

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

## Public Bill Committee

### CRIME AND COURTS BILL [*LORDS*]

*Fourth Sitting*

*Thursday 24 January 2013*

*(Afternoon)*

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CLAUSE 4 agreed to.

SCHEDULE 3 agreed to.

CLAUSES 5, 6 and 7 agreed to.

SCHEDULE 4 agreed to.

Adjourned till Tuesday 29 January at five minutes to  
Nine o'clock.

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**Monday 28 January 2013**

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**The Committee consisted of the following Members:**

*Chairs:* † MARTIN CATON, NADINE DORRIES

- |   |  |
|---|--|
| † Barwell, Gavin ( <i>Croydon Central</i> ) (Con)                   | † Lopresti, Jack ( <i>Filton and Bradley Stoke</i> ) (Con)     |
| † Browne, Mr Jeremy ( <i>Minister of State, Home Department</i> )   | McCabe, Steve ( <i>Birmingham, Selly Oak</i> ) (Lab)           |
| † Burrowes, Mr David ( <i>Enfield, Southgate</i> ) (Con)            | † McDonald, Andy ( <i>Middlesbrough</i> ) (Lab)                |
| Chapman, Jenny ( <i>Darlington</i> ) (Lab)                          | † Paisley, Ian ( <i>North Antrim</i> ) (DUP)                   |
| † Creasy, Stella ( <i>Walthamstow</i> ) (Lab/Co-op)                 | † Rutley, David ( <i>Macclesfield</i> ) (Con)                  |
| † Elphicke, Charlie ( <i>Dover</i> ) (Con)                          | † Syms, Mr Robert ( <i>Poole</i> ) (Con)                       |
| † Goggins, Paul ( <i>Wythenshawe and Sale East</i> ) (Lab)          | † Vara, Mr Shailesh ( <i>North West Cambridgeshire</i> ) (Con) |
| Green, Damian ( <i>Minister for Policing and Criminal Justice</i> ) | † Vaz, Valerie ( <i>Walsall South</i> ) (Lab)                  |
| † Hanson, Mr David ( <i>Delyn</i> ) (Lab)                           | † Wilson, Phil ( <i>Sedgefield</i> ) (Lab)                     |
| Heald, Oliver ( <i>Solicitor-General</i> )                          | † Wright, Simon ( <i>Norwich South</i> ) (LD)                  |
| † Jones, Andrew ( <i>Harrogate and Knaresborough</i> ) (Con)        | Neil Caulfield, John-Paul Flaherty, <i>Committee Clerks</i>    |
|   | † <b>attended the Committee</b>                                |

## Public Bill Committee

Thursday 24 January 2013

(Afternoon)

[MARTIN CATON *in the Chair*]

### Crime and Courts Bill [Lords]

#### Clause 4

RELATIONSHIPS BETWEEN NCA AND OTHER AGENCIES:  
TASKING ETC

*Amendment proposed this day:* 31, in clause 4, page 4, line 34, at end insert—

‘(7A) The Government will report annually to Parliament on the number of times a direction has been issued and to whom.’.  
—(*Stella Creasy*.)

2 pm

*Question again proposed,* That the amendment be made.

**Stella Creasy** (Walthamstow) (Lab/Co-op): It is a pleasure to have you here this afternoon, Mr Caton. I am sure that you have missed some extraordinary, well-informed debates in some parts of the building, but unfortunately here we were trying to find out quite what the Government’s intentions are for the directed powers of the new director general of the National Crime Agency, and, in particular, his new power of tasking. The amendment was tabled to try to make sure Parliament can access the information it requires to scrutinise properly how that new power is used.

It is always with a sense of irony that I watch coalition Government Members, who perhaps in a previous party lifetime were strong defenders of freedom of information, being so cavalier about how those laws are applied. Before I withdraw the amendment, I ask the Minister to clarify to the Committee where information, were it to be shared with police and crime commissioners, would be made public. He raised some serious concerns about tasking and what information would be required to understand the number of times the power would be used.

**The Minister of State, Home Department (Mr Jeremy Browne):** I took the opportunity during our luncheon interval to look further into the points the hon. Lady raised as part of my ongoing attempts to assist the Committee. I can inform the Committee that the National Crime Agency, like the Serious Organised Crime Agency, will not be subject to the Freedom of Information Act 2000. Like SOCA, it will be designated under section 23 of the Freedom of Information Act, “Information supplied by, or relating to, bodies dealing with security matters”. As a result, information supplied to anybody by the NCA will be exempt from disclosure under the Freedom of Information Act. I hope that helps.

**Stella Creasy:** I thank the Minister for that clarification. Essentially, he is saying that we will not know how many times the directed power has been used, or to what purpose. Police and crime panels and commissioners who may be asked to pay for the consequences of the directed power being used will have little understanding

of what impact it has had. That is concerning. I urge the Minister to reflect on how such information might be able to be released.

**Mr Browne:** The hon. Lady could just as well argue that they will have less understanding than she would like of the benefits that they derive from NCA assistance, which may indeed be directed. It may well have a tangible benefit, not just for people within their police force area, but for the wider national interest, which the Committee must also have regard to.

**Stella Creasy:** The Minister makes a very good point for disclosure, although I am not sure that was his intention. Let me give an example, which I know Government Members will recognise, of where this might be apposite. During the London riots, there was confusion and concern about resources being requested from forces outside London for public order in the capital as and when events then unfolded in those cities themselves. Clearly, questions would be asked about the direction, were it dealt with under the new arrangements, about how the resources were applied and what the consequences were for local cities, people and police forces.

I do not intend to press the amendment, but I ask the Minister to reflect more widely on how to make sure this new power is properly scrutinised to ensure that the public can be confident that there is no mission creep in its use, and the costs and the consequences to the public purse, at local and national level, are well understood. That was the intention of the amendment. I am sorry that the Minister does not quite see the importance of being clear about the new directed power and how it will impact on police resources. I will just say that if he thinks that has made me excited, he has got some things to come later. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

**Stella Creasy:** I beg to move amendment 30, in clause 4, page 4, line 38, leave out subsection (9).

**The Chair:** With this it will be convenient to discuss amendment 17, in schedule 3, page 56, line 8, leave out sub-paragraph (3).

**Stella Creasy:** Again, we tabled the amendment to try better to understand the day-to-day operational arrangements behind the Bill and what they will mean for the range of police forces in this country. Will the Minister, in responding to the amendment, set out more clearly why the Government have singled out the British Transport police for such special treatment. In the other place, the Minister responding to similar concerns set out that because the British Transport police operated over a wider jurisdiction, it was appropriate for the Transport Secretary to be consulted were this directive power to be used. There is an entirely justified case for that. But it does not make sense to Opposition Members that only the British Transport police would receive this courtesy. A number of UK special police forces could be considered to be in the same vein. It would be helpful if the Minister could set out why he has not applied the same protocol to dealing with the Civil Nuclear

Constabulary, or, indeed, the Ministry of Defence police. With 750 police officers, the Civil Nuclear Constabulary is perhaps small compared with some of the other forces we are dealing with. Yet there is no power in the Bill for the Secretary of State for Energy and Climate Change to be consulted, were a directed task to be enacted. It is the same with the Ministry of Defence—we are talking about a force much larger than the British Transport police. There is no requirement in the Bill for the Ministry of Defence to be consulted in the same way that there is for the Department for Transport.

I fully admit that I am a fan of both transport and defence issues and therefore I am perplexed as to why one receives such special treatment and the other does not. These amendments remove that distinction and make it very plain that all forces should be treated equally—we on this side being big fans of equality. I look forward to the Minister's comments on this matter.

**Mr Browne:** It is a pleasure to serve under your chairmanship this afternoon, Mr Caton, and to have an opportunity to reply to an amendment brought before the Committee by a fan of transport issues. I will do my best to ensure that the hon. Lady's enthusiasm for these issues is sated by the comprehensiveness of my response. There are two amendments grouped together on slightly different issues. The hon. Lady spoke to amendment 30, and I believe the lead name for amendment 17 is that of the right hon. Member for Delyn. I will speak to them both.

Amendments 30 and 17 concern the consent requirements around directed tasking and directed assistance respectively. As has just been said, amendment 30 seeks to remove the requirement that the Transport Secretary gives his consent before the director general can direct the British Transport police to perform a task. Amendment 17 similarly seeks to remove the requirement for the Secretary of State, Treasury or Attorney General, as appropriate, to give their consent before the director general can direct assistance from the police and UK law enforcement agencies.

In making the case for amendment 30, the hon. Member has questioned why the consent of the Transport Secretary is required before the director general can direct the Chief Constable of the British Transport police to perform a task, but there is no similar requirement for the Home Secretary to consent to a similar direction given to the chief constable of a Home Office police force. This difference of treatment simply reflects the differences between the British Transport police and Home Office forces of the type that we represent in geographic terms as Members of Parliament. The British Transport police authority is constituted under quite separate legislation as compared with Home Office forces, with its own specialist remit and its own accountability mechanisms through the British Transport police authority to the Secretary of State for Transport, who is the relevant Secretary of State in terms of that police force but not of others.

Moreover, the funding mechanisms are quite distinct. The British Transport police are primarily funded by the Association of Train Operating Companies. Home Office forces have no such relationship with industry. Given these unique facets, we consider it appropriate that the Transport Secretary should consent to any direction by the director general requiring the BTP Chief Constable to perform a task.

In responding to amendment 17 in the same group, it is important to bear in mind the critical distinction between tasking and assistance. Tasking arrangements between the NCA and UK law enforcement bodies is an operational matter, where command and control of an operation is transferred to the organisation being tasked. We dwelt on that in our previous deliberations. Assistance primarily concerns the transfer of resources, with officers or assets from one agency being loaned to operate under the temporary direction and control of another agency. Because assistance involves such a transfer of resources from the command and control of one organisation to another, it is appropriate that there should be an additional check on the director general's power to direct another law enforcement agency to provide such assistance. That additional check is in the form of a requirement to secure ministerial consent.

There are long-standing precedents in place for ministerial oversight of powers which require the transfer of resources, even temporarily, from one body to another. For example, the Police Act 1996 gives the Secretary of State the power to direct forces to provide assistance to each other in specific circumstances. The hon. Lady, when speaking to the other amendment, gave an example of the type of circumstances where she envisaged such assistance might be provided. In addition, the directed assistance powers under section 24 of the Serious Organised Crime and Police Act 2005 are also vested in the Secretary of State.

I hope that I have been able to persuade Opposition Members of the case for the provisions and that, as a result, they will feel that it is appropriate to withdraw the amendment.

**Stella Creasy:** Perhaps I was not clear enough in the examples I gave about the other police forces to which the provisions might also apply. Will the Minister say a little bit more about why the civil nuclear constabulary and the Ministry of Defence police will not be given the same dispensations? The civil nuclear constabulary reports to the Department of Energy and Climate Change, and the MOD police to the Ministry of Justice. It would be helpful to understand why they have not been given the same level of protocol. The case that the Minister makes—perfectly reasonably—about how the law operates with respect to the British Transport police surely applies to the others. Will he clarify that point?

**Mr Browne:** The hon. Lady makes a reasonable point. The clarification is this: the other special police forces will not be subject to directed tasking, so there is no need for a consent requirement.

**Stella Creasy:** I thank the Minister for that clarification. On that basis, I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 4 ordered to stand part of the Bill.*

### Schedule 3

#### RELATIONSHIPS BETWEEN NCA AND OTHER AGENCIES

**Stella Creasy:** I beg to move amendment 19, in schedule 3, page 61, line 15, leave out 'Secretary of State' and insert 'Advisory panel on payments'.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 18, in schedule 3, page 61, line 16, leave out sub-paragraphs (2), (3) and (4).

Amendment 20, in schedule 3, page 61, line 33, at end insert—

*Advisory panel on payments*

“( ) The Secretary of State must appoint an independent advisory panel on payments to determine the appropriate amount to be paid under paragraph 32(1)(b).”

**Stella Creasy:** You will be hearing a lot from me this afternoon, Mr Caton.

This group of amendments speaks to a debate that we had earlier. Having listened to this morning’s debate, the importance of testing such questions has become even more paramount. It is ironical that it is the Opposition who are trying to make sense of the impact of police and crime commissioners on the new police system in the UK, rather than the Government bringing clarity—*[Interruption.]* It is suggested that we are obsessed. We merely think that if we have shelled out all this money for this system of governance, it is at least worth making sure that we get good value for money. I know that value for money does not necessarily come forward in some of the discussions about budgets—I digress.

