguarding-related crimes should be suspended?

Andy Marsh: Will you permit me a little commentary, rather than a yes to that?

Jess Phillips: Go for it, mate.

Andy Marsh: I will tell you an anecdote, which I think will explain why this is dangerous. People can use the police complaints system for reasons other than simply securing justice and fairness for having been treated unfairly. As chief constable of Avon and Somerset, I became aware of two reports that I had in fact—and you will be shocked by this—raped the police and crime commissioner, Sue Mountstevens. I certainly had not, and the lady reporting that was in a mental ill health institution, but the crime recording rules required the police force to record that there was a rape, and I was named as a suspect. I would have thought that it would be farcical, wouldn't it, for me to be suspended under such circumstances, given that there was not a grain of truth in that? There is a danger—

Q130 Jess Phillips: But it would be very easy for a professional person to initially triage such a case, for example, and do some very clear due diligence about somebody's mental ill health, the likelihood and the timings. If there were any sort of case to be investigated and answered, do you not think that the person should then be suspended?

Andy Marsh: Fairness and justice are for everyone, particularly victims of violence against women and girls; if you look at everything I have said and done in my career, you will see that that is what I genuinely believe. However, I believe that an automatic suspension would be swinging the pendulum way too far. I have given you a very simple example, which is of course ridiculous. What I have learned through 37 years in policing is that there are many, many different shades of ambiguity around situations.

Jess Phillips: I too will give you—

Andy Marsh: Very rarely do we find right and wrong.

Q131 Jess Phillips: Of course, of course. It is funny that often it is only on this issue that there are only grey areas. A police officer in my police force—in West Midlands police—was put on light duties after he was considered a risk to children, and he used that to access the data. He went on to abuse, and has since been convicted of abusing, around 19 teenage boys. He used the powers of being put on desk duties in the police force to do that.

Andy Marsh: That is shocking and disgraceful, and it should never have been allowed to happen.

Q132 Jess Phillips: I am afraid that I could probably come up with many more examples similar to that. You do not think that, in those circumstances, there should be a suspension.

Andy Marsh: In the circumstances that you just described, of course. But I will say to this Committee that I think each case should be treated on its merits, with a very low threshold for suspension.

Q133 Jess Phillips: On the basis of it being currently treated on its merits, which we cannot necessarily legislate for, how many do you think are being suspended, left in police forces on separate duties, such as vetting, or, of those on that sort of suspension—as was the case in I think the Metropolitan police; it was definitely a police force—are training the new officers?

Andy Marsh: I can write to you with that information, but I am afraid that I do not have it to hand.

Q134 Jess Phillips: Okay. That would be very helpful, thank you. Confidence that anything can be implemented is undoubtedly vital. Your eBay example was a good one. You stated that you were confident that all this could be implemented; however, you just said that the police would need to write a cheque, or that a massive cheque would have to be written for some of the ethics and standards things. If everything in the Bill were implemented—I invite you to comment, for example on how you think the drugs testing would be rolled out—how it is possible that everything will be implemented at the same time as prioritising violence against women and girls crimes in every force? How will it be implemented so that confidence is not lost?

Andy Marsh: I do not think I said that I was confident that all the powers in the Bill could be implemented. I was answering the question about traceable property and the power to gain entry—that was the element that I was confident about.

Q135 Jess Phillips: Oh, specifically—apologies. Do you think that everything in the Bill could be implemented?

Andy Marsh: I am supportive of the measures in the Bill. Some will undoubtedly come with a requirement to increase the resource.

Jess Phillips: Such as?

Andy Marsh: The drugs testing would be a good example. I do not believe that there is currently a latent capacity waiting to do that.

Jess Phillips: There is currently not the capacity available to do that.

Andy Marsh: No.

Jess Phillips: I didn't think there was. Okay, thank you.

Q136 Mark Garnier (Wyre Forest) (Con): Andy Marsh, can I continue with you? I have an observation, following on from Jess Phillips, about what sounds like a nightmare, where you were accused of rape by somebody. Just as an observation, were that to happen to a Member of Parliament, you might find yourself being asked to stay away from the House. You might lose the Whip from the party you are a member of. It is an interesting observation that in this place, there is almost a presumption of guilt before anything else when it comes to this type of crime, where in theory Members of Parliament can have access to vulnerable people. It is an interesting dichotomy, I suppose, that where the police have access to vulnerable people the whole time there could be this same problem. As I say, that is more of an observation than me necessarily asking you to respond to it—

Andy Marsh: Well since you make the observation, I am not sure, as a police officer, that most police officers would agree that the standards of conduct in Parliament are necessarily higher than the standards of conduct for a police officer—if you don't mind me saying.

Q137 Mark Garnier: It is about the response to the standards of conduct; it is not necessarily the standards of behaviour, but the response to them and how Parliament responds.

Andy Marsh: The College of Policing is responsible for a number of different products to support the professional standards that are maintained within policing. In relation to violence against women and girls, we conducted a super-complaint review in partnership with the Independent Office for Police Conduct and His Majesty's Inspectorate of Constabulary and Fire & Rescue Services, and we found a number of weaknesses and flaws in the way that, for example, allegations of domestic abuse against police officers were dealt with.

We are working very hard to tighten up those shortcomings and make improvements. In fact, the lead for the violence against women and girls taskforce, Maggie Blyth, is now working as my deputy and using all the levers at the disposal of the college to hardwire those standards into the way we go about our business. I would challenge any suggestion that we have a soft attitude to violence against women and girls.

Q138 Mark Garnier: No, no—I wasn't trying to suggest there was a soft attitude. I was just trying to say that there are lots of different examples.

I wanted to follow on from Minister Philp's questions earlier about powers of entry, because I was fascinated by your response. You mentioned that you might see that somebody obviously has an iPhone in their house—it has been stolen and then found on the Find My iPhone app, so there is very hard evidence that it is definitely there, but a police officer cannot do anything about that. You mentioned similarly a bicycle that could be for sale—a daughter's bicycle for sale on eBay, for instance. You talked about how you would give guidance to police officers on how they go about enforcing this, but I came away slightly more confused; this is more me as a layman, trying to understand how you go about doing your business.

What struck me is that at the one end of the scale through the Find My iPhone app, you are looking directly at a bleep that says, "This phone is in the front bedroom of this bloke's house in Walthamstow" or wherever—other constituencies are available. You know for a fact that it is there because the electronic signature is there. If someone has a bicycle up on eBay, it is probably there because that is where the person is advertising it from, but you do not necessarily know for sure. At the other end of the scale, you have a hunch that somebody may have some stolen goods in their house, but you would obviously then get a search warrant. If you are writing the guidance, how do you find the point at which one side is very clearly, and the other is very clearly not, eligible for the powers of entry?

Andy Marsh: There is a continuum of reasonable grounds and belief, which is written into this proposed legislation, that is actually very strong. It is about as strong as it gets in the judgment of a police officer. We will give forces written guidance, probably in authorised professional practice, and we will give them material on which they can be trained face to face in the classroom and material that can be used online.

Without a doubt, there will be some scenarios that will need to be debated among the groups of police officers engaging in professional development. We will also put this in the initial training curriculum. I am sure, given my confidence that we can introduce some guidance and training that would ensure consistency, that we will see a testing, through the judicial process, of what that belief actually means. At some stage, I am pretty confident that we will end up with a consistent interpretation of what it means under different circumstances.

Q139 Mark Garnier: There are different forces across the country. Some could be a bit more punchy about it, and some could be a bit more reticent about it, but eventually through legal testing in the courts you would come to a—

Andy Marsh: It is my job, through the college, to ensure consistency. Within a bandwidth—Mr Cooke's inspection reports show this for pretty much any aspect of policing—you will see forces that do more of something and less of something. Actually, it is my job to ensure that the good practice from the inspections conducted by HMIC is fed back into our guidance.

We have a practice bank which turns that good practice into examples on our website—I would welcome you all looking at that—for a range of things. That will be one of the ways in which we help forces interpret this. But I would not subscribe to any suggestion that it will be the wild west out there, and that you will have one force doing something completely different from another.

Q140 Mark Garnier: No, I am sure that is the case.

Andy Cooke, there will be a number of people who are going to be worried that the police may take advantage of these powers in order to get around the trouble of getting a search warrant. How would you reassure my constituents that that is not going to be the case and that we can be confident that this is going to be used for the legitimate reasons, which I am sure Andy Marsh will lay out? How can we be confident that that is not going to be broken?

Andy Cooke: I think the first stage is the fact that it is an inspector's written authority to do it, and it can initially be given verbally, but then the inspector has to put the name to that action and fully understand what the reasonable belief is to ensure that to happen.

Secondly, we will consider this as part of our inspection regime. When we look at the legitimacy of policing and at the powers of policing, we focus on stop and search and on use of force. We focus on the legitimacy of the powers that the police are using in any particular way. As this is a new power as well, if it is passed by Parliament, it will get particular attention from ourselves.

Q141 Mark Garnier: And you are both confident it will be safe.

Andy Cooke: I am confident it is the right thing to do and the right law to pass. Will mistakes be made? Of course they will. Police officers are human like everyone else. Is there a danger of it being misused in a very small number of cases? Potentially—but that is the same for any power that policing has, which makes it so important that the right people come into policing.

Mark Garnier: That is really helpful. Thank you very much.

Q142 Laura Farris: I just want to pick up on one point about the suspension issue that Jess Phillips, who is no longer in her place, was raising with you, because I did not totally understand your answer. What is the threshold for the suspension of a police officer?

Andy Marsh: To explain the process, when a complaint is raised, internally and externally, the chief constable will have a delegated appropriate authority, which tends to be the deputy chief constable. They will have a pretty much weekly meeting, but sometimes it is a real-time daily meeting if something crops up that they need to consider.

The first thing that would happen is that a complaint would reach a threshold of gross misconduct or, indeed, criminal. Once it has reached that threshold, the deputy chief constable—the delegated appropriate authority—needs to make a decision about what should happen to that person. Should they be suspended? Can they continue with their duties? Should they engage in some degree of protected-type duty? What I can say, from my experience of working with police forces across England and Wales, is that the threshold and the tolerance before suspension has dropped substantially.

Q143 Laura Farris: That does engage quite a significant issue because it is so different from what would happen in the ordinary workplace. Under the Employment Rights Act 1996, let us say an allegation of serious sexual harassment—maybe not a criminal offence, but misconduct—was advanced. The employer has a duty in law to sort of establish the basic facts. In the example you gave, if both the complainant said, "That never happened," and everybody said it was not true, it would not meet the threshold. But if it does meet a threshold where there is, as I think Jess put it, a case to answer, in any normal workplace that would ordinarily result in suspension on full pay, pending a disciplinary process, at which the member of staff may end up exonerating themselves. But this system seems quite nebulous.

Andy Marsh: No, I am not expressing it clearly, because if it would appear to be a substantial complaint—a complaint which would undermine the trust and confidence of the public should that officer remain serving—then they should be suspended. Actually, I can reassure you, in all the cases that I am aware of and that I look at where there are allegations of violence against women and girls, I see a very low threshold for suspension, so if I have misled you at all, I am sorry.

Q144 Laura Farris: But what if it was just sexual harassment?

Andy Marsh: Then they are very likely to be suspended, and I am really happy to write to the Committee and share the guidance and information—

Q145 Laura Farris: I am not putting you on the spot; I am just trying to establish where the threshold sits.

Andy Marsh: It is very low. If I was accused of any form of domestic abuse, verbal or physical, or coercive control, I can guarantee you that I would be suspended.

Laura Farris: Okay, thank you.

Q146 Alex Cunningham: I want to take you back to the shop workers issue. Minister Philp, in his comments, clearly demonstrated that the Government are a bit shy of having a specific charge related to assaults on shop workers. For the record, can you tell us why shoplifting and related crime does not get the attention it requires and that the public, shop workers and the USDAW would like it to have?

Andy Marsh: In explaining this, I am in no way seeking to justify a lack of attention, but when a call is made to a police control room, they will triage it and they will use something called a threat, harm and risk matrix. If the offender has left the scene and no one is at immediate risk, that is unlikely to secure an immediate deployment. There is more likely to be a follow-up investigation. The retail crime action plan and guidance on our website, and all the focus on the use of images and facial recognition and on persistent offenders, is bringing a much sharper focus to an area of standards and police response that has slipped to an unacceptably low level.

Q147 Alex Cunningham: You are saying that in recent times the police have not responded to shop crime in the way that they ought to have.

Andy Marsh: Yes, that is very often the case. For example, if on the one hand you had an incident of shoplifting where the offender had left the scene—let's say the items stolen were less than £50—but on the other hand you had a report of a domestic violence incident or some antisocial behaviour happening on the street right now, those two calls would be prioritised above the shoplifting.

Q148 Alex Cunningham: How much of it is a resource issue? If there were more neighbourhood police, would that sort of thing get the attention everybody believes it deserves?

Andy Marsh: When you look at the changes in crime type over the last decade, we have seen a very significant rise in what I would call complex crime and vulnerability. The answer is that the police need to be able to respond to complex crime and vulnerability, and they need to be able to secure the confidence of the public in their ability to deal with shoplifting. I am a big supporter of neighbourhood policing. We intend next year to introduce a professionalising neighbourhood policing programme, which will give neighbourhood officers, for example, not only the training and skills to deal with shoplifting, but the new powers on antisocial behaviour to keep their communities safe.

Q149 Alex Cunningham: That is helpful. I wonder if either of you could educate me in another area. If somebody comes into your home and bashes you, is that level of crime higher than if it happens in a public place or a shop? Is the law different?

Andy Cooke: No, the law is not different. The aggravating factor is that it is inside your house, not in a public space. People may consider that one is worse than the other, but at the end of the day the offence is the same, unless there is a weapon involved, as it obviously becomes a different offence after that—in private and in public—but both are equally serious.

Q150 Alex Cunningham: Is there not the same level of aggravating factor if somebody goes into a corner shop, where someone lives over the shop, and bashing that person?

Andy Cooke: The law would not necessarily say so. It would depend on the circumstances, on the weapons used and on whether it was a public or a private place. An open shop is, to a great extent, seen as a public place.

The point I am trying to make is that an assault on a shop worker in a shop is a serious issue, and policing needs to do better to respond to these issues. I do not think there is any chief constable in the country who would disagree with that.

You asked if it was a resource issue. If there were more police officers, then they would be able to respond to more issues. Part of it is around prioritisation; and chief constables are responsible for the prioritisation that they choose. Have chief constables across the board got that prioritisation right? In my view, no, because a lot of the neighbourhood crimes we see—the thefts, car crime, burglaries, robberies—for some time have not been given sufficient credence, nor sufficiently tackled, as we have seen from the very low charge and disposal rates.

Q151 Alex Cunningham: You said a few moments ago that the aggravating factor in a corner shop situation would not necessarily apply. Is there not a case for strengthening the law to protect the corner shop keeper or the person in Marks & Spencer who is assaulted? Should the fact that they are being attacked within their workplace not be an aggravating factor?

Andy Cooke: I understand fully the point you are making. I think it might strengthen the response from the police, as opposed to strengthening the law. The question of whether there should be a separate offence for teachers or other people in the community has been asked already. There are enough laws to deal with this. It is the response from policing that needs to improve. The response from some of the retailers themselves—that is, the bigger retailers, who can afford to put more money into this—also needs to improve.

Alex Cunningham: Thank you.

The Chair: If there are no further questions, I thank our witnesses for their evidence. We will move on to the next panel. Thank you very much, the two Andys.

Examination of Witness

Dame Vera Baird KC gave evidence.

3.22 pm

The Chair: We now hear oral evidence from Dame Vera Baird, former Solicitor General and former Victims' Commissioner for England and Wales. For this panel we have until 3.50 pm. Could the witness please introduce herself, for the record?

Dame Vera Baird: I am Vera Baird. As the Chair has just recited, that is my background. I am very pleased to be here; thanks for the invitation.

The Chair: I just gave the very briefest background.

Dame Vera Baird: Well, I've lived a long time—let's be careful.

Q152 Alex Cunningham: You are very welcome, Vera. I think this is the third or fourth Bill where we have taken evidence from you, when myself and Minister Philp have been in the room.

You are aware that the Victims and Prisoners Bill is still going through Parliament; it is hoped that it will be improved somewhat in the Lords. Can you offer a general comment on how you see this Bill providing additional solace for victims?

Dame Vera Baird: I think there are some bits of it that are good and perhaps will be very helpful to victims. The real problem with the Bill, if I may be really clear about it, is that it does not really contribute to solving the key criminal justice issues of the day, which are that charging has collapsed, prosecutions are few, there is a backlog of 65,000 at the courts—which has got worse, not better, since the end of the pandemic—and the prisons are full. There is no coherent strategy or provision in the Bill that is tackling any of those issues. Fine, there is some change to sentencing, but you have to appreciate how few people get as far as sentencing these days. I wonder whether we are not starting at the wrong end.

However, having said that—and I do say that, very strongly; and in that sense, the Bill is a disappointment—there are some bits of it that are very welcome.

Q153 Alex Cunningham: Which ones?

Dame Vera Baird: I think that rationalising the way intimate images are dealt with is very good. The Law Commission has done a really good job of doing that. I think there are a couple of missing bits, which I could come back to later. Probably some of the aggravating sentence provisions are good, but I am worried about the fact that the Wade review has not been implemented as a whole.

There is a risk with the aggravations of sentence in domestic abuse without the mitigating factor in the Wade review. If someone strikes back after suffering coercive control for a long time, that should be a serious mitigation. I can easily see some of the aggravating provisions catching women, who will not be protected by the mitigation. Although some of the aggravations are fine, that is a real problem for women victims of coercive control—coercive control is 90-odd per cent. men on women; there is no doubt of that. That is the classic model of male-on-female, spousal domestic abuse. I am worried a little bit about that, but the basic provisions are reasonably okay.

I am pretty worried about prisoners going abroad. The problem with that is that it is permission without really knowing what permission is being given for: we do not know what kind of prisoners will go, whether it will be in the middle of their trial, whether it will be while they are still on remand or any of it. That is a little worrying. It is a bit of a mixed bag.

Q154 Alex Cunningham: We will move on a little. Given what you have said, do clauses 23 and 24 about the aggravating factors in grooming and the end of relationship go far enough?

Dame Vera Baird: I am not sure what the grooming one adds; I think it just broadens it. If grooming is involved, it is already taken into account as an aggravating factor in sentencing. Perhaps we can do that with a person who might have abused a groomed child directly. Perhaps this provision broadens it so that if the person who fixes up the child is also groomed—perhaps become someone has gone through him, grooming is in the

environment and so it will enhance the sentence. The Bill broadens this a little; if it does, it is a good flag to wave because we want to tackle grooming and make sure it is taken into account. But I do not see it as a major change.

