

HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
HOME AFFAIRS COMMITTEE

COUNTER-TERRORISM

TUESDAY 18 MARCH 2014

SIR MARK WALLER

RT HON DAVID DAVIS MP and NICK PICKLES

JAMES BROKENSHIRE MP

Evidence heard in Public

Questions 723 - 891

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Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 18 March 2014

Members present:

Keith Vaz (Chair)
Nicola Blackwood
Mr James Clappison
Michael Ellis
Paul Flynn
Lorraine Fullbrook
Dr Julian Huppert
Yasmin Qureshi
Mr David Winnick

Examination of Witness

Witness: Sir Mark Waller, Intelligence Services Commissioner, gave evidence.

Q723 Chair: Could I call the Committee to order and could I ask Members present to declare any interests they have that is over and above the Register of Members Interests? I welcome our first witness for today's hearing. This is the continuation of our hearings into counter-terrorism. I thank Sir Mark Waller, the Intelligence Services Commissioner, for coming before the Committee today.

Thank you, Sir Mark. We are most grateful to you for coming here. Could I begin with a question about the resourcing that you have in your post? You do 100 days a year.

Sir Mark Waller: 120 or 130 days a year.

Chair: 120 to 130 days a year.

Sir Mark Waller: Yes.

Q724 Chair: You seem to have a staff of one personal assistant. Do you think that is sufficient for you, in this very important task of Intelligence Services Commissioner, to be able to hold accountable the intelligence services? It does not seem like you are overburdened with having a lot of people to assist you on this very difficult task.

Sir Mark Waller: The position is that at the moment one person, Susan Carr, is effectively my PA. It is not fair to suggest that is the only help I get because we do have other help in relation to helping us draft and type up reports and so on, but the whole strength of the Commissioner system is that I do the work. The whole point is that we do not have staff that is going to go into the agencies. It is me. I am going to go in. I am going to select the warrants that I am going to concentrate on and read all the papers in relation to those warrants so that I can be satisfied of the case of necessity and proportionality. It is for me. That is the importance of it.

Q725 Chair: The warrants are being granted and authorised at the rate of eight per day, I think. In 2012 the figure was 2,838.

Sir Mark Waller: Yes.

Q726 Chair: How many of those warrants and authorisations have you personally seen, bearing in mind that they are increasing at the rate of eight a day?

Sir Mark Waller: I am afraid that figure last year is a little bit misleading and the reason for this is that one of the agencies changed its system and so there were an awful lot of warrants cancelled and then warrants obtained under the new system. If I were to give you the figure for last year by reference to 2,830-odd, the answer would be something in the region of 6%.

Q727 Chair: Right. Give us a figure now for 2013. Not in a percentage total but in an absolute total, numbers as opposed to percentage.

Sir Mark Waller: I can do it in a percentage first. Just let us see whether I have that right. About 12%; so I think about 1,700, or thereabouts, warrants and—

Chair: 1,000—

Sir Mark Waller: 1,600 or 1,700, something of that nature. This is for last year, of course. The report you are reading is the report for 2012. We are dealing with last year's, 2013, and—

Q728 Chair: When you say the figures are misleading, Sir Mark, these are your figures and they are in your report. That is why you are before us today, because we are questioning you on them. I would not want you to start casting aspersions on your own report.

Sir Mark Waller: They are absolutely accurate.

Q729 Chair: Are they accurate or not?

Sir Mark Waller: They are absolutely accurate.

Q730 Chair: They are not misleading.

Sir Mark Waller: That is a little unfair because they are entirely accurate figures but, in terms of assessing the percentage of warrants that I look at, it is a much higher figure than would normally be there because of what happened during the year.

Chair: It is now 1,700.

Sir Mark Waller: Yes.

Q731 Chair: Of those 1,700, how many have you had a look at to scrutinise?

Sir Mark Waller: About 200 or thereabouts.

Q732 Chair: Having looked at them, are you satisfied that they were properly granted?

Sir Mark Waller: Absolutely, but remember I am not just looking at the warrants themselves. What I am looking at is the paperwork that leads up to the warrants. In order to get a warrant there has to be a submission prepared that has to make a case that it is necessary to get the intelligence that the warrant is designed to get and it has to make a case that privacy has only been intruded to the most limited extent and that, such intrusion into privacy as there is, it is justified by the requirement to get that form of intelligence. I am looking at the paperwork as much as anything.

Q733 Chair: In respect of the Snowden issue, you made a comment in your report. You said, "I have discussed matters fully with senior officials within GCHQ and I am satisfied that they are not circumventing the legal framework under which they operate." Is

that the way in which you satisfied yourself that there were no problems with what Snowden had said, by having a discussion?

Sir Mark Waller: The paragraph before I say that showed that we were right at the moment at which we were going to be publishing the report and Snowden happened. I just thought it was absolutely wrong to publish my report without going down to GCHQ in order to see whether there was anything in the allegation that was being made. The allegation that was being made at that time was that GCHQ were taking no notice of UK law. They were doing it all through America and they were behaving unlawfully.

Q734 Chair: You went down to GCHQ.

Sir Mark Waller: Yes.

Q735 Chair: You went to see who there?

Sir Mark Waller: I saw the second head of the agency, in fact.

Q736 Chair: How did you satisfy yourself? It seems, from your comment, that what you did was you had a discussion with them, you heard what they had to say and you have accepted what they had to say.

Sir Mark Waller: Certainly.

Chair: Is that it?

Sir Mark Waller: Certainly.

Chair: Just a discussion?

Sir Mark Waller: Certainly.

Chair: Nothing else?

Sir Mark Waller: Certainly.

Q737 Chair: That is the way you were satisfied that there was no circumventing on UK law. You went to see them. You sat round a table. You had a discussion—

Sir Mark Waller: You have to remember that I had done a year and a half's inspection. I have a very good idea as to what the ethos of this agency is.

Chair: Of course.

Sir Mark Waller: They know perfectly well that they have to make out their case and the legality of their cases and so on and I have absolutely, clearly, accepted that—

Q738 Chair: Of course. How many times have you visited GCHQ in the three years and two months that you have been the Commissioner?

Sir Mark Waller: Three years and two months. Well, again, each visit in 2012 is in the report. Effectively, I do two inspections a year.

Q739 Chair: So you have been about six times?

Sir Mark Waller: Yes.

Q740 Chair: Six times in three years?

Sir Mark Waller: Yes.

Q741 Chair: That satisfies you that everything is in order. I am not saying this is my view, but some may feel that this is not particularly robust in terms of holding the security services to account.

Sir Mark Waller: Can I say that when I started the job I had a scepticism about the agencies and I did wonder whether two visits a year and “dip-sampling” was sufficient, but

when you get down there and you see the care with which they prepare their submissions and the cases that they make on the submissions you suddenly also realise that these people do not want to break the law. Individuals do not want to be liable for criminal offences. You also suddenly appreciate that—

Q742 Chair: This is done on the basis of conversations?

Sir Mark Waller: No. It is done on the basis of reading their reports and asking them questions about it. I have visited certain stations as well abroad and I have my conversations there as well. The important thing is that you suddenly realise that each person who is filling in the case has in the back of their mind that there is a chance—and it is quite a good chance—that some senior judge is going to read these papers and hold them to account.

Chair: Indeed. That is extremely helpful.

Q743 Mr Winnick: Sir Mark, when these stories appeared arising from Snowden regarding GCHQ, presumably you did not work on the basis that, when you had a conversation, as you explained to the Chair, the Director-General of GCHQ would have said, “We’ve broken the law”, or, “The Snowden accusations are correct”. Presumably you expected the reaction that the chief executive gave.

Sir Mark Waller: If you want to know, I was absolutely terrified that all that I had thought for 18 months was now going to turn out to be utterly untrue; in other words, that I had been spoofed. That is what I was worried about. Do not think it was just a conversation across the table, “Oh, I am sure it is all right, isn’t it?” That is not the conversation I had. The conversation I had was, “Look, you show me how and why you are doing it because this is a very serious allegation”.

Mr Winnick: Indeed.

Sir Mark Waller: They gave me the details of what they do and how they do it. They gave me those details.

Q744 Mr Winnick: This is a very important point because the accusation is that probing and investigation has not taken place. When you say you had a conversation and the chief executive confirmed all was in order, some may say, cynically and perhaps without justification, “Well, this is the old boys’ network”. You had to be satisfied. The Director-General said what you expected him to say, but at the end of it all—am I not right—there was no probing into what he said to you. There was no investigation. You accepted his word, that he was telling truth, as well he might, but what disturbs some of us, among those of us who have taken the Snowden report rather seriously, is that there is not enough investigation or any investigation to find out what happened.

Sir Mark Waller: As I knew—I am sorry. I did not mean to interrupt. I apologise.

Chair: No, I think Mr Winnick had come to the end.

Sir Mark Waller: I am so sorry. As the paragraph in the report says, I knew at that moment in time that the ISC Committee was going to be conducting its own investigations. That is what the paragraph says. I knew that further investigation was taking place. I wanted to go down and check whether I had been spoofed for 18 months in thinking these people were doing things lawfully. That is what I wanted to check.

Chair: Thank you, very helpful.

Q745 Dr Huppert: I am afraid I am going to have leave after this for another committee. You will obviously be familiar with section 94 of the Telecommunications Act 1984, which gives very broad powers in the interests of national security to do essentially

anything. What role do you play in supervising how it is used, monitoring the use and checking that it is all proportionate?

Sir Mark Waller: That is just simply not part of my statutory oversight. I have heard that you are concerned about this. As you know, the new legislation allows me to take up with the Prime Minister whether there are things that I or somebody else should have oversight of. It seems to me that that is an example of where it would be right to have a word with the Prime Minister.

Q746 Dr Huppert: I would be interested to know if you think anybody looks at how it is used, but I am also surprised because your own website, intelligencecommissioners.com, says, "Sir Mark Waller is charged with overseeing the broader conduct of the intelligence services in relation to the discharge of their functions." Yet you are saying that, despite the fact this is part of their functions, you do not have any responsibility for it.

Sir Mark Waller: No, I do not have an oversight.

Dr Huppert: Do you know who does?

Sir Mark Waller: There is no statutory oversight of that section.

Q747 Michael Ellis: Sir Mark, when you check things for the intelligence and security services, how often are they not in order? You have talked about a 6% or a 12% dip sample; a couple of hundred that you randomly, I presume, pick out from the 1,700 or so warrants that are issued. How many have you found that are not in order?

Sir Mark Waller: I have found one, which I think is in that report last year, where there had been a taking of a template of the warrant and the wrong description was in the warrant, but I have never found any instance in which there was some failure to get the thing right.

Q748 Michael Ellis: That single error was a typographical or clerical error as opposed to an error of process?

Sir Mark Waller: Yes, that is true, but it is not quite typographical. Typographical errors do also happen and I do sometimes find those, but if it is clear on the face of the document that it is typographical you can correct that and there is no trouble. Obviously they have to report errors to me and there are errors reported. Those, again, are administrative errors, i.e. circumstances in which somebody has failed to renew something, and so there is a period of 24 hours, or whatever it may be, where intelligence is being wrongfully gathered.

Q749 Michael Ellis: Do you have a process by which you can look at particular warrants or particular files because they relate to prominent people, for example, or people over whom you have a particular interest? Do you have a way of sifting through those that you might particularly want to look at or is this a completely random process?

Sir Mark Waller: No. They give me a full list that will have a little description of what it is concerned with. I can certainly pick out warrants if they have a particular feature or a particular person or, in some instances, a particular country, if it is the Foreign Secretary; those sorts of warrants.

Q750 Michael Ellis: Very well. This is a key question, if I may. How do you know that you are seeing all 1,700 that the security services have prepared? For example, how do you know that there are not a handful that you have not seen that are not listed on this full list? How do you know?

Sir Mark Waller: That is a thing that I debate with them almost each time.

Q751 Michael Ellis: You do?

Sir Mark Waller: Trying to prove—

Q752 Michael Ellis: What is their answer?

Sir Mark Waller: I will tell you what I say to them. I say, “Look, just assume for the moment that I am somebody who does not believe a word that you are saying and I think you have a room at the back there and that you are doing all sorts of things that you should not be doing but you are not showing me. How do you prove that is not so?” They say to me, “Look, nobody can do anything in this organisation without somebody else knowing”. The paperwork will go, say, from a foreign station somewhere up through the senior people there. It goes through up to the head office and so on. If this room existed where everybody is doing it, it would have to be a massive conspiracy. That is my judgment.

Q753 Michael Ellis: It is just that we hear reports about mass shredding in the Metropolitan Police. We hear reports about things going missing and we hear about potential miscarriages of justice. For those of us that support the work of the security services, we want to be assured that people like you are not being in any way hampered in the work that you are doing and that you are seeing everything you are entitled to see. Are you satisfied, so that you feel sure, that you are seeing that material?

Sir Mark Waller: I am satisfied so that I feel sure and that is why, after the Snowden allegations, I went haring down, because I suddenly thought, “Crikey”, but I became sure again.

