



Public Accounts Committee

Oral evidence: Criminal Justice System: Landscape Review, HC 1115

Monday 17 March 2014

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Members present: Margaret Hodge (Chair); Jackie Doyle-Price, Chris Heaton-Harris, Stewart Jackson, Fiona Mactaggart, Austin Mitchell, Justin Tomlinson.

Amyas Morse, Comptroller and Auditor General, National Audit Office, Gabrielle Cohen, Assistant Auditor General, National Audit Office, Marius Gallaher, Alternate Treasury Officer of Accounts, and Jeremy Lonsdale, Director on Justice Value for Money, National Audit Office, were in attendance.

Witnesses: Dame Ursula Brennan, Permanent Secretary, Ministry of Justice, Mark Sedwill, Permanent Secretary, Home Office, Alison Saunders, Director of Public Prosecutions, Crown Prosecution Service and Peter Lewis, Chief Executive, Crown Prosecution Service, gave evidence

Q1 Chair: Welcome. You have the quality if not the quantity of our members here this afternoon.

Our purpose this afternoon is to set a background against which we will do further studies and look at the matter again, a bit like we were doing at the end of last week, Dame Ursula. We are going to try to pull out of you the key issues that we think we need to return to, so you will get questions from all over the place because everybody has a view on the criminal justice system. That is what we are trying to do. I am going to start with a general question, which might give you an understanding of what you have got to do with this very complicated system. Why is crime falling?

Mark Sedwill: That is probably a question for me. We have been looking at this issue—I chaired a seminar on it last week—so we have been giving it a lot of thought over a long period. Essentially, we believe that there are factors that tend to increase and factors that tend to decrease the level of crime. Since 1995, the factors that tend to push crime down have outweighed those that tend to push it up. The traditional models, as you know, were very

econometric and tended to suggest that crime followed the economy. That has not proved to be the case either here or elsewhere in the western world.

In terms of factors, there is an entire series of PhD theses one could go through on this, but there are a few interesting points. The differential impact of economic recession seems to be a factor, so some crime types are rising slightly. Personal theft is an example—so pick-pocketing, that kind of thing. That perhaps reflects the more traditional profile.

There are probably two big factors that have driven down crime. One is designing out crime. Car theft is much more difficult now, for example. That was a traditional graduation crime for youths who drifted into trouble via vandalism—they would steal a car, which might be the crime that then got them a custodial sentence and took them on into more serious crime. That is much harder to do now with modern vehicles. It is one of the reasons that we have been quite so focused on trying to design mobile phones and smartphones to be not harder to steal but harder to use when stolen.

Another big factor has tended to be heroin and crack usage. The cohort of people using heroin and crack is ageing. It is much less prevalent among the young. Inevitably the number of people declines—people who are heroin and crack users don't tend to make old bones—and the amount of crime associated with them in volume terms seems to have dropped.

Those are some of the examples that seem to indicate that fall. The only other thing I would say is that the police have, I think, improved the intelligence element of their work against crime. Sir Peter Fahy, the chief constable of Greater Manchester police, has a very good phrase, which is that you don't reduce the burglary rate by trying to solve every burglary—you do it by chasing the prolific burglars. It is about doing intelligence-led operations against the most prolific criminals. So there is quite a complex range of factors.

Q2 Chair: Crime is falling, and it is interesting to hear what you say about that. Does anybody else want to add anything to that? No? Okay. If crime is falling, why is our prison population staying broadly the same? Forget about the changes. I understand the issue about trying to bring in changes to drop the figures and them not being successful. If crime is down, you would have thought that the prison population would also go down, so why hasn't it?

Dame Ursula Brennan: With the prison population, one factor is crime, but there is also sentencing policy. There is also an ageing impact. One of the features of the rise in the prison population in recent years was the introduction of indeterminate sentences, where people were sentenced and ended up in prison for longer. As they age, that increases the number of people in prison. Sentencing policy is a matter that Ministers determine, at different times: whether they want short custodial sentences, prefer to have sentences for people in the community or want longer sentences are all factors that affect the size of the prison population. And, of course, there is the amount of reoffending and people coming back into prison.

Q3 Chair: Yes, but crime is going down. I can understand a bit of that. You are saying that the prison population has remained a pretty static figure because we are keeping

people in longer, basically. Reoffending is the same whenever—that doesn't change. But crime is down. It is a 10% drop—it is not an insignificant drop in crime.