The problem is where there is a victim of someone abusive, and the killing is brought about by the victim's decision to try to leave—or to leave. So we are looking at aggravating the sentence of an abusive person when the victim has said she is going to leave. That is a classic model, which Jess knows all about: the eight steps to homicide. That has been well researched. Professor Jane Monckton-Smith talks about this: when the victim says she is going to leave is the most dangerous time. That is the time when killing happens, so it is appropriate to aggravate the sentence because of that position being there—it is commonplace.

The worry is that sometimes women who have been coercively controlled for a very long time and have suffered badly are also aware that their husband is being unfaithful with someone else. He says that he is going off with the other woman, and that can trigger her to kill him. Without the protection in the Wade review—to say that if she is being coercively controlled, that is a mitigation—what you will have done is to aggravate her sentence through this change, which is not a thing that anyone intends. It could do with just another quick look at how it will work.

Q155 Alex Cunningham: Clause 30, which addresses the assessing and managing of risk posed by coercive behaviour in offenders, refers to an "intimate or family relationship". Is that wording of the clause clear enough? The expression "intimate" opens too wide an interpretation —or perhaps too narrow an interpretation.

Dame Vera Baird: I am honestly not sure about that; I have not given it much thought. It sounded like what we would expect to be there, so I do not think I have much of a comment.

Q156 Alex Cunningham: There are two other things. The first is clause 22, which compels a defendant to attend court for sentencing. I think we all realise that that will be challenging to implement, but what are the benefits and pitfalls of that proposal in relation to the victim?

Dame Vera Baird: As I am sure the Ministers know very well, this adds absolutely nothing to the current law. A judge can order somebody to come into court. If they do not, it is a contempt of court.

Q157 Alex Cunningham: The clause actually talks about using "reasonable force".

Dame Vera Baird: But you can already use reasonable force. As long as it is proportionate and necessary, the Prison Service is entitled to use reasonable force to fulfil the orders of the judge. If the judge says, "You must come" and you do not come, it is, No. 1, a contempt of court. And guess what the maximum sentence is for a contempt court? It is two years, exactly as it is in the Bill. If a person does not want to come and the officers regard it as necessary and proportionate to use force to bring them, they are entitled to do exactly that to fulfil the judge's requirements. There is really no change here.

I well understand the sense from a victim that they want this moment—"Right, he's going to face what he's done now and I'm going to get some benefit from that." But the reality is that you cannot capture somebody's mind, can you? There are always risks that people who are dragged into court might be a nuisance. You can just imagine what could be done there. So it is a very difficult one to get right, although I understand the impulse to try to do this.

I think it was the former Lord Chief Justice John Thomas who suggested that a better way was to make sure that if the person does not come out of the cell, he is in a cell to which the sentencing can be broadcast. He cannot get away and the victims know that he has, as it were, faced his moment. Whatever he is doing—whether he is listening or he is not—they do not know, and that is the time passed.

Q158 Alex Cunningham: That is very helpful. This is my final point. Clauses 11 and 12 address the offence of encouraging and assisting serious self-harm, and of course there are plenty of victims in that sort of category. Are those clauses fit for purpose or could they be improved?

Dame Vera Baird: I think they probably need to be strengthened quite a lot. I do not think there is anything in there that could criminalise somebody who provided a means for doing it as opposed to encouraging it. So if someone provides—I do not know—a knife or some drugs, I am not sure there is provision for that, and I think that is a big miss. This is a really worrying area and we need to legislate, and that is one of the good things in the Bill.

Q159 Laura Farris: I just wanted to clarify something. A statutory instrument is going through the Lords today on coercive control as both an aggravating factor and a mitigating factor, to deal with exactly the point that Clare Wade was driving at. Some of what we have done in relation to Clare Wade is not in this Bill. This is not the entirety of our implementation of the Clare Wade review, and I just wanted to provide that reassurance. Not all of that requires primary legislation.

In that context, coercive control is making its way through in different forms. I have a narrow question about what you thought about the use of MAPPA—multi-agency public protection arrangements—in relation to the management of a serious coercive control offence.

Dame Vera Baird: I think it is good to state that formally. I am sure that it happens now quite a lot.

Q160 Laura Farris: What difference do you think it will make when that person is out of custody?

Dame Vera Baird: It is a strict regime and it is very carefully managed. The probation service is aware of the high level of risk. It is definitely beneficial for dangerous offenders, and the probation service has recognised domestic abusers. Even when they have not committed domestic abuse offences, it still recognised them as presenting that danger, if they are already in MAPPA. I am sure that the most coercively controlling offenders already go into MAPPA. It is not a closed box that you can only fight your way into through these five categories of offending. It is much wider than that, but let's do it—fine.

Q161 Laura Farris: In relation to that, just because it is not possible to look at domestic abuse without being a bit more holistic, how do you think domestic abuse protection orders, when they begin the pilot scheme in the spring, will interact with MAPPA management?

Dame Vera Baird: That is a very interesting question, but they are better and they have positive bits to them, don't they?

Laura Farris: A DAPO does allow GPS monitoring, for example.

Dame Vera Baird: That is an improvement on the current model. There will have to be close working between those who apply for the DAPOs and those who are running MAPPA to make sure that there is no overlap or missing bits and so forth. This cross-boundary working is going to be particularly important with that. But they are both good steps. I do think MAPPA is slightly redundant, but let us do it, and the DAPOs and those positive requirements are definitely a big step forward. What you said about the statutory instrument is really interesting—

Laura Farris: Lord Bellamy, today in the Lords—

Dame Vera Baird: Yes, that is really good to hear, but these are going into statute. Why is the protection for women only going into a statutory instrument, which frankly fewer people will ever get to know about? Why is it being done in that way? Why is it not in here with these?

Laura Farris: I will have to revert to the Committee on the answer to that, because I actually do not know.

Dame Vera Baird: Anyway, I am not supposed to ask you questions—*[Laughter.]*

Q162 Laura Farris: No, that is fine. Just going back a bit, I am interested, as you can tell, in the combination of the MAPPA management and the DAPO scheme; we are at the brink of its inception. If you took together a wider application of DAPOs and then the MAPPA arrangements that are going to be formalised in this legislation for serious coercive control, do you think that creates a better blanket of public protection in relation to this nature of offence?

Dame Vera Baird: I think it is bound to, yes. I have felt since their inception that DAPOs, because of those positive requirements, were likelier to be more effective than just the negative nature of whatever they were called—I forget what they are called currently.

MAPPA is an effective mechanism. You raise very interesting questions about how they will interact, and I just think it is about cross-working, really, between police and probation in particular. They have to work in IOM anyway, so they must have ways of working together that ought to be reasonably effective. But I hope that you will, as it were, as a Government draw to their attention the need for an understanding of how those mechanisms will work together, because that would be an important way to point out that it needs to be done effectively.

Laura Farris: Thank you. That is all I had.

Q163 Jess Phillips: On the point about DAPOs and MAPPA, do you think that MAPPA currently covers all those who are suffering serious domestic abuse and then go on to be murdered, for example?

Dame Vera Baird: No.

Q164 Jess Phillips: You have said that this legislation is good—"Yes—do it." Do you think that it makes any real difference on the ground to the issue of domestic abuse—policing and probation monitoring?

Dame Vera Baird: I think it is a good piece of flag waving, and it ought to be something that ups the attention of the relevant parties. A lot of people do not get protected sufficiently by MAPPA.

Q165 Jess Phillips: The vast majority do not get protected, would you say?

Dame Vera Baird: I do not know about the numbers, but it is not a foolproof system. When it works, it works well, I think, and it can be quite subtly tuned for particular kinds of offender. But I do not know that it works so well with domestic abuse generally. In fact, what does?

Q166 Jess Phillips: You said that you were pleased with the parts about intimate images. Do you foresee that this will increase and encourage victims of that particular crime to come forward?

Dame Vera Baird: I hope so. It is pretty straightforward. It started off with a nice private Member's Bill, and it was good for upskirting, but it was very taken with the intention of the individual. Taking a photograph and upskirting—frankly, if you do it, it is a crime, I would have thought. Struggling to find out whether they had done it for their own sexual benefit or to sell it online or whatever: I do not think that matters. I think the Law Commission have got to, "If you do it at all—make an intimate image—it's an offence. If you do it with that intention, it's worse. If you do it with this intention, it's worse," and that looks as if it works well.

I do not know why deepfake is not banned. Everybody knows what that is. The Minister will tell me there is a Standing Order going through. You just gave me a shocked look. Deepfake is not in the Bill, is it?

Jess Phillips: No, deepfake is not in it.

Dame Vera Baird: So that is where you could have possibly even a performative person doing deliberately provocative, maybe naked actions. You can take their face off, put mine on instead and put that online. That is dreadfully, dreadfully damaging—every bit as much, possibly more, because of the potential bravado of the act, which would then be blamed on you. That needs making unlawful, and it needs dealing with.

The other problem is that there are no orders to get rid of the stuff that is online already. I asked Penney Lewis—who is coming presently, so she will tell you—why they did not try to tackle the question of taking down stuff. She said that their terms of reference relate to criminality, not the civil orders. My view is that there should be a new look at that, because the pain of being a victim of intimate images is knowing that they are online.

There is a heroic academic at Durham called Professor Clare McGlynn who has done a huge amount of work on this. The impact on somebody of knowing that there is a naked picture of them somewhere online makes them withdraw: they cannot face anybody new, because they think that inevitably they must have seen them online and will have a poor view of them. That is how it gets internalised.

So it is urgent. If the Law Commission was not asked to look at taking stuff down, which I understand is done effectively in Canada, it should be asked to look at it again, or you must find another mechanism for it. The pain is from knowing that it is still up.

Q167 Jess Phillips: Turning to some of the amendments proposed to the Bill, could I ask your opinion on the issues around removing parental responsibility for men convicted of sexual offences against children? What is your view on that?

Dame Vera Baird: Now that I understand that the mitigation relating to being coercively controlled will go into law, at least at a lower level—although I do think it should be in this statute—I am less worried. There is some possibility, isn't there, if it is about murder or manslaughter, because a lot of victims who have been coercively controlled and strike back are convicted of manslaughter—

Jess Phillips: Losing their parental responsibility, you mean?

Dame Vera Baird: Yes. That would be a woman who had been persecuted. You are talking about sex offences?

Jess Phillips: Yes, specifically sex offences. That bit of law is in the Victims and Prisoners Bill—the law on murder and manslaughter, which I believe has some carve-out. Not to inform the Minister of this, but that is the reason why it is going through the Lords today: the carve-out, which is in that Bill, not this one. But what I was talking about was a proposal to take parental responsibility away from men convicted of sexual offences against children.

Dame Vera Baird: I am less convinced by that, because the definition of a sexual offence may be quite a wide one. I think it needs some reflection. I appreciate that if there is a sexual risk order, you can have a man who is banned from being in touch with all children except his own.

Jess Phillips: I think that's the problem.

Dame Vera Baird: That is the point, so it needs tackling. But just sex offences—does it apply to flashers or people online? I do not know. I think it probably needs tuning a bit.

Q168 Jess Phillips: There are two amendments on the issue of the criminalisation of women who have an abortion. Do you have any views on those?

Dame Vera Baird: It is long overdue to be decriminalised, as it is in Northern Ireland. This Parliament decriminalised it in Northern Ireland. Why on earth is it still a criminal offence to do what is a tragic thing that nobody wants to do, and have a late abortion? The last time the offence was in play was quite recently: it was about six months ago. The Court of Appeal was amazingly benevolent towards the woman and accepted entirely that she needed support, not criminalisation. The Court of Appeal seems to be ahead of this Parliament on that at the moment. You used to have women from Northern Ireland coming over here for help with abortion; now, women from here go over to Northern Ireland to avoid the risk of criminalisation if they are a week late. It is quite odd.

Jess Phillips: Thank you.

The Chair: As there are no further questions, may I thank you, Dame Vera, for your evidence? We will move on to the next panel.

Examination of Witness

Jonathan Hall KC gave evidence.

3.46 pm

The Chair: We will now hear oral evidence from Jonathan Hall, the independent reviewer of terrorism legislation, who is joining us via Zoom. For this panel we have until 4.10 pm, so could Members keep an eye on the clock?

Q169 Alex Cunningham: Good afternoon, Jonathan. We have exchanged questions and answers a few times on Bills in recent years. What measures in this Bill will make our country safer from terrorists?

Jonathan Hall: There is only one measure that deals with counter-terrorism. It has to do with allowing released terrorist offenders of a certain category to be subject to polygraph measures. In principle, I suggest that polygraph measures for released terrorist offenders are a good thing; there was an evaluation by the Ministry of Justice in October that tends to support that. However, there are some significant reservations about the way the provision is being put before Parliament, which involves—impermissibly, I think—giving the Secretary of State powers that should belong to judges. This is a slightly technical point, but if you will give me a moment, I would like to explain it.

Q170 Alex Cunningham: I think you expressed reservations about a similar set of circumstances when we were considering another Bill a couple of years ago. Are you saying that the provisions in clause 31, subsections (4) to (6), are insufficient?

Jonathan Hall: What I am saying is that normally it is for judges to decide whether a person is a terrorist. That is what they do: either someone is convicted of or pleads guilty to a terrorism offence, or the judge makes a special determination that their offence, which could be something like robbery or assault, was done either in the course of terrorism or for the purposes of terrorism. But this clause would allow the Secretary of State to do that exact exercise in relation to people who were convicted pre-2009. You might well have someone coming up for release who went to prison having been convicted of a non-terrorism offence, but now finds themselves converted into a terrorist offender by a decision of the Secretary of State. The view I take is that that is really a function of judges.

In fact, if you look at the wording of the Bill, the Secretary of State will be allowed to be "satisfied"—not beyond reasonable doubt, just satisfied—on exactly the same test that currently applies to judges. There is obviously a fundamental issue there, which I can expand on, but there is also a really practical issue, because what is a terrorism offence is not always very obvious. Can I give you an example, so that this does not sound pie-in-the-sky and theoretical?

Alex Cunningham: Yes, please.

Jonathan Hall: I do not know whether the Committee recalls the Liverpool Women's Hospital bombing, but there was a gentleman in 2020 who blew himself up in a taxi, and it looked like a classic terrorist attack. He was a Muslim, although it appeared that he had converted to Christianity, and he had a suicide vest packed with explosives. The police did a two-year investigation—he killed himself, so there was no prosecution—and they concluded that in fact it was not terrorism at all. He was simply affected by a grievance to do with not being granted asylum.

That shows you how difficult it is. I would be really wary about the Secretary of State being allowed to go back in time to look at all these old offences and say, "I decide that this was a terrorism offence." The Bill does not give a right to be heard to the person who is going to find his conviction converted into a terrorism offence. It does not give the prosecution a right to be heard, which is actually quite important because the prosecution will often understand these things very well. It would allow the Secretary of State, I think, to act on the basis of intelligence that is not even shown. In principle, it seems to me wrong.

This issue has arisen before. I do not know whether the Committee is aware, but you will have people who were convicted of terrorism offences abroad; if they are British nationals, they will perhaps be deported to the UK after they have served their imprisonment. There is a provision in the Counter-Terrorism Act 2008 that allows the chief officer to go to a judge and say, "Look: we think that this person was convicted of a terrorism offence that is the same as a terrorism offence in this country. Can you please certify that that is the case, or can you certify that the offence was committed in the course of terrorism?" If the judge says yes, that allows all the post-release measures—such as polygraph measures, with which this clause is concerned—to be applied. So there is a model that already exists for old foreign offences. Slightly ironically, the power that Parliament is being asked to create here would make the protections available to a domestic offender less than those that apply to a foreign offender.

Q171 Alex Cunningham: So it may even be challengeable under the law at some future stage. I am looking forward to our line-by-line discussions in Committee, after the evidence that you have just given. Finally, do we need to add any new measures to better manage terrorist offenders on release?

Jonathan Hall: No, I do not think so at the moment. I am in constant contact with counter-terrorism police and the Home Office. I am not aware that the Government are looking for yet further types of measure; if they were, I think they would have sought to bring them in within this Criminal Justice Bill. All that this particular measure does is allow an existing measure, polygraphs, to be applied to a wider range of people. My beef with that is that it allows it to be applied to people who have never been convicted of terrorism, without it going in front of a judge. So I think that the answer is no.

Q172 Laura Farris: You have made some very important points about cohort and how that is determined, and obviously the risk of a borderline case—or a case where, in fact, a judge may not have found a terrorism offence—being brought into scope. More widely, what is your view on the efficacy of polygraph testing? How useful a tool is it in the detection of risk?

Jonathan Hall: I was in favour of polygraph measures after Fishmongers' Hall. It was partly on the back of one of my recommendations that polygraph measures were brought in. They always, or at least for a long time, existed for sex offenders. You will recall Usman Khan, who was clearly a very deceptive man. My view was that polygraph measures could be useful.

Q173 Laura Farris: Can I just stop you there? That intimates that you are suggesting them as a sort of risk assessment tool. How would that have worked as a matter of practice? What flows from this provision that would prevent another Fishmongers' Hall?

Jonathan Hall: Let us say that someone is in the community. They could be asked about their daily routine. The most likely outcome is that someone who is subject to a polygraph measure would feel that they have to tell the truth, and the evidence is that people who are subject to polygraphs make admissions. You could say, "Are you in touch with the well-known terrorist Jonathan Hall?", and the effect of polygraphs tends to be that people go, "Actually, I am," because they are worried about giving it away through the polygraph measure. That would give counter-terrorism police an amazing source of information to show that, contrary to what that person had been telling his probation officer, he was still in touch with the dangerous terrorist Jonathan Hall. That would allow new licence conditions, for example: if Jonathan Hall lived in a certain part of Birmingham, a licence condition could be imposed that prevented that person from going there.

Q174 Laura Farris: I see. So they accurately temper behaviour, not only in the way the individual responds to the fact of polygraph testing, but in terms of what the police glean from questions that may not go directly to the nature of the offending?

Jonathan Hall: Yes. You are completely right. This is not about extracting evidence that can be used in a criminal trial; it is about extracting information that is relevant to the management of offenders. If you think about a released terrorist offender who is now serving their sentence in the community, what you want to know is what their pattern of life is, who they are meeting, where they are going and what their objectives are. Are they visiting shops that sell knives, for example? Usman Khan must have gone to a shop to buy knives and tape to create the weapons used to kill two people. There are lots of factual matters that they can be asked about.

One of the benefits of the polygraph, I suppose, is that ultimately it is not covert. While MI5 and the police may have covert monitoring, it would be quite hard for them to put that information to the suspect. If the suspect has made an admission—"Yes, I am going to meet Jonathan Hall, the well-known terrorist," or "Yes, I am going to visit knife shops"—that can be put to the offender, and you can work on rehabilitating the offender.