The amendments are about precisely the question that we were talking about earlier today: what happens if a directed request is made, the power is used, resources are used and therefore cost is incurred? How will the question of who is charged for costs be resolved? It is entirely fair to ask, “Who will pay for what?”; I am sure that even the hon. Member for Enfield, Southgate would agree. After all, we all know that everybody has to pay at some point. I am sad to see the consequences of having to pay for the increased borrowing that this Government have made on my community in Walthamstow.

I wish to focus particularly on how scrutiny of public funds occurs. I was concerned when the Minister had a bit of a tantrum on Tuesday as a result having to do some maths about financial management. I will welcome watching the Home Office in front of the Public Accounts Committee if its argument is simply, “We are under budget. What’s the problem?” Good public financial management is about accounting for costs where they have occurred.

2.14 pm

*Sitting suspended for a Division in the House.*

2.29 pm

*On resuming—*

**Stella Creasy:** As I was saying before I was so inclemently interrupted by an important vote on something that I hope has gone through the House, the amendments are about good financial management and ensuring that there are no delays in financial management. Many of us are concerned that there could be delays when different Departments and different organisations with different budgets are asked to cross-charge each other. The amendments would allow for the provision of a body to resolve such concerns. An advisory panel would look at any complaints or considerations around payments and the cost of the directed tasking and make a judgment. It would display the wisdom of Solomon for the police forces to resolve such matters.

The Bill already makes provision under schedule 5 for the appointment of advisory panels

“at any other time when the Secretary of State considers that it is appropriate to do so.”

The panels were set up to advise on training, but I think it is an entirely appropriate parallel to draw on financial management. It is clear that the Secretary of State could have a potential conflict of interest in resolving matters, but I know that the Minister would prefer that. The Secretary of State is responsible for the budget for police forces as well as the budget for the National Crime Agency. To ask one to disburse the other when there might be disagreements about who is responsible for costing could lead to confusion and stasis in decision making, which could lead to problems with budgetary processes.

The panel would remove such problems. It would also ensure that there was confidence on both sides of the negotiation about how public money was being managed. It would ensure that police forces and the National Crime Agency could be confident that the resolution would be in the best interests of the British taxpaying public.

It was suggested in the Lords that the framework document would offer clarity on the matter of who would decide who would pay what and when. Unfortunately, although the framework document has a myriad ways to illuminate several issues, this is not one of them. It simply refers to:

“NCA power to raise fees and charges; approvals needed from HM Treasury to retain funds; ability of CEOP to retain incomes raised including from donors.”

That does not provide clarity on what would happen if there were a disagreement between forces and the director general about who was responsible for costs incurred, whether in terms of police time, the use of physical buildings or premises, or indeed technology or any future claim that might be brought against a police force as a consequence of an NCA action in their territory. The proposal would allow clarity on budgets, on who was responsible and on how the decisions were made if a voluntary agreement could not be reached.

I hope that the Minister will approach the proposal in the spirit in which it is intended. We want to understand precisely how he sees the decisions being resolved. Police forces might fear that the Home Secretary was using the power of the NCA to direct and task, and local forces might have to pay for it. Local police and crime commissioners, when they are eventually allowed into the room to understand what they are being asked to pay for, might have to pick up the tab with the local precept. I hope the Minister will agree that that would not be an appropriate way for public funds to be raised and managed, and that he will act accordingly.

**Paul Goggins** (Wythenshawe and Sale East) (Lab): I seek your guidance, Mr Caton. I have a couple of general comments to make in relation to schedule 3. Is now the appropriate time or do you want to take a stand part debate later?

**The Chair:** If you would like to make the comments now, Mr Goggins, that will be welcome, but it will mean that we will not have a stand part debate. Is that agreeable to other members of the Committee?

**Paul Goggins:** I do not see any disappointed faces, Mr Caton.

My questions to the Minister are gentle and probing. On co-operation in part 1, paragraph 1 lists various organisations, most of which come under the direct control of the Government Department, but of course police forces do not. They are under the command of the chief constable, now with the oversight of and accountability to the police and crime commissioner for a particular area. Are there plans for memorandums of understanding with police and crime commissioners and chief constables that would govern the duty to co-operate that is set out?

The duty to co-operate is an important duty, which will ensure good operational communication and co-operation between the relevant law enforcement agencies. Does the Minister intend to set out the arrangements in a memorandum of understanding, so that there can be no doubt about the circumstances in which co-operation would be sought and the manner in which it would be given?

Also, is there anything in writing—anything that has been drafted—or any memorandum in relation to Northern Ireland and Scotland Justice Ministers? They have their own jurisdictions and the duty to co-operate there could be very important. It is important that we have absolute clarity. So will it be set down in writing where the bodies are not directly under the control of Government Ministers?

My second query is more substantial. It relates to part 3 of schedule 3, and concerns assistance within the United Kingdom. Paragraph 11(1) states very clearly:

“The Director General may direct any of the following to provide specified assistance to the NCA—”

Among those then listed is the chief officer of an England and Wales police force. The director general may therefore direct a chief constable to do certain things. Again, I do not quibble with that; I have no difficulty with that.

But when we move on to paragraph 14, we deal with the directed assistance by the National Crime Agency in Northern Ireland. Here we see a rather different framework offered by the legislation. I perfectly well understand the political reasons for that, because there would be some sensitivities around the director general of the National Crime Agency directing the Chief Constable of the Police Service of Northern Ireland to do certain things without any reference whatever to the Minister, the Assembly, the Executive, or indeed to the Northern Ireland Policing Board. So I understand the sensitivities around that. However, paragraph 14(1) states very specifically:

“The Department of Justice in Northern Ireland may direct the Director General to provide specified assistance to the Police Service of Northern Ireland.”

In other words, the director general must relate to the Department of Justice, rather than directly to the Chief Constable. These will clearly be operational matters, and we are used to operational relationships between chief constables and the person who will be the director general of the National Crime Agency. They get on with the job, and Ministers quite rightly do not get involved in operational detail and in taking operational decisions. That would be quite wrong.

But here, in order to get the direction, the director general must first go to the Department, which is under the direction, control and leadership of the Minister, and presumably must share very sensitive, detailed operational information with senior officials who are not operationally responsible. I would appreciate an understanding of precisely how that relationship would work. I think it would be helpful, not least to colleagues in Northern Ireland. It is a somewhat different situation when the director general goes to a Department to seek a direction, rather than going directly to the chief constable as he would in, for example, Greater Manchester, which is the area I represent in Parliament. I would be very grateful for clarification from the Minister.

**Mr Browne:** As the hon. Member for Walthamstow explained, these amendments relate to the charging arrangements for both tasking and assistance. Unlike the charging provisions in schedule 1, which you will recall, Mr Caton, were to do with, for example, specific training courses—rather a limited field which we have already debated—the provisions in schedule 3 relate to cross-charging for specific operational support provided under tasking and assistance. That could include, for example, a police force calling on the National Crime Agency teams overseas to investigate the international activity of specific organised criminals who are having an impact in their force area. It is always worth remembering that the assistance could go in both directions.

In discussing the operational support, I start by emphasising that the National Crime Agency will build on the policy of the Serious Organised Crime Agency not to charge law enforcement partners for operational activity carried out as a result of tasking or assistance, unless agreed beforehand. Routine cross-charging in these circumstances would create administrative burdens for both the agency and partners when calculating costs, and would undermine the vision of the NCA, police and law enforcement agencies working in collaboration. Where, exceptionally, there is cross-charging between the NCA and other law enforcement agencies, we fully expect that agreement will be reached between the parties as to the level of any charges. However, the provision for the Secretary of State to determine the appropriate amount payable for tasks, assistance or facilities, between the director general of the NCA and partners, is a necessary backstop power in the event that agreement cannot be reached.

In this respect, as in others, the Bill broadly replicates current arrangements for payments for assistance and facilities set out in part 1 of the Serious Organised Crime and Police Act 2005. Agreement has always been reached between the Serious Organised Crime Agency and partners with regard to charging, and so these backstop provisions have never been used in the history of SOCA. It is important to have them none the less, and that is why we have a similar arrangement in place for the NCA.

The hon. Lady seeks to establish an independent advisory panel on payments, to take the place of the Secretary of State in settling any disputes around payments. I put it to her that such an advisory panel would, in our view, bring an unnecessary layer of bureaucracy and cost into cross-charging arrangements, not least because in the history of SOCA it has never been necessary to resort to that level of adjudication. The Home Secretary

[Mr Jeremy Browne]

is ultimately responsible, however, for the efficiency and effectiveness of policing in England and Wales, and in those circumstances, which I hope do not arise but which could arise, I can see no reason why she should not be responsible for settling any disputes in this area, rather than giving that task to an advisory panel.

In addition, amendment 18 would remove any role for the devolved Administrations in setting appropriate amounts if agreement cannot be reached. As the budgets for these law enforcement bodies in Scotland and Northern Ireland are devolved, it is right that the devolved Administrations have a role to play in ensuring that payments are fair in situations where either a Scottish or a Northern Irish body is involved.

The right hon. Member for Wythenshawe and Sale East hoped that there would be a satisfactory arrangement when the NCA was dealing with Scotland or with Northern Ireland. I say to him that it would be a matter for the director general of the NCA if he wished to negotiate a memorandum of understanding with the chief constables across the board, including those in Scotland and Northern Ireland. However, as I say, the provisions I mentioned a moment ago would also apply.

As I have already outlined, I expect that the cross-charging arrangements for tasks, assistance and facilities will be agreed between the NCA and its partners, but it is right that the Bill includes a backstop power for resolving any disputes and respects existing devolution arrangements. Those arrangements have not given rise to any difficulties in relation to the Serious Organised Crime Agency and we do not envisage them giving rise to difficulties with the National Crime Agency either. I therefore ask the hon. Lady to withdraw her amendment.

**Paul Goggins:** I was trying to catch the Minister's eye before he sat down. If that is the conclusion of his remarks, he has not dealt at all with the points that I raised. I am more than happy to set them out again if that is helpful to the Minister.

**Mr Browne:** Perhaps I might expand on those provisions. We regard it as essential that the NCA has a UK-wide remit, which is why there are two-way voluntary assistance provisions between the NCA and the Police Service of Northern Ireland. Most, if not all, assistance arrangements will be voluntary, as is the case with the NCA and any other part of the United Kingdom.

However, the Bill also provides for directed assistance provisions as a backstop power, subject to appropriate safeguards. The Department of Justice for Northern Ireland may, with the agreement of the Home Secretary, direct the director general of the NCA to provide officers or other assets to operate under the direction and control of the Police Service of Northern Ireland. In addition, the Department of Justice for Northern Ireland may, having consulted the Northern Ireland Policing Board and any other persons the Department wishes to consult, direct the Chief Constable of the Police Service of Northern Ireland to provide assistance to the NCA. That does not undermine the role of the Northern Ireland Policing Board; indeed, it is precisely in recognition of the importance of the board in overseeing policing in Northern Ireland and holding the Police Service of Northern Ireland to account that the board must be consulted before a direction can be issued. This

goes further than the existing provisions for SOCA. We are trying to take into account any sensibilities that would exist in Northern Ireland, in order to ensure that these arrangements can be conducted as seamlessly there as they will be, I hope, elsewhere in the United Kingdom.

**Paul Goggins:** I am grateful to the Minister for his response, which has provided a partial explanation. In relation to the first point I made, about the duty to co-operate, we all know that people can co-operate gladly or begrudgingly. The reason I am suggesting that there is consideration of a memorandum of understanding between the director general and police forces, and between the director general and the police in Northern Ireland and Scotland, is that I am anxious to ensure that we have very smooth working and a common understanding of what co-operation actually means, so that the very best can be given by all parties and with the best outcome, which is of course to tackle organised crime. That is the spirit in which I am making the suggestion.

2.45 pm

**Mr Browne:** I appreciate the spirit with which the right hon. Gentleman makes his remarks. The Government are keen that the NCA should have a UK-wide remit, because serious and organised crime obviously visits itself on all four component parts of the United Kingdom.