Q754 Yasmin Qureshi: In the year 2012 there were 2,838 warrants and authorisations approved. How many did you actually look at yourself?

Sir Mark Waller: I think I have already answered this question. This is exactly what the Chairman asked me, but I will answer it again. I gave it in percentage terms. It is about 6%.

Q755 Yasmin Qureshi: That is right, 6%, but do you not think that if you looked at each one of those cases that would be better reassurance to the public that, in each case, there has been an appropriate level of information provided and the decision to do it has been appropriate? Do you think 6% is far too small a sample?

Sir Mark Waller: As I said, when I started out I was sceptical and I worried that it was too small a sample. Now, because I see the way they operate, I do not think it is and the reason I don’t think it is is because each and every person that writes the submission showing it is necessary to do what they want to do, showing that privacy has been properly considered, has in their mind that this may be read by a judge.

Q756 Paul Flynn: You are opposed to the suggestion that an inspector general should be appointed to oversee all aspects of the intelligence services. Why?

Sir Mark Waller: It would certainly depend on precisely what you had in mind by an inspector general. If it was simply to say we will have one person doing the job that is Sir Anthony May and I do, I do not see the point of that because you have two judges doing the work. Therefore, it would seem to me, if it just going to be one, combining them. If you are going to say, “Well, no, it is not that; I want somebody who is not a judge to have a big organisation with lots of people who are going to go into the agencies and do everything”, first you have to find the right people.

Secondly, you may be doing something that has lost one of the key features of the way it operates now, i.e. you no longer have the agencies saying, “Oh my goodness me, a senior

judge may read this". I think you will lose something and I query whether you gain anything. The bureaucracy that would be built up and the amount of time that you would take with the agencies when they are meant to be doing a job, which is protecting the country, I query: is that a gain? I doubt it.

Q757 Paul Flynn: The role of MPs includes the solemn duty now of declaring war and deciding when we join conflicts. The result of our recent decisions has been the loss of 628 British lives. In 2003 we were misinformed by the security services and the ISC on the weapons of mass destruction in Iraq. In 2006 we were also misinformed on the likelihood that there would be shots fired in the Helmand Province. Two members of the Committee were told directly that Britain was not involved with the rendition of prisoners and we know now that this was a lie and we were, as a nation, complicit with torture by Gaddafi, among others. Don't you think, in those circumstances, when there has been a history of misinformation supplied to MPs, we need to change the system and put someone else in charge?

Sir Mark Waller: What you are talking about occurred in the early 2000s.

Paul Flynn: The extraordinary rendition was more recent than that.

Sir Mark Waller: 2002.

Chair: If you could address the general point rather than specific "when did the war start" issue.

Sir Mark Waller: I can't say any more. I do not believe that putting in place an inspector general with a lot of bureaucracy and taking up—remember, resources are finite. You take up a lot of time at the agencies when they are trying to do the things that they want to do. I just do not believe—

Q758 Paul Flynn: You seem to be supportive of the recent history and I am telling you, as a Member of Parliament, that I and all other Members of Parliament were misinformed or lied to on these most important matters and we took those decisions to send young men and women to their deaths on the basis of misinformation, mistakes or actual lies. In those circumstances, how can you feel so complacent about the status quo?

Sir Mark Waller: I think it is very unfair to say that I am complacent. I certainly am not complacent. I go in with a complete lack of complacency. I go in and examine as hard as I can. I am very doubtful whether some of what you are saying would be caught even by a large inspector bureaucracy and I am not complacent. I just worry that you will lose something by having a more bureaucratic inspector. That is all I am worried about.

Q759 Paul Flynn: The Intelligence Security Committee is nominated by the Prime Minister and it is a creature of Government and it had a record of being complicit with Government decisions. Surely there is a better way and the Members of Parliament need someone to represent their interests and the interests of the country generally, rather than being an arm of Government and a poodle committee that does what Government tells them to do.

Sir Mark Waller: I do not think the ISC now just is a poodle. The ISC is now a parliamentary committee. You could criticise the system previously on the basis it was just a Prime Minister-appointed body, but it is now a parliamentary committee and it does a great deal in terms of investigation and so on.

Chair: Mr Flynn does not mean to cast aspersions on those who sit on the Committee, but I think the point he is making is that it is not elected by the House. It is appointed by the Prime Minister.

Q760 Paul Flynn: Who do you think should inform MPs before we take these decisions? When we have a debate on a possible crisis at the moment, when it is not impossible that we might be called on to take military action, who do we believe?

Chair: This may be slightly beyond your remit, but it is very helpful for Mr Flynn to ask.

Sir Mark Waller: I am afraid it is. Don't worry, I can understand. I am not not understanding. I just do not think I can help.

Chair: Thank you. That is very helpful and we accept that answer.

Q761 Nicola Blackwood: I want to move on to your powers to interrogate the behaviour of individuals. I understand from the notes that you provided that one of your statutory functions is keeping under review the exercise and performance of members of the intelligence service and others in relation to their powers and duties under parts 2 and 3 of RIPA. I want to ask specifically, who examines the disciplinary proceedings against the employees of the security intelligence agencies?

Sir Mark Waller: I do not think that is within my statutory remit, but I certainly am interested. They have a very powerful auditing process. First of all, obviously their software will show any misuse by anybody of the people trying to get hold of telephone numbers or whatever it may be. That would be flagged up. They have a very strong disciplinary process and I see that process and the way it has been carried out.

Q762 Nicola Blackwood: How do you see that process?

Sir Mark Waller: They report to me. They are prepared to show me a report.

Q763 Nicola Blackwood: You are presented with a report on your twice-yearly visits of all disciplinary proceedings?

Sir Mark Waller: Yes.

Q764 Nicola Blackwood: Do you take any further action to investigate whether those disciplinary proceedings have been appropriately managed and taken forward?

Sir Mark Waller: I am able to see what it was that the person was being disciplined for, if they were being disciplined. To that extent the answer is yes.

Q765 Nicola Blackwood: No. You can see what it was, but I am asking whether you interrogate further to test whether the disciplinary proceedings have all been conducted according to an appropriate standard.

Sir Mark Waller: I see their rules. I don't say that I challenge, "Gosh, did you comply with the rules". I don't say that.

Q766 Nicola Blackwood: You don't do that?

Sir Mark Waller: No.

Q767 Nicola Blackwood: If that is not your job, is that the job of anybody else?

Sir Mark Waller: No.

Q768 Nicola Blackwood: All right. Okay, that is fine. Secondly, I just want to come back to a couple of comments you have made about the fact that you have confidence that the staff you have met are conscientious and professional and want to do the right thing. How would you characterise your relationship with the security intelligence services that you are there to hold to account?

Sir Mark Waller: I think they are respectful of the fact that a judge or, I am afraid to say, ex-judge is prepared to do this job and, for the senior members of the organisation whom I see each time, obviously I get to know them quite well. I do, but the individuals who come and have to defend the cases they have made or for me to ask questions about, I think they think they are being subjected to quite serious examination by a judge.

Q769 Nicola Blackwood: You think you have sufficient authority within the framework that you have been describing to us, of twice-yearly meetings and quite small samples, to be able to demonstrate a significant amount of accountability for what is a widespread secret organisation.

Sir Mark Waller: Yes, I think so, but that is because I do believe that—I am repeating myself—each person within the organisation who has to prepare these submissions and the case to get the warrant or the authorisation does so knowing perfectly well that there is a chance that a judge will look at it. I have never found one that is—

Chair: Very helpful. I am most grateful.

Sir Mark Waller: Thank you.

Q770 Mr Clappison: Sir Mark, I think we should be properly grateful to you for the work that you do and I certainly would join with you in the importance that you attach to the work that the security services undoubtedly do in protecting the public, but I think you will also understand the concerns Members of Parliament have and should have when it is clear that something has gone wrong in the not-to-distant past. You have spoken today of what I think we could describe as the ethos of the organisation that you dealt with and the conscientiousness of the people in it and the concerns they have. I think we could characterise that as an ethos. Can you understand the concerns that people might have, though, when, in the same organisation and presumably with the same ethos, in the not-to-distant past something went seriously wrong and there was some complicity of this country in a case where torture was involved? Yes, I am asking about the Binyam Mohamed case.

Sir Mark Waller: Of course I understand that. All one can say in relation to that is that it is an extra statutory oversight that relates to the consolidated guidance.

Q771 Mr Clappison: I want to come on to ask you about those because they are concerned with perhaps a slightly different side of things, as you have said. They come into play when a member of the intelligence services has been involved in the interviewing of a detainee held overseas by a third party. Also, where they have received information from a liaison service or they have passed information on to a liaison service when they are liaising with a third party. How many of those cases have you dealt with that fall under the consolidated guidelines relating to those cases where somebody is held overseas by a third party or information has been received from a liaison service or our services have passed information on to a liaison service, which I take it has been the liaison service being some other country's service?

Sir Mark Waller: Again, because I was concerned about the breadth of this oversight and I could not possibly look at each and every case, the way I have organised it is that each of the agencies prepares a full grid of the cases in which the consolidated guidance applies. That is to say, each and every case where there is a detainee involved and where somebody has had to do an assessment of whether there is a serious risk of cruel or inhumane treatment. I get that full grid and I see exactly what they did. What the consolidated guidance is seeking to achieve, first of all, is that anybody who is concerned either for questioning or sharing of intelligence where there may be a detention has at the forefront of their mind that they must ask themselves the question, "Is there a risk of cruel or inhumane treatment?" If there is a

serious risk, then they must go through the process. First, referring it up to a senior person in the organisation. If ultimately there is still an assessment that there is a serious risk then it must go up to a Minister.

Q772 Mr Clappison: I am grateful to you for that answer. Can you tell us, first, how many such cases fall within the consolidated guidelines? Not how many you have looked at, but how many cases there are.

Sir Mark Waller: Hundreds.

Q773 Mr Clappison: Hundreds. Are they included in the figure of 2,800?

Sir Mark Waller: No.

Q774 Mr Clappison: That is a different figure?

Sir Mark Waller: Absolutely, yes. I am sorry. It is hundreds. It happens on a daily basis.

Q775 Mr Clappison: You look into a sample of those cases?

Sir Mark Waller: Exactly that.

Q776 Mr Clappison: Could you give us an idea of the percentage that you look at?

Sir Mark Waller: I am afraid I can't. Do you want me to—

Q777 Mr Clappison: That is okay. If you feel like writing afterwards that would be very helpful. I am sure members of the Committee would find that helpful.

When you are looking at these cases you are looking at reports that have been given to you, what has been written up about them. Is that right?

Sir Mark Waller: Yes.

Q778 Mr Clappison: You are looking at the cases. You are looking at the cases and you are looking at the paperwork that has come out of the cases. Yes?

Sir Mark Waller: Yes.

Q779 Mr Clappison: When you say you are looking at them, exactly what do you do?

Sir Mark Waller: What I am trying to do is to check that these grids are accurate; that is to say, that the employees in the agencies have at the forefront of their minds the consolidated guidance and the tests and that when they go across the page saying that, yes, they took the view that there was a serious risk but then, "Who did you refer it to?" The answer was, "Senior person", and then it might have been referred to a Minister. What I am checking is to see that the papers I have show that that is the process through which they went. It is very important to know that I am not checking whether there was a serious risk. I am checking that they always think about it and then take the process through.

Q780 Mr Clappison: Obviously you are looking at this seriously within the powers that you have been given, but what you are describing to us is a paper compliance exercise, is it not?

Sir Mark Waller: It is. I think that is a fair way of putting it, but I do not think it is just a paper compliance exercise because what it is doing is making sure that all the individuals who have anything to do with a detainee register that the consolidated guidance—and I see that. I have paperwork that shows me that.

Q781 Mr Clappison: Do you ever get the chance to meet the people who have been preparing these reports and ask them questions?

Sir Mark Waller: Yes.

Mr Clappison: You do.

Sir Mark Waller: Yes.

Q782 Mr Clappison: In how many cases does that happen?

Sir Mark Waller: It happens more when I am visiting a station because that is where it happens more than anywhere else that they have to consider whether, for example, they are going to share intelligence with a liaison where there is a risk of serious—

Q783 Mr Clappison: Could I just ask you one other question arising from that. I am very grateful to you for your answers. On the basis of what you have told us, would you be confident that a case like that of Binyam Mohamed could not happen now?

Sir Mark Waller: I do think I would because I do think it is now absolutely ingrained in the people who work for either SIS or the security service, but particularly SIS, that if there is a detainee involved they must apply the consolidated guidance.

Chair: Thank you very much. Colleagues, we have other witnesses.