Laura Farris: That is very helpful. Thank you.

The Chair: As there are no further questions, I would like to thank the witness for giving evidence.

3.56 pm

Sitting suspended.

Examination of Witness

4.2 pm

Professor Penney Lewis gave evidence.

The Chair: We will now hear oral evidence from Professor Penney Lewis, commissioner for criminal law at the Law Commission. We have until 4.30 pm for this panel. Could you please introduce yourself for the record?

Professor Lewis: I am Professor Penney Lewis; I am the commissioner for criminal law at the Law Commission of England and Wales.

Q175 Alex Cunningham: You are very welcome this afternoon, Penney. What does the Law Commission see as the major benefits of this Bill in better serving justice?

Professor Lewis: We are extremely pleased that there are measures from four of our projects in the Bill. Those are the provisions that I can speak about today. Those four projects are intimate image abuse; modernising communications offences; corporate criminal liability; and confiscation of the proceeds of crime. If I say a little about each of those—*[Interruption.]*

Alex Cunningham: I beg your pardon—my phone was making a noise.

The Chair: Can we all check that our phones are on silent, please, and that they haven't got a mind of their own?

Professor Lewis: I will start with confiscation, because that is the largest area of the Bill; the provisions are in schedule 4. The review aimed to simplify, clarify and modernise the post-conviction confiscation regime—in other words, the confiscation of the proceeds of crime after someone has been convicted.

We know that the current regime works in some cases, where it can result in funds being allocated to victims through compensation that can be paid out of confiscation, but there is still a fairly strong consensus among stakeholders that the current regime is inefficient, overly complex and in some cases ineffective, with weak enforcement methods. Our recommendations were aimed at improving the current system to give courts more powers to enforce confiscation orders and seize offenders' assets, but also to limit unrealistic orders that can never be paid back and to speed up confiscation proceedings, thus allowing victims to receive compensation more quickly.

I will touch on the other three projects, which have a smaller number of measures in the Bill. As I think most of you will know, some of the recommendations that the Law Commission made on intimate image abuse were implemented in the Online Safety Act 2023: the offences of sharing an intimate image without consent and with no reasonable belief in consent; and threatening to share an intimate image. The other recommendations that we made were taking an intimate image without consent; and installing equipment in order to take an intimate image without consent. Those offences could not be included in the Online Safety Act because they are not communications offences, so this is really the second half of the implementation of our recommendations.

We aimed to provide a clear, coherent and cohesive set of offences that would cover all types of sharing and taking without consent, that would have one consistent definition of an intimate image and that would reflect different motivations that defendants might have for sharing and taping intimate images without consent, including cases where the defendant apparently has no motive. We recognise more serious culpability with motives of intending to cause humiliation, alarm or distress, or for the purpose of obtaining sexual gratification, but we also recommended criminalising cases where those motives cannot be proven. We are very pleased that those offences have now been included in the Criminal Justice Bill.

Briefly, corporate criminal liability is another example of the completion of implementation—something that we discussed in our options paper. It was not a full report, so it did not have recommendations, but it had a number of options. One was reform of the identification doctrine. You may know that the Economic, Crime and Corporate Transparency Act 2023 included reform of the identification doctrine, which allows for the attribution of personal criminal liability to the corporation in certain circumstances where the person is a senior manager, so it expands that form of attribution. That could only be done in relation to economic crime in the Economic Crime and Corporate Transparency Act, so the reform in this Bill basically expands that to include all types of crime for which a corporate liability may be appropriate.

Finally—yes, I am getting to the end of my answer—one offence in the Bill, which is encouraging or assisting a serious self-harm, is again the expansion of something that was the implementation of a recommendation for the Online Safety Act from our modernising communications offences project. That offence was included in the Act insofar as it was a communications offence, but it is also possible to encourage self-harm by handing somebody a knife, so this expanded offence in the Criminal Justice Bill includes that kind of more physical assistance. It is not restricted to assistance by way of communication.

Q176 Alex Cunningham: That is a pretty full answer, thank you. May I ask you about clauses 23 and 24 and the aggravating factors in relation to grooming and the end of relationship? Do they go far enough?

Professor Lewis: Those clauses are not the implementation of any Law Commission recommendations, I am afraid. The Law Commission does not take a position

on those parts of the law that we have not had the opportunity to investigate or to speak to stakeholders about. I am afraid I cannot help on that.

Q177 Alex Cunningham: I assume that the same applies to clause 30 on coercive behaviour offenders, where the language in the Bill refers to an "intimate or family relationship". I was going to ask for your view on whether that expression is too wide—the intimate relationship. Is that something you would comment on or not?

Professor Lewis: It is not something we have looked at in relation to that clause. I would take a very small opportunity here to mention that we are about to start a project on defences for victims who kill their abusers, so we will be looking at the kind of relationship that should qualify in relation to defences. We are aware that if, for example, one restricts it to intimate-partner violence, then one risks excluding "honour-based" killing, which can also happen in a family context. We are planning to look at that, but we have not looked at it yet.

Q178 Alex Cunningham: Have you done any work on homelessness and people on the streets—aggressive beggars and things of that nature? I wanted to ask you your opinion on whether the measures proposed by the Government—I think there are 30 clauses in this particular area—are proportionate, workable and fair. Is that something you would comment on?

Professor Lewis: I am really sorry to disappoint, but it is not something we have looked at. We did look at homelessness as a possible protected characteristic for the purposes of hate crime law when we did the project on hate crime law a few years ago, which you may remember. That was a really interesting and revealing experience, because when we first started talking to stakeholders, some of them, including Shelter, were quite opposed to the idea of including homelessness as a protected characteristic—they thought that it entrenched homelessness when we should be trying to remove it and prevent it.

When Shelter spoke to homeless people on our behalf, which was really helpful, and when we spoke to homeless people, they actually described a lot of very horrific criminal behaviour perpetrated against them, and they experienced that as a hate crime. They experienced it as involving hostility towards them because they were homeless. We have some experience of looking at that. Ultimately, we did not recommend the expansion of hate crime law; as you may remember, there was a lot of opposition to its expansion. But we certainly saw the benefit of making sure we spoke to homeless stakeholders in order to really understand their lived experience.

Q179 Alex Cunningham: You will not comment on the begging issues?

Professor Lewis: I am afraid that is not something that we have looked at.

Q180 Chris Philp: Penney, welcome to the Committee. Thank you for joining us this afternoon. Sorry if you got stuck in security downstairs. Can I start by asking about the proceeds of crime measures referred to in clause 32 and expanded on in the extremely long schedule 4, which takes up about 38 pages? Can I just check that those follow your recommendations and that you are happy with them? Can you give the Committee some sense of the impact you think the Bill will have if passed?

Professor Lewis: Many paragraphs of the schedule do implement our recommendations. We are extremely pleased to see our recommendations implemented extremely swiftly. This project only reported over a year ago. We obviously do think that the changes we recommended would make a difference in the ways I mentioned earlier, which included improving enforcement and the ability to seize offenders' assets, limiting unrealistic and in some cases unfair orders, and allowing victims to receive compensation more promptly.

We estimated at the time that the reforms could lead to an extra £8 million in funds being retrieved from criminals in England and Wales every year. That obviously helps to return more money that can be used on public services, for instance. I am happy to talk in more detail about specific recommendations if that would be helpful.

Q181 Chris Philp: Were there any in particular you would like to draw the Committee's attention to?

Professor Lewis: One of the things we thought was most important, in addition to trying to make the system more efficient, was to balance it with also making it more fair. In terms of efficiency, we recommended things like expediting the setting of a confiscation timetable, which is in paragraph 12, and creating a settlement process, which already happens informally—we call it EROC, which stands for early resolution of confiscation. That has been implemented in paragraph 13. We note also that better enforcement will improve the recovery of funds.

There have been several recommendations that have been implemented in order to improve enforcement. Enforcement plans, which largely implement our recommendations for contingent orders, are in paragraph 16; and allowing enforcement to take place in the Crown court as well as the magistrates court is in paragraph 17. We think that those will make the system much more efficient and will radically improve enforcement.

In terms of fairness, it is really important that orders accurately deflect a defendant's benefit from crime. There are two ways in which we have recommended, and the Government have introduced clauses to implement, improving the fairness of confiscation orders. One concerns where someone has made only a temporary gain—for example, a money launderer who allows their bank account to be used to transfer £1,000,000 but gets paid £10,000 for doing that. When the gain is only temporary their benefit from crime is not really £1,000,000, given that they do not get to keep that. At the moment, orders can be made in the amount of the temporary gain and that recommendation has been taken up. I will find the paragraph for you in a moment.

Q182 Chris Philp: While you are looking, Graeme Biggar raised a question in his evidence earlier today. I may have misunderstood his point, so perhaps you can clarify. He raised the concern that there was an absence of deadlines and an absence of penalty if a payment deadline is missed. He cited a case where an order was made in 2018 that got paid only earlier this year—five years later. Is that your understanding? Is there anything in here that addresses that, because he seemed to suggest there is not?

Professor Lewis: I am happy to address that. The temporary gain issue is in paragraph 8. The other improvement to the calculation of benefit is in circumstances where the defendant has already disgorged some of the proceeds of their crime—so, for example, that may have been forfeited or seized by the state already. That should not be double counted, so that the defendant then has to pay back something that has already been seized by the state. That is in paragraph 5. We are very pleased to see those fairness recommendations, as well as the efficiency gains.

In terms of deadlines, ultimately there is a deadline: it is called the default term of imprisonment. When a confiscation order is made against a defendant, a term of imprisonment in default is set. The defendant may end up serving this period of imprisonment if it is activated by the court, on the basis that the defendant has demonstrated either wilful refusal to pay the confiscation order or culpable neglect in failing to pay it. The defendant can of course secure release from the default term by paying the confiscation debt. In the consultation paper we cite a case where, as the person is being taken off to prison, finally the confiscation debt is settled. So, we do know that that does work—at least, anecdotally.

In the consultation paper we provisionally proposed something that would be even more stringent than that. At the moment the defendant is released halfway through the default term. After that, there is no more threat of imprisonment. We provisionally proposed that the defendant should be released only on licence, similar to the way in which life prisoners are released, for example. I think that was probably our most controversial proposal. There were some people who were in favour of that, but lots of people thought it extremely draconian; another sector thought that it really would not work, and within that was His Majesty's Prison and Probation Service. In other words, probation is not really designed to get people to pay their confiscation orders; it has another purpose. It has a rehabilitative purpose.

Ultimately, we decided that there are better ways to try to ensure enforcement. So, yes, there is the default term that remains, and that is a real threat to defendants. However, we also recommended confiscation assistance orders, requiring the defendant to attend enforcement hearings after the default term has been served and requiring the provision of financial information with penalties for non-compliance or providing false information. The first two of those—assistance orders and requiring the defendant to attend enforcement hearings after serving the default term—are both in schedule 4.

Q183 Chris Philp: That is very helpful, thank you. I have one further question on a different topic. We have discussed at different times today whether there is any merit in creating a separate offence of assaulting a retail worker. Obviously, in the past we have voted for a separate offence of assaulting an emergency worker, and in the Police, Crime, Sentencing and Courts Act 2022 we made the victim being a public-facing person a statutory aggravating factor. Some people will say that we should go further and have a separate offence for assaulting a retail worker. The contrary argument is clearly that it is already a criminal offence, and where do we draw the line? What about assaulting a teacher or local councillor? You could carry on almost without limitation. What is the Law Commission view on that?

Professor Lewis: Again, we do not have a view; it is not something that we have looked at. Obviously, in our hate crime project we looked at circumstances where sentences were aggravated because of hostility towards a protected characteristic, and we recommended equalising the protection that the various protected characteristics carry so that every protected characteristic would have aggravated offences, as well as enhanced sentencing for those offences that do not have aggravated versions. However, we have not looked specifically at the individually aggravated offences such as the ones for assaulting a police officer and so on, I am afraid.

Q184 Chris Philp: So you do not have a corporate view, or a personal view, on whether creating extra, specific and bespoke assault offences is merited.

Professor Lewis: We do not have a corporate view, because we have not done work on it. You are right to worry that one is drawing very fine lines, and once one has added one offence, there is another group of people who are not included in the bespoke offences. One ends up with a proliferation of bespoke offences for different categories of function.

Q185 Chris Philp: Taking all that together, what would be your personal view on the question—speaking for yourself, not the Law Commission?

Professor Lewis: I do not think that I would go further than that. I think that concern should be considered, but I do not think that I am in a position to have a personal view, having not looked at it in any depth.

Chris Philp: Thank you.

The Chair: I call Jess Phillips. Just be aware of the clock —you have eight minutes.

Q186 Jess Phillips: You are very, very defined in the things that you will say, and I appreciate that. What has the Law Commission suggested of late, in one of the things it has written about, that is not in the Bill? You have been grateful for the things that are in the Bill, but what is missing?

Professor Lewis: Missing from the projects that are implemented or missing from other projects?

Q187 Jess Phillips: For example, just to go to your point about hate crime and the aggravated factor, has that been realised in the law?

Professor Lewis: No. We are still awaiting a Government response on the vast majority of our recommendations in the hate crime report.

Jess Phillips: For example, women—

Professor Lewis: No, that is the one they responded to, because we recommended that sex or gender not be added for the purposes of aggravated offences or enhanced sentencing. You may remember that there was a statutory requirement for the Government to respond to that, and they responded accepting our recommendation not to add it. They have not responded to the rest of the recommendations, including our recommendation that there should be an offence of stirring up hatred on the basis of sex or gender as well as equalising the treatment of all the other protected characteristics in relation to stirring up hatred.

Q188 Jess Phillips: For example, that could have been in the Bill, but it is not.

Professor Lewis: I cannot comment on whether it could have been in the Bill.

Jess Phillips: You can put anything in it if you want—I am going to.

Professor Lewis: It is not in the Bill, and we await a response from the Government on the vast majority of our recommendations.

Q189 Jess Phillips: So you are awaiting a response. Therefore, although you are pleased to see quite a lot of things in the Bill, there are quite a lot of examples of things that the Law Commission has done pieces of work on that do not feature in a Bill—this Bill, the Sentencing Bill or the Victims and Prisoners Bill, which have all been going through at the same time.

Professor Lewis: I have to accept—in fact, I am pleased to accept—that in terms of projects that I have worked on, more than half of them have been implemented in the last year. The implementation rate of Law Commission criminal law projects at the moment is—

Q190 Jess Phillips: High?

Professor Lewis: Yes. It is fantastic.

Jess Phillips: That is good to hear.

Professor Lewis: We are really pleased to be able to work with the Government to implement our recommendations in so many projects; I think it is five in the last year.

Q191 Jess Phillips: Okay. Going back specifically to the issue of confiscation, how do you foresee this working with the resources on the ground? I speak as somebody who, in the break between the morning sitting and the afternoon sitting of this Committee, received an email telling me that somebody was going to pay me some compensation for perpetrating crimes against me. Like every other time that I have received such a letter, I have absolutely no expectation of seeing a single penny, nor have I ever seen a single penny of that money.

Professor Lewis: Compensation for victims is a really important issue and one of the things that we recommended in the confiscation project, because compensation was not part of that project directly, is that there needs to be a separate review of compensation for victims.

None the less, we made recommendations where there is overlap. For example, we described it as giving priority to the payment of compensation. We recommended that where a compensation order is imposed at the same time as a confiscation order, the Crown court should be required to direct that compensation should be paid from the sums recovered under the confiscation order. At the moment, that happens only if the defendant does not have enough money to pay both orders, but we recommended that, even if the defendant does have enough money, the first lot of money should go on compensation.

Similarly, when multiple confiscation orders are imposed, priority should be given to the payment of compensation and after that to the confiscation orders. Paragraph 11 of schedule 4 basically implements those recommendations, saying that the court "must direct" that

"sums recovered under the confiscation order"

be applied to " priority order (or orders)". Priority orders are defined in the Proceeds of Crime Act 2002 as including compensation orders. Therefore, although you may not see the word "compensation" in that paragraph, it very much is in there, and the paragraph prioritises the application of funds to victims, whether that means that you as an individual victim are seeking compensation funds—

Q192 Jess Phillips: I find it highly unlikely. So, you think there needs to be a further review of compensation for victims.

Professor Lewis: Yes.

The Chair: Thank you very much. That brings us to the end of the time allotted for the Committee to ask questions. On behalf of the Committee, I thank the witness for the time that she has given us today.

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

4.28 pm

Adjourned till Thursday 14 December at half-past Eleven o'clock.

Written evidence reported to the House

CJB 01 Dr Chris Millard

CJB 02 Manifesto Club

CJB 03 Society for the Protection of Unborn Children

CJB 04 ICANN Business Constituency

CJB 05 Crisis

CJB 06 Margaret Hunter

CJB 07 Dr Tim Coyle

CJB 08 Will DeFraine

CJB 09 Monica Bell

CJB 10 Ann McCloskey

CJB 11 Stop Domestic Abuse

CJB 12 Make Space, Self Injury Support, National Survivor User Network, and Battle Scars. Joint submission.

CJB 13 Dr Josephine Friederich-Thomas

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

Third Sitting

Thursday 14 December 2023

(Morning)

CONTENTS

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

Monday 18 December 2023

The Committee consisted of the following Members:

Chairs: Hannah Bardell , Sir Graham Brady , Dame Angela Eagle , Mrs Pauline Latham , † Sir Robert Syms

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

Sarah Thatcher, *Committee Clerk*

† attended the Committee

Witnesses

Nick Smart, Acting President, Police Superintendents' Association of England and Wales

Councillor Sue Woolley, Conservative Lead Member for the LGA's Safer and

Stronger Communities Board, Local Government Association

Emily Spurrell, PCC Criminal Justice portfolio lead, Association of Police and Crime Commissioner

David Lloyd, PCC Criminal Justice portfolio lead, Association of Police and Crime Commissioner

Mark Fairhurst, National Chair, POA (the Union)

Public Bill Committee

Thursday 14 December 2023

(Morning)

[Sir Robert Syms *in the Chair*]

Criminal Justice Bill

11.30 am

The Chair: Good morning, everybody. We will start with the Opposition for the first five minutes, then go to the Ministers and then open questions up to others. Anybody not on the Front Bench who wants to ask a question, please signify—send up a rocket.

Examination of Witness

Nick Smart gave evidence.

11.32 am

The Chair: We start with Nick Smart, acting president of the Police Superintendents' Association of England and Wales. Did you put in written evidence?

Nick Smart: No, I just have some notes to refer to.

The Chair: Okay. Would you like to introduce yourself?

Nick Smart: Good morning, everybody. I am Nick Smart, acting president of the Police Superintendents' Association. We represent superintendents and chief superintendents in England and Wales; we have approximately 1,500 members nationally.