However, there are particular sensibilities to take into account in Scotland and, for reasons that members of the Committee will understand, in Northern Ireland. We hope that memorandums of understanding and other mechanisms will make sure that concerns on all sides are observed. The right hon. Gentleman is right to draw the Committee's attention both to the desirability of these functions covering Northern Ireland and to the regard that the Government and the NCA will need to have to ensure that these arrangements are to the satisfaction of everybody concerned.

**Paul Goggins:** I am grateful. I hope that my suggestion will cause some further thought for the Minister.

The second point, however, is more substantial. The Minister has gone some way to responding to it, but the legislation clearly sets out that the Department of Justice in Northern Ireland can direct the director general to provide assistance to the Police Service of Northern Ireland, and vice versa—the Department of Justice can also direct the Chief Constable in Northern Ireland to provide assistance to the National Crime Agency.

I am still concerned that co-operation at an operational level is something we are used to between different police forces and different agencies, but Ministers do not become involved in operational detail. The Northern Ireland Policing Board—we have a former member of it on our Committee; I am sure that he will back me up on this point—would not be briefed on operational detail.

So saying that the Department of Justice would consult the Northern Ireland Policing Board is fine procedurally, but what is it consulting about? If we are talking about the duty to co-operate, that has to be on operational detail—and that kind of detail is not generally shared with Ministers, senior officials or the Policing Board. It is essentially shared between those who are

responsible for operations: in this case, the director general of the National Crime Agency and the Chief Constable of Northern Ireland.

I understand the political sensitivities and I do not want to unpick what may very well have been neatly stitched together, but we need to know that there is a set procedure in place, in which everybody has confidence, that would allow this co-operation to be sought in a way that will not cause difficulties in future, for the Minister, the Policing Board or the Chief Constable.

**Mr Browne:** May I intervene? It may help if I can shed more light on this matter.

As the right hon. Gentleman says, tasking is an operational matter and the independence of crime fighters should be protected, but there are long-standing precedents for ministerial oversight of powers that require the transfer of resources from the command and control of one body to another, as opposed to merely co-operating. For example, under the Serious Organised Crime and Police Act, directed assistance was vested in the Secretary of State, not the then police authorities, and the provisions for Northern Ireland mirrored those of England and Wales.

I think I can draw the distinction between the ministerial oversight for resource transfer and operational matters. Although operational matters may require drawing on the resources of other bodies, it is envisaged that there would be some give and take in those areas. That has not proven to be controversial in the past and we hope it will not be in future, whereas a transfer of resources—that is, a secondment of a group of 10 people for six months—is regarded in slightly different terms. In those circumstances, it is seen as reasonable that there is some oversight and that those arrangements would apply in Northern Ireland as they would elsewhere.

**Ian Paisley** (North Antrim) (DUP): I rise in the same spirit as the right hon. Member for Wythenshawe and Sale East. I want to make it absolutely clear—and I think the Minister has already done so—that operational independence is sacrosanct. That is all the more true in Northern Ireland because of the difficult circumstances that, thankfully, we have emerged from.

If a situation were created where politicians for one moment thought they had power over operations, it would open up a very difficult set of circumstances in a difficult can, which we would never get closed again. Therefore being clear that the operational independence of all these policing and crime-fighting organisations is sacrosanct is critical. There can be no fudging on that—no blurred lines.

When we joined the Policing Board, when it was set up in early 2000, it was very clear that our powers and responsibilities were to hold the Chief Constable and the senior officer team to account after the event. Our responsibilities were not to direct his involvement in any of that or to push him towards a particular action, but they were there *ex post facto*. It is critical that that careful balance is maintained so that there is no misunderstanding from any party that may wish to aggrandise its role—or, indeed, be mischievous in its role.

**Mr Browne:** The different language is quite complicated. We want that operational independence to exist, both in Northern Ireland and elsewhere in the United Kingdom,

which was the point made in the earlier debate about why we should not be seeking the approval of the police and crime commissioners for operational tasks.

On tasking, both voluntary tasking, which we regard as the routine arrangement, or, on rare occasions, directed tasking—by the way, that would apply only in England Wales—would be done at an operational level. As I understand it, there is a difference between that tasking and assistance, whether the assistance is voluntary or directed. Assistance can go in both directions, towards the NCA or from the NCA towards the individual police force. If it is collaborative work on an operational level, under tasking, that would not necessarily be charged for and it would be operational.

However, under assistance, if a number of expert people were seconded from one organisation to another for a period, for example, or some particular equipment was seconded for an operation because it was particularly valuable, that would not be the normal ebb and flow of co-operation. It would require the higher approval in order to have that resource transfer for that period of time—for example, a secondment of people. But it would not be an interference in operational matters *per se*; it would just be a necessary consent, given the semi-permanent basis of the arrangement as opposed to the day-to-day ebb and flow of typical voluntary or direct tasking.

**Ian Paisley:** I want to be helpful on this point. For example, in June this year the G8 is going to meet in Ulster, in Fermanagh. It is very clear to me that 6,900 police officers, as we currently have, will not be sufficient to carry out ongoing policing operations and crime-fighting and also cover the security of the G8. So additional officers will be brought in from the other two services across the United Kingdom to allow that to flow easily. That does not come into the sight of the Policing Board: it happens because it is operationally necessary. Certainly, the board can hold the police to account after it has taken that decision.

In the London riots of 2011, two water cannon trucks made their way from Belfast to Stranraer and down the coast of England, as the Minister will know, and were available to be deployed on the streets of London. They were never used, thankfully; they did not have to be. But no operational decision was brought before the Policing Board to say, “We can allow that to happen or we can prevent that from happening”.

If the police required that equipment, they got it. There was no political interference or hand-wringing or thumb-twisting to prevent it or to slow it down. All these matters take place without political intervention and that is essential. There are people in Northern Ireland who would do their damndest, even under the current new arrangements, to upset the stability that we have.

The important word used by the Minister and the right hon. Member for Wythenshawe and Sale East was “co-operation”, and what it actually looks like. There was eye-witness co-operation at a level where MI5 was prepared to send its top person in Northern Ireland, unidentified for years, to brief the board privately. That continued to be a regular occurrence. An MI5 officer was brought in to brief the board probably every six to

[*Ian Paisley*]

eight weeks—not about what he was going to do, but about what had been done and what could be done in future if the board was comfortable.

That was absolutely critical and it continues to happen today, even though there are members of Sinn Féin on that Policing Board. In many regards, that is remarkable progress and co-operation. Perhaps in some instances, the agent is talking to the handler; I do not know of course. But that has happened. We can see that sort of co-operation without necessarily having to write it down; it happens because there is a respect for the operational independence of the crime fighter. That is crucial to making this flow.

Tangentially, will the Minister touch on the issue of legislative consent? That goes to the heart of all this. I know that the devolved regions will have to give legislative consent, but what if a circumstance were to arise in Scotland, say, and the Parliament decided that it was not giving consent and was going to invoke provisions to disagree? Will the Minister assure the Committee that we have made progress and that consent will be achieved—not just in Scotland, but across the UK—so that the NCA will tackle drug crime, people trafficking, child prostitution and child abuse properly, on a national level, and that they will be given the national importance they deserve?

**Mr Browne:** Let me try again to reassure the hon. Gentleman. Perhaps I should go a bit further and clarify it better. Voluntary tasking is an entirely voluntary arrangement at an operational level. Forces will be tasked by the NCA, but they are not required to co-operate, although we envisage that they routinely would, because it would be in everyone's interest that they would in normal circumstances.

There is then directed tasking, which would happen in extremis. As we said earlier, we would envisage it being used only very rarely. However, it is a useful back-stop to have. The NCA could direct a police force to take a particular action as part of an operation, but that power applies only for England and Wales. I appreciate that the hon. Gentleman takes an interest in matters across the United Kingdom, but in terms of his narrower interest in Northern Ireland, that provision need not concern him on a constituency basis, if I can put it in those terms.

A separate category from tasking is assistance, which is when a police force may ask the NCA for help—I gave the example of people being seconded—or the NCA may ask a police force for help. Unlike with tasking, the assistance can flow in either direction. It is again subdivided between voluntary assistance, which is obviously reciprocal by its very nature, and directed assistance.

Unlike directed tasking, which applies only to England and Wales, directed assistance applies to all the United Kingdom, so the hon. Gentleman is right to draw our attention to Northern Ireland and Scotland in that respect. Voluntary assistance would be operationally independent, but directed assistance would need some form of consent, which would be applied by the Secretary of State but in consultation with the devolved bodies in Scotland and Northern Ireland, because it is right that

the devolved Administrations have a role in ensuring that payments are fair when a Scottish or Northern Ireland body is involved in the transfer of assets for a semi-permanent period.

**Ian Paisley:** Does the Secretary of State's power then trump that of the devolved Parliament or Assembly? In a matter where there is a dispute, a question mark or the need for expedition to get something done, does the Secretary of State trump it—she or he signs it off and that is it?

3 pm

**Mr Browne:** My understanding is that the power is in regard to the payment that is made in receipt of the seconded assistance. The Home Secretary would decide ultimately if agreement had not been arrived at. If the matter were between Norfolk police and the NCA, we would hope and believe that, in usual circumstances, they would agree to a reasonable payment without recourse to her. However, if they could not, she would be the person who would be the arbiter as to what constituted a reasonable transfer.

When such matters apply to Scotland and Northern Ireland, the Home Secretary would again be the ultimate arbiter. She would take such action not only in conjunction with the views of the director general of the NCA and those at chief constable level, but take account of the views of the bodies in Scotland and Northern Ireland. However, as she oversees the NCA, in extremis she would be the ultimate arbiter.

**Ian Paisley:** Is the Minister content with the progress that has been made in the devolved regions, and happy that there will not be a problem?

**Mr Browne:** We very much hope that such an issue will not be problematic. To put it gently, it might be the case that if people are counting the pennies, taxpayers in England might be more likely to think that the transfers are disproportionately to the benefit of the people in Northern Ireland with the resources being transferred in the other direction. Often, for very regrettable but perfectly understandable reasons, the cost of the policing burden in Northern Ireland is higher per capita than in other parts of the United Kingdom.

We hope that the arrangements will be collaborative and that people realise that there is mutual benefit in areas working together as seamlessly as possible, and that there would not be routine charging for day-to-day acts of co-operation. I would not say, "Excuse me, would you send me an e-mail?" only to receive a bill saying, "Time spent e-mailing you," and for the matter to be cross-billed. However, when there is an assistance arrangement with a semi-permanent feel, a transfer might be appropriate, and we hope that it will be designed in a reciprocal and consensual way that was sensible on all sides. We only have such powers as an ultimate backstop. For example, such arrangements with SOCA have not been required to be applied in the past six or so years; I hope that reassures Committee members

**Ian Paisley:** The Minister is absolutely right. The SOCA arrangements have worked well, and the backstop provisions have not had to be applied—in Northern Ireland, at least. I fear that we might be talking about

the money a little at cross purposes, as that will be the hurdle. I was trying to push the hon. Gentleman into saying whether he was happy with progress on the general point, and that he will receive consent from Scotland and Northern Ireland on the Bill.

**Mr Browne:** Yes. There are some provisions under the Bill, one of which is the ability of the NCA to direct individual police forces when the application is from England and Wales only. However, it is very much the vision of the Government, and the Home Secretary specifically, that the NCA should not limit its ambitions to England and Wales, but that it should be a UK-wide body. Obviously, serious and organised crime is taking place across the border between England and Scotland, and the only land border that the United Kingdom has with another country is Northern Ireland to the Republic of Ireland. It would make sense to the Home Secretary and the Government as a whole for the NCA, in general terms, to have a UK-wide remit.

However, we are mindful of the different constitutional arrangements in Scotland and Northern Ireland and some of the different sensibilities in both countries, so we want to make sure that the arrangements are to the satisfaction of all four component parts of the United Kingdom. It is obviously easiest in England and Wales, because the Home Secretary's writ runs directly. Where arrangements are needed to ensure that the NCA works effectively in Northern Ireland for the benefit of its people as well as the wider United Kingdom, we are keen to see them being put in place by the Northern Ireland Justice Secretary and the representatives in Northern Ireland more generally. That is an ongoing process, but I can assure the hon. Gentleman that the ambition for the NCA to be a UK-wide organisation remains.