Dame Ursula Brennan: Longer sentences—the indeterminate sentences in particular—were a factor in the growth in the prison population. There are longer sentences but there are also more people getting short custodial sentences, which also has an impact. We could probably give you a paper on this.

Q4 Chair: A note on it might be useful. The reason to ask is that there is a big cost to the criminal justice system. I notice from the Report that police are down about 10% along with crime, but the prison population is static. There is something odd about that. It doesn't totally add up to me.

Dame Ursula Brennan: On the prison population, there is an element that is crime related and reoffending related, which is about what is going in the community, and there is an element that is entirely policy driven, which is about what you want to do with criminals. Do you want to give them prison sentences or do you want to give them alternative sentences, such as community sentences? Depending on the policies at the time, your prison population will respond to that.

Q5 Chair: I hear that. The only thing I find interesting is that, on the whole, the previous Government shoved up how many they wanted to keep in prison. This Government have been trying to get it down, so crime has been going down. I accept that this Government have not been terribly successful in their ambition, but that is where they started from—they were trying to get the number down. So there is something odd going on. All that about putting more people in prison and indeterminate sentences is a previous Government phenomenon. Under this Government, there has been an attempt to try and cut costs by reducing the number of people in prison. Yet, for some reason, you do not see the drop there. I can understand a bit of it.

Dame Ursula Brennan: The present Justice Secretary has expressly said that he does not want to see a drop in the number of prison places over the lifetime of the Parliament. He does not have an ambition to see a reduction.

Q6 Chair: There must be a relationship with crime going down and the number of people in prison.

Dame Ursula Brennan: I think he would argue that he wants to see reoffending reduced, but on the question of what the initial prison sentence should be for different types of crimes, different people have different views on that.

Chair: But he has not toughened it up. If you look at it, there has not been a toughening up. It just does not seem logical.

Q7 Austin Mitchell: Even so, what savings do you expect to make in the criminal justice system, predicated on a continued fall in crime, or indeed sending fewer people to prison, as was planned in 2010? Are those two factors the basis of the expectation that you can save money on the system?

Dame Ursula Brennan: On the saving of money across the criminal justice system, my colleagues may want to comment, but, from the perspective of the Ministry of Justice, the savings come in three ways. One absolutely is through volumes, so, if crime reduces, you get fewer costs in the courts. The whole system costs you less. You spend less on legal aid and so on. So clearly volume has an impact.

The second thing is where you make policy changes. If you can get more guilty pleas, you can get people through the system more quickly and you can save money in that way. The third way you can get savings in the justice system is through efficiencies: benchmarking the costs of prisons and so on. We have sought to make savings in all those three areas. The whole system is not predicated on a presumption that crime will continue to fall. Indeed, the analysts who work across our engagement in the system spend a lot of time trying to predict what might happen in relation to crime. It is a difficult thing.

Q8 Austin Mitchell: In a sense, what Humberside does today, Britain will do tomorrow. I have to tell you that crime has gone up, mainly acquisitive crime such as shoplifting and burglary. I wonder whether that indicates that, having plateaued, crime is now on the turn.

Mark Sedwill: We don't think so overall. Certainly both the crime survey figures and the police recording of crime figures suggest that the trend will continue. Nobody is complacent about it, and that is partly why we are working with more academics, who look at this to try and understand the factors that drive the overall crime figures.

You are right, Mr Mitchell, that some of the acquisitive crime, or low-level acquisitive crime—street crime, pick-pocketing and shoplifting—has increased. I am unsure of some of the official data, because the amount of shoplifting that is reported is partly related to the number of security guards that shops employ, so one has to be cautious about individual numbers, but I think the overall trend is still clear and outweighs any new crime types that are beginning to get picked up, particularly in the online area.

Q9 Mr Jackson: The faith and trust that many people in this country—particularly middle class people—had in the police has been sorely damaged over the past few years. I think that is very regrettable. In my constituency and in my constabulary, we have seen a very good drop in crime. My constituents tend, rightly, to trust the police. We have been very fortunate in that we have had very good divisional commanders in the northern division of Cambridgeshire. What really frustrates my constituents is reading in the newspaper about serial burglars—persistent and prolific offenders—who have 60, 80, sometimes 120 convictions, being sentenced to two years, two and a half years or three years. They ask, “What’s going on here? Why are these people continuing on the conveyor belt of crime?” I say to them, in the least cynical way I can, “They make a rational choice. We put them up in

social housing, we pay their housing benefit, we pay other benefits, we put a lot of effort into these people, and, of course, they do not see a way forward to stop committing crime.”