Q1 Alex Norris (Nottingham North) (Lab/Co-op): Thank you for your time and expertise this morning. They are much appreciated.

The nuisance rough sleeping provisions in clauses 51 to 62 are likely to have an impact on police officers and the work that they have to do. Does the association have a view on that, and on its resourcing implications?

Nick Smart: Yes. With the repeal of the Vagrancy Act 1824, the new measures are welcome. The powers give officers the ability to move people on in certain circumstances, be it rough sleeping or begging. As Mr Stephens from the National Police Chiefs' Council said, this is a wider societal issue, not necessarily just a police matter. We would encourage the use of these powers in line with our community safety partners to address the issues. We would look at this as a positive step for police officers.

Q2 Alex Norris: Do you have concerns that this will be one of those multifactorial societal problems that ends up with an enforcement-type approach, where we ask you to police our way out of what are deeper social challenges?

Nick Smart: A lot of the individuals who end up in this situation are vulnerable; I am sure you have heard evidence of that. Will it address the root causes of rough sleeping and begging? That remains to be seen. We note that with the one-month imprisonment, there is a potential risk of people being arrested subject to notices and then yo-yoing in and out of the criminal justice system, prisons and so on. If they are in prison for a short time, they are not able to access all the help that they may need. Where sleeping and begging also has that harassment or nuisance element, however, that is an appropriate power.

Q3 Alex Norris: Do you have a view on the desirability of the provisions relating to the police, particularly clauses 73 and 74 on ethical policing and appeals to police appeals tribunals? Would you add anything to them?

Nick Smart: On the police appeals tribunals, it makes perfect sense to us as an association that where officers need to be dismissed, or it is believed that officers should be dismissed, chief constables have the right to appeal to the tribunal rather than going through the rather litigious and expensive route of judicial review.

We are supportive of the duty of candour and code of ethics. Nobody in policing wants bad cops within the organisation. We are overtly cognisant of the trust and confidence issues in policing and of the legitimacy that we all—the public—seek and desire. We believe that the College of Policing needs to come up with some clear and unambiguous guidance for all police officers. If you were to ask a PC, at 2 am, what "duty of candour" means, I think they might struggle to answer, but if the College of Policing is clear with that guidance and rolls it out in an unambiguous manner that everybody can understand, which I believe it will, we do not have an issue. We support that 100%.

Q4 Alex Norris: Finally, you may have seen from the evidence we took on Tuesday that there is quite a lot of interest in vetting. I think we came out with more solutions, in different ways, than we had perhaps anticipated. Where do you sit on what is an appropriate vetting regime that is practical and that gives confidence to the public about the people who are protecting us?

Nick Smart: The purpose of vetting is to make sure that the right people get into the organisation. There is certainly a reputational risk in having the wrong officers in the organisation; we have seen the damage it can do to trust and confidence in the police service. I believe that the measures that the College of Policing will instigate for licence and vetting units are a positive step to make sure that they adhere to a certain standard.

Having His Majesty's inspectorate of constabulary review vetting units as part of its inspections is a sensible way of safeguarding and making sure that they are working effectively. As with any issue, if you want to enhance the vetting it will mean more staff, which will cost more. The current budgets are set, so if you put more people and resources into more robust vetting, which is a sensible idea, something at the other end will have to give, because there is no endless money pit for the police budget.

Yes, we welcome it and we believe that it is the right thing to do. As an observation, an officer is vetted at the time of joining, but you could have repeat vetting at some point during their service, to make sure that they still have the appropriate vetting. Also, when you get promoted to superintendent level, for example, you go to management-level vetting, which is slightly more intrusive. If you are a counter-terrorism officer, you

may get some even more enhanced and developed vetting that takes more time and resources. We would welcome more robust vetting, and I think most chief constables would welcome it, but it is a question of resourcing and staffing to make sure that the process is fit for purpose.

Q5 The Parliamentary Under-Secretary of State for Justice (Laura Farris): Can I pick up on the issues around police conduct? Clauses 73 and 74 create both a right and a duty on chief constables: a duty to oversee the duty of candour and the relevant code that will ensure it, and a right to submit an appeal of their own device. Is that consistent with feedback that you have heard from chief constables about how they could better manage their subordinates?

Nick Smart: In terms of the appeals process?

Laura Farris: In terms of the two things. Do you think that that is the range of tools that they need in order to better manage?

Nick Smart: In terms of the appeals process, having a JR is really expensive and takes time. If the officer is to be dismissed, a JR prolongs the period unnecessarily. An appeals tribunal should be swifter, so if the officer is dismissed the process is more satisfactory for everybody concerned. We believe that this is an appropriate tool for chief constables.

Q6 Laura Farris: There are some new powers in the Bill. The power relating to the seizure of bladed articles is consistent with powers that already exist, but is an expansion of them; there just needs to be a reasonable belief that the bladed article may be used in the commitment of a further crime. What is your view on that?

Nick Smart: It plugs a gap. Previously, officers who were lawfully on premises could not seize knives that were essentially held there—we all have knives in our house—but there are examples of domestic situations in which a knife could be used to commit a heinous offence. This provision allows us to seize that knife if there are reasonable grounds to believe that a criminal act will be committed. We would support this.

Q7 Laura Farris: In the past, have you heard that officers have had a reasonable suspicion but have found that they lacked the requisite power to act?

Nick Smart: Basically, yes. There are examples of officers who have attended various incidents, perhaps with people with mental health problems, in domestic situations where knives had been lawfully bought but could be used in a criminal act, and the officers have not been able to seize them properly. Again, where there are reasonable grounds to suspect that a criminal act may be committed with a bladed article—a weapon—it is entirely appropriate that we have the power to seize it and stop that from happening.

Q8 Laura Farris: Right next to that in the Bill is clause 19, which relates to the power to enter premises without a warrant. Police can enter without a warrant when there is a reasonable suspicion that stolen goods are on the premises. Can you comment on that?

Nick Smart: I think it is a reasonable belief rather than a suspicion. Giving that power to our officers is welcome. It comes with the caveat that there is a legitimacy angle. Officers not having to obtain warrants to enter premises presents a big trust and confidence issue for the public, and rightly so. That is where the quality of policing comes in with respect to officers' guidance, understanding and application, and with respect to His Majesty's inspectorate of constabulary making sure that those powers are used appropriately and that there is accountability.

It plugs a gap. For example, we all have an iPhone, and we all have Find My Friends on it. If somebody has lost a bit of tech and the app can pinpoint an address, that, along with other reasonable lines of inquiry, gives the officer the reasonable belief to enter the premises and recover the property. That seems appropriate.

Q9 Laura Farris: Do you have confidence that the threshold test of reasonable belief would be uniformly applied across police forces?

Nick Smart: Yes, I do. On the scale of reasonable suspicion to reasonable belief, you have to have virtually no doubt that the item is in that property before you enter it. Rather than reasonable suspicion, where you can just have a hunch, there have to be active lines of inquiry based on intelligence to justify a reasonable belief, but if it is there, it is entirely appropriate for an officer to enter and recover a member of the public's stolen property.

Q10 Laura Farris: Finally, the new package of measures in clauses 65 to 71, which deal with antisocial behaviour, is an expansion of existing powers in the 2014 legislation, such as enabling the police to put in place a public safety protection order. What impact do you think that will have on the police's ability to respond to antisocial behaviour?

Nick Smart: I think it gives us the flexibility and dynamism we need to address issues that occur, fight crime, deter crime and reassure the public. In my force, West Yorkshire, public spaces protection orders have been used against nuisance vehicles where individuals have been wolf-whistling at females, so they link to the violence against women and girls agenda and they have been used quite successfully. Our power to create PSPOs is entirely appropriate in the circumstances and is very welcome.

Q11 Laura Farris: What about bringing the age limit down to bring in children of 10, up to adulthood?

Nick Smart: Again, it relates to the accountability for everybody's actions. It is not just older people who commit antisocial behaviour; it is often youth-related and it is linked to families. We welcome the provision allowing social housing providers to remove nuisance tenants, but we understand that they have an obligation to rehouse them, so it is not just about moving them from one place to another and the same behaviour happening. There has to be community safety partnership work to ensure that there is the health, education and social care provision to change their behaviour. Otherwise, you are just displacing the problem from one area to another.

Q12 Stephen Metcalfe (South Basildon and East Thurrock) (Con): I would like to go back to the issue of knife crime, which I am particularly interested in. You mentioned clause 18, but are there any other measures

in the Bill that will help to tackle knife crime? There was a recent national police initiative to tackle knife crime. Could you tell us how that went?

Nick Smart: On the powers, possession with intent is a really useful operational tool for officers. It is similar to firearms legislation, in which there is an offence of possession of firearms with intent to endanger life. Having an offence for knives with a similar intent is welcome. We have seen gangs taunting each other with knives on social media, on podcasts and things like that. Possession with intent is a welcome operational tool, used in line with intelligence and obviously monitored with the usual safeguards. Operationally it is very welcome, and if it saves lives we are all for it.

Q13 Stephen Metcalfe: Absolutely. And how did the operation go?

Nick Smart: I cannot comment on that, because I am not aware of it. I can get you a written response if you would like me to come back to you.

Q14 Stephen Metcalfe: That is fine. You said that the measures in the Bill are welcome. Are there any other measures that you would have liked to see in it that would help to tackle knife crime? I realise that it needs a holistic approach and that you need to work with others, but we can only give you the powers.

Nick Smart: The powers on sale and manufacture are welcome in addressing those who use social media such as Snapchat to sell knives to groups. The prohibited knives in a public place distinction is welcome. We have tried for some time to do that. For example, you have to prove three different elements to prove that something is a zombie knife, but now there is a provision in the Bill. I guess an aggravating factor that might be linked to the sentencing guidance is having that prohibited knife in your possession. Again, taking that into account in a court of law is welcome. The set of provisions around knife crime is very welcome.

Q15 Alex Cunningham (Stockton North) (Lab): We have plenty of time, so I would like to read you a quote. In the first evidence session on Tuesday, I asked Nicole Jacobs, the Domestic Abuse Commissioner for England and Wales, what we could build on in the Bill. She said:

"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."—[*Official Report, Criminal Justice Public Bill Committee,* 12 December 2023; c. 24, Q55.]

Do you agree?

Nick Smart: If we take the last point first, vetting more frequently during an officer's service is welcome, and if they change force, entirely appropriate. We agree with that.

On gross misconduct, if you permit me, I have some data to share. We are talking about not just domestic-based issues, but superintendents served gross misconduct papers in the past few years for various things. In 2018-19, 19 of our members were served and two sacked; in 2019-20, 19 were served and four sacked; in '20-21, nine gross misconducts, two sacked; and in'21-22, 12 with one sacked.

What that shows about gross misconduct is that roughly 80% of officers who are served with gross misconduct papers have NFA—no further action—taken against them. We suggest looking at cases on a case-by-case basis and, if it involves serious wrongdoing, that should be a matter for the appropriate authority to look at a severity assessment and to make that assessment straightaway. We believe we find that a quarter of our professional standards departments go to gross misconduct almost immediately, and if 80% to 85% of officers have no further action taken when they are given those gross misconduct papers, that indicates to us that the severity assessment is wrong in the first place. If there is wrongdoing and it is clear, however, then gross misconduct papers should be served.

We would say, again, that at the merest hint of a suggestion, police professional standards departments serve a gross misconduct, but we think that there should be more of an investigation to establish the facts before gross misconduct papers are served. But where there is a clear chain of evidence that relates to an individual and wrongdoing, it is entirely appropriate, and we support gross misconduct papers being served.

Q16 Alex Cunningham: That is helpful. Is there anything that the Bill Committee can do to improve this piece of legislation to assist police forces across the country in dealing with such issues?

Nick Smart: I think that the way in which we as a service approach gross misconduct could do with a refresh. We have discussed that as a Police Superintendents' Association, because our colleagues are usually the heads of professional standards departments making those assessments. Culturally, I think we go in low, so it is easy to give somebody a gross misconduct paper, whereas some work with the College of Policing to refresh how we approach that might be welcome, so that gross misconduct is served appropriately to the right individuals and we do not clutter professional standards departments with investigations that are going nowhere ultimately.

Alex Cunningham: That is helpful, thank you.

Q17 The Chair: We have a minute or two left. Do you want to share with the Committee anything you have not been asked about, but think would be helpful?

Nick Smart: If I may, there is one item—the powers of entry—which I think you alluded to. An issue that we looked at was that of immediacy. Section 18 of the Police and Criminal Evidence Act 1984 allows the police to search after arrest, and that requires an inspector's authority. In certain circumstances, if the inspector is not available or there is a policing need, the constable can go in and get retrospective authority.

In the circumstances outlined in the Bill's powers of entry, nothing in there regards that immediacy. If the officer at the time needs to go in to recover the property but cannot get hold of the inspector—for example, if the inspector is in custody dealing with a review, or they are dealing with a complaint or a critical incident, and

because they need to review what is going on and then give that authority—it would be helpful to have that provision in so that the officer can seek that respective authority from the inspector as per section 18 of PACE. The precedent is there, but a provision would tackle immediacy—

Q18 Laura Farris: Can I ask you a follow-up question? If you remove the need for a warrant, do you not think that it is important to have some form of safeguard before the door is opened?

Nick Smart: Absolutely. I think in 99% of the cases the inspector's authority would be granted.

Q19 Laura Farris: But even in that 1%, would it not have a corrosive effect on public trust if an officer took the decision and then would not have been authorised?

Nick Smart: There is always the potential when you go through somebody's door without a warrant for that. I think Andy Cooke from HMIC said that mistakes will be made. However, if there is a genuine belief that you are at a property, you have somebody with a mobile phone, they have seen you and you think that they will run out the back door of the property, or try to hide or destroy that property, you must wait for the inspector to give you the authority. That gives the individual time to act and potentially lose, damage, alter or destroy that property, so that when you go through the door you do not find it for whatever reason. It is an observation; we are not saying that it should be in there, but it is a consideration. As I say, the precedent is there in section 18 of PACE, which I think certainly we, and HMIC, would say has not been abused over time.

Laura Farris: That is really helpful. Thank you very much, Mr Smart.

The Chair: Thank you for your evidence. If there is anything you would like to add or that you feel you have missed when you go back on the tube, you can always write to the Clerk.

Examination of Witnesses

Councillor Sue Woolley, Emily Spurrell and David Lloyd gave evidence.

11.55 am

The Chair: We welcome the three witnesses: Councillor Sue Woolley, Conservative lead at the Local Government Association and Safer and Stronger Communities; Emily Spurrell, a Police and Crime Commissioner and justice portfolio lead; and David Lloyd, a PCC and criminal justice portfolio lead. Can you start by introducing yourselves, please? We will start with David.

David Lloyd: Thanks very much, Sir Robert. Thank you for the courtesy of extending invitations to the Association of Police and Crime Commissioners to attend. You realise that PCCs have a strategic role in setting plans and budgets and holding their chief constable to account. We are not operational, and therefore any remarks we will make will be more about strategy—I suppose budgets, specifically—but we are also proudly victims champions. I suppose that is what we have brought to the criminal justice system—there is bias in favour of criminals. I am David Lloyd, and I am the PCC in Hertfordshire.

Emily Spurrell: I am the PCC in Merseyside. To echo what David said, scrutiny and partnership working in particular are some of the areas that we are keen to look at.

Councillor Sue Woolley: I am Councillor Sue Woolley. Today I am representing the Local Government Association. As you have already said, I am a member of the Safer and Stronger Communities Board. As a representative of local government, you will know, and I would suggest, that we are probably the bit of the jam that brings everything together, so that we have the opportunity to work with all those wider partners, including the PCCs, local government and the police force.

Q20 Alex Norris: Thank you for your time and the distances that you have come to be with us today; it is really valuable to us in our consideration. I will start where you finished, Commissioner Spurrell, on partnership. Can you give me your reflections on community safety partnerships and your experience of them? We can go from left to right as I look at the panel.

Councillor Sue Woolley: The community safety partnerships are absolutely important for partnership working at that local level—I must impress that on you—and provide the opportunity to bring together those other agencies that work particularly in the wider scheme of things. For example, under local government you will have public health, which sits with upper tier authorities; of course, they are responsible for things such as drug and alcohol services. While you may have the sharp end, if you like—the police force and the PCC—working with those who have broken the law, it is then the turn of local government and its wider partners to pick it up and put some restoration into the process.

Emily Spurrell: As I said, I think partnership is a key part of the work we are trying to do. As police and crime commissioners, it is certainly very much in our job description that we bring partners together, and community safety partnerships are a good tool to do that.

They have probably had some challenges since they were first introduced many years ago, particularly around capacity in some areas—partly because of funding and because they do not sit on a statutory footing. In Merseyside, I fund the five CSPs that sit within the five local authorities. I give them funding to try to help them drive some of the really local issues that we see. It is also important that, as PCCs, we try to bring them together at the Merseyside force footprint level, so we can try to join that up. We want to try to get the balance of giving the local CSPs the powers and funding to do some really local issues while ensuring that we do not lose sight of how we get consistency and a joined-up approach at the force level.

In terms of some of the issues that the Criminal Justice Bill talks about—antisocial behaviour, nuisance begging and those kinds of issues—we absolutely need to use the powers of partners. We cannot rely on the police to do that job, for many reasons. The CSPs are the place where we can try to bring those people together and say, "It does not meet a police threshold, but we have other powers that we can use." That is the value of the CSPs all coming together to do that work.

David Lloyd: Emily is quite right: they are very good idea. I think they are variable. In Hertfordshire I have 10, based on the borough council footprint. Some very much want to work alongside policing. They are a very good idea, because community safety is clearly not just a policing issue; that is the most extreme end of it, but most of it is further upstream. But they are variable, and a lot of it is to do with the funding that they choose to put in or not. It is very easy to spend other people's money on something; it is far more difficult to spend one's own money on something. Frankly, that can be an issue, so we need to think about that funding and how it happens.

We also have to think about how they can influence the police and crime plan and how we can influence what they are doing. Even though they are fairly mature organisations, things still do not always join up as much as you might expect, especially if there are different political beliefs and different political leaderships.

Q21 Alex Norris: Thank you for all those answers. I want to pick up on that final point. Clause 72 gives PCCs the ability to essentially say to the CSP, "This is what you should be prioritising," and the CSP has to take that on board and, if it is not acceptable, come back in a formal process to say why not. I am not sure whether that is needed. You have talked about culture, mutual trust and realising that local government tackles the same problems as policing. Is the power necessary? As PCCs, is it one that you would expect to exercise? From a local government point of view, Councillor Woolley, would you be impressed if your PCC or Mayor was to exercise it with you?

Councillor Sue Woolley: I couldn't possibly comment!