**Ian Paisley:** It is utterly essential that the NCA is exactly what it says: a national crime agency that does not stop at Stranraer, with a writ running across the whole United Kingdom. Otherwise it is a misnomer; we could not call it the National Crime Agency because it would not cover the whole nation. It is utterly essential that the Government put everything into ensuring that there is no hiccup in delivering that.

As we know, most of the billions of pounds that the Government lose every year because of the criminal activities of tobacco smugglers emanates from Northern Ireland. Most of the billions of pounds that the Government lose through smuggled fuel is from a lack of revenue in Northern Ireland, because of the land border with the Republic of Ireland. Those multibillion pound crime empires have to be broken up at a national level, so it is essential that the Minister ensures that that is achieved. I wish him well in doing that, and I hope there are no hiccups. I want him to ensure, in the days ahead, that the NCA has full and total consent across the entire kingdom.

**Mr Browne:** We the Government entirely agree with the hon. Gentleman's analysis. Obviously, it would be much easier to make the organisation just England and Wales-wide, but we felt that would leave the potential of the organisation falling short. Considerable effort has been put by many people into trying to ensure that the arrangements can work satisfactorily throughout the United Kingdom, for exactly the reasons that he has just given.

**Stella Creasy:** We have had an interesting debate about the nitty-gritty of how the NCA will manage its relationships with a number of bodies. The amendments were tabled to address some of the concerns that have emerged on one of those arrangements and on what would happen in negotiating these tasked powers. The Minister needs to reflect. He said he hoped that things would not be problematic, but in an era of austerity any discussion of budgets and charges will always be problematic. Referring to the powers of SOCA does not make sense, because it always had to work in a collaborative fashion with police forces, because it did not have the stick that the Bill will give the NCA to force action through the tasking powers. No one is suggesting that the tasking powers are not necessary, but they do create a different environment for these conversations and negotiations. Using the Home Secretary as a backstop or an ultimate arbiter does not necessarily deal with the change that the perceived imbalance of authority with these decisions will create.

We have no desire to press the amendment to a vote, but I ask the Minister to clarify in writing where the framework comes in. He talked about a memorandum of understanding between the director general and police forces about these sorts of charges, but the framework is supposed to provide that clarity. The people looking to set up the NCA and those looking to work with it need better in terms of the governance structures and the practical questions on the day-to-day operation. How will this new policing landscape affect those day-to-day operations? We have sought to test that with the amendments. I hope that the Minister will reflect on that.

Perhaps the final framework will offer a lot more detail and clarity, so that people can have confidence in why the Home Secretary, who has a conflict of interest between the different budgets, will be the backstop, rather than there being an independent element of scrutiny and challenge. Perhaps the framework will also give clarity on how good financial management will take place. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Schedule 3 agreed to.*

## Clause 5

### DUTY TO PUBLISH INFORMATION

**Stella Creasy:** I beg to move amendment 32, in clause 5, page 5, line 7, at end insert—

( ) The Secretary of State must—

- (a) report annually to Parliament on the progress of the NCA and its partner agencies in reducing the cost and threat to consumers, government and armed forces of cybercrime.

**The Chair:** With this it will be convenient to discuss the following:

Amendment 33, in clause 5, page 5, line 7, at end insert—

- (b) report annually to Parliament on the progress of the NCA and its partner agencies in eliminating the sexual abuse of children and combating human trafficking.

New clause 1—*Review of NCA functions*—

(1) The Secretary of State shall commission a review of the NCA functions to report no later than one year following commencement of this Act.

(2) The review shall report on the appropriateness of the modification of NCA functions, in particular in relation to—

- (a) provision about NCA counter-terrorism functions;
- (b) provision about NCA public order functions; and
- (c) other national response coordination functions.’

**Stella Creasy:** Having revealed myself to be a fan of transport and defence issues, I add to those questions of governance and accountability, which is perhaps a hangover from being a local councillor and having had to implement Government policy—or perhaps it is a hangover from being on the Public Accounts Committee and being obsessed with value for money. Above all else, it is a hangover from being concerned about some of the new challenges that our society faces. These amendments, and the information they seek, speak directly to those concerns.

All three amendments reflect a concern about accountability and partnership in addressing the key challenges that our society faces. First and foremost, there is the threat of cybercrime, about which I feel passionate—I am revealing a large compendium of slightly obscure interests this afternoon, and no doubt Government Members will have something to say about that.

How will the proposals affect child protection? All of us as MPs will have dealt with child protection cases and will be desperately concerned to ensure that this country has the highest standards in detecting and preventing child abuse, whether online, offline or involving trafficking.

Finally, new clause 1 in particular would ensure that there is a moment to review exactly what the new National Crime Agency will do, particularly on the vexed question of its relationship to the management of terrorism in this country.

Amendment 32 addresses cybercrime, which is mentioned in passing as though we are all supposed to know exactly what we are talking about. Again, cybercrime is in the legislation and it has been in some of the speeches, but there has been little detail. Given that our online economy is now worth £82 billion a year, it seems strange not to have more thorough scrutiny of how the new National Crime Agency will affect our ability to detect and prevent cybercrime.

There is also widespread concern about the UK’s preparedness for a cyber-attack or cybercrime. The Select Committee on Defence recently called cyberspace the “fifth domain” of warfare. This is a new and important debate for Parliament, and we are not only talking about people receiving the odd e-mail selling rather questionable details. I am sure several Government Members might be able to offer illumination on that.

Ross Anderson of the Cambridge computer laboratory, who is an expert on these issues, talks about mapping and measuring cybercrime in the UK:

“Since...2004, volume crime has arrived on the Internet. All of a sudden, criminals who were carrying out card fraud and attacks on electronic banking got organised, thanks to a handful of criminal organisations and a number of chat-rooms and other electronic fora where criminals can trade stolen card and bank account data, hacking tools and other services. Hacking has

turned from a sport into a business, and its tools are becoming increasingly commoditised. There has been an explosion of crimeware—malicious software used to perpetrate a variety of online crimes. Keyloggers, data theft tools and even phishing sites can be constructed using toolkits complete with sophisticated graphical user interfaces. The ‘quality’ of these tools is improving rapidly, as their authors invest in proper research, development, quality control and customer service.”

That is clearly an issue for those affected, but it is also an issue for us in the UK, because we are one of the major sites of cybercrime in the world. Symantec, the security software company, estimates that in 2010 the UK was the second-largest user of the underground economy, where people are buying and selling the tools to conduct such fraudulent activities, which generate some £200 million a year.

What sort of malware, tools and services are for sale? A botnet can be bought for £150 on those sites. Phishing services are advertised for a mere £7, and there are keystroke loggers for an average of £15.

I will gladly take interventions from anyone who is not quite clear on what I am talking about.

**Paul Goggins:** My hon. Friend is making an excellent speech. Is she as surprised as I am that she has not had any interventions from Government Members? I think we would all agree that this is an area in which the Government have done a very good job. They have allocated some £650 million of additional resources, and the Foreign Secretary has played an excellent role internationally. Is she not surprised that Government supporters were not faster to their feet to praise the Government?

**Stella Creasy:** Actually, I was a little concerned that Government Members might be searching for the underground economy on their iPads to see quite how quickly they could purchase some of these tools for securing people’s information.

3.15 pm

**David Rutley (Macclesfield) (Con):** I take a keen interest in what the hon. Lady is saying, and it is interesting to find out what her interests are, wide-ranging as they may be. I absolutely share her concerns about cybercrime, sexual abuse and protecting children, but let us not forget that the NCA will also cover border command and organised crime, for which the hon. Lady is not requesting detailed updates. Given that there will be changing priorities—there always are—I think that the best approach is to stick with what is in the Bill already, which is a general requirement to provide an update on the director general’s duties.

I respect the hon. Lady’s interests, but let us not focus on them. Let us focus on the Bill right now and the fact that we want a general update for all the duties that the director general is supposed to be doing, which is already in the Bill.

**Stella Creasy:** I am only just getting started. The hon. Gentleman will have to wait for me to get to the point that I want to make about cybercrime.

I am concerned by what the hon. Gentleman said, because one of the central reasons for tabling the amendment and for ensuring that Parliament is able to

hold the Government to account for how they deal with cybercrime is precisely the attitude that he has just expressed. I have some concerns about how the Government are dealing with cybercrime and understanding its true scale, and how we co-ordinate and collaborate across different Departments in dealing with it. My concern, which I think is echoed in the industry, is that there are many chiefs and no king to deal with some of the issues. Given the severity of cybercrime and the threat that we face from it, that is not appropriate.

One of the things that I want to expand on in my comments is where I see that threat coming from. I am sure that the hon. Gentleman will agree that cybercrime is an extremely important priority, given the threat that we now face from it. The problem here is understanding the scale of it and who is responsible for which elements of it.

When we talk about something that costs our economy £27 billion a year—that is just a low estimate, because it is impossible to estimate its true scale—we have to recognise the challenge that we face. It is not the same as border control, important though that may be, and it calls for a new form of partnership. The Bill will give the NCA some of the responsibility, and I want to test how the Government envisage it working and to ensure that we are on the same page in making sure that we have a priority, a strategic response and the ability to interact with our international partners on such issues.

The majority of costings that we have on cybercrime at the moment are about intellectual property theft. One concern that many of us have is that a huge amount of personal cybercrime is taking place: people's details being stolen and malicious software on people's computers taking data—crimes that are not reported to the police or understood but which are a facet of serious and organised crime in this country.

Intellectual property theft has been costed at around £9.2 billion; industrial espionage at around £7.6 billion; and extortion at around £2.2 billion. Those are minute amounts compared with the amount that people are losing online, with their own costs that they pay with their banking, and with the impact on business and on our national security. General Keith Alexander, director of the National Security Agency, which oversees the US cyber command, warned that cyber-attacks are causing "the greatest transfer of wealth in history."

It is identity theft and online scams that affect individuals. To give just one example, one Essex gang was making £2 million a month by stealing log-in details for bank accounts, using a single laptop to co-ordinate that crime. The problem is huge; it is serious, and it needs direction.

Given that 91% of UK businesses are online and 73% of UK households have internet access, it is our daily lives that the crime is filtering into and existing in. A 2012 PricewaterhouseCoopers survey showed that 93% of large corporations and 76% of small businesses had suffered a cyber-security breach in the past year. The cost of that breach to large businesses was between £110,000 and £250,000, and for small businesses it was between £15,000 and £30,000. That is even before we understand the concept of fiscal fraud committed against the Government. SOCA itself is well aware of the issue, having been subject to a denial-of-service attack. It is important to understand that a denial-of-service attack is not necessarily about making money, but about denying

a service and disrupting daily life. The types of cybercrime we have to deal with are not just acquisitive, but about terrorism, espionage and activism that is negative on society.

**Charlie Elphicke (Dover) (Con):** The hon. Lady makes a powerful point, particularly on cybercrime and intellectual property. Does she accept that the problem is much harder to combat when, in many cases, that cybercrime is state-sponsored?

**Stella Creasy:** The hon. Gentleman makes a fair point. That is exactly why I am concerned to ensure that we do not draw an artificial distinction between cyber-security and cybercrime. We need to understand how those technologies are used and the nature of the threat. We need to make sure people are aware of the threat and act accordingly. That is why I am keen that the Government have a co-ordinated approach. In the debate today, I want to make sure that that is what we are going to get from the new system.

It is also worth looking at the types of cybercrime that we do not always talk about when we talk about cyber-security and cybercrime, in particular the prevalence of cyber-stalking, which many people in our constituencies have experienced. Indeed, of the stalking incidents dealt with by the Crown Prosecution Service in 2010, 33% were via e-mail and 32% were via text message. Back in 2010 only 10% of people were on social networks—I am sure that number will be a lot higher this year. We know that this type of cybercrime affects the victims' daily lives. Many people who have been cyber-stalked give up their social activities in their offline lives, and do not go out.

Understanding the ways in which technology is changing crime is absolutely key. Therefore, the Government's and the NCA's contributions to preventing those crimes are also key. The NCA will not only lead action on serious organised crime, but it will be charged with training local police forces to be able to respond better to these types of crime. It is therefore important that parliamentarians understand the responsibility that entails.