My question to you is, how do we break that cycle and deal with the people responsible? In my city, there are probably 35 people responsible for committing 40% to 50% of the crime. How do we hammer them? I would buy them a bus ticket and send them somewhere else, but we cannot do that. What can we do in terms of policy? I cannot get into policy, so what can we do in terms of value for money, which is linked inextricably to policy? How do you deal with that persistent, prolific offending, which makes a misery of my constituents’ lives in so many ways?

Mark Sedwill: It is probably a two-part answer. Perhaps I might kick off with the police component, Mr Jackson, and perhaps Ursula or others could come in on the sentencing and rehabilitation side. Part of the answer is in the more effective policing I mentioned earlier. Sir Peter Fahy talks about precisely the kind of phenomenon you are talking about: identifying the, in your case, three dozen or so most prolific burglars and then directing police resources at them, to ensure that if they do commit an offence or they commit a series of offences, there is a better chance of arresting them and getting a successful prosecution and conviction than might have been the case in the past. There have been significant improvements in the way that policing in general works, which is part of the reason why people know that there are only a relatively small number of people responsible for a very high number of crimes. I think that 1% of the most prolific offenders are responsible nationwide for 5% of the crime. I know those numbers sound quite small, but of course that is an astonishing ratio when you think about it. Part of the answer is intelligence-led policing, but then we have to come on to what you do with those individuals once they are in the system.

Dame Ursula Brennan: Once they are in the system and once you have charged your prolific offender—there are very good programmes for working on prolific offenders in the way that Mark Sedwill described—one of the things that then happens is the exercise of choice, if you are, say, before the magistrate, about what penalty to impose. One thing that the Government have sought to do is to say that we must make community penalties tougher. In certain types of crime, there has always been the choice between community penalties versus custodial penalties. There was a perception that community penalties might be a kind of soft option, so one thing that has been happening is the toughening up of the punitive elements of a community punishment, so that you can genuinely say to someone, “You don’t have to be sent into custody and you do not have to be sent into prison. You can be given a community penalty, but it will require you to do serious work to pay back the community for the crime you have committed.” Community punishments now have a mixture of things within them, which includes programmes to try to stop offending, but also a serious punishment. That is a way to say to your constituents and others, “Here comes a prolific offender, if they get a community penalty, it is serious. It is not just a slap on the wrist.”

Q10 Mr Jackson: Well, is it serious? Painting the railings in the park, when you are a prolific burglar, is not braking rocks in Mississippi, is it? You pick up a bit of litter, paint the railings in the park and go and sit on a beanbag with a social worker telling you that it is all bad. My constituents would string most of these prolific burglars up, frankly, and quite rightly in some respects

What are you doing to make a very strong point to them that they are making the wrong choice and there will be consequences if they continue this type of behaviour?

Dame Ursula Brennan: The sentencing framework within which we all operate is determined by Parliament, so if Parliament has said, “Let’s have tough community punishments,” our job is to make sure that they are executed in the right kind of way, but the choice of what you do—whether you want community punishments or custodial punishments—is not for us; our job is to try to run the system that Ministers, through Parliament, determine.

Q11 Mr Jackson: That leads me to my final question. Is there an implicit criticism there of the British model, which is effectively to break that link with what Parliament wants through the creation of a quango such as the Sentencing Guidelines Council or Sentencing Council, which in some respects undermines what Parliament wants? Is there an argument for being critical of the judiciary to a certain extent?

Dame Ursula Brennan: The Sentencing Guidelines Councilⁱ has the job of saying that Parliament says, “This is what we want by way of sentencing,” but Parliament always says you have to look at mitigation and aggravation, so there are circumstances in which a crime that looks the same may be aggravated because of the circumstances in which it was conducted, or it may be mitigated because of the circumstances in which it was conducted. The Sentencing Guidelines Council’s job is partly about making sure that that is really clear, but it is not its job to determine what the sentences are. The sentences are really a matter for legislation, and then it takes those and says, “Adding the mitigating and the aggravating factors, what is it we practically need to do in these circumstances?”

Q12 Chair: That brings me neatly to where I was going to take you on the general issue, because there is a lot we want to talk about with regard to the effectiveness of what you do. Dame Ursula, you don’t run any bit of the criminal justice system directly; you do it all through third parties, don’t you? There is nothing you run directly. You do the policy, but you run nothing.

Dame Ursula Brennan: Do you mean me personally?

Chair: No, the Department.