David Lloyd: When they were originally brought in under the Labour Government in the '90s, I think they were missing teeth, if you like. Perhaps there was more accessible funding in those days, but to an extent I think that they do not have the teeth. Clearly, there is now a democratically elected corporation sole: a person who has that very direct role around community—a direct mandate from the public. So being able to sweep up into what the local council is doing would be very helpful, because we need some way of ensuring that, where common persuasion does not work enough, there are some teeth within it.

Q22 Alex Norris: Should that perhaps cut both ways? As you say, the PCC has a democratic mandate. The local authority does as well. It is elected differently, but it is still drawn from the people—of the people. Are you not concerned that it creates a power imbalance, where the PCC can make that mandate, but the other partners cannot?

Emily Spurrell: From my point of view, if the system was working as it should—again, I am reflecting on my own experience in Merseyside—you should all be talking about the same things anyway. When I look at my CSPs in Merseyside, if they are not all talking about serious organised crime, something has gone wrong. They are all talking about it, because it is an issue in all their areas. There will be some really specific issues that I think CSPs need to be able to look at but, generally speaking, if they are not talking about those issues, something else has gone wrong further upstream. It could be helpful to put this in because then, as David says, there is a reminder that you need that connection. The reality is that if they are not really talking about those things, there are bigger issues at play, in terms of why those same priorities are not being picked up.

Councillor Sue Woolley: I think that if at all possible, when you have partners around a table and they are equal partners, that is a conducive way to good practice and working. I am quite sure that works really well in some places. In my own area, that works particularly well. All partners are equal around the table; everybody works together. I am quite sure that in other areas, that bond may not be as strong. Rather than just legislating for something, I would suggest that, if at all possible, there could be something around a duty to work together. You will know the language better than me.

Emily Spurrell: That actually already exists for PCCs. It is within our duty to work in partnership as well.

Q23 Laura Farris: Mr Lloyd, I want to go back to what you were saying at the beginning about your role in relation to the police—in standing up for victims. With the new powers that are extended to chief constables, and particularly the new duty of candour, how do you see the role of PCCs in ensuring that is effective?

David Lloyd: We of course hold the chief constable to account in a variety of ways and in different places. Realising that there is a duty of candour is another part of the armoury, because it is something that we can push back. I know that this was very much part of the post-Hillsborough legacy. Clearly, that whole lack of candour was one of the things that went wrong. We are good at holding the chiefs to account, and it should happen locally. With this extra duty there, it is something that we will need to be reminded about—it is helpful for us to be reminded that there is a duty of candour—but we can then ask those questions as well.

Q24 Laura Farris: I want to pick up on the repeal of the Vagrancy Act again. It is an ambition of this Bill to fill the gap that would otherwise be left by that Act, by addressing the nuisance element that may exist within those matters. Does this Bill provide a helpful tool for filling the gap that would otherwise be left by the repeal of the Vagrancy Act?

David Lloyd: Clearly, there are people who are homeless, who are also almost aggressively begging; there are people on the streets who are aggressively begging, and are almost aggressively homeless, if that does not sound like a strange thing to say. However, I think we do need a great deal of care. I suspect that the vast majority of people who are homeless on the streets would not be seen as committing a criminal offence by any court, police officer or PCC. They require care and a way of ensuring that any drug and alcohol addiction or mental health issues are supported. It is a difficult area.

Q25 Laura Farris: To pin you down a bit more—please, any of you jump in—do you think there is a distinction between nuisance begging and nuisance rough sleeping? They are treated differently in the Act, but it sounds as if you are driving at two different things

David Lloyd: I think there is a distinction. We have heard evidence, and I am sure that you have heard evidence, of people sleeping in doorways who cannot be moved on by the local authority and there is nothing that can be done.

I suppose my real concern within this is that, especially as budgets get tighter and tighter, the duty around homelessness may change from being a duty on the local authority to a police issue. I do not think that that would be overly helpful if it were not structured in the right way—that it is seen that the principal duty is on the local authority rather than it being a policing issue. I think that there is a real danger of getting to the point that the police need to pick this up. Clearly, policing is not going to be able to deal with anything other than the very sharp and focused bit about this moment; there is far more to it than just this moment.

Laura Farris: Councillor Woolley, given your role, do you have a view on that?

Councillor Sue Woolley: I think we have to be very careful that we do not unnecessarily criminalise rough sleeping. As you are probably aware, through their various services, councils work very closely with those people that might be rough sleeping. There is a combination of rough sleeping and begging.

If we go down the road of criminalising something, then we run the risk of not being able to support those people and the one thing that we do want to do as a society is to support those people. I would just play back that, during covid, we got those people off the street. When we got them off the street, we were able to put services in for them and work with them. I would love to see that happen again. However, we do have a cohort of those who engage in nuisance begging, and we also have a situation of organised gangs sitting behind those who are begging. It is not a black and white answer at all.

Q26 Laura Farris: Thank you. That is very helpful. My final question is for Ms Spurrell—I have not asked her anything yet—and is about antisocial behaviour and the new power for a victim who is dissatisfied with the response to ask their local PCC to conduct a review. In the context of the work that you have done and how frequently antisocial behaviour occurs and how it is not always easy to tackle, how do you see that part of your role unfolding? Do you think it would be useful?

Emily Spurrell: I think it would be useful. We obviously already have the community trigger process in place at the minute, where if someone is dissatisfied with the response from the local authority, they can ask for a review from the PCC's office to check whether the process was followed sufficiently. I think there are challenges around that in terms of public awareness; I do not think we are seeing huge numbers of that in some areas because much of the public are not aware that that is an option.

It comes back to what we were talking about at the beginning: it is not about the PCC trying to instruct or direct; it is about being able to have the powers to question, challenge and say, "As a partnership, are we doing enough to tackle this issue?" There will be times when actually it will be the police that need to step up in that response, but there will also be times when the local authority have not made a good enough response to that particular incident. It is about having someone who has the power to take another look and say, "Actually, I think we have missed something here. How do we put that right?" and then giving reassurance and saying, "Actually, the local authority or the partnership have done everything possible and there is no more that we can do." It is a helpful check, and it probably is just an expansion of what we already do at the minute around the community trigger.

Q27 Laura Farris: Do you think it is a meaningful enhancement of victims' rights?

Emily Spurrell: It is a step in the right direction, yes. It is useful just to ensure that those victims of ASB are not dismissed as low level and are considered. We do see incidents where, if victims of ASB are not taken seriously at that first stage, things can escalate and become quite serious, so it is important that victims feel as though they have been heard and that everyone is working towards trying to find a solution, which is not always the case.

Laura Farris: Thank you. That is all from me.

Q28 The Chair: Do either of the Opposition spokesmen want to come back? No. Can each witness give me a couple of minutes on something you have not been asked about that you think ought to be in the Bill, or something you think is good in the Bill? Let us start with you, David.

David Lloyd: I am broadly supportive of the Bill. I am particularly interested in suspending short custodial sentences. I think that makes a great deal of sense and I would highly recommend that. I have covered the piece on nuisance begging and rough sleeping that I was interested in. As a real victims champion and someone who has pushed hard on violence against women and girls since 2012, the aggravating factor for murder at the end of a relationship and MAPPA for controlling and coercive behaviour is something that, again, I highly commend and think that we need to do.

The other thing I picked up from the earlier session was the question around vetting. We need to just consider whether we need to, in many ways, vet to values. We are clearly doing it more and more in our recruitment process, but it strikes me that there are very few officers who have met the criminal threshold and therefore are likely to have on their file a criminal conviction. That does not mean to say that we do not have misogynists or racists or homophobes within the organisations. We have much to do around that. We need to just think about what else we might be able to do to vet to values, so that we make sure we have police forces that are fit for the public. I think that the very vast majority are fit, by the way—I am not suggesting for one moment that they are anything other than that—but we might want to look at that quite closely.

Emily Spurrell: I echo some of what David said there about some of those challenges. To go back to the begging point, which is a wider issue and I know that it is linked with what is going through to the Sentencing Bill, there is a real emphasis and a real push to try to reduce the number of short-term sentences and we want more people in the community. I worry whether some of the provisions for the Criminal Justice Bill, such as the aggressive begging provisions, will actually see an increase in that, which is not what we want, and the two will work counter to each other. I would just say to be mindful around that.

As for some of the bits that David alluded to around vetting and some of the work that is under way to try and increase trust and confidence, there is probably scope to go further. I know there is work being done. The Mayor of London has been quite keen to push some of that and I think he has been working with Harriet Harman on an additional level of scrutiny around the ability to dismiss officers who have been convicted of serious criminal offences and more flexibility around pension forfeiture, for example. There is more scope to do more around that building of trust and confidence within policing in terms of that scrutiny.

Around the vetting, there is work under way. I am aware that there is a national project to try and increase vetting. Echoing what the superintendent said in the previous session, trying to make sure that there is that regular touch base, particularly when officers are crossing forces, is really helpful.

The only other thing I will say around that is that the big challenge we face is around how long these things are taking. It would not matter so much that people were going through a process if it was resolved quickly. Instead, we see some of the examples the superintendent was referring to, where officers accused of gross misconduct sit for years waiting for an outcome and then it gets an NFA or gets downgraded. There is a real challenge here around capacity in the system, both internally in professional standards and with the Independent Office for Police Conduct, and how we can speed up those processes so that we have a robust system that is not taking up so much time and taking officers off the streets.

My only other comment would be in relation to the introduction of the express power for the courts to direct prisoners to attend their sentencing hearings. You will obviously be aware that this came up quite strongly after Olivia was murdered on Merseyside and her family have been very clear about the insult to her mum and her family when the offender did not turn up to hear the victim's personal statement. I really welcome this, notwithstanding some of the logistical challenges, because it is a really welcome change: offenders should be expected to listen to the impact of their crimes on their victims and their families.

Councillor Sue Woolley: Very briefly, and following on from the point that Emily just made, I would just make a point about the capacity issue, particularly around child sexual abuse reporting. We must be very careful that justice needs to be seen to be swift. What has been shown with various reports on child sexual abuse is that reports have been made but it is taking too long for those individuals—those young people—to be supported when they have then been taken through a process.

Therefore, although it is laudable and the right thing to do to ensure that reports are made in a timely fashion, let us make sure that we have the capacity at the other end to be able to support those young people.

Q29 Stephen Metcalfe: I recognise that you are strategic rather than operational, all three of you. However, as you may have heard in the previous session, I am particularly interested in knife crime, as I am sure all of you are, as well. Are you content that the provisions in the Bill and the powers that they confer will make a difference in tackling knife crime? Is there anything else that you would have liked to have seen in the Bill to assist you in representing—well, in the case of the PCC, the people who elect you, and of course you, Sue, although I am sure that all of you are equally concerned about knife crime?

Emily Spurrell: From my perspective, the way that we tackle knife crime is actually not through the criminal system; I think it has got to be through that early intervention space. I welcome the provisions in the Bill. Again, the comments made by the superintendent about better provision for identifying zombie knives, getting weapons off the streets and strengthening things like the sale of knives, which has been done in recent months, is all very welcome. But for me, it comes down to that early intervention space: the investment in youth services. The work we are doing on violence reduction units, for example, which is being led by PCCs, is very positive. I will say that it needs to come with long-term, stable funding.

The Minister will have heard me say that many times before, but it is something that we really need, because that long-term, public health approach is how you really tackle knife crime, although I think the provisions in the Bill are very welcome, just in terms of giving police that extra ability to seize those weapons and identify those individuals who are likely to pose a threat.

David Lloyd: I agree entirely. Clearly, I am not operational, so to that extent I do not know. But clearly there is a fear of knife crime among the public. We do need to do something about that. And zombie knives and the work of one of the members of this Bill Committee on them is noted.

However, it strikes me—this relates to Emily's point—that there was a case some years back, where 80% of the bladed injuries in a hospital in Buckinghamshire were not known of by the police, because there is not the sharing of data between health and the criminal justice system. In many ways, if we want to get up the line, we need to be able to find where some of these problems are happening, and better sharing of data might do a lot more than even some of the provisions in this Bill.

Councillor Sue Woolley: I suppose that what I would say to you is that I would probably like to take one step back and go a little bit more upstream, and probably not see knives getting on to the street in the first place. That may mean taking out the ability to order one through the post, as it were, etc. I would feel more comfortable if they were not there in the first instance.

From the council's point of view, we would therefore plead that trading standards is the obvious arena for making sure that that happens. Anything that supports trading standards officers to be able to take those weapons off market stalls, etc. would be very helpful.

Emily Spurrell: I will just add one other point on the police powers. Again, we always have a balance to strike. We welcome giving the police the tools to do the job better, but this is where our role as scrutineers is really important, so that we make sure that where they are using those additional powers, they are being used in a fair and proportionate way. That is very much something that we would look to focus on as well.

Q30 Stephen Metcalfe: Sue, you mentioned trading standards. Are you saying that you do not think they do have the powers? As a constituency MP, I have reported

to the police the sale of these knives. They have then got trading standards involved, and trading standards went and seized vanloads of this stuff.

Councillor Sue Woolley: Sorry, I am not saying trading standards staff do not have the power. I think, again, it is a capacity issue. We could do with 10 times the number, and that would go a long way towards stopping these knives getting on to the streets in the first place.

Q31 Andrew Jones (Harrogate and Knaresborough) (Con): May I pick up on a point that you made earlier, Councillor Woolley? It was about rough sleeping. You mentioned that this is often about dealing with people with very complex issues; often, having access to addiction services is critical, and progress is made by different agencies working together. I agree very strongly about how making progress and helping those on our streets is most important. Do the provisions in this Bill help or hinder that work?

Councillor Sue Woolley: It helps, but more could be done. On the duties, it would be good if we could have language that said, "We expect, as members of the public, that you will work together." It would be good if the language, rather than telling various agencies, "You have to do this and you have to do that," was, "Our expectation is that as organisations, in the first instance, you will work as a team, as a community safety partnership." If you work as a partnership, everybody has an equal responsibility, and that is the bit that I would really like to see emphasised.

David Lloyd: To underline the concern that I had earlier, there is a real danger, if it is seen that the police have the power to do something about homelessness or rough sleeping, that it might be left for only the police to pick that up. In Hertfordshire, we really believe in, and the whole of our policing is based on, prevention first. In many ways, it would be best if we did not have to use the police at all and everything was done further up the line. I think that if we end up at a point where councils can say, "Well, this is not entirely our responsibility; the police have a responsibility for it," there is a danger, in the same way as with mental health.

We had the issue with mental health authorities not picking up the issue of people who were mentally unwell. It ended up with the police doing far too much and mental health nurses not enough. I fear that, especially in a time of tight budgets, we may well find that this is pushed more towards the police, so we just need to recognise that. It might be that by working even better through community safety partnerships we get over it. But it is better to go in with our eyes open to it.

Andrew Jones: Thank you.

The Chair: Thank you very much, all three of you, for giving evidence to the Committee. I am sure that the Committee will find it useful when we go into line-by-line scrutiny of the Bill.

Examination of Witness

Mark Fairhurst gave evidence.

12.29 pm

The Chair: We now welcome Mark Fairhurst. Would you like to introduce yourself to start with?

Mark Fairhurst: Sure. I am Mark Fairhurst, the national chair of the Prison Officers Association. I am also a serving prison officer, and have been since 1992.

Q32 Alex Cunningham: Good afternoon, Mark. Thank you for giving up your time for us this afternoon. The stresses and strains within our prisons are well documented. Recent legislation has added to them with an increased demand for prison places. For the record, could you outline what is happening in our prison system that has led to the Government coming forward with the proposal to send prisoners abroad?

Mark Fairhurst: We are really short of space at the moment. That is why the Government introduced an earlier release scheme to relieve some of the pressure. As it stands today, we probably have about 850 spaces left in the adult closed male estate. At the time the Government introduced these temporary measures, we had less than 200 spaces left. As the backlog in the courts gets dealt with, and we see more people getting sent to prison, we are really struggling for space. That means we now have to overcrowd already overcrowded prisons. There is a really big strain on the system at the moment. I believe that, come next spring—March or April time—we will be in crisis again with prison spaces as things start to ramp up.

Q33 Alex Cunningham: Did the Government consult the POA about their proposal? If they did, what was your response?

Mark Fairhurst: No, they did not consult us at all. It was on the backburner for some time, but we were not made aware of it until it was actually going to be announced and put into action. Our response to it would have been the same no matter what: you need to look at sentencing first and foremost, particularly for those serving the shorter sentences. That would free up a lot of space. Overcrowding prisons even more just puts more pressure on the system. We need to look at prisoners serving sentences of imprisonment for public protection as well. We have about 3,000 people who are serving indeterminate prison sentences. They are not all a risk to the public. We need to look at that as well, to free up some space.

Q34 Alex Cunningham: The Government have put forward proposals on how we treat short sentences, and the presumption against short sentences, which I personally think is quite positive. How do you envisage that this proposal to send prisoners abroad would actually work? What issues will arise from that?

Mark Fairhurst: The problems I can foresee are that, for one, you have to have the agreement of the country you are going to deport them to. Secondly, you need to know the identity of the person and what country they are actually from—a lot of people do not divulge what country they are from. Thirdly, if you are going to send foreign criminals back to their country of origin and not insist that they finish their prison sentence in that country, there is not much of a deterrent to foreign offenders committing crimes in this country, because they will get a shorter prison sentence and will be sent back home at the taxpayer's expense. Those are the problems I can foresee.

Q35 Alex Cunningham: I meant specifically sending British prisoners to see their sentence out in a foreign prison.

Mark Fairhurst: Again, it is all about cost. How much is it going to cost the taxpayer? Is it practical? How do we get them there? How many are we going to send? Our budgets are getting cut year on year through His Majesty's Prison and Probation Service and the Ministry of Justice. Are we going to be given additional funding for it? The Government have promised 20,000 additional prison spaces. That is all well and good, but we cannot build prisons quickly enough and we cannot staff them because we are in a staffing crisis—we just cannot retain people.

Q36 Alex Cunningham: You mentioned that sentencing could be part of the solution to the problem. I am struggling to think of alternative ideas to reduce the demand on our prison system. Perhaps the Government are right to send prisoners abroad if they can rent space.

Mark Fairhurst: It is welcome that the Government have decided that there is a presumption against shorter sentences. If they focused more on community sentences that the public have confidence in, that would help. If they focused on a re-sentencing exercise for IPP prisoners, as the Justice Committee recommended, that would free up a lot of space. But again, have we got enough probation staff in our communities to supervise offenders given community sentences? That is another big issue.

Q37 Alex Cunningham: You just answered my next question. We cannot expand community provision if we do not have support in the community for defendants. What do you think will be the likely impact of the scheme on your members?