Q784 Nicola Blackwood: Sir Mark, you described your anxiety when the Snowden revelations hit and you rushing off to GCHQ in order to check that what you thought you knew about them was true. You can imagine that all the constituents that we have, the general public, feel the same level of anxiety, but even more because they do not know the people you are talking to and we do not know them. On top of that, we have had the same about policing, with Hillsborough and with the *Ellison Report*, and so there is this huge crisis of confidence in policing and undercover operations. Do you think that the outline of the oversight that you have given us today would reassure those constituents that there is sufficient accountability in the system when added together with the ISC? Do you think there are sufficient powers in the system to hold those individuals to account to give confidence back to the public?

Sir Mark Waller: I do think so, but I do think there is a major worry as to whether the public appreciate, for example, what Sir Anthony May and I do. I am afraid I have found, in talking to members of the public, that they did not know we existed.

Chair: That is why the Committee has brought you hear, so that people do know that you exist.

Sir Mark Waller: Touché, Chairman.

Q785 Nicola Blackwood: How many disciplinary proceedings were reported to you in 2013?

Chair: How many disciplinary proceedings in 2013?

Sir Mark Waller: I don't know.

Nicola Blackwood: You said that disciplinary proceedings were reported to you and I am just wondering—

Chair: Would you write to the Committee and tell us?

Sir Mark Waller: I will try and do that.

Nicola Blackwood: Thank you.

Q786 Mr Winnick: The follow-up questions are regarding the position of the security service and let me say straight away, Sir Mark, that I share the views of all colleagues, as yourself, of the essential work undertaken by the security services; even more

so, of course, as a result of the constant threat of terrorism. Your former judicial colleague, Lord Neuberger, in the case that Mr Clappison mentioned—and I am sure you are perfectly aware of—made his judgment in February 2010. He said, “Some security officials appear to have a dubious record when it comes to human rights and coercive techniques.” That is a pretty damning indictment.

Sir Mark Waller: I think he said the evidence in the case indicated that. I was perfectly well aware that you were going to put that passage to me because you put it to Sir Anthony and to others, I think. I think it is slightly taken out of context, but don't worry about that point. The real point is that the question of whether there was misconduct was never tried out. It is true that he made that comment there and you will remember that what happened was that the Crown asked him to remove that passage from his judgment.

Mr Winnick: Exactly.

Sir Mark Waller: He was then persuaded to put it back in. Part of the case of the Crown for asking him to remove it was that it has simply never been tried out as to whether there was this misconduct, but the other important point is that he is talking about something that happened in the early 2000s. It was the forebear to the consolidated guidance that has now been brought in, in order to try and see that people are absolutely conscious of what their duties are.

Q787 Mr Winnick: Surely Lord Neuberger—a distinguished judge, indeed like yourself, and in the past he was Master of the Rolls—would not have dreamt of making the comment that I have quoted unless he was pretty certain he was on good grounds for doing so and the fact—

Sir Mark Waller: No, I am sorry, just pause a second.

Mr Winnick: Yes, of course.

Sir Mark Waller: Remember, it is at an interlocutory stage. Everything is on paper. So he is saying, “I think that what is in the documents here indicates that”, but what he could not say and part of the argument of the Crown was he cannot say it is proved because nobody has tried it out. One of the things that happened was that, because the Crown were not able to produce the secret evidence in order to defend themselves against the case, ultimately—

Q788 Mr Winnick: Does that mean you take the view that at no stage in recent times—and no one has suggested for one moment that they were directly involved in torture, not a single person to my knowledge, prisoner or otherwise has suggested that—that no security official was complicit in the torture carried out abroad? Are you saying that?

Sir Mark Waller: I do not know what happened in 2000. I have no idea. If there was, it was reprehensible.

Mr Winnick: To say the least.

Sir Mark Waller: Of course.

Mr Winnick: Because the Government kept on saying, as the present Government has done, that Britain rules out torture completely, directly or indirectly.

Chair: If we could return to how your role impacts on this. Would you like to say something finally on this?

Sir Mark Waller: The way that the consolidated guidance has been implemented—and I have seen it implemented across the board—shows now, as it seems to me, that it is absolutely ingrained in those people who are working for SIS or the security.

Q789 Chair: Thank you, very helpful. Sir Mark, the concerns of this Committee are not that you are not a very distinguished, decent man, which clearly you are, and you are obviously doing this job to the best of your ability, but the problem is that perhaps you are not

as resourced as you should be. An Intelligence Services Commissioner, dealing with some of the most important issues cannot feel that they have a grip of this with just one personal assistant as their staff. We take the point that nobody wants a bureaucratic system, but don't you think there is a case for increasing the staffing of the Intelligence Services Commissioner or even making it into a full-time position, which clearly it is not at the moment?

Sir Mark Waller: I hear what you say. I think we are getting more people, but the important thing is that—

Q790 Chair: But do you think it should not be a full-time post, given what we have read in the newspapers, given what Snowden has said, given the concerns of the public and Parliament?

Sir Mark Waller: By full-time, do you mean that you ask a retired judge to do it full-time or are you saying we make one of our judges do it full-time?

Chair: No, I am not saying any judge of any particularly employment. I am just talking about a full-time post. This is not a full-time post at the moment.

Sir Mark Waller: No, it is not a full-time post.

Chair: It is a part-time post and, given what you have seen and given the volume of the work and given the public concern, some of it may be able to be addressed if it was a full-time post.

Sir Mark Waller: All I can say is that I think having a senior judge prepared to do what Sir Anthony May and I do produces a situation at the agencies that means they get the thing right.

Q791 Chair: Do you not feel you should have more powers to deal with your subject matter? Obviously we have great respect for the security services, but sometimes they have to be involved in activities to defend the liberty of our country that you and I would normally not want to know about. You are hardly a candidate for the House of Cards. You are a former judge and you are dealing with people who have to deal with very difficult areas. Do you not think you need to be given more powers to deal with these issues?

Sir Mark Waller: I don't think so. If I were to find that they had not made out a case that would mean that people have been acting unlawfully. If I thought people had been acting unlawfully then I would have to report them to the police. That would be as simple as that.

Chair: But you have never had to do this.

Sir Mark Waller: I have not. If I thought that they were conducting surveillance that they should not have been conducting over some individual then it seems to me that I would have to inform that individual so that they could bring that case before the IPT. I just fear that if you expand and expand and expand you will find that you do not get the benefit because agencies will be spending so much time on dealing with inspectors—

Chair: Indeed, you have made that clear.

Sir Mark Waller: That is my view. I might not have had that view before I started and I wish one could make the problem go away.

Chair: Yes, indeed. That is very helpful. Thank you for coming here today. I think you have done a great service to the role of Intelligence Services Commissioner for coming before the House and being able to questions. I know that you and your wife have set up a Charlie Waller Memorial Trust. We wish you the best with that trust and the aims of that trust and the work that you all do. We know that is very close to your heart and we wish it success for the future.

Sir Mark Waller: Thank you very much, Chairman. It is very kind of you to say that.

Chair: Thank you, Sir Mark.

Sir Mark Waller: Thank you all.

Examination of Witnesses

Witnesses: **Rt Hon David Davis MP**, and **Nick Pickles**, Big Brother Watch, gave evidence.

Q792 Chair: It is very unusual for this Committee to have Members of Parliament before it. The reason we have asked you to appear before us today is because of your knowledge about these issues. Mr Pickles, thank you very much for coming. I am sorry we are running a little late. You will appreciate the fact that members of this Committee will ask robust, quick, sharp questions and we will get quick, sharp replies, which you are very used to, Mr Davis.

Could I start with you, Mr Davis, and the publication of the Snowden files and generally the architecture of scrutiny. Do you think that what we have at the moment is enough as far as the ISC is concerned, the Commissioners—you have just heard from one of them—or do you think you should toughen it up and make it different?

Mr Davis: No, Mr Chairman. Much of my evidence today is based on a visit to the United States to look at the impact of the Snowden files there. I should say, as a declaration of interest, that trip was paid for by Big Brother Watch, by the way, if you can register that. The arrangements there, although they are criticised in the States for being insufficiently robust, are 1,000 times more robust than ours are already. There is much more public information available, qualitatively different levels of public information. There is more rigorous oversight by many more organisations than you have heard about here. There are legal protections for the privacy of citizens that do not exist here. There is a constitutional bar on general warrants, which we do not have here. There are proper separations of powers, so the legislators actively challenge the Executive in the interpretation of the law; something very important on the torture issues as well other issues. Of course, something that we cannot reproduce, they have a far stronger IT industry than we have here who have strong vested interests in making sure that surveillance is not misused.

Q793 Chair: Your top three changes to what we have at the moment, including parliamentary scrutiny, would be what?

Mr Davis: Significant beefing up of the ISC, including its method of appointment—

Q794 Chair: You favour election by the House.

Mr Davis: I am in favour of election by the House. I do not mind the Prime Minister having a say at the nomination stage. For example, if I were a well-known communist spy I could be knocked out at the beginning. I do not mind that, but I think the House should choose. I agree with the notion put forward by the Shadow Home Secretary that the chairman of it should be a Member of the Opposition, as with the Public Accounts Committee. Indeed, I think the Public Accounts Committee has a lot to offer here.

Something else that was said to me by a member of the President's Panel was one of the great virtues of the American system is that there is more than one oversight committee. There are two oversight committees in the House and Senate, but you also have the judiciary committee with an insight to it. It was a judiciary committee in the latest scandal that provided the most important piece of evidence, namely that the so-called 54 cases stopped by the surveillance or claimed to be stopped by surveillance were untrue. There were zero cases stopped by surveillance.

Q795 Chair: Mr Pickles, top three changes?

Nick Pickles: I agree with the President's review. I think the first one is that you end bulk collection. You go back to a system where warrants are targeted on individuals and on premises and you do not collect information in bulk. The two things that became clear from the US trip is there are different kinds of bulk collection. There is bulk collection without the consent of companies and there is bulk collection by ordering companies to hand information over. Late last night I received a letter from British Telecom refusing to deny that they are handing over information in bulk on thousands or millions of British citizens and that mirrors a refusal to deny the same situation in a parliamentary answer received by Mr Davis.

I think ending bulk collection, and then introducing judicial authorisation for warrants, particularly on interception, so we do not have the situation we have just seen with retrospective authorisation by a retired judge. You have an actual judge hearing both sides evidence. Again, the President's review made clear the danger of one-sided courts. Then, finally, I wholeheartedly agree, rigorous oversight outside the agencies that must include parliamentary oversight. One of the nuance changes that struck me was the remark by the staffers, from the members of the Senate Intelligence Committee, who said the difference it makes by individual members of a committee being able to hire their own member of staff who has security clearance, rather than relying on a collective clerking staff provided by the agencies.

Q796 Chair: Mr Davis, were you glad when the *Guardian* published the Snowden revelations?

Mr Davis: I think the *Guardian* did a public service by publishing the Snowden revelations and indeed, bluntly, I think the Government was heavy-handed in dealing with him. If you look at every other country in the world, the newspapers that have brought this to the fore have been feted. They have been up for Pulitzer Prizes. They have been seen, not just by their colleagues but by the public and by the Governments involved, as having done a service. This is the only country in the world where the Government has taken the opposite view.

Q797 Chair: Mr Pickles, was it a public service to possibly put members of our security service at risk as a result of what happened?

Nick Pickles: I think we need to qualify that, but this was absolutely in the public interest if you look at the remarks of Sir Tim Berners-Lee through to the former Vice President of the United States saying this exposed crimes against the constitution. Only this week we had former members of the Church Committee saying that we need a Church Committee for the 21st century. It is absolutely in the public interest.

Mr Davis: Can I say as well, Mr Chairman, I do not believe that the *Guardian's* publication has put anybody at risk. You have had Mr Rusbridger in front of you. I have spoken to him at great length as well on this subject and they had been extremely careful to talk to the Government with one exception, which I think was the G-20 exposure that did not put anybody at risk except for a certain amount of embarrassment. With one exception, that being that one, they spoke to the Government before every single article was published. I do not think the idea that they put people at risk stands up at all.

Chair: Thank you.

Q798 Mr Clappison: Mr Pickles, in view of the evidence we have just heard, could you tell us how bulk collection fits into the picture of warrants?

Nick Pickles: The one word you did not hear was "certificates". There are warrants and then there are certificates. Section 1 of RIPA allow for warrants and that is for communications within the UK, the internal communications. Section 8 and section 4 of

RIPA discusses external communications and they are deemed to have a lower legal protection and this is based on a model where information would flow out and into the UK over copper telephone wires to the Soviet Bloc and so you would intercept every call that was leaving to go to that country. The problem is if you apply that model to the internet. You could send a text message or a Facebook message to some standing a few feet away from you and it might exit and re-enter the UK and, therefore, falls under this definition of external communications. I think section 8 and section 4 of RIPA are particularly—

Mr Davis: Also section 94.

Nick Pickles: Then we have section 94 of the Telecommunications Act, which I mentioned and Dr Huppert mentioned earlier.

Q799 Mr Clappison: Two quick questions. First of all, it is bulk collection of what and who is supervising it?

Nick Pickles: My letter to BT was asking, “Do you hand over data in bulk under any authority?”

Q800 Mr Clappison: What is the data that is being handed over?