As Ross Anderson also argues:

"Systems often fail because the organisations that defend them do not bear the full costs of failure. For example, in countries with lax banking regulation, banks can pass more of the cost of fraud on to customers and merchants, which undermines their own incentive to protect payment systems properly... In addition, so long as anti-virus software is left to individuals to purchase and install, there may be a less than optimal level of protection—as infected machines typically cause trouble for other machines rather than their owners."

In that sense, acting to co-ordinate and collaborate on the detection and prevention of these problems is key to their elimination. There is a risk at present that without better co-ordination by Government we will all bear the full costs of failure.

Part of the challenge—the hon. Gentleman's view reflects this—is that we do not have those full-scale data. I look to the NCA to try to get a better picture of the data we need. We know that the data collected by the police suffer due to under-reporting. We know that many businesses do not report security breaches because they are frightened of reputational impact. The Federation of Small Businesses reported that in 2011, about 40% of

[Stella Creasy]

the cybercrime that its members experienced was under-reported. Under-reporting is not restricted to organisations. Only 37% of households in the British crime survey reported experiencing computer viruses to anybody. Only 9% reported the virus to their internet service provider, and only 1% reported it to the police. Yet we know that those viruses can contain trojans, which collect people's bank details, so that crimes can be committed. We know that they are often organised by serious crime organisations.

Under-reporting further compounds the problems that the NCA will face. If those issues are not reported, or if they are reported to local police forces that do not understand the severity of what they are being told, it will be assumed that they are isolated. Patterns will not be sought, people will not look to see who else is prosecuting them to understand that gangs with one single laptop can create £2 million-worth of benefit a month. The current police system does not record those data. I hope the Minister, in responding to the amendment, will tell the Committee whether the NCA will collate such data and research to get a better picture of criminality on the internet.

Yet, even if we have a body that collates data, we also need to understand how to respond. Again, I return to my passion for public value for money. The Government are spending a lot of money—as previous Governments did—on security systems. Indeed, all western Governments are. One of the reasons why we have some frankly inflated figures about the costs of cybercrime is that they have come from the security systems companies themselves, which tell countries that they need to get these systems. When it is considered that western Governments spend about £35 billion a year on security systems and anti-virus software, and the private sector spends about £51 billion a year, the size of the industry becomes clear.

I welcome the fact that the Government are putting money into cybercrime strategy—my right hon. Friend the Member for Wythenshawe and Sale East said it is about £650 million—but I want to see that money well spent. I am concerned that there are a number of agencies within the Government that currently hold responsibility for cybercrime and cyber-security. As we know, all too often in Government Departments, when everybody holds responsibility, no one holds responsibility.

**David Rutley:** I can see the passion that the hon. Lady has for the subject, but in making her case she has not persuaded me that—

**Stella Creasy:** I have not finished yet.

**David Rutley:** But that is what we are encouraging. The hon. Lady has not persuaded me, or the rest of the Committee, I am sure, that we should enshrine that course in legislation. Earlier in the week, my near neighbour, the right hon. Member for Wythenshawe and Sale East, moved an amendment that recognised that there could be changes in priorities; if there were to be, he wanted to see the Home Secretary come forward with a statutory instrument. If there could be changes, why focus on that specific thing? Important as it is,

other priorities could emerge. It would be good if the hon. Lady got to the point of why it is so important to have this matter in legislation and not the other aspects of what the NCA will be doing.

**Stella Creasy:** I am so sorry that I am not entertaining the hon. Gentleman, if he does not have the patience to listen to the case that I want to make about co-ordination and collaboration. Otherwise, I cannot understand the nature of his comments, because he seems to be suggesting that there is not a debate to be had. I want to suggest to the contrary.

May I now talk about the national cyber-security programme, which is the key Government proposal for dealing with cyber-security and cybercrime? [Interruption.] Yes, I will do, because I hope that will convince the hon. Gentleman that his complacency about cybercrime is not well-founded. The amendment is about ensuring that this country cannot be accused of complacency.

The national cyber-security programme is managed by the Cabinet Office but, according to its own strategy document, the Home Office will get only 10% of its total budget for tackling cybercrime. The Ministry of Defence will also create a new defence cyber-operations group, with a joint cyber-unit at GCHQ, and that will get half of the £650 million budget. Yet I am confused how that will fit with the NCA, which is supposed to act as a national capability to deal with the most serious national-level cybercrime and to be part of the response to major incidents, as well as driving up the capacity of other police forces to deal with cybercrime.

We are already looking at four different agencies with responsibility for cybercrime: GCHQ, the Centre for the Protection of National Infrastructure, the police central e-crime unit and SOCA. Merging the police central e-crime unit and SOCA together in the NCA is welcome, but it is still unclear to me how that will cut across different Departments. Who will take responsibility for cybercrime? We are also talking about a strategy that involves the Department for Business, Innovation and Skills, the Cabinet Office, the Ministry of Defence, the Foreign Office and the Home Office, let alone the National Fraud Authority and the City of London police, who contribute to the cybercrime unit and to the economic crime command of the NCA. Thirty-eight different partners are involved in that aspect of the work alone.

The Government have announced plans to develop a UK national computer emergency response team as a focus for international work. Again, it is unclear to me how the NCA will work with that body. The Ministry of Defence is talking about recruiting its own cyber-reservists. How will they fit with the NCA specialist scheme? Might we see different Departments competing for the same specialists and the same set of skills? The Government are talking about—

**The Chair:** Order. The hon. Lady is talking very generally, and not specifically on reviews.

**Stella Creasy:** The amendment is about the partnership—

**The Chair:** I should be very grateful if the hon. Lady would home in on the subject of reviews.

**Stella Creasy:** I am ever so sorry, Mr Caton, if I was not entirely clear. I would expect the review to address the sorts of questions that I was discussing—how the Government are dealing with cybercrime and the role of the NCA within that. In particular, will the NCA work with the cyber-growth partnership, and how will it work with the Cabinet Office cyber-security strategy? How will it work with the Ministry of Defence? The Defence Committee recently said that the Government need to put in place the

“mechanisms, people, education, skills...and policies which take into account both the opportunities and the vulnerabilities which cyberspace presents.”

We need to understand how the NCA will fit into that.

We also need to understand how the NCA—I hope that the review will cover this issue—will address what I call the Henry Kissinger question, because cybercrime covers many different territories. If there is a cybercrime matter in America, who will they pick up the phone to in the UK to talk about the people who are committing it? As the Committee knows, much cybercrime is committed on our own shores.

Clearly, there is a tension within Government between their partner agencies in dealing with cyber-security and cybercrime. In moving the amendment, I am seeking details on how the Minister will address that and on what information we would have annually on how the Government are co-ordinating on cybercrime, which is separate from the issues that the cyber-security strategy comes up with, because we are discussing the role of the NCA in detecting cybercrime. The amendment is about not only who is in charge but how such issues are resolved, and the international concerns. That gang making £2 million a month in Essex had links to eastern Europe. Clearly, how we negotiate with the European Cybercrime Centre is important. To ask for Parliament to be updated annually on this important issue is not too much to ask. There is no clarity about whether these issues will be covered in the annual report. My point in tabling these amendments is to get the Minister to set out more clearly, in a way that the Government have not done yet, precisely the role of the NCA in detecting and preventing cybercrime.

3.30 pm

We have to remember how quickly these types of crimes move and how quickly the internet moves. The domain Google was registered in 1997, Facebook in 2004, YouTube in 2005 and Twitter in 2006. While the Government are setting up centres in universities, businesses are moving to cloud-based services. All that could lead to new forms of crime. We need to understand how the NCA will get to grips with that and work with its partners in other agencies. The trends for security risks this year are mobile phones. Again, what role will the NCA have in working with some of the mobile phone operating companies? When will we get updates on that?

On working with local police forces, some Members may well have seen the YouTube video “Who Pays For Petrol Anyway?” Yet there is no team in the police at the moment with expertise in tackling and detecting crime on YouTube. It is not unfair to ask the Government to provide further information on all those questions, given

that we are told that the NCA will offer that step change in how the Government deal with cybercrime at both local and organised international level.

Let me deal with amendment 33 and the role of the Child Exploitation and Online Protection Centre. Many people here will have tremendous respect for CEOP, launched in 2006 as a UK-wide agency. We all recognise the benefits of the way in which it has worked in tackling child exploitation and in online protection. We know that it is critical that it operates on a multi-agency basis, including working with a small team of social workers from the NSPCC as well as several partner organisations. In general, it works with a wide range of high-risk child protection cases. To do so, it does more than simply detect crime; it also works on the child protection issues that working with such a vulnerable group of young people generates. Therefore, it is about not just criminal aspects of child protection, but collaboration with social services, health care and a range of expert partner agencies to detect and prevent those types of crime.

We all know that CEOP has been very successful. Since it was set up, it has dealt with more than 1,000 children subject to safeguarding or protection activity. It has had 1,644 suspects arrested and nearly 400 high-risk sex offender networks disrupted. It is clearly a successful model. It is completely understandable that several concerns have been raised about how these new forms of operation will work. The amendment is about reviewing that and making sure that we can be confident that all the gains built up from working in this partnership way will not be lost under the new command. It is certainly clear that people have justifiable concerns, not least the former chief executive, Jim Gamble, who resigned from CEOP as a result of the proposals.

When he gave evidence to the Home Affairs Committee, he said:

“If you want the new National Crime Agency to have the focus that it needs to deliver an improved service against organised crime assets, then you cannot use it like a Christmas tree and hang different baubles on to apparently de-clutter the police landscape... It is not about where CEOP sits in the hierarchy of issues around this. It is about where CEOP sits and the appropriate governance that makes sure that we continually focus on what is best for children, that we’re not fighting for airtime among drugs, counter-terrorism, organised crime, guns and gangs because, having been the Head of Counter-Terrorism in Belfast... I can tell you that they do not sit as easy bedfellows...”

Pushing us into a National Crime Agency, where the culture will invariably be different, is not going to be best for children nor other vulnerable victims who find themselves part of these crimes.”

It is a fear for many that the resources required to do this work will be diverted when the two are collapsed into the same command. There are some suggestions that this may already be happening. I would welcome some clarification from the Minister. These are exactly the sort of issues I would expect a review to cover—the work of the specialist child abuse investigators from the police forces in England and Wales who have been diverted to the ongoing investigation into child abuse in north Wales. Senior police officers and experts working with abuse victims have raised concerns that this diversion of limited resources from live investigations to a historical case has already put children at risk. One of those involved says:

“Officers in forces are trying to deal with these massive numbers of cases. If you take away your best people to investigate a historical case, what you have left back in the force are the live cases where a child is being abused tonight.”

None of us can prejudge what is happening with that kind of investigation in north Wales, but these concerns that collapsing the CEOP command, rather than having a separate body and a separately resourced organisation, may lead to such a situation are not unfounded.

The Home Secretary, in discussing the case and the decision to give it to the Serious Organised Crime Agency, said that

“other investigative assets as necessary”—[*Official Report*, 6 November 2012; Vol. 552, c. 733.]

would be deployed to the CEOP unit to investigate this case. However, those assets have been drawn from other forces across the country and, as one officer put it, they are “like gold dust”. The problem for all of us is that these resources are limited, so when they are being pulled in different directions it is very clear that there could be the risks that people are concerned about, especially when police forces are having to make cuts of 20% to their budgets. Indeed, Alan Earl, who is a member of the CEOP advisory board, has said that the outreach work being done to protect children online is already being affected by these changes.

This situation comes at a time when there has never been a higher understanding or awareness of child abuse and the need to support child protection. The NSPCC reports that, from September 2012—prior to the Jimmy Savile case coming to national attention—to October 2012, it saw an increase of 200% in advice calls about sexual abuse; those were calls about both past and present abuse. During October and November 2012, the NSPCC referred 788 more children to the police or social services for all types of abuse than it did for the same time period in 2011. It also received nearly 250 calls directly relating to Jimmy Savile.

The NSPCC fears that, under the new structure, these issues may not be given the same prominence as CEOP allowed them to be given, and that fear is made even greater by the fact that there is not a separate role for CEOP. Indeed, the NSPCC is also concerned about the lack of accountability of the CEOP board. I appreciate that we had a debate on Tuesday about the importance of advisory boards. However, I will just point out to the Minister that CEOP has a board that is currently run by Francis Plowden and that, under the new structure, that board would not have the same level of power and authority in directing what the CEOP command does as it currently has under the existing structure. If that happens, we may lose some of the benefits that come from that system in providing the challenge and scrutiny about how best to get child protection right in a policing context, in particular monitoring the resources and how they are deployed to deliver the strategy.