Mark Fairhurst: We will just see more and more pressure heaped upon us because prisons are already overcrowded. It will heap even more pressure on people. We cannot retain staff; most of them leave within the first two years of service. We do not have the infrastructure in many Victorian jails in inner cities to accept more people, so how quickly will we build new prisons and when will they be ready? More importantly, how will we staff them? For everybody's notation, we are seeing a ramp-up in violence against staff, and more and more incidents of concerted indiscipline. It is only going to get worse the more we crowd prisons.

Q38 Alex Cunningham: Everybody around the table will recognise the tremendous work that prison officers do, and the increase in stresses and strains that they are facing. We need to be able to deal with violence against prison officers as well. Your members play an important role in through-the-gate services, helping prisoners prepare for release. How does the scheme impact that? I think the idea is that the Government would bring prisoners back before final release, but does that work?

Mark Fairhurst: Not really. It works in the open estate. The open estate is very successful at preparing people for release and for getting back into their communities, but it is not practical in inner city local jails because we simply do not have the resources to do that. I would rather the Government focused on increasing community sentences with the correct supervision, and expanding the open estate so we could prepare people for release and hopefully rehabilitate them.

You have to understand that unfortunately in the prison system, rehabilitation is just a word—a headline. We do not have the resources to rehabilitate anybody because we do not have enough activity spaces or workspaces. We struggle to recruit teachers and give everybody a purposeful workspace in our prisons. That really needs to be addressed.

The other focus is that a lot of people in prison really should not be there because they have severe mental health disorders. They would be better suited serving their sentence in secure mental health institutions, so maybe we need to look at investing in that as well.

Q39 Alex Cunningham: Thank you. I have one final question on a different subject. A provision in clause 22 of the Bill compels defendants to appear in court for sentencing. How does that affect your staff? You will not necessarily be transporting defendants, but in some cases you will be.

Mark Fairhurst: It is quite easy for prison officers to force someone to attend court; we restrain them on to a cellular vehicle and then they are taken to court. The problem arises at the other end because the courts are run by private security firms now. Have they got the staffing levels needed to take someone who has been recalcitrant off a bus and into a cell in the court? Have they got the resources to drag them into the dock if they are still displaying violent tendencies? Will that disrupt proceedings in the court? Will they be abusive to victims? Will it be distressing for the victims of crime to witness that in the dock? There are a lot of issues we need to look at.

Alex Cunningham: Thank you very much.

Q40 Laura Farris: Can I pick up on that final point about getting defendants into the dock for sentencing? I am sure you are aware that the discretion as to whether that order will be made will sit with the judge, so there will be an assessment of the defendant's conduct. If the judge deems that it is appropriate to bring the defendant into the dock, the parameters for the use of force will be a decision that remains with the prison authorities. Do you think that is the right approach?

Mark Fairhurst: Judges have always had the discretion to order a defendant into the dock. When we used to run a court in the '90s, there was many a time that we would have used force on a prisoner to get them in front of a judge. That discretion has always been there. It is the right way to do things—we are best suited to decide when it is appropriate and proportionate to use force.

I would like to see dialogue between the staff in the courts and the judge because, if the prisoner is being extremely violent or aggressive, I do not think sitting them in front of a judge is the right way to do things. Maybe we could do it remotely, in a secure room, so the victim still has the opportunity to read out their impact statement, rather than proceedings being disrupted—when you do things remotely, you have the ability to mute. We could still force the prisoner to address those victims, and the victims would feel as if they were getting some sort of justice.

Q41 Laura Farris: I think that is under consideration, actually. I do not know whether you have experience of this, but I wanted to ask you about the fact that, certainly in the public perception, there have been a spate of cases—very serious cases, actually; you could probably go through the half dozen most high-profile offences of the last one or two years—where it seems

that almost every defendant has declined to attend their sentencing hearing. Among the people you represent, is there a perception that that has now become something of a trend? Sorry, there is probably a better word than "trend"—has it become something of a prevailing behaviour?

Mark Fairhurst: Yes, there have been some really high-profile cases over the past couple of months in particular. It does seem to be a trend, because there is no deterrent. If you are already getting a lengthy sentence, then really, in your eyes, as the perpetrator of the crime, you are untouchable.

As well as sentencing people for failing to appear, maybe we need to look at what we can do when they are serving their sentence. What privileges can we take off them? Can we stop them getting face-to-face visits from family and friends, or force them to do the visits remotely, as a consequence of their actions? Let's take some privileges off them while they are serving their sentence so it really hits them hard, and so that people think that justice is actually being served—"You are not untouchable, and we are going to affect the way you serve your sentence."

Laura Farris: Thank you; that is very helpful.

Q42 The Chair: Mr Fairhurst, I asked our other witnesses if they wanted to volunteer any further information to the Committee that they had not been asked about. Are there any other points you would like to make to the Committee, while you are online, about how the Bill could be improved or any concerns you have?

Mark Fairhurst: There is just one concern in particular with this Bill, where you are forcing serious offenders —particularly sexual offenders—to serve their entire sentence.

Laura Farris: That is in the Sentencing Bill.

Mark Fairhurst: Usually, they get released at the two-thirds point for good behaviour. If there is no incentive to behave in prison, that could have a knock-on effect on staff. Also, if you force someone to serve their entire sentence, we must remember that they are no longer subject to a licence in the community, so there is no supervision for them when they are released after serving their entire sentence. That is another consideration.

The Chair: Thank you very much for your contribution, and have a good day.

Mark Fairhurst: Thank you very much, everyone.

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

12.43 pm

Adjourned till this day at Two o'clock.

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

CRIMINAL JUSTICE BILL

Fourth Sitting

Thursday 14 December 2023

(Afternoon)

CONTENTS

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

Monday 18 December 2023

The Committee consisted of the following Members:

Chairs: Hannah Bardell, † Sir Graham Brady, Dame Angela Eagle, Mrs Pauline Latham, Sir Robert Syms

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

Sarah Thatcher, Simon Armitage, *Committee Clerks*

† attended the Committee

Witnesses

Kennedy Talbot KC, Barrister, 33 Chancery Lane

Paddy Lillis, General Secretary, USDAW

Paul Gerrard, Campaigns, Public Affairs & Board Secretariat Director, The Co-op Group

Helen Dickinson OBE, Chief Executive, British Retail Consortium

Clare Wade KC, Independent Reviewer of Domestic Homicide Sentencing

Public Bill Committee

Thursday 14 December 2023

(Afternoon)

[Sir Graham Brady *in the Chair*]

Criminal Justice Bill

2 pm

The Committee deliberated in private.

Examination of Witness

Kennedy Talbot KC gave evidence.

2.1 pm

The Chair: Good afternoon. We are now sitting in public and the proceedings are being broadcast. We will now hear oral evidence from Kennedy Talbot KC, barrister at 33 Chancery Lane. For this panel, we have until 2.20 pm.

Alex Norris (Nottingham North) (Lab/Co-op): Sir Graham, I was hoping I might declare an interest at this stage. I am a member of USDAW—the Union of Shop, Distributive and Allied Workers—as is my wife, and the Committee has a witness from USDAW coming later.

The Chair: Thank you very much; that is all recorded. Mr Talbot, may I ask you to introduce yourself?

Kennedy Talbot: Yes. Good afternoon, ladies and gentlemen. I am a barrister in independent private practice. I am not part of any pressure group; I am not pushing for any particular position. I suppose the only interest that one could say I have and might declare is the fact that at the moment I am not able to be paid out of restrained funds, but if this Bill becomes law, there would be the power for that to happen—whether I would be better off as a result of that I do not know. Apart from that, my only interests are to help the Committee, if I can, to ensure that the Bill operates efficiently and fairly and promotes the orderly dispatch of this business.

The Chair: Excellent. Thank you very much. We will start with shadow Minister Alex Norris.

Q43 Alex Norris: Thank you, Mr Talbot, for your time and expertise today. Given your admirable record in the proceeds of crime field, I am hoping that you might set out for the Committee what you think of proceeds of crime arrangements at the moment, and then, with particular reference to what is in clause 32, which is an attempt to more tightly define the purpose of confiscation under those arrangements, reflect on your view on that as well.

Kennedy Talbot: Yes. Speaking broadly for the moment and without commenting on the Bill—I do not think the Bill would be a vehicle to make all the changes that might be desirable—the key issue is plainly to investigate and to identify criminal proceeds and then to ensure that they are secure. That is the principal problem: by the time the courts get involved, making orders divesting people of assets, in most cases the assets have long gone. That is if the courts actually are engaged.

As you will probably recall from the report in March by the Public Accounts Committee, looking at the investigation of fraud, something like 41% of crime is fraud, yet it is largely not investigated. Of the 900,000 reports that are made to Action Fraud, only 1% result in any kind of judicial proceeding. That, from the broadest perspective, is where the problem lies—ensuring that fraud and other economic crimes are properly investigated and assets are frozen early. That is the best way to ensure that they are confiscated or forfeited.

Q44 Alex Norris: What do you think about the clause 32 provision to try to tighten up the definition? Will that help to give clarity to the courts about what we are seeking with this legislation?

Kennedy Talbot: I think it may be possible to make amendments to the Bill in two respects to deal with the issue that I have just mentioned. One involves restraint orders. I am sure that the Committee is familiar with the power for the court to make restraint orders preventing people who are suspected of crime, and then charged with crime, from dealing with their assets. At the moment, a statutory proposal in the Bill is that the risk of dissipation factor—such risk needs to be established for an order to be made under case law, not under statute—should be specified. The answer, in my view, is to scrap the risk of dissipation, so that it is not a requirement.

In many cases, what prevents prosecutors from applying for restraint orders is that they feel they cannot meet that test. Normally, that is because the case is brought to them some time after an investigation first started. The defendants are often aware that they are being investigated, and the case law more or less establishes that unless you can show that a defendant is on the point of selling his house or moving £100,000 to the UAE or whatever it may be, you cannot get a restraint order. Scrap the risk of dissipation.

Q45 Alex Norris: You said two amendments. That was one.

Kennedy Talbot: That was one. The other is about receivers. Receivers have always been a very useful tool, in particular with economic crime involving businesses, because they enable the court to appoint a court officer, a receiver—normally an insolvency practitioner—to manage, run and control businesses. That was from the time that a restraint order could be made, so from the very beginning of an investigation. As a result of case law that went to the Supreme Court, however—a 2013 case named for the Eastenders Group—management receivers, as they are called, have dried up. The reason for that is that the Supreme Court held that if the management receiver was wrongly appointed in the first place, the prosecutor had to meet the costs. In that case, it was more than £1 million, which had a chilling effect, so prosecutors simply have not applied for receivers at all.

The amendment would be to make receivers' costs payable out of central funds. There may be a way to ameliorate the problems that one might have with the Treasury. I do not know whether you know about ARIS, the asset recovery incentivisation scheme, but with that up to half of the recoveries are hypothecated back to the investigating and prosecuting authorities, but they must use them within particular accounting periods. The answer, rather than sending it all back, might be to put a portion into a fund that could be used for those special expenses. That would not cost the Treasury a single penny.

Q46 The Parliamentary Under-Secretary of State for Justice (Laura Farris): I wanted to ask about the various forms of suspended account and suspended account schemes, which appear in schedule 5 to the Act to complement the confiscation provisions. Will you comment on them? Is that different from what you have currently? I am not an expert in this area.

Kennedy Talbot: No, neither am I. I am just here for clause 32 and schedule 4, and that is in schedule 5. However, I can say that I acted for a bank in a case in the High Court last year, which was effectively part 5 of the Proceeds of Crime Act 2002 being used to recover all the funds that were in suspended accounts, so it is possible to do it without new law, but I have not looked at the provisions of schedule 5 in any detail to be able to help with that; I am sorry.

Q47 Laura Farris: As a barrister, what do you think the kind of practical benefits of the confiscation measures will be?

Kennedy Talbot: Do you mean as they stand?

Laura Farris: In the Bill.

Kennedy Talbot: I think that the good things about the Bill include the statutory process to reach settlements immediately after a defendant is convicted. It is abbreviated to EROC, early resolution of confiscation, where the court can direct the parties to meet and seek to reach a settlement. I think that is a good idea. In my view, it needs some tinkering with, because at the moment the convicted defendant has no incentive to co-operate, and most defendants want to put off for as long as possible the day when their assets are confiscated, as you might expect. Unless we can work in some incentives, I do not think that will work as well as it might.

Q48 Laura Farris: Can you give me an idea of what those incentives might look like?

Kennedy Talbot: It might be difficult for the court to be able to ameliorate the sentence that the defendant might suffer. It may be possible to reduce slightly his confiscation liability—to give a reduction, as one gives a reduction to defendants who plead guilty—but by that stage, when we come to confiscation, most defendants are serving prison sentences, and their prison conditions are the most important thing to them, so prison privileges and categorisation might be the way to incentivise without damaging the public interest and people getting reductions in their sentences unjustifiably.

The Chair: Do any other Members have questions for this witness? No. In that case, thank you very much, Mr Talbot, for your time and for assisting the Committee in the way you have.

Kennedy Talbot: It has been a pleasure and a privilege. Thank you for inviting me.

Examination of Witnesses

Paddy Lillis, Paul Gerrard and Helen Dickinson OBE gave evidence.

2.10 pm

The Chair: We will now hear oral evidence from Paddy Lillis, general secretary of the Union of Shop, Distributive and Allied Workers; Paul Gerrard, campaigns, public affairs and board secretariat director for the Co-op Group; and Helen Dickinson OBE, chief executive of the British Retail Consortium. We have until 3.05 pm for this panel. Please could you all introduce yourselves for the record?

Paddy Lillis: I am Paddy Lillis, general secretary of USDAW, the shop workers' union.

Helen Dickinson: I am Helen Dickinson, chief executive of the British Retail Consortium, the trade body for many retailers in the industry.

Paul Gerrard: I am Paul Gerrard, public affairs director at the Co-op Group, the world's oldest co-operative society.

Q49 Alex Norris: The panel will not be surprised to hear that I want to ask you questions about violence and abuse against retail workers and retail crime. The Bill does not have very much—or is silent—on the matter. Could you tell us about the scale of the challenge at the moment within your industry?

Helen Dickinson: Thank you for the opportunity to come and talk to you today. We are not technical experts on the Bill, but we are happy to talk about the scale of the issue and an amendment that we think could help to address the situation, at least in some instances.

You will hear various bits of data about the impact of violence and abuse on people who work in the retail industry. We compile data. Many businesses, such as the Co-op, have their own data. USDAW has data, as does the charity that looks after many employees who work in retail. All the different sources of data show a significant trend: an uptick in shoplifting, organised crime, and violence and abuse against shop workers and wider retail workers.

For me, there has been a big turning point this year. Businesses such as the Co-op and other frontline convenience stores are often on the receiving end when they ask a customer about age-related sales or something, but it is now many different types of businesses, including clothing, fashion and beauty businesses. It is a much more prevalent issue right across retail, rather than being concentrated on food.

The scale of it is much higher than it was pre-pandemic. The number of incidents of violence and abuse against retail workers has nearly doubled since before the pandemic, from around 450 per day across the country to around 850. I am sure that Paddy and Paul will share some specific statistics from their point of view, but that gives you an idea of the scale. It is an increasingly worrying trend that has a big financial impact on businesses, which we are all paying for in terms of inflation, but most significantly on the people who work in retail, and on customers and their families as well.

Paddy Lillis: Thanks for the invite to the Committee. As part of our Freedom From Fear campaign, we have been surveying our members for 20 years about violence and abuse towards retail staff. The idea that this thing is a victimless crime is far from the truth. Shoplifting has cost £1 billion in the last year—£1 billion for employers for security measures. That is one side of it.

The other side, which I will concentrate on, is the number of incidents of abuse, threats and violence towards retail staff. Do not lose sight of the 3 million retail workers in the UK. They deserve to have the protection of Parliament, the police, the judicial system and ourselves. We have seen an explosion of shoplifting and violence towards staff over the last 12 months. It nearly doubled during the pandemic. The sad part is that these people are working in the community, living in the community and serving the community, and they do not deserve this sort of abuse, but we are seeing an increase. I think 62% of the people we surveyed have been abused—verbally abused. About 56% of them have been threatened and 5% have been assaulted. We had a member who lost his life last August in Andover in a Tesco store, and that is the worst side of it.

We would argue that the Bill is missing a trick here in the sense that it represents an opportunity to include a statutory offence to tackle the violence towards retail staff. It is horrendous when you listen some of the stories, as we have to do every day. It is heartbreaking—from people being spat on, threatened or abused, to being assaulted, having their cars damaged, and being followed at night when leaving their stores. It is just horrendous.

I would say there are three elements to this. We have had the historical issue for many years in terms of drugs and alcohol, with people stealing them. They are probably the most dangerous. On top of that, with the cost of living—I am not condoning this, by the way—people are shoplifting. We have also seen over the last number of years that criminal gangs just see retail as an easy target, because the likelihood of being caught is minimal. If you are caught, the chances are you will probably just get a slap on the wrist. For us, this really is important. We look at the Scottish Bill that came in in 2021. There have been 6,000 additional investigations of retail crime by the police in Scotland, so it does work when there is a specific offence out there.

The other thing I will finish on is this £200 levy, where it is a summary offence—that is, it cannot go to a magistrates court. In reality, the police cannot be bothered—it is not so much that they cannot be bothered, but more because of a resource issue. If they do stop them, it is a fixed penalty notice, and that sends all the wrong signals to the criminal fraternity: "It is probably a fine more than anything else."

There is an opportunity here, I think, to send a message out from Parliament, from yourselves and from ourselves as employers and trade unions, that this is unacceptable and appalling behaviour, and that we are all on the side of retail workers. Retail workers are in every postcode in the country, and in every constituency in the country, and they do deserve our support.

Paul Gerrard: Thank you for this opportunity. At the Co-op Group, we run 2,500 small-format convenience stores across the country. We have seen a 44% rise in incidents of crime in our stores, a 36% rise in incidents of violence, and a 38% rise in incidents of abuse.

What does that look like? Speaking to some colleagues over the last couple of days, just to get a live sense of that, I heard that a store manager was attacked by a customer "with a knife who went for his throat. Fortunately, the assailant missed my colleague's throat, but hit him in the collar." He had to be hospitalised. The individual got a £200 fine. There are two individuals in and around Manchester who are stealing in excess of £180,000-worth of product a year, and by the time they have sold it for a third of the price, they have a pre-tax income of £30,000 each—I am not sure whether they are paying a lot of tax on that. As a former His Majesty's Revenue and Customs officer, I can guarantee that they are not paying a lot of tax on that. In truth, there is a quite terrifying level of lawlessness out there.