Nick Pickles: That would be metadata; the communications data; the who, what, where and when. That would be for a traditional landline or on the internet it could be email addresses—

Mr Clappison: Or a mobile.

Nick Pickles: Or mobile phones, depending on the operators. My concerns is that there is the activity going on under the Telecommunications Act that is unsupervised and that is why BT cannot publicly refuse that they are handing over information in bulk.

Q801 Mr Clappison: I should ask also, who is it being handed over to?

Nick Pickles: This is the question. We simply do not know. Questions in the House have been met with the usual response and everybody has refused to talk about it.

Mr Clappison: I suppose if we do not know who it is being handed over to we can't ask who is scrutinising it.

Mr Davis: The answer to my question was provided by Mr Brokenshire, so you may have an opportunity. Is he not appearing before you today?

Chair: Yes, thank you.

Q802 Dr Huppert: Could I just pick up this thing you said, Mr Pickles, about BT being unable to deny various things? Can you just amplify a bit on that and perhaps built on Mr Clappison's questions as well? What exactly could they not deny? Presumably, if they didn't have any orders under section 94 of the Telecommunications Act they could say that they had none. It just bans them from saying so if they do have any. Do you have any sense as to whether this is a widespread thing? Is this a BT-only thing? I would be very interested to hear what you have discovered about all of this.

Nick Pickles: My interest comes from the trip to the US where it became clear—and this was one of the first Snowden revelations in America—that particularly the Verizon Business Services were receiving orders under section 215 of the Patriot Act that were intended to be for named records or named customers and had been used to collect information on millions of Americans. The word “relevant” in the Patriot Act was the reason why Representative Sensenbrenner, who guided the Patriot Act through, highlighted this and why the President's review flags that the interpretation of that word does violence to the English meaning of the word “relevant”.

I asked BT categorically, “Does BT provide data in bulk on thousands or millions of customers who are not individually named in a RIPA notice to the UK Government or its agencies and, if so, under what legal authority?” I received absolutely no substantive answer to that question and I cannot imagine, given the severity of what that entails, why they could not deny that.

Q803 Dr Huppert: Presumably, if they were not doing it, they would be legally allowed to say, “No, we’re not doing it”.

Nick Pickles: Absolutely.

Mr Davis: You would assume so.

Dr Huppert: Yes. There is a clear inference there.

Q804 Michael Ellis: Do you think that it performs a public service or would perform a public service in this country for officers of any of our security services to steal material from their employers and flee to Putin’s Russia? Do you think that would perform a public service, Mr Pickles?

Nick Pickles: First, I think it is important to note that the reason Mr Snowden is in Russia is because his passport was revoked, not by any personal choice.

Q805 Michael Ellis: But do you think it would perform a public service to steal material from your employer? Would you think it was a public service if someone who worked for you stole material from you because they thought that perhaps they did not like something you were doing and they fled to Putin’s Russia? Do you think that would perform a service?

Nick Pickles: First, I think there is a very important point here of public interest. Mr Snowden took a decision that what he was seeing, particularly after a very senior member of the intelligence community told Congress they did not collect information on citizens, which now appears to be a lie or at least a deliberate untruth, exposing that lie was absolutely in the public interest. The fact he is in Russia was not a decision for Mr Snowden. It was forced upon him.

Q806 Michael Ellis: Right. Do you think that it is okay, as a point of principle, for our security services to be able to lawfully access landline and mobile communications of criminals and terrorists but not computer communications? Do you think there is such a difference in those forms of communications that for decades, perhaps even 100 years, security services or police may have been able to access landlines or mobiles but somehow computer forms of communications should be okay for criminals and terrorists to use?

Nick Pickles: No, absolutely not. I wrote a 3,500 word article for the *Journal of Counter-Terrorism* earlier this year explaining how the principles of directed targeted surveillance should apply on the internet. My concern and what Mr Snowden has revealed is the principles that underpinned previous surveillance, named suspects, targeted investigations, have been abandoned because the technology allowed it, which is why the President of the United States said, “Just because the technology allows us to do it does not mean we should”.

Mr Davis: It also introduces, if I may say, some new temptations. When the mechanism was attaching a couple of crocodile clips to an exchange and then listening in, that was self-limiting, only a few of those could happen at any point in time, so getting a warrant was not an issue. When you are accessing millions or even billions of records, then getting a warrant becomes something of a different problem, and so it does introduce a new problem.

Q807 Michael Ellis: Would you agree too, Mr Davis, that by its very nature, our law enforcement must keep up with criminal activity, and if communications have advanced to such a point, it is essential that our law enforcement follows criminal activity? Otherwise they will simply be able to divert their criminality from landlines and mobiles to another form of communication.

Mr Davis: Law enforcement should follow criminal activity. This is why it was important that the Judiciary Committee in the States, when looking at block metadata collection, the very thing we are talking about, challenged the claim of the agencies that they had stopped 54 plots. It started out as several hundred plots, then it was reduced to 54. The Judiciary Committee went through them and reduced it to one, which was a transfer of \$8,500 from San Diego to Somalia. There was not a single terrorist plot stopped by this mechanism, not one.

Q808 Michael Ellis: Can I just ask, Mr Pickles, is it correct that Big Brother Watch are initiating legal action against GCHQ?

Nick Pickles: Yes, we have a case pending before the European Court of Human Rights.

Q809 Michael Ellis: You are using the Human Rights Act, are you?

Nick Pickles: Yes, we are.

Q810 Michael Ellis: What are you seeking to sue GCHQ about?

Nick Pickles: The two specific questions are the collection of data on millions of British citizens is a disproportionate interference with their right to privacy, and the second argument is that the quality of law means that an ordinary British citizen cannot read the legislation and understand in what circumstances they themselves may become subject to surveillance. This goes back to the point of RIPA being written before Facebook really existed and Google was still in a garage when that happened.

Michael Ellis: Thank you very much.

Q811 Chair: Thank you, Mr Ellis. You have just come back from Congress, from the United States, you have looked at their oversight, and the heads of their intelligence services have appeared eight times, on average, each year before congressional committees.

Mr Davis: That is correct.

Q812 Chair: Would you like to see the heads of our services appear more often, not just before intelligence and security, but other committees that may be relevant, such as the Foreign Affairs Committee or the Home Affairs Committee?

Mr Davis: Yes, I do, Chairman. I think that it is difficult for them, there is no doubt about it, and they have to have the option of saying, "I am sorry, I cannot answer that question" but it has enabled members of the committees—in fact, the Oversight Committee themselves—to put in the public domain things that they thought needed to be known to the public and, in particular, excessive surveillance. So I do think it is worthwhile. I think we are very similar to the United States. We have the same enemies, we have the same techniques, we have, broadly speaking, the same public standards, and yet they manage to maintain a level of openness in their surveillance that is completely different to what we manage here.

Chair: Indeed. Mr Pickles?

Nick Pickles: Absolutely, I would echo that, and I think the—

Chair: They have a better structure, you think?

Nick Pickles: They absolutely have a better structure. For example, the first time the CIA Director appeared on television was 1974, so I was pleased that we have finally caught up with that in all this time. I think one of the crystallising thoughts in the US was that as a result, the oversight committees do not have to act as spokespeople for the agencies, the agencies can defend themselves. I think in this day and age, when the revelations from Snowden broke, it was not unreasonable to expect the agencies themselves to explain this to the public, rather than having to rely on the committees that are scrutinising them.

Q813 Chair: Because they are very well-known now, the heads of the agencies. It is not like before when they used to be unknown to the public. Most of them have ended up in the House of Lords.

Mr Davis: In this country, the last of the agencies to become public was the SIS in the 1994 SIS Act. I took that Act through the House of Commons and it was an explicit decision by the agency at that point to become public, so with that comes some responsibilities.

Just on the point of interrogation by oversight committees, Chairman, your Committee has already raised with the previous witness three occasions when our oversight failed. That was the dodgy dossier, to use the slang, rendition and 7/7, where they did not highlight the failures there, and they did not foresee Tempora and PRISM either. That is not the case in the States. The Intelligence Committee did foresee some of the issues that Snowden raised and raised them before Snowden broke.

Q814 Dr Huppert: Can I come back to this comparison between Britain and the US? I presume you are both familiar with *Yes, Prime Minister*, and there is a line there where Desmond Glazebrook says, “Good Lord, no. Any hint of suspicion, you hold a full inquiry. Have the chap straight up for lunch. Ask him straight out if there’s anything in it”. “And if he says no?” “Well, you’ve got to trust a chap’s word.” Do you think that is an accurate description—this is probably a little harsh—and how do you think it compares to what you found in the US?

Mr Davis: No, I think that is a little harsh, but nevertheless, there is a problem of capture, there is no doubt. It happens in the States too. I met Dianne Feinstein, the head of the Senate oversight, which is the more powerful of the two oversight committees, and she was very, very pro the agencies. She was behaving in the same way that Malcolm Rifkind behaves and his predecessors on his committee have behaved. He became like a spokesman for the agencies. But it should be said that last week—I do not know how many of the Committee have followed this—there was an upper and downer of a row in the Senate, and what the Chairman of the Judiciary Committee described as the greatest speech ever made in the Senate, when she attacked the CIA for monitoring and bullying the staff of her committee. So there is a robust relationship, and I think the aim when we created the ISC was it would metamorphose into a full-blooded Select Committee of the House with an elected chairman and the rest of it, and that has not yet happened. It is en route, I am sure, but it has to accelerate.

Nick Pickles: The combined weight of the President’s NSA review, that is the Privacy and Civil Liberties Oversight Board review and that is the ISC review to date, I think that in itself is quite telling as to how informed the public debate is.

Q815 Dr Huppert: I was going to ask about those two reviews. How have they gone down in the US? How have they been accepted, how entrenched are they and how much resistance is there to implementation of their recommendations?

Mr Davis: Perhaps the first thing to say is who was on them. The President’s panel was run by Richard Clarke, chaired by Richard Clarke, who was Bush’s counter-terrorism

head. Michael Morell was number two, I guess, the Deputy Director of the CIA, very well-known to our own heads here, and there were three other legal experts, all of them established pro-Obama legal experts. They came out with an incredibly rigorous and robust set of 46 recommendations, including effectively shutting down the mass collection programme of metadata, and incidentally, while they were at it, pointed out that the American agencies had already shut down on their own accord their email metadata collection programme. But anyway, to come back to your point, it was very, very well accepted, and people were shocked by how robust it was, but everybody accepted that it was the way to go.

Q816 Nicola Blackwood: I just want to take you back to your comments about bulk data versus having individual judicial oversight for each application for a warrant, and putting aside the morality of it for a moment, just ask about practical application, because assuming that there will be secret evidence required in order to prove the necessity for an application, do you think that this would have to be considered in camera or in CMP?

Nick Pickles: Obviously the Americans have the FISA Court, which is a secret court, and one of the recommendations from both reviews is that there should be a public advocate there, so there is somebody who can offer a differing point of view, rather than having a one-sided court. Inevitably you will have to use, I think—

Nicola Blackwood: Special advocates.

Nick Pickles: However, the special advocate system is certainly an option. I think the interesting thing across the board is now we have CMPs and post Justice and Security what purpose the tribunal still serves, given that the courts now have the ability to hear these cases, and the tribunal itself is quite a weak part of the oversight.

Nicola Blackwood: The Investigatory Powers Tribunal.

Nick Pickles: That is the American system.

Q817 Nicola Blackwood: You are suggesting that the Investigatory Powers Tribunal should be overtaken by judicial oversight through CMP?

Nick Pickles: I think so, so the tribunal as a redress mechanism, not as an authorisation mechanism. If you look at Judge Leon's ruling in the NSA where he calls bulk collection, "Almost Orwellian" that comes from a public judicial process with a public judgment and that is very valuable.

Q818 Nicola Blackwood: Yes, but once again, moving back to the practicalities and trying to work out how our court system would functionally approve 1,700 warrants through CMP annually, and possibly more, and if you are talking about replacing bulk surveillance as well, I assume that that is going to spike, so I am just trying to understand what kind of bulk system you imagine would replace it.

Mr Davis: I would not worry too much about the 1,700 warrants a year. That is not very many, bluntly.

Q819 Nicola Blackwood: No, it is not, but if you are replacing the bulk surveillance as well and you are having to justify that as well—

Nick Pickles: As far as I am aware, there is only 10 certificates that currently exist for the bulk collection under section 8 and section 4. This was in the President's review when they found that you could get the same information from traditional investigations rather than using the bulk orders. That was mentioned repeatedly, so I think it is more a mind-set change than a bureaucratic change.

Mr Davis: There is no problem at all in holding those hearings in secret, because after all, we are not talking about locking somebody up, we are talking about just gathering their

information. What is a problem of holding it in secret, which manifested itself with the FISA Court, is the court changed the law. In effect, the court took a new wording of law, the so-called use of “relevant” and used it to justify mass collection, which is a breach of the American Constitution. The problem of a secret court is simply there is nobody there to test the arguments that are being put and test the judgments of the court, but it is the best option you have, as it stands.