CEOP has pioneered a model of multi-agency partnership. The report that we suggest that the Government should be required to produce would allow us all to have confidence that the things that we fear might happen if this new body comes into being do not materialise. I am sure that Members from all parties would want to be certain that such fears would not materialise.

The report that we propose would also help us understand the role that the new command would play in dealing with trafficking. There is a genuine concern that, under the current arrangements, there will be a division of responsibility between internal trafficking of children and those children being trafficked into the

UK for sexual exploitation, because of the difference between the CEOP command and the UK Human Trafficking Centre, which is also part of the NCA. Some help from the Minister on how that process will be managed, and what responsibility will be taken for trafficking, would be very helpful too.

Finally, new clause 1 is about reviewing the nature of the NCA, and about precisely the issues that we have discussed today, including how the NCA is operating to deal with some of the criminal issues that we face in the year ahead. The report that we propose would be very different from an annual report. I am sure that we have all produced annual reports ourselves and they may not have been the reflection, and reflective moment, that people wanted them to be. The point about new clause 1 is that it would ensure a proper moment for review and scrutiny of the new body, because it is a substantial change to the policing landscape in the UK. Nowhere do we see that more than in the original proposals that the Government brought forward about how the new body would manage terrorism and the role that it would play.

The original clause 2 would have allowed modifications to the NCA to allow it specifically to take over counter-terrorism functions. It was proposed that the NCA would be able to do that without parliamentary scrutiny of the idea and without proper due process, simply through a statutory order. Counter-terrorism is a hugely significant part of citizens’ safety, and currently the Metropolitan police is known to be the expert on counter-terrorism and known to have the skills and—crucially—the relationships, which are particularly important in dealing with some of the terrorism issues that we have to deal with in all our communities. The Metropolitan police has the relationships with the communities and the community leaders that it needs to investigate these issues.

The 2,000-strong counter-terrorism command at the Met has been around for many years; it has that expertise and those relationships that I talked about. Crucially, however, it also has stability, at a time when we face an unprecedented level of threat in our society. So there was a genuine concern, expressed by many in the other House and particularly by those with previous policing experience, that simply transferring those powers to the new NCA in the year that it was being set up, and without any proper scrutiny of that transfer or any concern or about how it might work, could be disastrous.

In particular, both Lord Condon and Lord Blair spoke out against this change. They were not arguing that this way could never possibly be the right way to go; they were simply asking the NCA not to run before it could walk, and saying that for the NCA to deal with an issue as sensitive and complex as terrorism was not appropriate.

Another possibly interested party is Commander Bernard Hogan-Howe of the Met. I am sure that the Minister will take the Mandy Rice-Davies approach and say, “Well, he would say that, wouldn’t he?” However, as Commander Hogan-Howe said:

“The NCA as of yet is not up and running...I am sure everyone will need to think how that...will work with its original responsibilities—as well as considering the new possibility”.

In its gestation period and infancy, I suspect that it would not be able to pick up and run with the complexities and importance of counter-terrorism. However, there

might come a time when that case can be made—I do not say that it will be made, but it might be made. It is both sensible and proper that we should be able to legislate to move counter-terrorism from the Metropolitan police to the NCA if the case is proven. It is about having the opportunity to debate properly and appropriately how those new, very serious powers will be taken on by the NCA, rather than simply pushing them through. The fact that the Government have dropped the clause, having been defeated in the other place, is a welcome recognition that it was not an appropriate way to deal with the issue. The new clause would allow the Government the appropriate time to have that conversation and to update Parliament, to ensure that we have scrutiny of any such decision.

Given that the proposed review of counter-terrorism arrangements after the London 2012 Olympics does not appear to have taken place, it would also be helpful if the Minister could confirm when that will take place, because it could inform the review as well. I wonder whether the Minister could say a little about that, and finally a little about his internal processes of consideration—of where terrorism lies in his thinking—so that we can understand, when considering the new NCA, what future role it might play.

I appreciate the Committee's patience. We need to get right those three issues because they are very important for our society. The purpose behind the proposals for a review is to ensure that there is continual parliamentary scrutiny of and reflection on all of them. I hope that Members will take this in the spirit intended.

We have seen several changes to the policing landscape over the past 18 months, and several proposals that have been radical in intent and botched in delivery. It is vital when dealing with issues such as cybercrime, child protection and terrorism that we have a more measured and considered approach. Perhaps after the debacle following one policy change over police reform, the Government will pause and reflect. The amendments give them the space to do so. We would all welcome that, and I look forward to the Minister's response.

**Mr Browne:** I do not know whether I can replicate the sustained passion of the hon. Lady, but I will do my best to engage the Committee.

Before I start, I should first agree with the right hon. Member for Wythenshawe and Sale East, who was right to draw the Committee's attention to the Government's excessive modesty, and to say that we should dwell much more often on our achievements in office.

Given that we are considering the Crime and Courts Bill this afternoon, it is appropriate that I should briefly bring to the Committee's attention the fact that we have announced today the lowest levels of crime since the Crime Survey for England and Wales began in 1981, 32 years ago. Under this Government, there was a fall of 8% in the last year, and a 7% fall in recorded police crime statistics, showing a sustained fall in crime since the Government took office in May 2010. That rather goes against the passionate but misguided expectations of Opposition Members, who keep telling us that the consequence of all our policies is that crime will inexorably rise, and then always look glum-faced when their constituents experience less and less crime.

**Ian Paisley:** This analysis of why crime decreases is very interesting. I was listening to Radio 4 the other morning, to a programme which referred to an article from *The Daily Telegraph*. It said that the reason why violent crime has dropped so significantly across the UK over the past 40 years is because of the reduction in the use of lead in petrol: it was no longer being ingested by people. When they analysed—this is a serious point, coming from a university professor from Oxford no less—those countries where lead is used less, they found that crime falls, and it is very little to do with policing and policemen.

**The Chair:** Order. I heard the Radio 4 item as well and it is fascinating, but it is not really to do with the amendment. Minister.

3.45 pm

**Mr Browne:** I am grateful for that guidance, Mr Caton. You would not want me to observe that categories of crime including vandalism and break-ins from cars and household burglary are also falling dramatically. As you rightly say, Mr Caton, we have other opportunities to celebrate the achievements of the Government, and we should concentrate narrowly on celebrating the achievement of bringing the National Crime Agency into being, and particularly on amendments 32 and 33 and new clause 1, which I will address now.

The hon. Member for Walthamstow raises important issues through her amendments on cybercrime, and on child sexual exploitation and human trafficking. They refer to some of the most harmful and damaging crimes perpetrated against some of the most vulnerable people in our society, exactly the types of criminality which the NCA—alongside its partners—will be fighting. It is right that Parliament should be kept informed of the NCA's progress in leading the national response to those crimes.

The Government's national security strategy explicitly recognises cyber-threats as one of the four tier 1 risks to the UK's security. In response to this, the "Cyber Security—A new national programme" report, published in 2011, sets out the cross-Government approach to reducing the cost and threat of cybercrime to the United Kingdom. While by no means the only contributor to this effort the NCA, and in particular its national cyber crime unit, will play a key role in delivering this strategy. It will bring a step change to our national capability of tackling the growing threat from cybercrime. It will lead the NCA's response to the most sophisticated forms of cybercrime, delivering upstream interventions against the most serious computer intrusions, including malicious attacks, which can be used to steal personal data, and denial-of-service attacks. It will also provide specialist operational support to National Crime Agency command and other law enforcement partners, assisting them in tackling cyber-enabled crimes. The NCA's cyber crime unit also acts as a centre of excellence, dedicated to strengthening the capabilities of police forces and other partners, and delivering prevention work that makes it harder for criminals to commit cybercrime.

I will come to the second of the issues raised by the hon. Lady, and then to some further points from her amendments. The second of the points she raises is the Government's duty to protect the nation's children from

[Mr Jeremy Browne]

abuse. I can reassure the Committee that the National Crime Agency will play a vital role in tackling child sexual exploitation and abuse, with CEOP sitting at its heart. The NCA will use its enhanced intelligence capabilities and co-ordination functions to target the individuals and criminal gangs involved in perpetrating these crimes, wherever they are.

**Paul Goggins:** Will the Minister give way?

**Mr Browne:** I was only just getting into my stride, but yes, I will.

**Paul Goggins:** That is all very interesting, and we are all very reassured that CEOP will be at the heart of this task, but that is not what the amendment tabled by my hon. Friend the Member for Walthamstow actually says. Amendment 33 simply asks that there be an annual report on the work of the National Crime Agency in relation to protecting children from sexual abuse. Given that the other day I was able to draw extensively from the latest annual review of CEOP—including the commitment by the Home Secretary to make sure that CEOP keeps its own independent brand and maintains operational independence—the request put forward by my hon. Friend is a very modest one: that the annual report it already publishes be required by this legislation. We can then all be satisfied with the work that CEOP does to protect our children.

**Mr Browne:** I am sorry about that; I was trying to help the Committee. If the hon. Member for Walthamstow had stood up and asked whether there was going to be an annual report and then sat down, I would have felt I could match her brevity, but I do not want to show a deficit of compassion on this side after an extended period of emotional intensity from the opposite Front Bench. I thought it was right to bring to the Committee's attention—although with greater brevity than we had from the previous speaker—some of the important tasks that the NCA will be doing, before I get to the rather limited scope of the amendment.

**Paul Goggins:** I am simply making the point that I hope the Minister will be able to match my hon. Friend's passion for this issue, although I suspect that maybe he will fall slightly short. In addition to giving us all these reassurances about what CEOP will do and what the NCA will do, I ask him whether he will simply say yes to my hon. Friend's sensible request that there be an annual report to Parliament.

**Mr Browne:** Let me get to that very point, but I think it is important to explain the context within which we make wise decisions in government; otherwise, members of the Committee may not feel that they can support the Government when or if these amendments are pressed to a vote.

The National Crime Agency, in addition to all the excellent work that I have already explained to the Committee, will use its new wider remit to go further. It will improve the response at our borders, it will disrupt the activities of traffickers and child sex offenders who travel from or into the UK—this is very relevant to this area—and it will join up work to disrupt the activities

of local organised crime groups, who may also be sexually exploiting young people. It will use its single national intelligence picture to prioritise action and co-ordinate the law enforcement response, resulting in a stronger response against the increasingly complex problems of child sexual abuse, trafficking and exploitation. So the fact that CEOP is sitting within the NCA—a wider organisation with a range of capabilities—will, we hope, lead to enhanced protection for children. The law enforcement response to human trafficking will likewise be further strengthened by the incorporation of the UK Human Trafficking Centre—the central co-ordination point for human trafficking in the UK—into the NCA.

The hon. Lady's amendments place a statutory requirement that progress made in specific areas by the NCA and its partners should be the subject of bespoke annual reports. I hope that, on reflection, she and all members of the Committee will agree that that is not necessary. The hon. Lady will be aware that there is already significant cross-Government reporting on such matters. For example, the Government have committed to reporting annually on the cyber security strategy, to which the national cyber crime unit will undoubtedly make a significant contribution.

Elsewhere, the interdepartmental ministerial group on human trafficking published its first report on progress on combating human trafficking in October 2012 and it will continue to do so annually. To add additional reporting requirements would be unnecessarily bureaucratic.

CEOP also communicates publicly on its performance and activities, providing information and advice, including its thematic assessments and education products, and through its web presence. We expect each of these types of information to continue. Moreover, the National Crime Agency will be an open and transparent organisation, sharing as much information about its work as is operationally possible with Parliament and the public. In addition to its statutory annual report, I expect the NCA to provide information on a more frequent basis through its “duty to publish”, as set out in clause 5, cementing the Government's commitment to an open and transparent NCA.

I therefore hope that hon. Members are satisfied that sufficient mechanisms are already in place to report the progress that we are making in the fight against crime. In my time as a Minister, there seem to have been huge numbers of reports published and assessments on progress made. I do not know how carefully all those reports are scrutinised by 650 Members of Parliament. I fear that some of them might not be read in their entirety by every Member of the House, but we are certainly providing huge rafts of information and it is envisaged that the NCA will do that to the satisfaction of all those who wish to understand more about the excellent work it is doing to fight serious and organised crime, including in the areas covered in amendments 32 and 33.