There is another thing worth noting with the current situation. We very much welcome the retail crime action plan, which is a good step forward, but we are a long way away from what it outlines. At present, the police do not turn up to 70% of the incidents that the Co-op reports. We only report serious incidents. We do not report someone nicking a ham sandwich and a can of Coke. We report the serious, prolific offenders, and 70% of the time the police do not turn up. More than that, when we use citizen's arrest powers to detain the individual offender and call the police to complete the arrest, the police do not turn up on 80% of occasions, which means we have to let them go.

There is desperate need for a reset of society's view of what happens in shops. If Parliament is going to give responsibility for upholding the law to individual groups—many of these offences are to do with age-related sales—it should give them protection for upholding the laws that it passes.

Q50 Alex Norris: Paddy Lillis talked about the stand-alone offence in Scotland. You were a prominent campaigner for that. What assessment have you made of that, since its inception?

Paul Gerrard: I gave evidence to the Scottish equivalent of this, when Daniel Johnson MSP's Protection of Workers (Retail and Age-restricted Good and Services) (Scotland) Bill was passed. Our sense is that it resulted in the police in Scotland taking incidents far more seriously. It is quite hard to come by data, but the data that I see tells me that for attendance at the scene when we report incidents, Police Scotland is one of the five best forces in the country.

Paddy referenced this: when a report is made of violence in stores in Scotland, the individual is arrested 60% of the time. England and Wales are nowhere close to that; here, it is penny numbers. I do not pretend that this is empirical, but our sense as a business is that the protection of workers Act in Scotland increased the importance of this for the police, and the police have responded. If we could get to the position of 60% of reported violent offences resulting in an arrest, my colleagues would be very grateful, as would Paddy's members, and all the members of the British Retail Consortium.

Q51 The Minister for Crime, Policing and Fire (Chris Philp): It is a pleasure, as always, to serve under your chairmanship, Sir Graham. I have spoken with those on the witness panel quite a lot recently. For transparency's sake, Paul and I have probably had five or maybe even 10 meetings in the last six months. Paddy, Helen and I met just yesterday to discuss this topic, together with the Under-Secretary of State for Business and Trade, my hon. Friend the Member for Thirsk and Malton (Kevin Hollinrake).

Helen Dickinson: It was like a practice for today.

Q52 Chris Philp: Exactly, a dry run. I will just make it clear at the start that we in Government and policing take this recent rise in shoplifting very seriously, as you know. It is my view that we should have a zero-tolerance approach to this offence. It is causing £1 billion of stock a year to be lost, and there are unacceptable levels of assaults against retail workers. I just want to put on record our unequivocal commitment to taking a zero-tolerance approach to this.

You referenced the retail crime action plan. Paul, you just said that you thought that the stand-alone offence in Scotland got increased attention from the police. In law, assaulting a retail worker is illegal, and since the passage of the Police, Crime, Sentencing and Courts Act 2022, if the victim is a public-facing worker, that is statutorily an aggravating factor. You pointed to police attention as a benefit of introducing a separate offence. Just a couple of months ago, we all, except maybe Paddy, sat together at No. 10 Downing Street to launch the retail crime action plan. Do you agree that the commitments made in that plan, if operationalised—my expectation is that it will be, but we have to ensure that police do operationalise it—will deliver what you need, which is the police dealing with this comprehensively?

Paul Gerrard: We very much welcome that action plan. For a number of months, we have been calling for attendance at incidents involving violent repeat offenders. That is what the police have committed to. As you know, Minister, they are a long way from that; they are not attending 70% of serious incidents at present. I very much welcome the plan, and it is great that the police will turn up. I say that as a former law enforcement officer and Customs and Excise officer. When they do, they need the full tools available.

My strong view is that having a stand-alone offence will give the police, when they do turn up—I am with you; I really hope that they do—all the options they need. It will make it easier and quicker to investigate and prosecute the crime as a summary offence. I would also not underestimate, Minister, the power of Parliament saying that it is a specific offence to attack a shop worker. That will have an impact on three million shop workers, who frankly are not sure at present if Parliament cares what happens to them.

Q53 Chris Philp: On that point, do you think that Parliament sent a signal by making it a statutory aggravating factor if the victim was a public-facing worker? That includes retail workers. Do you feel that was helpful in signalling to retail workers, but also criminals and the wider public, that assault is not acceptable, and we take it very seriously?

Paul Gerrard: When your predecessor introduced that, we welcomed it, though we said at the time that we would prefer a stand-alone offence. I remember being in a meeting —Paddy was there, as was Helen—with the then Home Secretary, the Attorney General and the Lord Chancellor, and we all welcomed it. The Home Secretary said that if the measure did not work, they would revisit the idea of a stand-alone offence.

Since that aggravated offence has come in, we have seen no discernible difference. I know that the Home Office cannot tell us how often the measure has been used—I am not sure whether it actually has been used—but I do not think that it has made a difference. It cannot be used when the police do not attend in the first place.

Q54 Chris Philp: Yes, okay; I understand your point of view. On your point about the police not attending 80% of cases, I think you said, in which your security staff have detained an offender, that is completely unacceptable. You would presumably welcome the commitment in the retail crime action plan to police always attending if an offender has been detained on the scene, if attendance is necessary to secure evidence, or if a retail worker has been assaulted. Those are important commitments, are they not?

Paul Gerrard: They are hugely important commitments, and we said at the time—I said clearly on behalf of the Co-op—that we very much welcome the retail crime action plan. My point is that there is still a long way to go before that happens, and I know that you are aware of that. However, when police attend, they need the full toolkit, and one of those tools should be a stand-alone offence, because that makes it quicker and easier to prosecute the individual. It also sends a powerful message to 3 million shop workers in this country.

Q55 Chris Philp: I understand the messaging point, but it would be no quicker to prosecute a stand-alone offence than common assault, actual bodily harm or grievous bodily harm. The process would be the same in all cases.

Paddy, perhaps I could turn to you to follow up on that point about tools. We discussed that a little yesterday, in our retail crime steering group meeting. One of the tools that both retailers and the police have at their disposal for identifying, arresting, and prosecuting offenders, and ultimately sending them to prison, is facial recognition. They can use it retrospectively, to catch offenders, and live, to identify prolific offenders who wander into a store. Do you want to share your views on the potential that that technology has to protect retail workers, and retail stores?

Paddy Lillis: Anything that protects retail workers and the product, and makes society better, I am in favour of. I am in favour of facial recognition, but it needs to be robust, because we already know that in some areas, it is seen as something that could bring racial bias, so we have to ensure that it is tight and robust to deal with that. As for anyone going into a store who is worried about facial recognition, if you go in to shoplift, or to assault a retail worker, then you should be worried about it, but if you are going in to carry out your day-to-day shopping, you should not have a problem with it. I welcome anything that helps the retail workers.

Coming back to what was said about a stand-alone offence, there is no real data tracking. Assaulting a public-facing worker was made an aggravated element that has to be considered by the courts, but it only has to be considered. Having assault of a retail worker as a stand-alone offence means that we can track the data, and track offences going through the court system. That is the benefit of the system in Scotland; more than 6,000 incidents have been investigated by the police, and we can track them through the courts.

This whole thing is about sending out the message to the criminal fraternity that we are all on the side of workers. They should be able to go to work free from fear of being abused, threatened or assaulted at work. This has been going on for too long, and this upsurge in violence and abuse is getting worse. I really urge you to look at this again. This is a win-win for every constituency in the country. You have an opportunity in this Bill to do this.

Q56 Chris Philp: Thank you. On the point about data, we are looking at that separately from legislation. I accept that we need the data, as you say, Paddy.

Helen, we talked about the new commitment in the retail crime action plan on the police to always attend in the circumstances that I mentioned, in order to address the issues that Paul quite rightly pointed to. For the Committee's benefit, can you talk a bit about the way that we—the Government, policing and the retail community, particularly the British Retail Consortium—can work together to make sure that the commitments in the action plan are delivered in practice?

Helen Dickinson: There are a couple of things that I would highlight. When we are in conversation with the police, they often talk about whether enough of the right information is being reported to them to enable them to act. One of the workstreams associated with the action plan is about ensuring that people right across retail are aware of what data needs to go into various police systems to enable them to respond as appropriate. There is activity on the retail side, with the support of the police, on that interaction.

The second point you are perhaps alluding to is this data question. Certainly, we have agreed to provide support in the interim period, so that data is collected on response rates. Paul is doing that from a Co-op point of view. The question is whether we can get a wider read. That impacts on this issue. We think a stand-alone offence is required because it really builds on the accountability and visibility that is required from a police resourcing point of view. I think you had various policing people here, talking to the Committee, in previous sittings. If police do not have visibility across forces on what is happening in local communities, they are not allocating resource to the right place and are not necessarily able to respond.

We can certainly help by building the data that will give us a snapshot of whether the commitments made by the police in the action plan are being fulfilled, but that is not a long-term solution that will give us the response rates required from the police to address what is becoming an epidemic across the country, and what we see on the frontline in our communities. When we spoke yesterday, you said you were worried. I think everybody here should be worried. What is happening in certain parts of the US is much worse than the UK, but we are at a real turning point. Will the trajectory be halted? Without police visibility, as well as industry visibility, of the scale of the problem, so that they can put the resource in the right place, we will not make progress on the problem.

You are looking at me, Minister; I have not answered your question. We are really keen to continue the very strong engagement that we have had with you over the past few months. I know that this is a cross-party point, and that everybody takes what is happening very seriously. We are very happy to continue to do that.

Q57 Chris Philp: Thank you, Helen. We will certainly do that. We want a zero-tolerance approach, so that there is not an escalation, as there has been in America, caused or enabled by ultra-liberal policing policies. We want zero tolerance, and we will definitely work with you and the retail sector to ensure that the action plan is delivered, including by ensuring that the police can produce the right data. Thank you for your help in the meantime.

I have just one more question. On the issue of the stand-alone offence, which has come up again and again, we have talked about the data point, and there may be other ways of addressing it. One question that will come up as we debate this issue is that if we create a separate offence for retail workers—we already have a separate offence for assaulting emergency workers, of course—what do we say when the teaching unions say, "Can we have a separate offence of assaulting a teacher?", the transport unions say, "Can we please have a separate offence of assaulting a bus or tube driver?", or someone says, "Can we have a separate offence of assaulting someone under the age of 18?" A lot of groups have claims that are just as valid and strong as yours. Will we end up with 50 stand-alone offences—for teachers, bus drivers, train drivers and so on?

Helen Dickinson: That is a very valid question, but I would turn it around: if any of those other industries was saying, as we are today, "This is an epidemic on a very scary scale, and it is having a huge impact not just on the 3 million people who work in retail, but right across every single community that we live and work in," and that epidemic was everywhere, that would be valid. However, we are saying that this is a unique situation. It is very specific to what is happening in the retail industry today, and that is why we think that you should focus on retail.

Paddy Lillis: There are about 1,000 incidents a day, and we think that that is just the tip of the iceberg, because most retail workers are not reporting them. They see them as part of their job. We are trying to get over that. If you are abused in any form at all, it should be reported, so that we get proper data. On a daily basis, there is the cost to industry of sick pay, mental health issues, injury—

Helen Dickinson: The cost of inflation.

Paddy Lillis: Absolutely. It really needs to be focused on. These are people performing a duty and serving the public, and if they are abused or assaulted in execution of their duty, they should have the protection of Parliament.

Paul Gerrard: I have two observations. I said before that I was a customs officer; I have done plenty of night shifts at Dover, and I have done shifts seizing cigarettes. I have never seen, even doing that job, the kind of abuse and violence that shop workers face. It is worth reflecting on just how unpleasant and lawless it is at times. I am not sure that other sectors can say quite the same, but it is for them to make the case.

My second point—I mentioned it before, but I will say it again—is that as legislators, you have asked these people to enforce the law, be it on age-related sales or social guidance during the pandemic. You ask them to enforce the law and put themselves at risk. The work that USDAW does demonstrates that very often violence follows enforcing the law. If you are to ask them to enforce the law, you must give them proper protection. That is the deal that I had always assumed was being made. I will not make a special case for retail workers, but if you are going to make them enforce the law, you should give them proper and special protection in the law for doing so.

Q58 Chris Philp: We have done this already in the Police, Crime, Sentencing and Courts Act 2022. As I said earlier, we have made it a statutory aggravating factor

if the victim of an assault is a public-facing worker, and that of course includes retail workers. Do you accept that that is special enhanced protection, because your sentence will be longer if you assault a retail worker?

Paul Gerrard: There are a couple of things there, Minister. First, I would say yes, although that provision is for all people in public-facing service. The difference here is that if my colleague decides to sell alcohol to someone they should not sell alcohol to, they will face a criminal sanction. This weekend, I was in Manchester, and one of my colleagues refused to sell cigarettes to a minor, who jumped behind the kiosk counter, attacked every single kiosk, and pushed, shoved and threatened staff. If they decided, "Actually, I do not want that to happen; I will just sell them the cigarettes," they would be breaking the law. That is the difference.

I get the point about public service—as a former public servant, I think that is right—but if you are asking people to enforce the law, you should give them special protection in the law through a stand-alone offence, of the kind that I had when I was a customs officer. It is a stand-alone offence to attack a customs officer, because they are enforcing the law.

Chris Philp: I will certainly continue to work with you all, regardless of the details in the Bill, to get the retail crime action plan fully implemented and bring into force a zero-tolerance approach. I think we all agree that that is necessary, and I will do everything possible to ensure that the police deliver that operationally. Thank you for your work in this area, and I look forward to keeping on working with you.

Q59 Alex Norris: One of our witnesses on Tuesday—it has completely escaped my mind which one—said it was very important that retailers did their part of the job too in ensuring that shops were safe environments to work in and not easy to steal from. I want to give Helen and Paul in particular the right to reply on that, because I thought you might want to.

Helen Dickinson: I agree completely with that comment. The reason why over 90 chief executives signed the letter to the Home Secretary from right across different parts of retail was that they are concerned about the fact that they are doing all they can, but feel that there is nothing more they can do. Paddy mentioned some statistics.

How do I describe it? It has two big impacts: one is financial, on the bottom line, how the profit of companies will be impacted unless they do everything that they can to address what could impact their business; and the second impact is on their biggest asset, which is their people, whether that is in absenteeism, morale or motivation to do their job well. Those two motivating factors, from a business leader point of view, mean something to every single business leader that I talk to. Literally, that is probably the thing that comes up most in the chief executive conversations that I have, because they feel that they have done everything that they can and that they are running out of road in terms of things that they could do.

The Minister asked about facial recognition, and I know that that is being explored by a lot of people. There have been various announcements about body cameras. People pay money into business improvement districts and regional partnerships. We have the Pegasus Project, which is trying to get better co-ordination across different parts of the police, specifically focused on organised gangs. That is being funded by retail businesses. They are not handing it all back and going, "It's someone else's problem."

That is my answer to whoever it was. I am very happy to put them in front of any retail business, and I am sure they will be given lot of reasons. Paul, I do not know if there is anything you want to add.

Paul Gerrard: The Co-op is one of the businesses that is funding Operation Pegasus. Over the past four or five years, we have spent £200 million on security measures in our stores. That is four times the sector average. If you go into some of our stores, you will see state-of-the-art CCTV, body-worn cameras and headsets. We have increased our guarding budget by almost 60% from pre-covid days. We are constantly investing. We have had a problem with kiosks, where people jump behind the kiosk counter, often armed, terrifying colleagues who are still in the kiosk. We have just invested heavily in new kiosks to stop people from doing that.

Helen is absolutely right: the retail sector takes this really seriously. We consider the first responsibility to be ours, which is why we invest as much as we do to keep colleagues and shops safe, but we are getting to the point with some stores in the Co-op estate and across retail where it is increasingly hard to work out how to run a store that keeps colleagues safe and can make a commercial return. That will mean that shops will close, and we all see what happens when shops close: communities face tough times.

I have heard the police express that idea that we are not doing anything. They have had a similar, less-than-polite response from me when they have said it, because it is patently untrue.

Paddy Lillis: It is 21st-century Britain, and we have retail workers with body cams on—it sounds like a war zone. At the time, we are trying to get things right and get people back into the towns and city centres, but we are helpless. It is a societal problem, something we all need to work towards addressing. We must put the support we need behind retail staff and businesses. I have worked with them. Security measures just last year cost £1 billion, with more and more going in, but somewhere along the line we all pay for that. It is a massive problem that has to be addressed.

Q60 Alex Cunningham (Stockton North) (Lab): I am interested in the answer that Helen gave to the Minister about why retail workers should be a special case. I wonder if you would speak a little more about that. My understanding is that attacks on teachers, doctors, leisure staff, pub staff or whatever have not increased in particular in recent times, whereas we have seen this tremendous surge not only in organised crime in shops, but in assaults on retail workers.

The reason why the Government—rightly—responded to proposed changes for emergency workers was that we had seen a huge increase in activity: attacks on vehicles, on people, and everything else associated with that. Helen, would you like to talk a little bit more about that, and just clarify that it is also your understanding that it has soared in the retail sector, whereas some of the other categories that the Minister referred to have, in fact, remained relatively static?

Helen Dickinson: I think Paul summed it up. I cannot comment on behalf of other industries, because I am not close to what might be happening. I engage a lot with my peer group across different sectors, and it does not come up in the same way as it does when engaging with my members.

Paddy Lillis: Retail is an easy target for people. It is an easy way to make money, as Paul outlined earlier. In today's climate, as I said, there are three areas: the cost of living, addiction to alcohol and drugs, and now the criminal gang element. The retailers rightly told me that this is a golden quarter. It is a golden quarter as well for the criminal gangs, because they are in there robbing the shops under the cover of thousands of people shopping every day.

Paul Gerrard: If you were to ask people who have been in retail for decades, nobody would say they have seen anything like this, even during covid. No one has seen this scale of crime and the—often weaponised—violence and abuse that goes with that. It is out of control. We released CCTV footage earlier this summer, and it is like a riot trying to get into some of our stores, because people are intent on stealing and causing violence and abuse. I do not think anyone in retail—Paddy has been in and around retail for much longer than me—has seen it like this before.

Helen Dickinson: Businesses such as the Co-op—in convenience— have often been at the frontline, because there is that proof of age required when somebody is buying alcohol or cigarettes or whatever else it might be. He is seeing that escalation, but there are other sectors that would never have raised this as an issue now bringing it up as the most significant thing impacting their business. One of my members is a beauty business with only one or two staff members in its stores. It has the same organised gang turning up, week in week out, using abuse and violence to basically get the staff to step back so that they can literally just sweep the whole stock. A business like that is potentially going to shut up shop, because it is not worth it in terms of loss. I do not know if we have quite answered your question.

Q61 Alex Cunningham: I think you have—I am quite content with that.