Chair: Thank you. We need to move on. I think David Winnick has a quick supplementary, then finally Paul.

Q820 Mr Winnick: Yes. There is some contradiction—perhaps I am wrong—between yourself and Mr Pickles, Mr Davis.

Mr Davis: Entirely possible.

Q821 Mr Winnick: Mr Pickles said that the American system is such that the Chair of the Oversight Committee does not act as a spokesman for the committees, but the criticism of Senator Feinstein is that she has constantly defended the committees, CIA and FBI—CIA in particular—but the only time she has criticised is in the last few days, when she has discovered that the CIA have hacked into the phones of her staff, who have been probing into the CIA. That seems somewhat of a contradiction.

Chair: We will have a quick response and then we need to move on.

Mr Davis: Very quickly, the committees that are not directly involved are the committees on judiciary, foreign affairs, defence and so on, all of whom have nominees on the Oversight Committee. They do not get captured. The oversight committees invariably, to some extent, get captured, even in America.

Q822 Paul Flynn: The Justice and Security Act last year is supposed to have made the Intelligence and Security Committee a credible, independent watchdog. Has it?

Mr Davis: No.

Q823 Paul Flynn: What shall we do?

Mr Davis: I have already said I would make it a proper Select Committee of the House, elected by the House, with the chairman elected by the House from an Opposition Member.

Q824 Paul Flynn: I think we are indebted to you for publishing just how much these metadata contain, and when you see your activities on one day in Manchester—

Mr Davis: On just one day.

Paul Flynn: —and I think, like all members of the Committee, you are entirely blameless, going from one good work here and helping an old lady cross the road—

Mr Davis: From one bar to another, isn't it?

Q825 Paul Flynn: Nothing like that, no, no. It does seem extraordinary that there has not been a stronger reaction from the public to the amount of surveillance there is on what we would regard as our private lives. Why do you think this has happened when it has happened elsewhere in America?

Mr Davis: There are several reasons. The first reason is to some extent the fault of the press. The *Guardian* was very unpopular with other newspapers and it was the paper running with the story, but because of Leveson, nobody else wanted to help it. Part of it is down to our respective parties. Each of them has become very heavily involved in the process of winning government and not wanting to criticise it themselves.

Part of it is the Brits tend to be more trusting of their own establishment, but that is changing. If you had done a survey six months ago of whether people thought this intrusion into their private lives was important, you would have had a very low number saying yes. Now the number has crossed 60% so it is beginning to gather pace, and that is why I think the Deputy Prime Minister and the Shadow Home Secretary both made speeches in the same week saying, “We have to get a grip of this”.

Q826 Paul Flynn: Just a final one: do you, as an MP, believe that you can give 100% trust in what we are being told when there is a next occasion when we are asked to go to war?

Mr Davis: No, of course not. We have had three occasions, as I said, where the ISC fell down, and they fell down because of what they were told, not because they were bad people—they are good people—but because of what they were told, so no, we cannot.

Q827 Yasmin Qureshi: When you heard Sir Mark saying that he has only looked at 6% of the thousands of warrants, were you reassured by the fact that in his opinion, based on 6%, everything was okay?

Mr Davis: No, I think the Commissioners are good people doing impossible jobs.

Chair: That is a very quick answer, most grateful. Mr Davis, Mr Pickles, thank you very much for coming in.

Mr Davis: Our pleasure.

Chair: Mr Pickles, Mr Davis, if there is any further information you wish to submit to the Committee, please let us have it. Thank you.

Examination of Witness

Witness: **James Brokenshire**, MP, Minister for Security and Immigration, gave evidence

Q828 Chair: Apologies for keeping you waiting, Minister, and congratulations, you have now added immigration to your portfolio as the Minister of State responsible for security. This is quite a heavy workload you now have. I counted 52 different areas of responsibility that now come under you.

James Brokenshire: Good afternoon, Mr Vaz, and good afternoon to the rest of the Committee. Certainly the responsibilities I hold in relation to immigration and security are weighty, although the role that I had previously as Security Minister also added a range of other responsibilities that were not referenced in the title, so I was previously the lead Minister for the EU justice and home affairs policy, I was dealing with modern slavery, I was dealing with the National Crime Agency, organised crime, fraud, cyber, a whole range of additional responsibilities that—

Chair: They have now gone, have they?

James Brokenshire: —Karen Bradley has taken on. So while on the face of it, yes, it does appear a long list, there was a long list that was there before and those responsibilities have now been adjusted.

Q829 Chair: The Committee will look into this when we produce our next report. The Minister for Immigration has always been a fulltime job for one person. Mark Harper and Damian Green had it as a fulltime job, because it is a priority for the Government. Obviously you are very experienced at security matters, because you have been dealing with it for four years.

James Brokenshire: Yes.

Q830 Chair: I think that our concern is to make sure that there is proper oversight of immigration and we will return to this later.

There is one issue that is in the public domain that perhaps you can help us with. You had something of a baptism of fire as Immigration Minister recently when you referred to the “wealthy metropolitan elite”. Who did you mean by that?

James Brokenshire: Mr Vaz, the simple point that I was making was in relation to how uncontrolled immigration can have benefits for some members of our society, but how the most significant impact is on the least well-off, those on low incomes, those on low skills.

Chair: Sure.

James Brokenshire: That was the primary emphasis that I was making in my speech. That was the simple point.

Q831 Chair: Yes, but you used the words “wealthy metropolitan elite” and the whole country thought this was a reference to colleagues of yours in the Government and those in the Opposition. Indeed, we discovered as a result of your speech members of your Cabinet were all telephoned by the press to ask if they were employing people who were not British-born, including the Prime Minister, the Home Secretary, who I understand has a Brazilian cleaner, your predecessor, the Deputy Prime Minister, who has a Belgian employee, and members of the Shadow Cabinet as well. What was the point of saying “wealthy metropolitan elite”? What were you trying to ask them to do, not employ people from abroad?

James Brokenshire: No. As I made very clear on the day, I was not passing any judgment on anyone. It was simply to make the point that some people had benefited, those who have—

Chair: Including all the people I have mentioned?

James Brokenshire: A whole range of people have benefited from immigration, as we have in our immigration policy, to ensure that our economy continues to grow and attract the brightest and the best.

Q832 Chair: Your actual words were, “Wealthy metropolitan elite who wanted cheap tradesmen and services” and the Prime Minister then made a very passionate defence of his children’s nanny. That was a good way to begin a very difficult task as Immigration Minister?

James Brokenshire: I think there was a very clear point that I wanted to make, which was that under the last Labour Government, immigration was out of control, and the impact on that was on the least well-off, those on low incomes, and that was the emphasis, if you read the full speech and read that full section on the point that I was making.

Q833 Chair: The Institute of Directors also read the speech and described it as, “It is feeble and pathetic to hear yet more divisive language from politicians on immigration”. That was the Director General, Simon Walker’s, statement on your speech. Have you managed to calm him down?

James Brokenshire: As I say, I think I said in the House that our emphasis is on attracting the brightest and the best, on ensuring that those who are skilled, who can contribute to our society of all different creeds, colours, backgrounds, from whichever part of the world they may come from, that they can contribute. I have underlined that point very clearly, and in my role as Immigration Minister, yes, I will be focused on reducing that migration; yes, I will be focused on immigration enforcement, but also I recognise the contribution that migration can have to the growth of our economy and why it is a question of control and sustainability, which is the clear message that I gave.

Q834 Chair: Did you inherit that speech from Mr Harper or was that written by yourself?

James Brokenshire: It was written by myself and my colleagues.

Chair: Cleared by the Home Secretary?

James Brokenshire: Yes, it was cleared within the Home Office, and I—

Chair: Was it cleared by Downing Street as well?

James Brokenshire: Certainly the main parts of the speech were shared externally, as one would expect of a speech of that kind.

Q835 Chair: Finally from me, do you think Mr Cable got the message, because of course you said on 6 March in that speech, “Rather condescendingly, on Monday, about immigration he wrote, ‘Politicians should start by sticking to the facts’. I suggest to Mr Cable that he might reflect on his comments and start doing this himself”. Do you think as a result of your very powerful speech that Mr Cable now gets the message?

James Brokenshire: My speech is on record, and I have had a very good subsequent conversation with Vince where we have been discussing issues where we can work together on supporting business and attracting the brightest and the best.

Chair: So it may have upset the Prime Minister and the Mayor of London, but Mr Cable gets the message?

James Brokenshire: I think that I have made some clear points in relation to who has suffered the consequences of uncontrolled migration, and I think that those are relevant and have received broad support.

Q836 Dr Huppert: Just quickly to follow up on this—and congratulations on the new role—presumably you will be making sure that any of this policy is evidence-based, and so taking account of the UCL study that showed a £22 billion fiscal benefit from immigration between 2001 and 2011, and the new report that was eventually published by the Government showing that what the Home Secretary had been saying about job displacement was not as accurate as it might be, presumably—

James Brokenshire: Just to be clear, Mr Huppert, that report did not make that claim, and it welcomed the research that the Migration Advisory Committee had conducted and that the Home Secretary referenced, and how it does recognise that uncontrolled immigration can have an impact on job displacement. That is what that report did say. It said that at times where specifically there may be high levels of immigration, and indeed at times of recession, that it can have that impact. It also, if I may just quickly, before you come back, does not take account of some of the broader issues on integration and also the issues in relation to, for example, the impact on public services and how that is equally relevant in terms of policy.

Q837 Dr Huppert: I am just trying to understand how that fits with the executive summary, page 4, “Overall, our assessment is there is relatively little evidence that migration has caused statistically significant displacement of UK natives from the labour market. The evidence also suggests that where there has been a displacement effect, this dissipates over time”. How do I fit those words that I am reading out from it with what you have just said?

James Brokenshire: Because the report also goes on to say that it recognised the valuable contribution—I think it uses those precise words—in relation to the Migration Advisory Committee’s research and how that had contributed to the overall debate and assessment, and how also it highlights in that report that, for example, significant increases in EU migration have only been a recent phenomenon and therefore there is not that historic data, because the report that you reference effectively is a collation and analysis of historical

reports and therefore it is looking backwards. It does not necessarily take into account some of these more recent phenomena that we have seen from, say, EU migration.

Dr Huppert: I am struggling to find that sentence anywhere in the report, but I am sure it is there.

Q838 Mr Clappison: Will you be as open to receiving representations from Conservative colleagues who believe that immigration control is important, that it has been uncontrolled in the not too distant past as well as the one that you have just received from the Liberal Democrat Member and from Mr Cable in favour of uncontrolled immigration?

James Brokenshire: I think we can safely say that immigration is a topic that will provoke lively debate on a number of different sides of the argument. I have set out clearly how I believe that controlling immigration is important for the impact on public services, on the impact of integration and, yes, how it can also impact on job displacement and hold wages down, which is why I come back to my central point on how this does impact on those least well-off and those on the lowest wages.

Q839 Mr Winnick: Much was made, Minister, as you know, of reducing immigration from the hundreds of thousands to the tens of thousands, that was the target. Am I not right in saying that to a very large extent you are nowhere near the target that was set at the beginning of this Government?

James Brokenshire: You are right in highlighting the most recent net migration statistics, which showed that while we have been successful in reducing net migration from outside of the EU by around 82,000, in relation to EU migration that has doubled over the last year. I was very clear on the day when the statistics were published in making that point, and indeed, in my speech itself, and it is why we are focused on cutting down on abuses of free movement—

Q840 Chair: What is the answer to Mr Winnick's question: are you going to meet your target or not? That is what he is asking.

James Brokenshire: Sorry, I thought Mr Winnick was asking a broader point on where the figures were now, but our focus does remain on reducing net migration from the hundreds of thousands to the tens of thousands—

Chair: So you are still on target?

James Brokenshire:—so we are still focused on delivering that.

Q841 Mr Winnick: Minister, the accusation is often made, certainly in the past, that your party is particularly keen on what can be described as playing a race card. Your remarks, which the Chair quoted back to you, you would say that that has absolutely nothing to do with playing the race card and hoping it will work at the next election?

James Brokenshire: I absolutely and fundamentally reject that accusation. I believe that we have an incredible country that is blessed by so many different races and creeds and backgrounds. I had a very positive and I think warm and welcoming discussion when, for example, I attended the meeting last week with the National Congress of Gujarati Organisations in Harrow, and we had a very fruitful and positive discussion about migration and how they recognise the need for controls to be in place. Therefore I fundamentally reject any accusation of the kind that you appear to be making.

Q842 Michael Ellis: Do you also reject any suggestion that any talk of controlling immigration to counter Labour's uncontrolled immigration policy over so many years is racist, which appears to be what has been suggested to you?