Turning to new clause 1, the hon. Lady was seeking a statutory review to ascertain whether counter-terrorism and other national co-ordinating functions, including in respect of public order, should be conferred on the NCA. That debate has been rather discrete. It is a separate debate, if I may so, Mr Caton. The grouping with the other two amendments was slightly surprising, because the matter has been treated as a sort of stand-alone subject of interest, but it was an extremely wise grouping nevertheless. I am only starting to get to the point where

I learn how wise such groupings are. For a beginner like me it seems slightly strange. Nevertheless, we are in a position to discuss the amendments together.

We touched on the issue briefly on Tuesday in relation to the debate on amendment 21. Let me be clear: neither the criminal intelligence function nor the reference to

“any other kind of crime”

in clause 1(5)(b) can be used to confer counter-terrorism policing functions on the agency by the back door. I hope that reassures the Committee.

As the Government have been clear from the outset, we are building an agency that will lead the national response to serious, organised and complex crime. I am sure hon. Members will agree it is vital that we give the National Crime Agency the space to design and build within that clear remit and the capabilities and responsibilities that come from its precursor bodies. That is not to say that there are not additional roles, responsibilities or capabilities that may be considered as appropriate for the agency to take on in the future. However, in scrutinising the Bill, I think our first responsibility is to ensure that the agency has a clear mandate in respect of tackling serious, organised and complex crime. That will be a significant challenge for the new agency when it is formally established later this year.

However, in the same way that the agency needs the flexibility to enable it to respond quickly to the changing threat picture, so it is right that the Government too are afforded flexibility to consider whether it is right that the agency should take on additional responsibilities in future.

As my right hon. Friend the Home Secretary has repeatedly made clear, the Government have made no decision on whether the NCA should have a counter-terrorism role. She has also made it clear that it is right that such matters should be considered when the agency is up and running, and after a review. Our commitment to undertake such a review was first made in the NCA plan in June 2011, and has been repeated on several subsequent occasions both in this House and the other place. We do not need to clutter up the statute book by enshrining such reviews in legislation.

However, providing a ready mechanism to give effect to the outcome of such a review is a different matter. There are several precedents whereby the statutory functions of a public body can be amended or augmented through secondary legislation. That was why the Bill, on introduction in the other place, included a power to confer by order counter-terrorism policing functions on the NCA. Clearly, their lordships took a different view of the appropriateness of including such an order-making power under the Bill. We are continuing to reflect on the debate in the other place, and it has been helpful to hear the views of hon. Members and to know details of the wider debate that has taken place. We will not be seeking in our proceedings to reinstate the order-making power into the Bill, but members of the Committee should not take that to be an indication that the Government have decided such matters one way or the other.

As I have said, we need a little more time to consider our approach. We shall therefore set out our intentions in advance of the Bill being discussed on Report. I note that the new clause refers to “public order functions” as well as

“other national response coordination functions”,

and would require the review to consider the appropriateness of a role for the NCA in those additional areas. I do not know whether to be impressed or daunted by the scale of the ambition of Labour Members for the NCA, but it is not our ambition at the moment to take on those tasks.

**Mr Hanson:** I am grateful to be able to intervene in the debate between my hon. Friend the Member for Walthamstow and the Minister. What the hon. Gentleman said about terrorism is important. It was an issue of some controversy in the other place. Will he clarify whether he intends to table an amendment on Report, so that we can consider the matter then, or will the review take place post Royal Assent?

**Mr Browne:** The review will take place post Royal Assent. Assuming that the Bill has progressed through Parliament and that the NCA comes into being later this year, it will exist without the counter-terrorism function. In time, when the NCA is bedded in, the review will ascertain whether counter-terrorism measures can be achieved more effectively through the NCA or will best be achieved under the existing mechanisms.

As for how such matters will be given legal force, we will not introduce the mechanism in Committee and overturn the decision taken in the other place. We are still assessing whether we will take such action in advance of the Bill being discussed on Report.

**Mr Hanson:** With due respect to the Minister, the measure was in the Bill in another place. Such a provision was removed during its consideration of the Bill. If the hon. Gentleman was saying that he will allow us to continue to debate matters in Committee and not fulfil our function, but then introduce on Report a new clause that reflects the provision that was removed in another place, and just have it debated on the Floor of House before the Bill returns to another place, he really is messing with the legitimate right of the Committee to scrutinise the Bill.

**Mr Browne:** Well, we will set out our intention ahead of the Bill being discussed on Report, and it might not be to introduce such a measure on Report. We will, of course, act entirely within the processes and procedures that have existed in Parliament for much longer than I can remember.

**Paul Goggins:** Mr Caton, this Committee is conducting itself in a perfectly reasonable normal way. We are testing out the Minister. He is responding to us, and explaining his views. Amendments are generally being withdrawn, which is how procedures in Committee work. There has been no debate on Second Reading and no substantial amendment to debate in Committee, so if he is offering the prospect to the House of Commons that he will, perhaps a day or two before Report, publish the Government’s new thinking on this and re-enter the amendment that was thrown out by the other place, that would be utterly unacceptable and outrageous.

4 pm

**Mr Browne:** Let me take members of the Committee back a stage or two. In the Government's view, we have an effective counter-terrorism presence at the moment, and the leading body is the Metropolitan police. The hon. Member for Walthamstow cited a number of former very senior Metropolitan police officers who believe the Metropolitan police is the best body for exercising those duties.

The case has been made, and it is a perfectly reasonable case, that the NCA will have the scope and talent at its disposal to exercise those powers effectively to protect the people of the United Kingdom. The Government want counter-terrorism to be as effective as possible. We are open-minded about how that can best be achieved. The NCA needs to bed in and establish itself before it would be appropriate to consider whether it is a better vehicle for such responsibilities than the existing vehicles. The question arises separately, and the Government are still open on that point. Others might have views, and they may make speeches or submit those views in writing to the Home Secretary—I am sure she would be grateful to receive them. That is an open debate, and there are pros and cons in different directions.

There is a second issue, which is, were we to go down the path of giving the NCA responsibility for counter-terrorism—that decision has not been made—should we have legislation in this Bill to create a power to do so in future, or should we do it through discrete legislation? We have not yet made a decision on whether to go ahead with that course of action, so we have not introduced a mechanism to include it in the Bill. Before Report, when all Members may contribute, we will set out our intentions. Obviously, there may be corresponding legislation or changes to the Bill, but I am not yet in a position to say what they are.

**Charlie Elphicke:** In my, albeit short, time in the House, I have noticed that it is normal for Bills to be living things and for amendments to be tabled on Report following an airing in Committee such as we are having. Indeed, I remember that the previous Government would virtually rewrite Finance Bills on Report; it is not uncommon, and it is not a bad way to go.

**Mr Browne:** Indeed, I was only a Member of the third of the three Labour Parliaments, but people used to say to me that in the previous two Parliaments, when Labour had very big majorities, such mechanisms were airily put through the House with virtually no regard for the views of Opposition Members. I have tried to take serious regard of all the points that have been made. Of course, the provision was struck out of the Bill in the House of Lords with the votes of, among others, Labour peers. In Committee we could have put the measure straight back in, and I suppose a Government with a majority of this House—if I were able to convince my hon. Friends—would have reinstated it, but we wanted to consider seriously all the points that have been made and to see how the power could best be exercised. That is exactly what we are doing. The clause is not about a review but about giving effect to the conclusions of any such review. We have not yet concluded our review, of course, so we are not in a position to give effect to its conclusions.

**Stella Creasy:** The Minister makes the case that the power is not one that has not been thought through. He recognises that the other place did not feel it was an appropriate power to include in the Bill. The other place gave the Bill proper scrutiny, but by not re-tabled the power, he is denying the Committee the opportunity to scrutinise how it might be constructed under the alternative proposals. He is now summarily suggesting that the Government might bring back the power on Report. Will he assure the Committee that there will be proper legislative scrutiny in the House—not on Report, but proper legislative scrutiny—of the implications of such a major change in how we deal with such a sensitive and complex issue? Yes or no?

**Mr Browne:** I cannot bring such a provision to the Committee when we have not made a decision about whether we wish to bring it to Parliament at all. We in Government will consider what we believe to be the most appropriate means for protecting the public, and there will be a review, once the NCA is established, of how that can be done. We will see how we can best give it legislative effect. When we are in a position to invite Members of Parliament to make a decision we will do so, but as we do not have a decision to invite them to consider at this stage, we cannot.

**Paul Goggins:** The Minister's hon. Friend the Member for Dover was right: amendments are of course brought in at each and every stage of a Bill. I am hoping, based on our debates, that the Minister will come back on Report with revisions and amendments on a whole range of things. However, the point being made is that the issue is fundamentally important to the Bill, and the provision was thrown out in the other place. If the Minister is seriously thinking that he can go through Second Reading and the whole Committee stage without bringing forward any proposition from Government, and then sneaking it in at the last possible minute and trying to ram it through with a Government majority, it is—I will not say a dishonest form of politics, because you might pull me up, Mr Caton—certainly not a straightforward way of doing things. It would be treating the House with utter contempt. That is the point that, forcefully, my right hon. and hon. Friends and I want to make.

**Mr Browne:** I understand the point that the right hon. Gentleman is making, but at the risk of slightly going over the ground again, the Government introduced the Bill, which contained that power, to Parliament as a whole. The other place is not constructed entirely to my liking, but that is a different issue on which Parliament has given its view. There it is: we are where we are. The other end of Parliament considered the Bill as a whole, including this proposal. They, not the Government, decided to take out the provision, so we cannot discuss it here because it is no longer in the Bill.

There is an Opposition amendment, which anybody who chooses to observe our deliberations can see we are certainly debating, but the Bill no longer contains that particular proposal because Parliament removed it. Rather than us just bringing it straight back in, in a Committee where the Government have an in-built majority and a fairly reasonable expectation that we would be able to reinstate it if we chose—assuming that I am able to

command the support of my right hon. and hon. Friends, and perhaps the support of Opposition Members who share my passion for defending people from serious and organised crime—we are reflecting upon the decisions made by those in the other place. Decisions made by Parliament. We will continue to reflect upon them, and if we wish to go ahead with some sort of change, we will make our approach clear before Report and there will be an opportunity, it having been discussed at length at the other end of Parliament, for it to be discussed at this end, on top of the discussion we are now having.

**Stella Creasy:** Can I just be clear? The Minister is essentially saying that he did not want to table an amendment for the Committee, which he could have done if he is so convinced that the Government's original thinking on the proposal that caused them to include it in the Bill in the first place was correct. He could have done that after it was defeated in the Lords, in order to bring it to be considered by the Committee. What message does that send about his presumptions about the ability of the Committee to debate things?

**Mr Browne:** I do not think it says anything. Again, we are going over things, but there are two separate points. One is whether we wish the NCA to be responsible for counter-terrorism. No decision has been made on whether we wish that to be the case. We cannot invite the Committee to endorse a decision that we are reflecting on, based on all kinds of interesting insights and representations that could come from Opposition Members. Separate from that are what parliamentary mechanisms would be put in place to give legal force to that change, were that to be the path the Government wished to go down at some future point. All I am saying is that we will make all those matters clear before Report, so that there is plenty of opportunity for scrutiny. There has been, however, a lot of parliamentary scrutiny already in the other place.

**Charlie Elphicke:** Just so that I fully understand, the Minister is being berated for not bringing back a provision that was voted against by Labour peers and not tabled as an amendment by Labour MPs in Committee. Is it not odd for them to attack him for choosing to pause and reflect on what the House of Lords decided? If they feel so strongly about the issue, they could have tabled an amendment.

**Mr Browne:** Indeed. I share the views of the Deputy Prime Minister about the construction of the House of Lords, but it is still the House of Lords. At the moment, it is the revising Chamber. It decided to change the Bill, with the support of Labour peers, and we are reflecting on that, as Governments are normally invited to do when changes are made by Parliament. It is difficult; sometimes you cannot win either way, can you, Mr Caton? We are doing our best and maybe having come close to exhausting this aspect of the conversation, the hon. Lady will consider withdrawing her amendment.