Paul, in your earlier evidence, you talked about the difference that you believe the change has made in Scotland. I think you said that there was a 60% arrest rate. I think it is probably in single figures south of the border. How much of that do you think is due to the law change, and how much is maybe a change in police policy, or the fact that police numbers have increased a little in Scotland?

Paul Gerrard: I am not sure I can talk to the latter point. I would say that in Scotland we see a police force that is taking it more seriously. Maybe they have more officers; I do not know. They take it more seriously. I think Daniel Johnson MSP's Protection of Workers Act has sharpened minds and given a really strong message that the Scottish Parliament considers an attack against a shopworker to be a particular kind of crime. I said that there is a 60% arrest rate on reported violent incidents. We are absolutely nowhere near that in England, because they are not turning up enough to do that.

Helen Dickinson: The visibility of the tracking means that it prioritises the resource. That then increases the response rate, and it becomes self-fulfilling.

Q62 Alex Cunningham: Even in England, we saw a huge cut in the number of police officers across the country since 2010. At least we are getting back to a point now where we actually have more police officers again. Do you think that is actually going to make a difference, and might it lead to more activity in shops—the retail world—than it might have done otherwise?

Helen Dickinson: Not without the measurement to be able to prioritise it.

Alex Cunningham: That is helpful, thank you.

The Chair: Are there any other questions?

Chris Philp: Only to put on record that we actually have record police numbers now. It is not getting back towards the peak; the peak has been exceeded by about 3,500—

Alex Cunningham: You do not have to give evidence!

The Chair: That is on the record. In that case, I thank the witnesses for their time and for their very open and full answers.

Examination of Witness

Clare Wade KC gave evidence.

2.50 pm

Q63 The Chair: We will now hear oral evidence from Clare Wade KC, the independent reviewer of domestic homicide sentencing. We have until 3.25 pm for this panel. Can you introduce yourself for the record, please?

Clare Wade: I am Clare Wade, a criminal barrister specialising in defence. I am a KC. I tend to specialise in domestic homicide, whether that is murder or manslaughter; increasingly, that is my practice. I have specialist experience in defending women in particular who kill their male abusive partners, but I also defend men who have killed their female partners, so I have quite a lot of experience in that. I was appointed as the independent reviewer for domestic homicide sentencing and wrote the domestic homicide sentencing review. I am here to answer any questions about my expertise on that.

Q64 Alex Cunningham: Good afternoon, Clare. Thank you for being here today to give evidence, and for the tremendous work you do in this particular space. We have heard your name crop up time and again because of the work you have done, so we do appreciate that. We have seen a few changes to legislation in relation to the sentencing of those responsible for domestic homicide. How does the Bill do more in that space?

Clare Wade: Clause 24 encapsulates one of the recommendations in the review, building on the secondary legislative proposals to put into law the aggravating factor of killings at the end of a relationship. I have to say that it looks a little odd in the Bill because it is, as it were, stand-alone. The intent behind the policy is to have a coherent legislative policy that addresses all the harms, and addresses the particular harms in these cases. We now have in the secondary legislation the aggravating factor of coercive control as something that has happened in terms of the history of the relationship by a perpetrator towards a victim, and vice versa—it is a mitigating factor as well.

Obviously, these killings nearly always happen within the context or confines of domestic abuse and, in the cases we looked at, we found that there was frequently

an escalation in domestic abuse when the victim—in the majority of cases, a woman who is killed by her male partner—wants to leave the relationship. That particular recommendation was made because not only is that a real harm, and that represents the real danger, but the policy underlying the other recommendations is one that places the concept of controlling and coercive behaviour at the forefront of the thinking.

The real harm in terms of coercive control, which the law does not yet recognise, is entrapment. It is not fear, as in being continually afraid, and it is not necessarily physical injury. It is entrapment, which is what prevents people who are being abused from leaving relationships. Putting that into legislation as an aggravating factor that can be taken into account by the courts would make it clear that that is one of the harms, but it would also, I suppose, bring to our consciousness the real harm in domestic abuse.

Of course, we are really only just getting to the stage where we understand what underpins domestic abuse—in my view, it is controlling and coercive behaviour, as I have explained it in the report I wrote.

Q65 Alex Cunningham: That is very helpful. In our evidence on Tuesday, Nicole Jacobs, the Domestic Abuse Commissioner, spoke of your report. She welcomed the measures that were included in the Bill, but she went on to say that she lamented those recommendations that had been excluded and believed that your package of recommendations should have been taken as a whole. What do you think the Committee needs to add to the Bill to fully recognise the importance of your work and get this right?

Clare Wade: Two things, I suppose. It is important to look at the terms of reference that I was given when I was asked to conduct the review. Two issues presented themselves in terms of problem areas, as it were, in the law as it stands. One of them was an issue that had really precipitated the whole campaign. In our sentencing framework for murder, we have various stages by which we attribute the gravity and seriousness of the offence. One of those involves taking a weapon to the scene of a murder with the intention of using it, and then using it in committing the murder. There is a 25-year starting point in relation to that, whereas most domestic murders—and we found this to be the case in the cases we looked at—have a 15-year starting point.

One of the problems identified was: why was there that disparity between people who have taken a knife to the scene and been convicted for doing that, and people who may not have taken a weapon to the scene but have reached out and used a weapon? We found that the real harms in the way in which those offences are committed were nothing to do with taking a knife to the scene—that really was a red herring. The real harms that were being identified by secondary victims—the mothers of the women who had been killed—were things such as overkill. One of the things that struck me when I looked at the cases was something that Julie Devey said, which was: why is it that you can take a knife to the scene, stab somebody once in a single stab wound and face a starting point of 25 years for your minimum term, and you can stab somebody 79 times in their own kitchen with a knife and face a starting point of 15 years?

I was able to discern that one of the harms was something that we have called overkill, which has now been accepted as something that should be legislated on by the Government. However, I concluded on the overall package that the whole issue of taking a knife to the scene, the 25-year starting point and the disparity was a complete red herring, and that the issue of taking a knife to the scene will inevitably lead to anomalies—for example, you might have a man who kills his ex-partner, takes a weapon to the scene and is therefore eligible for a 25-year starting point, but in real terms of culpability it is no different to killing her in the home. The real issue was something else—other sorts of harms that pertained to these murders.

Therefore, the whole 25-year starting point should be disapplied when we are dealing with domestic murders. Nothing is lost by that. That has obviously been rejected, and there is now a further consultation on having a 25-year starting point or a higher starting point, but it is completely otiose in my view if you take into account the real harms that we have successfully identified and that the Government have taken on board. You will reach the same result in coming to the sentence, but you will reach it by identifying the real harms. That is one thing that I would say probably needs to be looked at again.

The other thing is strangulation. We looked at the killings in our sample—and obviously the literature, frontline responders and everything else—and strangulation is a gendered form of killing, in the sense that in all but one of the cases that we looked at in our sample, it was used as a method of killing a female, usually by an abusive male, within a context and a history of controlling and coercive behaviour. So I recommended that strangulation ought to be an aggravating factor, and that has been rejected. The argument, as I understand it, is that it places too much emphasis on the mode of killing, but it does that for a reason because it is a gendered form of killing.

The corollary is that the use of a weapon, which is not a statutory aggravating factor but is often seen as an aggravating factor, should in my view not be an aggravating factor necessarily. Women who kill men who abuse them always use a weapon, because it is not possible for them to commit a murder without doing so. So those two factors concern me. I am with Nicole on that.

Q66 Alex Cunningham: That is pretty comprehensive. Can I ask you about clauses 23 and 24 and the aggravating factors in relation to grooming and the end of a relationship? Do those clauses go far enough?

Clare Wade: I will speak to clause 24 first, if I may. I think it probably does go far enough in terms of that point because it says "connected with" the end of the relationship, and that is sufficiently comprehensive. In terms of grooming, on the face of it, yes, I suppose. I am not sure if there is a definition. I am always perplexed by the lack of a legal definition of grooming. Even in the cases that I do, we all have an understanding of what it is, but I am not sure it is properly defined. I did not see anything, but I might have missed it. When we ask victims, "What do you understand by grooming?", for example in the cases that we do, they say, "Somebody pretending to be your friend, but not being your friend and using you for sex." It is not defined anywhere and it is such an important concept.

In many of the sexual offences, particularly historical sexual offences, grooming is now taken into account in directions to juries about consent. They are asked to

consider whether consent was true consent, given the background of grooming. It is a massively important concept. It is floating around, but maybe not sufficiently nailed down—I don't know. But yes—on the face of it, yes.

Q67 Alex Cunningham: Clause 30 addresses assessing and managing the risks posed by the coercive behaviour of offenders. It refers to an "intimate or family relationship". Do you think the wording of that clause is clear enough? We were just talking about clarity around grooming, and I agree with you there. Is the wording of clause 30 and the reference to "intimate or family relationship" too wide? Or do you think it is okay?

Clare Wade: I would have to consider it further, but I suspect it is probably all right. We are talking about the management of risk factors within that context. I imagine it is probably all right, as you are talking about convicted persons.

Q68 Alex Cunningham: I am particularly interested in the "intimate relationship", because that can take many different forms.

Clare Wade: "Intimate relationship", certainly in the work that I do, would mean partner/ex-partner. I will turn that round—do you think that is too narrow?

Q69 Alex Cunningham: Fair enough.

Clare Wade: I think it is probably right if we look at some of the definitions elsewhere, certainly in terms of the controlling and coercive behaviour that it brings into the management.

Q70 Alex Cunningham: That is helpful; thank you. This is perhaps not your bag, but clauses 11 and 12 address the offence of encouraging and assisting serious self-harm by a victim. Would you hazard a comment on whether those clauses are fit for purpose?

Clare Wade: I was thinking about that in terms of some of the scenarios that present themselves in domestic abuse situations. As I recall, the mens rea for that is intentional, which means that it is not too broad. However, off the cuff, I would say that it certainly fits in with some of the cases that we see that result in the suicide of people who are trapped in relationships that they cannot escape—for whatever reason: whether a combination of mental health factors or entrapment. Therefore, I would probably support that. I do not know whether it needs to be narrowed down or not, but certainly, for more remote relationships, it is an important legislative provision.

The Chair: Alex, I will let the Minister ask some questions for now, but there may be a moment to come back to you afterwards.

Alex Cunningham: Okay, fair enough.

Q71 Laura Farris: I just want to say that I thought that your review was absolutely excellent, and it has contributed in a really profound way to the way we talk about these issues in Government. Following the passage of the Domestic Abuse Act 2021, it has been probably the most critical piece of work that has been produced for the benefit of Ministers. I reread it before you came, and I was just so impressed by how comprehensive and detailed it was.

We all know that you are, of course, supportive of the clause 24 provision, which mirrors what you recommended, but I wanted to ask you about some of the things that you have just said. You said in your report that you found that coercive control underpins all domestic abuse. I think that you also made reference to the fact that there is now a consultation happening on minimum sentences in two regards. The first is in relation to whether any killing—any domestic homicide, to use your language—where there has been coercive control should attract a minimum sentence. I think that that goes a bit wider than anything that you put in your review. I will ask you about that first, and then I will go on to the second part.

Clare Wade: My view about setting minimum sentences in stone is quite strong. I am actually not a fan of minimum terms and starting points because I think that it takes away quite a lot of judicial discretion. Even though they are only starting points, we often get stuck with them. There is an argument that schedule 21 is probably not fit for purpose. As I say in the paper, it is frozen in 2003 and it comes with the problem that there is always this issue of, "Do we add another starting point in?" I think that the 25-year minimum terms has done nothing but cause problems.

Q72 Laura Farris: Please correct me if I am wrong, but am I right in saying that that was a response to the Ben Kinsella case in 2008?

Clare Wade: Yes, it was.

Q73 Laura Farris: I worked a bit with Carole Gould; I think that you referred to her when you gave the example of her daughter's case. Would you also agree that, in a way, it served to obfuscate what we would wish to say about some of these killings, because it creates this artificial distinction with what I think are more like gang-related crimes?

Clare Wade: Yes, that is one of the problems, I think. There are two issues. First, it creates legal anomalies anyway, because once you delineate a starting point for something like that, you have all sorts of problems about, "When is it taking something to the scene?" and you then have laws saying that taking a knife to the doorstep is taking it to the scene but taking a knife to another room is not taking it to the scene. That just reduces confidence in the law, I think; it just causes anomalies.

Secondly, as it stands, it does not fit with the other sorts of categories of harm within schedule 21 because, as I say in the report, it does not consider the vulnerability of the victim. It has one harm at purpose. That has caused all sorts of issues in terms of an obvious disparity, and we identified that disparity in the review. There is a disparity of six and a half years on average.

So it causes problems, and yes, you are absolutely right: it obfuscates the real issues because, by looking at the cases that we have looked at, looking at the literature and looking at our experience and the experiences of frontline responders and so forth, we know that the real issues are about what is now being identified as overkill or gratuitous excessive violence. The real issues are about, "Why do we not have a proper forensic approach to domestic abuse?" We do not have that. The whole

idea of placing controlling and coercive behaviour and the model that I have identified at the forefront of the thinking is to achieve a proper forensic approach. We will not have this woolly attitude and people saying, "That's not proper abuse," and basing stuff on myths and so forth.

Q74 Laura Farris: I will not use up all the time. I could ask you a lot of questions, but I will ask you a couple on what you were saying about strangulation. You will recall that one area of your report, your conclusions at paragraphs 8.2 and 8.3, was about the "rough sex" manslaughter issue. You looked at more than 100 cases relevant to that, and you were dealing with the starting point. There were two issues really. There was the culpability categorisation that the judge had found in those cases. Am I right in saying that you thought a starting point was appropriate for cases of that nature?

Clare Wade: First of all, there were only two cases in the actual sample that came within the "rough sex" category: gross negligence manslaughter and unlawful act manslaughter. In one of those cases, culpability was levelled at category C, so around the middle, and in the other at category B, so higher culpability.

I said that those cases should always involve higher culpability, because the risks of some of the behaviour, in particular with strangulation—while that was not apparent in the cases that we looked at—are high. At the moment, the law distinguishes between "obvious" and "high", and my view is that this is just a legal nicety when you are talking about strangling or choking somebody. All the experts will say—

Q75 Laura Farris: It is automatically high risk, and it is not understood that way by judges.

Clare Wade: No, it is not. The court is always constrained in terms of section 36 applications and referrals. They are always constrained by what evidence was before the sentencing court. There was found to be this distinction between "obvious" and "high", and I am not sure that can exist.

My view is that we need to look at everything, and look at society as a victim. We need to dismantle the cultural scaffolding that goes with some of this offending, if we are really going to tackle domestic homicide. There is such a resonance with other harms. Even the harm of overkill, which is about obliterating women's bodies because of anger and the motivation to kill and so forth, is apparent in strangulation. It was very important to look at that.

Q76 Laura Farris: I want to ask you one final question. The Ministry of Justice has written to the Sentencing Council about the culpability issue we have just been discussing. The Sentencing Council's reply was that these cases should always be viewed as high culpability, but we know that they are not always. Are you able to comment on that? I would say that it is a source of tension at the moment.

Clare Wade: It is a source of tension. The Sentencing Council has also said that the cases are decided on their own facts. I would agree that a real tension is there. In only one of the cases that we looked at did the sentencing judge find that it was high culpability.

Q77 Laura Farris: There are a number where they are viewed in the category below: category C.

Clare Wade: Yes, there was another one that was category C—given that there were two cases, 50% of them were category C.

The review is probably the first document that brings into consideration the current thinking of academics, campaigners, specialists and doctors. There has been a lot of research done, for example, by Dr Cath White on strangulation. It brings it all into play, and we are trying to have a coherent approach. The beauty—if I can call it that—of using the coercive control model, is that it gives us that. As I said before, ultimately we want a proper forensic approach to domestic abuse in criminal law.

My view is that that approach is lacking at the moment, and that is why we struggle. That is why there is seeming injustice, for example, when a minority of women kill their abusive partners. They do not always get justice, as some of the research shows. Only by having that proper forensic approach across the board will we be able to change things. That is important.

The other point is that the Sentencing Council is conducting its own review—I have not seen all the cases it looked at—and what applies to that applies to my review as well: sentencing comments in themselves are an imperfect way of measuring everything that underpins these cases.

Q78 Laura Farris: Especially as the victim cannot give evidence.

Clare Wade: The victim cannot give evidence. If you are looking at sentencing comments, you are not looking at the evidence in the case. Take the two cases with which we started the review, those of Ellie Gould and, in particular, Poppy Devey Waterhouse—the review was initiated by the campaign on those cases. I was able to look at the prosecution case files and see that some of the factors we were able to identify in looking at the evidence were apparent in those cases.

In one of the cases, there was some stalking; in both cases, the killing happened at the end of the relationship where the victim wanted to leave the relationship; there was a little bit of violence. We found those factors, but they were not necessarily apparent from the sentencing remarks—one had to look at the papers through the coercive control prism to be able to identify them. Looking only at sentencing remarks is an imperfect way of looking at all these cases. That is why I welcome the Law Commission looking at the issue of defences.

Q79 Alex Cunningham: I was grateful that you were able to comment on the issues around self-harm. The Bill also covers policing. Do you have a view on the way the Bill treats police-perpetrated domestic abuse issues, the specified offences in relation to gross misconduct, and the requirement of vetting? It may not be your bag.

Clare Wade: I would obviously welcome that. We have had some very high-profile cases where police officers have committed dreadful offences. Public confidence, particularly the confidence of women, needs to be restored in policing, so I would welcome that transparency.

I suppose there is an underlying cohesion in some of what we say. For example, one of the questions that we wanted to answer in the review is how domestic homicides sit and fit with misogynistic killings of women generally.

I hope that by identifying the real harms and placing them at the forefront of the law, we are able to show that. That goes back to some of the things we were saying a moment ago, namely that strangulation is a particular harm. It is pertinent to domestic killings, as we identified in the review, but it is also something that happens in other misogynistic killings of women. It is important to not just be able to isolate domestic killings of women, but have a policy that encompasses the misogyny that underpins some of the awful offences we have seen in the last few years.

Alex Cunningham: That is very helpful—thank you.

The Chair: If there are no further questions, I thank the witness on behalf of the Committee. The Committee will meet again at 11.30 am on Thursday 11 January to commence line-by-line consideration of the Bill.

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

3.19 pm

Adjourned till Thursday 11 January at half-past Eleven o'clock.

Written evidence reported to the House

CJB 14 Professor Amy Chandler, School of Health in Social Science, University of Edinburgh

CJB 15 Dr Sarah Chaney, Queen Mary University of London

CJB 16 Dr Hazel Marzetti, suicide and suicide prevention researcher, University of Edinburgh

CJB 17 Centrepoint

CJB 18 Anthony Simons

CJB 19 Aurora New Dawn Ltd

CJB 20 McPin Foundation