James Brokenshire: No. I think that there is a fair and proper debate in relation to having controlled immigration and that sense of sustainability, given that we have a picture that we see of net migration having been below 80,000 for every year prior to 1998 and above 140,000 for every year after 1998, and it is those on low incomes and low wages that have borne the brunt. Also, it is newly-arrived migrants that have also borne the brunt as a result of this, so to suggest in some way that there is that characterisation I think is wholly spurious.

Michael Ellis: I would like to ask, if I may, now about passports.

Chair: Sorry, we will keep passports for security.

Michael Ellis: Are we going to come on to that? I will come back to that.

Chair: Yes, we certainly will come back to passports. On immigration, then we must move on to security. Nicola Blackwood.

Q843 Nicola Blackwood: Thank you, Mr Chairman. Clearly uncontrolled immigration has difficult effects on the labour market, but it is valuable for our economy to have targeted admission for highly-skilled migrants, and I know that the Home Office has been bringing in the Chinese visas and also the tier 1 entrepreneurship. I just wonder what other steps you are intending to bring in to ensure that we can reap the benefits of immigration to ensure that we can make the most of that to develop a fully flexible labour market in that particular area.

James Brokenshire: Yes, because we also have our tier 2 requirements in relation to skilled working and ensuring that we are focused on attracting the brightest and the best. I was giving evidence this morning in relation to universities, and some of the graduate routes, the PhD doctorate route that allows people who have come here to study to then carry on in work in those specialised routes. I think when you look at the steps that we have put in place through the different routes of migration, yes, how they are targeted to support the economy, and while we have cracked down on, for example, students and some of the abuses that we have seen there, I have noted that despite that broad reduction, the number of visas that we are seeing from university sponsors has gone up by 7% on the latest figures that were published. I think that you can control immigration, that you can put in place those measures to ensure that it is focused in that way while maintaining our approach, which I continue to endorse, of attracting the skilled, the talented, the brightest and the best that will support our economy.

Q844 Chair: Let us move on. We will have the chance to probe you further on immigration on 1 April and explore in more detail who are the wealthy metropolitan elite, but not for today. I think we have to move on to security.

As Security Minister, two people escaped from their TPIMs, Ibrahim Magag and Mohammed Ahmed Mohamed. This is when you were Security Minister, as you still are. Have they been found yet?

James Brokenshire: The two individuals remain outstanding.

Chair: Remain outstanding? You mean they are still missing?

James Brokenshire: The police investigations are ongoing and that they have still not been accounted for, yes.

Chair: You mean they are still missing?

James Brokenshire: They have not been apprehended, so if that answers your question, then yes.

Q845 Chair: You are reluctant to say they are still missing and that they are not accounted for. Anyway, so they are still missing, and are you still looking for them? Is it still the view of the Government we should find these people or have their TPIMs now expired and there is really no reason to look for them anymore?

James Brokenshire: No, the police investigations still continue in relation to these two individuals and I would like to see them brought to justice.

Q846 Chair: As a result of the fact that they have gone missing, have you changed any of the processes or procedures in the Home Office to prevent anyone else going missing, or have all the other TPIMs now expired? How many are outstanding?

James Brokenshire: We do not provide a running commentary in relation to TPIMs, and there will be a quarterly—

Q847 Chair: We do not need a running commentary. Ministers have in the past always told a Select Committee how many people. We do not want to know what they are doing every day. We need figures. Is there anyone left on a TPIMs order, because of course they are about to expire?

James Brokenshire: What I can say, because we provide quarterly reports, the last quarterly report obviously was at the end of November when there were eight people on TPIMs at that point in time. It is right to say that a number had expired on the basis of the two-year rule and we will be providing a confirmation to Parliament in the coming days on the normal quarterly reporting that will provide the full update in relation to TPIMs.

Q848 Chair: That is very helpful. Do you know when that report will be, Minister?

James Brokenshire: I cannot confirm to the Committee, but we are intending to report to Parliament very shortly.

Q849 Chair: Excellent. The Committee has heard a great deal of evidence about the number of British citizens who are travelling from the UK and going to Syria and other theatres of war. We noted the fact that Moazzam Begg, who originally started off at Guantanamo Bay, was released and came back here—you are familiar with his case—visited Syria, returned to the United Kingdom, was about to go to South Africa and then was arrested. What are your estimates? We have been given estimates of around about 400 people leaving the UK and going to Syria. Do you have any more accurate figures to give before this Committee?

James Brokenshire: It is very difficult to quantify in exact terms. Certainly the numbers that I have seen are in the low hundreds, so within the range or the ballpark that you have indicated. In terms of, for example, the whole of the EU, the numbers again that I have seen is that around 2,000 Europeans are thought to have travelled—

Q850 Chair: Where did those numbers come from, because we seem to have better figures from the EU than we have from our country? We know it is 2,000 from the EU, but we are unable to know our figures.

James Brokenshire: That is an overall estimate that has been put together and, therefore—

Chair: Yes. Where has that from, do you know?

James Brokenshire: I will confirm to the Committee, but certainly that is the number that I have seen reported to me.

Chair: Yes, we have seen those figures as well, but we do not know where they come from.

James Brokenshire: Whether they have come via Gilles de Kerchove, the EU's special representative in relation to terrorism, and have been encapsulated in that way, but perhaps I can provide the appropriate source to the Committee following on from this.

Q851 Chair: That would be very helpful. So what numbers are we putting? We have had a figure of 332 from the Metropolitan Police—which sounds pretty accurate—who may have gone abroad, up to 400, I think we were told. Do you have a better figure for us?

James Brokenshire: I am afraid I do not have a better figure, and the operational agencies such as the police would be best-placed to give that sort of indication.

Q852 Chair: Do they not give you any updates on figures or do they just give it to—

James Brokenshire: They will obviously give some information and I think the sorts of information that have been provided to the Committee are consistent with the numbers that have been provided to us.

Q853 Chair: One of the issues of course that concerns you and concerns this Committee is enabling people to travel on British passports when we know they are going abroad to participate in inappropriate activity. We have had evidence from Dr Thomas Hegghammer, who says that as many as one in nine people who return are then involved in domestic terrorism. He has not said that to do with the Syria issue, but certainly in previous conflicts. You sound surprised. Have you not heard that before?

James Brokenshire: No, I have not read that analysis, but it is interesting to try to contextualise in that way.

Chair: Sure. You have not been seeing the videos of this Committee. We will have to send you some CDs.

James Brokenshire: I look forward to it.

Chair: But if that figure is correct, it is an awful lot of people coming back and involving themselves in—

James Brokenshire: I have been clear in a number of the interviews and statements that I have made on the ongoing risks and issues relating to Syria, that I do see this as an issue that will be with us for the foreseeable future because of the numbers that have travelled and the risk attaching to individuals returning. I think we do need to view it in those terms and in that way, and therefore that is why an increasing proportion of the casework of the Security Service has that direct Syria focus attached to it.

Q854 Chair: Yes, but of course you have the power to confiscate—not you, but through the Royal prerogative the Home Secretary has the power to confiscate British passports—to stop people going abroad. How many times have you been able to do that?

James Brokenshire: The latest figures in relation to the use of the Royal prerogative, and this was introduced last April, where the Home Secretary made the change and underlined to the House the statement in relation to how it could be used to refuse or withdraw a passport from those we believe want to travel to take part in extremist activity, terrorist training or fighting, since then, the power has been exercised 14 times to disrupt travel.

Q855 Chair: So 14 individuals have had their British passport removed from them?

James Brokenshire: Yes.

Chair: That is since April 2013?

James Brokenshire: Yes.

Chair: Do you know or can you tell this Commission how many people have subsequently asked for their passports back of those 14?

James Brokenshire: I am not aware that there has been any formal request or legal challenge in relation to the exercise of the Royal prerogative to date.

Q856 Chair: In respect of those who are made stateless as a result of new legislation that the House has passed, you answered a debate on 11 February 2014. I think the whole House welcomed the fact that the Government was introducing legislation to make people stateless in certain circumstances. I think there was a small rebellion. I think members of this Committee may have voted against, so it was not unanimous before they come in.

James Brokenshire: I can see from the shaking of the heads around the table that may not be unanimous.

Q857 Chair: But can you just clarify for us, once somebody is made stateless, they remain in the United Kingdom, don't they?

James Brokenshire: The powers under what was the British Nationality Act, of which this amendment derives from, does give the power to remove citizenship either within the UK or outside of the UK, and so it is possible that the power could be exercised within the UK. In those circumstances, obviously the individual would have restricted leave and it could mean that there may be deportation proceedings that could arise, because it is open to that individual to seek citizenship from another state, and indeed, as I think you will probably be aware, Mr Chairman, that a lot of the issues around this were triggered by Al-Jedda which the Supreme Court highlighted this distinction.

Q858 Chair: Of course, but it also means even though they are made stateless, if they do not apply for the nationality of another country, they remain in the United Kingdom and they can also apply to stay in the United Kingdom. They are allowed to do that, are they not? Doesn't that defeat the whole purpose of making them stateless?

James Brokenshire: No, because on that basis they would be analogous to other migrants with temporary leave and they would not attract the privileges associated with British citizenship. They would not be entitled to hold a British passport, they would not have full access to public services and therefore the denial of British citizenship in those circumstances can be an important statement to make in relation to those individuals.

Q859 Mr Clappison: Can I perhaps at this point ask for your help in clearing up something that emerged in evidence we took earlier from Nick Pickles of Big Brother Watch, because he referred to the bulk collection of information about people by a large telecommunications company, in this case BT. He referred to bulk collection by them of information about individuals and that information possibly being transmitted to Government agencies. He has supplied us with correspondence about that, and I think the tenor of his evidence was that British Telecom refused to say whether or not they supplied information in bulk about so-called metadata, I think it was termed, about individuals to Government agencies or the Government itself. We do have correspondence to that effect, in which BT have set out their position. Perhaps you can help us with this: do you know whether or not BT or any other telecommunications company supply data in bulk to any Government agency?

James Brokenshire: I have not seen the correspondence to which you refer, Mr Clappison, and therefore it is difficult for me to comment specifically in relation to the points that have clearly been raised by the last session.

Q860 Mr Clappison: Sorry to interrupt here. Can I just put to you the question that was in the correspondence, then I will give you a copy of the correspondence itself? It says, "Does BT provide data in bulk on thousands or millions of customers who are not individually named in a RIPA notice to the UK Government or its agencies, and if so, under

what legal authority?" My question to you is very simple: do you know of any such provision of any such information in bulk by BT or any other company to any Government agency?

James Brokenshire: Clearly under the Data Retention Directive, communication service providers retain data, which is then subject to RIPA requests under the Regulation of Investigatory Powers Act for individual agencies to make requests for metadata or that communications data that they hold on to. Whether that is the specific point that you are raising or not—

Q861 Mr Clappison: Can you take a look? I think you have been supplied with questions. It is question 1, and it refers to, "Customers who are not individually named in RIPA notices". If you could take a look at that, and if you wish to, the answer from BT is on the next page. You may have a different letter from me. I am sorry if that is the case. I think the letter from BT, I think in the words of Mr Pickles to us, does not answer quite that question. My question to you is simply this: do you know of the provision of any such bulk data by BT or anybody else?

James Brokenshire: There is a reference to section 94 of the Telecommunications Act, which Mr Huppert, I think, raised a question at a previous session in relation to the provisions of this Act, and the Secretary of State under those provisions may make orders under the Act that, for national security reasons, may not be disclosed. If the question relates to section 94 of the Telecommunications Act, then I am afraid I can neither confirm nor deny any issues in relation to the utilisation or otherwise of section 94.

Q862 Mr Clappison: Would such a provision fall under section 94?

James Brokenshire: The letter that you are referencing from Nick Pickles appears to reference section 94, and therefore I am assuming that that is the question that he is posing, and the response that BT has sought to provide must—based on what I am reading here for the first time, and you will appreciate that I have not had the opportunity to examine or to take advice on this—

Mr Clappison: Take just a moment to have a better look at it. Just have a better look at it, if you wish. Do read the letter in full, to be fair. I am trying to clear up what was said.

Chair: Mr Clappison, would it be helpful if the Minister wrote to us about this issue, to be fair, or do you want an answer now?

James Brokenshire: I wonder if it could be appropriate. I am not—

Mr Clappison: I am happy to have an answer. I was just hoping to clear it up in the view of the evidence we had been given earlier on.

James Brokenshire: Perhaps, if you would allow me, Mr Chairman, I can take the correspondence that has been presented to me away and I will take advice on how we can respond to the questions that Mr Clappison has raised, which the Committee has obviously had before it today. Is that all right?

Chair: That would be very helpful. Is that all right, Mr Clappison?

Mr Clappison: Yes.

Chair: Very helpful. Could we go back to passports? Mr Ellis was keen to come in.

Q863 Michael Ellis: Thank you. Minister, about the deprivation of British passports: this was a matter of some controversy, particularly from the Left previously. Is it correct within your knowledge that there was previously a power for incumbent Home Secretaries to deprive people of British passports and that was a power that existed until 1997 when it was repealed by the previous Labour Government and which we brought back about a year ago?