**Stella Creasy:** The Minister would get further with the Opposition if he focused less on the pejorative language of how women speak in Parliament and more on the specific detail. Suggesting that I am emotional or excitable does not do him any favours in making his case. I hope that he will reflect on how he has behaved today and what that says about this Parliament.

**Mr Browne:** What did you say?

**Stella Creasy:** I said pejorative language, because I consider it to be pejorative to suggest that someone is emotional or excitable for raising an issue and to restrict those comments only to when women are speaking.

**Mr Browne:** The hon. Lady said that she was passionate about the issues, and I said that she was passionate about the issues. I cannot remember which derogatory word she used, but if I have the energy, I will read about it in *Hansard* tomorrow. If she looks back at what she has said about me in her speeches—if she wants to go tit for tat—she was saying all kinds of things, but I will not get too upset about them and maybe we can call it quits.

**Stella Creasy:** I think the Minister will find that he said that I was emotional and said in the earlier sitting that I was excitable. I suggest that he reflects on what message that sends about the debates that we have here. We are discussing serious issues and in tabling the amendments, I requested specific detail.

Responding to the first amendment, which would create a review of how the NCA is helping us tackle cybercrime, the Minister made no mention of how it would work for GCHQ, or how the NCA would work with the Ministry of Defence. In my speech, I talked about the artificial distinction between cyber-security and cybercrime. I was hoping that the Minister would give us a little more clarity on how the NCA will fulfil the national level role that all the briefings say it will have, how it will tackle those issues and how we can be confident as a society that there is co-ordination across Government.

**David Rutley:** I am following the debate with keen interest. I recognise the hon. Lady's enthusiasm—that is the important word—for these matters.

**Valerie Vaz (Walsall South) (Lab):** Expertise.

**David Rutley:** And expertise. Given that expertise—a very good word—will the hon. Member for Walthamstow make her case even stronger by setting out what success criteria she would like to see in the reports and what key metrics should be enclosed in them? That will give the Minister the best possible chance to reflect on what she is saying, if that suggestion meets with her approval.

4.15 pm

**Stella Creasy:** Absolutely. It is pleasant finally to hear a question from the hon. Gentleman that is about the issue in hand. The amendment raises a number of issues around cost and threat and, in particular, how the NCA works with its partner agencies. The amendment was trying to get at that challenge of co-ordination and what success might look like. Earlier, I mentioned cyber specials, who the Ministry of Defence is looking to recruit. The Bill will allow the NCA to recruit specials to work on cybercrime. Success would come not from the Government trying to compete among themselves, but from collaboration between individuals. For example, were a new form of malware to be developed that

[Stella Creasy]

required specialist knowledge about how it was transmitted, I would not want separate work going on in the MOD and in the NCA to address the impact it might have.

Industrial espionage, which the hon. Member for Dover mentioned, may have state sponsors. That cuts across the boundaries between commercial and industrial crime and national security. One of the successes I would like to see is evidence of greater co-operation. That is precisely why the amendment talks about relationships with partner agencies.

I am disappointed that the Minister did not refer to how the NCA might work with GCHQ or the MOD, or what role the Cabinet Office would play. He referred to the national defence cyber-security strategy, which comes from the Cabinet Office, yet here we are talking about the NCA and the role that it will play in tackling cybercrime.

I also talked about reducing the cost and threat of cybercrime and the requirement to hold on to data about its nature. Again the Minister made no reference to that or to the importance of accurate data so that we could see the impact of some of the changes on how cybercrime occurs in the UK, and the cost to all of us, whether individuals or businesses, or to national security.

I hope that I have set out for the Minister some suggestions about the sorts of things an annual review could look at, such as how different Government agencies were looking at the problem. Of course different capabilities will be required in the MOD, and of course there will be different issues about how we work with businesses, but the Government are setting up the NCA, which will have a key role in tackling cybercrime, yet they have not clearly set out what it will mean for all of us. At worst, there is a risk of replication as we see silos within Departments dealing with such issues, but at best, there could be a real step change in our understanding of the level of threat we face, the artificial distinction between the nature and type of attacks undertaken, the specialist knowledge required, and how partner agencies work at ground level. For example, if the police are teaching other police about how to deal with viruses, we also need to look at how we work with the Department for Business, Innovation and Skills to deal with viruses and train businesses in security software.

Given that nearly £1 billion of security software is at stake, I hope that the Minister will agree that reviewing how the agencies will operate is very important. I am sad that he did not see fit to show a commitment to the co-ordination needed to ensure that we are not wasting public money and that we are, as the amendment would require, reducing the cost and threat of cybercrime to consumers, the Government and the armed forces.

Our amendment 34 relates to CEOP's budget. Again, the Minister did not detail the specifics that many of us are concerned about. We are already starting to see where the bauble approach—as Jim Gamble described it—to bringing the commands together may inadvertently lead to a loss of expertise, resource and priority in child protection. I do not think anyone in the Committee wishes that to happen; I am convinced that everyone would like CEOP to be as successful as it has been. I encourage the Minister to think further about how, when we come to that amendment, he can satisfy some of the concerns that we all have.

As for new clause 1, words fail me in describing the Minister's attitude to the role that the Committee can play. He summarily announced that he may or may not table a new clause or amendment to provide for a power that had been removed from the Bill on Report in the other place. New clause 1 is about proper parliamentary scrutiny of such a substantial change. Getting counter-terrorism right, given the threats that we face in this country, is paramount. To suggest simply that the Minister can sneak in a power on Third Reading, when we will have a number of other issues to deal with, is extremely destabilising to the Met and to all those doing the planning for the NCA. It is extremely concerning to all of us who live in communities affected by the issues.

I am disappointed that the Minister has taken such a strategy towards the Committee. The Whips and all of us will reflect on what that says about what he thinks of our powers to offer effective guidance on how the power in the Bill might be used. Given that the other House rejected that power, with a number of serious concerns about what would happen, I hoped for more from the Minister.

I shall not press the Committee to a vote on the amendments, but I must say that the temper of the debate was disappointing to all of us who hoped that this afternoon we could have a constructive debate about how policing moves forward in this country and addresses three very serious issues. I hope we do better on Tuesday.

*Amendment, by leave, withdrawn.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6 ordered to stand part of the Bill.*

## Clause 7

### OTHER FUNCTIONS ETC

**Stella Creasy:** I beg to move amendment 34, in clause 7, page 7, line 1, at end insert—

‘(7) The Director General must ensure any funds delegated by the NCA to the Child Exploitation and Online Protection Centre (CEOP) are reserved for that purpose and this be confirmed through the annual report of the NCA to Parliament set out in section 5(2)(b).’

As I have already indicated, the amendment is to do with our concerns about the child protection unit and what will happen to its ability to fulfil its function. The amendment seeks to ensure that as the unit is transferred to the NCA, it retains the budget required to do the job. We are also concerned about how CEOP manages its budget, because it is one of the few organisations within the police that is successful in raising money from outside sources. The amendment seeks to ring-fence that money, to give confidence to any of the organisations that give money to CEOP that it will not be siphoned off into other elements of the NCA.

There are many things about the proposal that I am sure other Committee members, in particular those with expertise in child protection, want to comment on, but CEOP generated an additional £1.8 million in partnership towards its work last year. The amendment seeks to ensure that there is accountability for where that money, if maintained, is spent. In the Lords, Lord Henley stated that he hoped the CEOP funding model would remain and, in particular, that the training services

provided for police, teaching and child protection, which allow it to generate resources, are not curtailed because partners are not confident about where the money might go.

CEOP has a budget of about £6.8 million, which is already to be reduced by 10% over the next three years, under the comprehensive spending review. The amendment would ensure that no further reduction is suffered by CEOP as it is moved into the NCA. I am mindful of our debate on Tuesday, when my right hon. Friend the Member for Delyn expressed serious concerns about the budget for the NCA as a whole. Therefore, an organisation that is able to generate its own funding but is subsumed into the NCA might be extremely susceptible to being asked to pick up the slack in any further reduction of the budget. The amendment seeks to protect it against that so that it can get on with doing its good job of tackling child protection. I hope that the Minister responds positively.

**Mr Browne:** As we have heard from the hon. Lady, the amendment seeks to ring-fence the funding for CEOP within the NCA.

As I have done throughout our discussion in Committee, I can certainly assure the hon. Lady that the National Crime Agency will play a vital role in tackling child sexual exploitation and abuse. The hon. Lady is, I hope, well aware of the Government's strong and continuing commitment to CEOP. We want to build on its successes to date and to ensure that children are even better protected in future. Reflecting that commitment, the six principles that underpin the transition of CEOP into the NCA will, as I have said, be set out in the framework document, to which the Home Secretary and the NCA director general will have a statutory duty to have regard. On how CEOP's important work load is funded, the document will cement the Government commitment that CEOP will continue to have

“clear, delegated authority for its budget”,  
as well as being able to

“continue its innovative partnerships with the public, private and third sector and have the ability to raise and hold funds from donors”.

Going to the nub of the point made, however, we do not believe that proceeding further, by providing for the statutory ring-fencing of one element of the NCA budget, would support the efficient and effective management of the organisation, including its ability to respond to changing circumstances in-year. Indeed, across government, budgets are not in practice ring-fenced by statute. A commitment might be given by a Secretary of State or a Prime Minister to ring-fence a particular budget, but not in statute, because that does not allow for the necessary flexibility to respond to changing priorities within the financial year. As to how the director general reports on the work of CEOP in the NCA annual report, I suggest that we can also leave that to the director general's good judgment, rather than introducing additional statutory duties.

I wholeheartedly share all hon. Members' desire to ensure that CEOP is properly resourced. Incorporating it in the NCA will enable it to draw on the wider resources of the organisation that are not allocated to one of the four commands. CEOP's work will not be diluted in the NCA. Rather, CEOP will be able to do

even more to protect children—the point I was making a few moments ago—with border police and others bringing extra resource and expertise to bear.

On Tuesday, we touched on the issue of CEOP staff transferring to the NCA. With your permission, Mr Caton, I want to take this opportunity to provide a fuller answer to the hon. Member for Walsall South on that point. She asked whether all the staff from CEOP would go over to the NCA. I said at the time that that was my understanding, and I confirm that all staff currently employed by CEOP will transfer to the NCA. It is envisaged that secondees in CEOP will similarly transfer to the NCA; the Bill therefore provides that their secondment will have effect as if it were a secondment to the NCA. Secondees who do not want to transfer will, of course, be able to return to their parent organisation. The transfer process to the NCA from precursor organisations is currently being discussed with staff, but no staff will be lost in the process. As we build the agency, the objective is to ensure that CEOP can do more to protect children as a fully integrated command within the NCA, drawing on the agency's enhanced intelligence, its operational crime-fighting capabilities and its strong relationships with partners. CEOP within the NCA will mean no lessening of the focus on tackling child sexual exploitation and abuse.

Returning to amendment 34, I hope to persuade the Committee that enshrining the six principles in the framework document is the appropriate way to safeguard the position of CEOP, not by imposing statutory straitjackets, which are not typical elsewhere in legislation, whether under this Government or previous ones. I therefore ask the hon. Member for Walthamstow to withdraw the amendment.

**Stella Creasy:** Again, it would have been helpful to hear from the Minister what he is doing to ensure that there is no loss of support for partners working with CEOP, given their contribution to the CEOP budget. I was also rather worried about his reference to flexibility to respond to changes within years, in terms of budgets. That sounds rather as if we cannot guarantee that CEOP will get the funding that it has been getting, which is of concern to all of us who are worried about the implications of CEOP being moved into the NCA and so having its budget reduced.

I have no desire to press the amendment to a vote, but I am putting on record our concern, to ensure that the Government continue to resource CEOP properly to do its job, and that it can continue to work as it does at the moment, with partners, and having the necessary people. Already, in north Wales, we see the consequences that may be coming to CEOP. I hope that the Minister will reflect on that and reassure us that it will not happen. I beg to ask leave to withdraw the amendment.

*Amendment, by leave, withdrawn.*

*Clause 7 ordered to stand part of the Bill.*

*Schedule 4 agreed to.*

*Ordered, That further consideration be now adjourned.*  
—(*Mr Syms.*)

4.28 pm

*Adjourned till Tuesday 29 January at five minutes to Nine o'clock.*