James Brokenshire: I think we are referencing here the use of the royal prerogative. The Home Secretary made her written ministerial statement on 25 April last year, which set

out the revised criteria that are open to her to use her discretion under the prerogative to refuse or withdraw passports. That is the basis upon which this has been constructed.

Q864 Michael Ellis: That royal prerogative in the last 11 or 12 months has been used 14 times to deprive people of British passports.

James Brokenshire: Yes.

Q865 Michael Ellis: Something else was also said in relation to the Syria matter, which was about those vulnerable Syrians in need of direct humanitarian assistance and the question about assistance from the United Kingdom Government in domiciling them in this country. Has any progress been made in that regard?

James Brokenshire: Obviously we have provided significant humanitarian support to Syria, as you will be aware, Mr Ellis: the £600 million that was provide for support in region. But the Home Secretary did make a statement to the House in January about what is known as the Vulnerable Persons Relocation Scheme, in other words the contribution that we can make directly in this country to individuals who have been displaced and are in immediate and real need.

Michael Ellis: That is what I am talking about.

James Brokenshire: Since that statement was made we have been working closely with the UNHCR to identify the most vulnerable refugees and that is how the scheme is intended to prioritise help for survivors of torture and violence, women and children at risk or in need of medical care. We have, I think, been making good progress in relation to that. I can say that we do expect the first families to arrive in the UK before the end of this month and that we would then have a sequenced programme of more families arriving each month, working with the UNHCR.

Q866 Michael Ellis: Can you say how many families?

James Brokenshire: I cannot confirm the numbers at the moment because it is precisely those steps that are being finalised through the UNHCR in terms of the support that would be provided here in the UK.

Michael Ellis: But this is a limited number of the most vulnerable families from the Syrian conflict?

James Brokenshire: It is. We have said we envisage that it will support several hundred people over the next three years and it is that steady progress that we do intend to make to reflect the perspective that we should be providing some specific help and assistance for those in the most need.

Michael Ellis: They start arriving at the end of this month, you say.

James Brokenshire: Yes, that is the timeline we are working to.

Q867 Michael Ellis: On the issue of the deprivation of passports—this seems to be operating at the rate of about one a month—do you expect that to continue? Do you expect there to be a surplus of them? Or do you expect that to be the average ratio, highly infrequent deprivations of passports?

James Brokenshire: I think it is fair to say in relation to the royal prerogative that it must be used proportionately and it will only be used in the public interest and sparingly. I think it is important that it is utilised in that way so I do not think I would like to make any predictions as to its future use. It will be used on a case-by-case basis and the Home Secretary does give very careful scrutiny and attention to the applications or requests that may be forthcoming.

Michael Ellis: Thank you, Mr Chairman.

Chair: Thank you so much, Mr Ellis.

Q868 Dr Huppert: Just before I ask a bit more about the passport/citizenship issue, in response to Mr Clappison you talked about section 94 of the Telecommunications Act 1984, and we just heard from the Intelligence Services Commissioner that he has no oversight of it and is not aware of anyone who does. Do you think that is satisfactory?

James Brokenshire: This is a matter that would fall within the purview of the Intelligence and Security Committee and it is not that this would not be without scrutiny; it is obviously within their role, responsibility and remit to be able to look at these issues that relate to section 94.

Q869 Dr Huppert: But none of the commissioners has that role at all. When did the ISC last do an inspection of it?

James Brokenshire: I cannot advise the Committee about that but clearly I have heard the statements that have been made by the commissioners in relation to it.

Q870 Dr Huppert: If I just move on to the issue of citizenship deprivation, in fact to amplify what the Chair said, the Committee voted three all with the Chair's casting vote being against it, as it happens, when it was voted on—not quite how these things work—and there are a number of issues with it. First just on a factual basis, how many British citizens have had their citizenship stripped in relation to Syria since the war began?

James Brokenshire: What I can provide to you, Dr Huppert, because we do not differentiate and specify the nature of the breakdown in relation to these issues, is that since 2010 24 individuals have been deprived of British nationality on non-conducive grounds, and 17 on fraud grounds. Those are the overall numbers but I am afraid I cannot disclose further details of the precise reasons around that. If it would be helpful to the Committee I may be able to give some sort of briefing at a higher classification or on a confidential basis, if that may assist your consideration.

Q871 Chair: Do you have an answer to Dr Huppert's question about Syria?

James Brokenshire: I cannot provide that detail in relation to the overall number of the 24 and the 17 that I have referenced

Dr Huppert: It seems strange that this becomes a security matter to understand how many of them are Syria-related because it does it relate also to oversight. It is very hard to tell if these powers are being used appropriately if even a question like how many are Syria-related, which strikes me as a fairly general question, cannot be answered.

James Brokenshire: Deprivation of citizenship can relate to acts contrary to national security, unacceptable behaviours, war crimes, serious and organised crime. It covers through the definition of “non-conducive to the public good” a range of different factors. We have not provided a breakdown or analysis in relation to each of those different headings but I will consider what we may be able to share with the Committee on a confidential basis.

Q872 Dr Huppert: Thank you. One last question on this issue. Do you accept that what you are essentially arguing is that there are two categories of British citizenship: there is British citizenship that cannot be removed from somebody and there is British citizenship that can be removed from somebody? Is that your policy intention, to have these two categories of British citizenship and are there other areas where it would be important?

James Brokenshire: Deprivation of citizenship arises from section 40 of the British Nationality Act 1981. That is where this whole issue started off. Obviously while we have the new proposals in the Immigration Bill—which are currently before the House of Lords—in

relation to the power to make someone stateless, there are powers already that if someone has gained British citizenship through fraud it is possible to withdraw the citizenship in that way. We are simply moving from an extant provision and applying it to circumstances that have been highlighted by the Supreme Court in terms of our overall international obligations and how we are able to extend it in the way that is contemplated consistent with our international-law obligations.

Dr Huppert: But you are still saying that of two people who do identical acts and are both British citizens, one could have their citizenship taken away and one could not, which implies two classes of British citizenship, surely.

James Brokenshire: The powers under the relevant legislation obviously focus on naturalised citizens and to the narrow extent that the provisions apply, then the Act operates in that way. But I would underline that in relation to the new provisions that we are introducing in the Immigration Bill you would describe them as exceptional. The wording that we have highlighted is that we would have to satisfy a test that was seriously prejudicial to the vital interests of the UK and that is a much narrower test than already exists under the provisions of the British Nationality Act 1981.

Chair: Thank you so much, Dr Huppert.

Q873 Mr Winnick: Obviously there is concern about those who go to Syria to fight if only because of the dangers that the Government is perfectly aware of, as are the rest of us, that they could potentially be terrorists.

I saw an interview with a brother of the suicide bomber—the British person, presumably UK citizen, in Syria who was a suicide bomber—I do not know if you saw the interview—a member of the family in Crawley—and he strenuously denied that his brother, who I have just been referring to, would ever have been a danger in Britain. If you have not seen the interview perhaps you are not able to comment. But do you think there is quite a possibility that the argument that there are those who go out for what they consider to be a very just purpose, to fight the Assad regime, would not have the slightest wish to inflict harm here in the United Kingdom?

James Brokenshire: I think the real difficulty with all of this, Mr Winnick, is that people who travel to Syria risk almost certainly coming into contact with extremists linked to Al-Qaeda who may seek to exploit those individuals, to radicalise them, and therefore those individuals may pose a risk when they return to the UK because from the reporting I see, there are groups aligned to Al-Qaeda operating in Syria that would have ambitions to attack the west. I know people have that sense of wanting to provide humanitarian assistance for example, but in travelling to Syria they risk coming into contact with those group. You see some of this very disparate, fluid position on the ground there, how we have some of these extremist groups fighting and killing each other to take ground; to have a position. Therefore while some would seek to present it in a particular way, our very clear and stark advice is not to travel to Syria. The Syrian people and the Free Syrian Army have not said that they want foreign fighters in that direct sense. The Syrian people want humanitarian assistance. They want that diplomatic solution to the crisis in Syria. So we say that people travelling does not assist the situation and puts them in very direct and real risk to themselves.

Q874 Mr Winnick: Given that some do go—the numbers have been bandied about—what robust steps have been taken to deal with the situation as these people return to the UK?

James Brokenshire: Clearly the security service and the police monitor travel. There are means of assessing advance passenger information and at times to prevent people

travelling, as needs be, if there is a concern as to their risk. We have seen arrests and we have seen charges that have arisen on people returning. But that is not to say that everyone who has travelled, and travelled back, would provide that threat or risk to this country. The point is that within those who have travelled and travelled back there may well be a cadre within that group that either has been radicalised or has been tasked or who may by their actions upon their return galvanise others to then travel and thus perpetuate the circle. It is obviously those interests that the police and the security service resolutely have in mind in the action they take.

Q875 Mr Winnick: It is going to be a difficult one because as you say, it is quite likely that hopefully virtually all who come back will not have any desire to inflict harm on their own country. So you recognise how difficult it would be for the security and police authorities to try to find out if there is a potential danger.

James Brokenshire: That is their absolute focus and equally why I make the point that the challenges relating to Syria from a Counter-Terrorism perspective are likely to be with us for the foreseeable future.

Q876 Paul Flynn: Following what David Winnick has said, do you think it would be wise to prosecute some of these people when they come back from Syria? I think most of us are very surprised that British-born and British-educated Muslims feel so strongly about the issue in Syria that they are willing to risk their lives. If we do prosecute them, do you think it would intensify the alienation they feel and lead to more trouble?

James Brokenshire: My simple point at the outset is that I absolutely understand people's desire to help in Syria when we see all the appalling tragedy that we see played out on our television screens week in and week out. First the message I would say is that we believe that the best way for people to help is through humanitarian organisations that are able to provide aid and assistance directly. But in terms of people returning to the UK, each case has to be considered individually. Not everyone who has returned will have been involved in those terrorist organisations that I have referred to. If the police refer a case to the Crown Prosecution Service, they would have to consider that there is sufficient evidence for an offence to have been breached and if so whether it is in the public interest to prosecute. It does relate to the evidence that is there and the strong sense that the evidence supports that investigation and supports the CPS, who are independent of Government and independent in that sense on the decisions they take in bringing any action. It has to be grounded in examining each of those individual cases.

Q877 Paul Flynn: A gang leader from south London who was convicted of serious crimes including violence was recommended very strongly by the courts to be deported from the country because they assessed him as being a danger to the public. There was doubt about his country of origin and he was relocated without the knowledge of the local authority or the neighbours in a suburban street in my constituency. Is this a satisfactory situation do you think?

James Brokenshire: I do not know the situation or the individual case that you highlight, Mr Flynn, but I can understand the concern about the cause within your community. If you were willing to share some further details, then I would certainly be prepared to look into that.

Paul Flynn: I have taken it up and we are waiting for some action. We were informed that the only place he could be relocated in the whole of Britain happened to be in my constituency, which I find extraordinary, but I presume from your answer that there are no people in this category in your constituency.

James Brokenshire: I would like to look into the specifics as to why you have been advised on the basis that you have and I would hope to be able to report back.

Q878 Michael Ellis: Minister, on the issue of Syria and the Prevent strategy the Government has in dealing with the issue generally, the strategy tends to focus on the division between the West and some elements of Islam but what about a refocus? Bearing in mind the sectarian nature of the fighting in Syria, has some consideration been given towards a refocus of the Government's Prevent strategy towards divisions of a sectarian nature?

James Brokenshire: It is important to go back to first principles as to what the Prevent strategy was intended to deliver. We made a very conscious decision at the start of this Parliament that Prevent should be focused on preventing terrorism and preventing pathways to terrorism rather than on broader integration of community-tension issues and that that should be a matter for the Department for Communities and Local Government and for communities more generally. When I look at the threat and the challenge to this country from a security and a counter-terrorism perspective, the threat still does reside in principle terms from Al-Qaeda and from the groups that affiliate to Al-Qaeda's perverse narrative. So I think it is right that our Prevent strategy does retain that focus on that. Indeed I was in Waltham Forest yesterday meeting with community leaders and looking at some of the work that is taking place there as to that sense of communities coming together and providing that strong sense of cohesion to prevent extremism and radicalisation from taking hold in any way. They are doing a very good job there.

On issues of tensions within communities, if issues arise then absolutely the law is there to be upheld. On broader cohesion issues, then these are elements that I think that as the Government we need to have in mind, taking conscious account of the continuing strife, some of the tensions that we have seen in Syria and therefore whether that may have any resonance here. We have not seen that to date but it is something that we need to be alive to.

Q879 Michael Ellis: On a different point, one relating to your position as Minister for National Security, is there anything in connection with the disappearance of the Malaysia Airlines flight that you are looking at with a view to the national security apparatus and structure in this country? You have mentioned for example that you still see a principle threat from certain quarters. Is there anything about that disappearance that you are looking at?

James Brokenshire: At this stage we are seeing how this appalling event is developing. It is difficult at this stage to form any conclusions. Obviously we take our aviation-security approaches extremely seriously. It is why we have the protective measures that we have: that we use our whole-body security scanners, explosive-trace detection equipment and other measures to help detect devices that we have seen before; and indeed in the EU cargo regime that we have advanced. It is also important to underline the issue of any potential risk of insiders. It is one that we take equally extremely seriously. All aircrew and other staff that work airside are subject to the same security screening on prohibited items as passengers are. Aircrew and others with access to aircraft and other sensitive areas are also required to undergo background checks. It is always that question of vigilance and being focused on risks as they occur but it is something that we do take very seriously.

Q880 Chair: Did it surprise you how easy it was to switch off the communications system, that it was on the dashboard and anyone could just switch it off so nobody would know where the plane was? Is this something that we can pick up in the way in which we look at aviation security? Obviously the searching of people who go on planes is something we do extremely well, especially at airports. But this must have come as a surprise to you that

somebody could just in the cockpit switch off a communications system by the flick of a switch.

James Brokenshire: As I have highlighted on the background checks that are undertaken, we do recognise the issue of insider risk in relation to this. I am sure that everyone will be reflecting on this incident as and when we get better understanding of precisely what has occurred. At this stage the facts are still very thin.

Q881 Michael Ellis: If I could just come back on that, we do not know at this stage exactly what happened, and I understand from reporting that there may be some reason why the ACARS and other similar systems can be switched off in routine circumstances, but will the Government undertake to continue to look at all of these wider issues to see if any lessons can be learned and to see if we can keep these sorts of procedures and situations under constant review to minimise risk?

James Brokenshire: Of course. We remain vigilant to the risk and are obviously informed by the assessments provided by JTAC—the Joint Terrorism Analysis Centre—and others in relation to the overall security picture and the threat picture and clearly will respond to new information and details as they emerge. I think everyone is looking very closely at what information will be forthcoming in relation to this.

Q882 Dr Huppert: Minister, I think this morning you were at the House of Lords Science and Technology Select Committee. I hope that went well. We have had police officers giving evidence to the Public Accounts Committee. We have had community and local government Ministers coming here. Quite often these things are interdisciplinary and cover several different areas. In the US the agencies can be questioned by the intelligence committees, the judiciary committees and various others but uniquely here the Government seems to insist that only the Intelligence and Security Committee can ask questions of the agency heads and you will know the Home Secretary refused to allow any of the agency heads to come and talk to this Committee. Why is that? Why do you not want any other parliamentarians to be able to ask some questions, obviously with safeguards for information that needs to be kept secure?

James Brokenshire: I think the Home Secretary addressed this in detail when she appeared before this Committee just before Christmas and I do not think there is much more that I can add to the contribution that she made. The Intelligence and Security Committee, which has been strengthened with additional resourcing as a result of the measures that this Government has introduced through the Justice and Security Act 2013 is able to handle sensitive material and therefore is able to question—and, I know, questions robustly—the agencies in relation to their work. We have seen the first public hearings, which are something I talked about when taking the Justice and Security Bill through the House of Commons, how I hoped that that would happen. That has now happened and I think that we have seen a continued development in relation to the scrutiny of the agencies, which I welcome. I believe that it is right for the ISC to be given the opportunity with their enhanced powers and with the enhanced staffing they have received as well, to do that job.

Q883 Dr Huppert: Nobody is saying they should not be allowed to do their job. The question is why all other parliamentarians are barred from doing our jobs, because that is the consequence. Nobody would suggest that you should not go and talk to the House of Lords Science and Technology Committee because they do not have the specialist background in immigration stuff that we have. Everywhere else there is this understanding. In the US it seems to work fine. Will you at least go back and have a look at whether this could be opened up because it would probably be good for the agencies if they were seen to be more protected

and other people could ask questions, though I, of course, accept there are things they would not be able to say in public session.

James Brokenshire: We consulted on this on the *Green Paper* that preceded the Justice and Security Act on various different models—whether an inspector general would be a different model that would work—and we considered that at that point and decided that we would retain the existing commissioners but strengthen the ISC. Careful thought was given to the oversight arrangements and I believe that, as the House has recently legislated on this, we should allow the ISC to get on with that job.

Q884 Dr Huppert: The House did not legislate on whether other committees could have a look. But in the US, as I understand it, elected representatives are automatically given access to classified material upon election. Why do you think the US trusts elected representatives at that sort of level and this Government does not?

James Brokenshire: I cannot comment on the US system. What I can comment on is the UK system with the Intelligence and Security Committee: its work and the way in which it has been strengthened; the oversight of the agencies through the Secretaries of State and through the commissioners themselves. I believe that we have very robust system and one of the strongest systems in the world to provide that level of oversight.

I think the handling of sensitive material is one that does need to be conducted with care, how we can ensure that information that is secret remains secret and particularly how it could be to our disadvantage if it came into the hands of those who have malign intent against this country.

Mr Winnick: I do not think he really believes what he says.

Chair: Order, Mr Winnick

Q885 Yasmin Qureshi: Minister, I know there has already been a question about taking away citizens' nationality or citizenship. It is a question that many members have asked. I know Mr Ellis says it is an obsession of the Left that they always seem to be against taking people's citizenship away. I have to say, I hope you heard me, it is not always a case of Left and Right because the Honourable Member for North East Somerset, not a well-known left winger, said that the Queen should not have two different sets of citizenship; that if you have citizenship, everyone should be equal. You have the bizarre situation that I can have my citizenship stripped away but not Mr Flynn, sitting next to me. I am not sure it is a question of Left and Right. I am sure it is a question of fairness.

Can I ask two questions? Can you ask the Home Secretary, and perhaps the Government, to reconsider this because it is first unfair? Secondly—and this is the more important thing—would you agree with me that if you take away somebody's citizenship you cannot deport them because they need to have documents to be able to travel to another country? They do not apply for nationality of another country. You cannot get rid of them from the country. So was this just a cosmetic exercise?

James Brokenshire: I think, Ms Qureshi, that it is important to understand that the policy approach had been informed by the Al-Jedda case and that the focus had been on individuals that could access the citizenship of another country. I recognise how the approach that is set out in the Immigration Bill can leave someone stateless but the focus had been on individuals who had been able to apply for another citizenship. It is also worth underlining that the law as it exists today embodies that distinction on naturalised citizens and how steps can be taken to remove citizenship in certain circumstances. That is what the law already says and it is simply in these exceptional circumstances where we judge that it would be seriously prejudicial to the vital interests of the UK—so this is a very high bar that we are setting in those circumstances—that that reserve power is justified.

Q886 Yasmin Qureshi: Going back to you about taking away someone's citizenship if they are naturalised as opposed to being born into the citizenship, do you not think it is fundamentally unequal and unfair to have effectively two classes of citizenship? Forget about the fact that it is existing law. Do you not think there is something fundamentally unfair about this?

James Brokenshire: I suppose the point is that the grant of citizenship by this country is a privilege that obviously brings with it certain responsibilities and duties. That is why it is in these exceptional circumstances that we believe a reserve power in that very circumscribed way is appropriate and why we are bringing forward the provisions that are contained in the Immigration Bill.

Chair: Very helpful.

Q887 Paul Flynn: You did not hear the evidence of Mr Davis, your colleague, earlier on.

James Brokenshire: No.

Paul Flynn: He is less optimistic about the role of the Intelligence and Security Committee and he had very strong views about that. He did suggest that as Members of Parliament, if there was another conflict in the world and we were looking for advice, the advice is likely to be unreliable. Do you have absolute confidence that we will not be misinformed as we were in 2003, 2006 and on 7/7?

James Brokenshire: I believe that the changes we have made through the Justice and Security Act to strengthen the ISC have bolstered its work; that with the oversight provided by Secretaries of State, commissioners, and the enhanced ISC, as well as the way in which the work of the agencies is circumscribed through the legislation, the robust challenge that is provided by the commissioners—I did not hear your earlier session but I know that the commissioners do provide that robust challenge—that all that does set us as has having one of the strongest regulatory regimes anywhere in the world around our intelligence and security agencies. I do believe that. It was something that we did examine through the Green Paper, as to what further enhancements or steps were to be made. That is what has led to the changes to the ISC and I believe that that has been for the better.

Q888 Paul Flynn: I am sure you will find it an inspiring and informative experience to read the evidence of Mr Davis and Mr Pickles on their trip to Washington where they have an entirely different view from yours.

On the question of building counter-terrorism capacity overseas, we spend a relatively small amount on this: about £30 million. Do you think we should do more to invest in projects, on areas such as strengthening institutions against corruption and on improving border controls in other countries?

James Brokenshire: The overseas Justice and Human Rights partnership-work and that capacity building that you reference is something that is led by the Foreign Office. The Foreign Secretary, I think, set out clearly the challenges that he identified on ensuring our ability to work with countries that may not adhere to the human rights and rule of law standards that we operate in this country. I think he is right to fasten upon that. The Foreign Office has been taking forward a number of projects around work on human rights and legal compliance, on evidence basis—on ensuring that you are relying more on evidence than confession—and I think that that is to the good. With those capacity-building works the Foreign Office does scrutinise all project applications, ensuring they deliver value for money, and they are confident that we can deliver our planned work within the funding arrangements

for this year and next year and that is obviously funded in large measure from the Foreign Office's counter-terrorism programme fund, which is the £30 million you referenced.

Q889 Chair: Could you just clarify precisely what is happening with e-Borders? We had evidence from Sir Charles last week to say that e-Borders was now terminated and rolled into a new border-systems programme. Whatever it is called—and I appreciate that you have written to the Committee about this—is it still the Government's intention that there should be full exit checks by the time of the general election on 7 May?

James Brokenshire: Yes. I think Sir Charles did highlight this point in his letter to the Committee where he said that the Home Office is committed to delivering exit checks by 2015. This has not changed and that is reliant on our API—Advanced Passenger Information—coverage as supplemented by embarkation checks at ports as well. That does remain our focus and our commitment and how our work on this broadened into our border systems programme, which is looking at a number of the different systems that the Border Force utilises.

Q890 Chair: As far as the internet is concerned, this Committee has heard a great deal of evidence to suggest that radicalisation has moved out of the classroom and madrasas and on to the internet with 500 million tweets every day; 100 hours of videos being uploaded to YouTube; 300 million photographs uploaded on to Facebook, some of them by the fighters overseas in Syria. Are any new approaches being made by the Government to the internet companies?

James Brokenshire: I know you know, Mr Vaz, that we have our Counter-Terrorism Internet Referral Unit that identifies illegal material and seeks to take that down.

Chair: Yes, and we saw them for ourselves last week.

James Brokenshire: I can update the Committee that the last number I have seen of the amount of material they have taken down has now reached, I think, 29,000 items. So there is active work that the CTIRU is doing. But I am very conscious of the need to continue to work with industry. I have been having discussions with them around one of the themes that you touched on in a previous Home Affairs Select Committee report—we do read these things—on codes of practice, for example; on the way that internet companies respond to requests or flagging by our police units that have responsibility for this. Equally the potential use of filtering of material and the work of those companies themselves. On material that is not unlawful there is a threshold that is set that the CTIRU working with the Crown Prosecution Service will examine and attest to but equally there is material that does not necessarily cross that threshold but in the same way that family filters would wish to filter other material, that is a separate category that companies themselves would wish to make their own decisions on whether that is appropriate for them to host in that way. So it is that part of the broader discussion that we are having, as well as the opportunities for those companies to support different and more moderate voices in some of this debate. Again that sense of capacity building within communities so that there is a broader debate around some of these things, whether this be on travel to Syria or otherwise, I think is very healthy. I believe that this Committee itself attended an event with Google last week around some of these themes and it is that sort of initiative that I am very keen to encourage.

Q891 Chair: We welcome that. Let me end where we began by congratulating you on your new portfolio. You have been before this Committee for the last four years and you have clearly been a very competent security Minister. The concern of this Committee is taking on a whole additional job as Minister for Immigration. I am not saying that you are not able to do it. You are clearly a very safe pair of hands and the Home Secretary has great

confidence in you. But it is a very large area and this Committee has produced many reports about the immigration service, which resulted in part in the decision to abolish the UKBA, take it back into the Home Office. These are two very big jobs and we are not saying that you are not capable of doing it, by any means, but we are concerned on the scrutiny basis, that with 42 separate issues that you need to deal with, it is a tall order for even someone as able and as effective as yourself.

James Brokenshire: The Home Secretary has obviously asked me to take on the responsibilities that I hold and I think that there are opportunities here in terms of the way in which the security agenda and some of the work around immigration does dovetail, around security at the border, which does cross over into both of these arenas. As I say, having held and organised crime and Counter-Terrorism brief before, plus EU, plus other things on top of that, there is insight that I am able to bring in relation to both sides of this and I will obviously be doing my utmost to fulfil those responsibilities to the fullest of my abilities.

Chair: We are sure you will. Thank you very much for coming here today.

James Brokenshire: Thank you.