Dame Ursula Brennan: Well, it runs the prisons, or do you mean that NOMS is somehow at arm’s length? We run the prisons—

Q13 Chair: NOMS is at arm’s length.

Dame Ursula Brennan: I’m not sure how—

Q14 Chair: What is NOMS' status?

Dame Ursula Brennan: NOMS's status is that of an agency. The chief executive of NOMS, who was here with us the other week, Michael Spurr, is on the executive committee of the Department; he's on the management board of the Department. He is firmly within the Department. We—

Q15 Chair: So what's the advantage of running it as an agency?

Dame Ursula Brennan: There are all sorts of things to do with the running of the prisons whereby it is appropriate to have a set of Prison Service instructions that are really clear about what you do practically, but—

Q16 Chair: But why have it as an agency if you're saying that actually it's part of your Department?

Dame Ursula Brennan: It is a distinct piece of delivery. I do think there are advantages in saying, "We're delivering something. The group of people who deliver that should come together and form a unit that delivers it." In the same way, the Courts and Tribunals Service is an agency that delivers the courts. The Offender Rehabilitation Bill has just been going through Parliament and is associated with transforming rehabilitation. Under all that policy, we will be directly running the national probation service, at the end of that, but they are part of the Department. The judiciary, of course, are a separate part of the constitution, but when it comes to the prisons, the courts and probation, in due course—national probation—I think the people who are in them are conscious—

Q17 Chair: You think they are directly accountable to you, although they are in an agency?

Dame Ursula Brennan: They are indeed. I'm the accounting officer for the whole of that part, yes.

Q18 Chair: I know you're the accounting officer. This is a slightly different question. But they're directly—

Dame Ursula Brennan: Through their chief executive, yes.

Q19 Chair: What about you, Mr Sedwill? How much of the criminal justice empire do you actually run from the Home Office?

Mark Sedwill: Certain parts of the capability. We have talked before in this Committee about the relationship with policing and the constitutional gap there. There's obviously the funding arrangement, which you know about. But in terms of the elements of it directly under Home Office control, we now, since the dissolution of the National Policing

Improvement Agency, have, for example, the police national computer, the police national database—all those major systems are provided within the Home Office. Other than that we have the arm's length relationship, which we have discussed in the past, with the 43 police forces, the National Crime Agency and other parts of the system.

Q20 Chair: We will come to that again, as well. I am interested in the relationship, because, just looking at it—we have been doing all this work around the private sector and what it provides; what is G4S's reach in the criminal justice system? What do they run? Maybe you will all have something they are running.

Dame Ursula Brennan: They are engaged in prisons. If you take G4S specifically—

Q21 Chair: Yes. They are the biggest ones, really, in the sector. Tell me if I am wrong, but that is my—

Dame Ursula Brennan: They run facilities management for parts of the Ministry of Justice. They run youth custody—they run some youth secure training centres.

Q22 Chair: They run asylum accommodation, don't they?

Mark Sedwill: Well, asylum accommodation is not part of criminal justice; but immigration detention—they have some of those centres. You could argue that that is at least part of it.

Q23 Chair: They run taking people to court, don't they?

Dame Ursula Brennan: That is Serco. The prisoner escort service is Serco.

Q24 Chair: So what else? Go on. Do you know how much their business is, within the criminal justice system? I may be wrong in thinking they are the biggest. Maybe Serco is bigger.

Dame Ursula Brennan: Across the CJS, I am not sure.

Q25 Chair: Are they getting to be too big to fail?

Dame Ursula Brennan: I think the fact that we secured some money back from them recently suggests that they are certainly not too big to challenge. Whether they are too big to fail: one of the things that the Government has been doing as a whole, and individual Departments have been doing specifically, is look at markets and say, "Have we got enough players in that market?" So in relation to electronic monitoring, for example, we had already, before the problems blew up with G4S and Serco, decided we wanted to widen that market and restructure the contract so that we had more players in it.

In relation to “Transforming Rehabilitation”, the very first thing we did was an enormous amount of market engagement, to build up larger numbers of suppliers entering the market. So one of the things that has happened is that Departments have said that we need to think about each major market that we operate in, and sit down and look at whether there are a small number of dominant players, and whether that is because there are barriers to entry, whether it is to do with the way we have structured the contracts. So we are all engaged in that, and there is a cross-civil service group that looks at it, that Mark Sedwill and I are both on, where we are looking at key markets and saying, “Are they sufficiently diverse?”

Q26 Chair: Let me say two things from the Report. One is that the Report suggests, on page 20, paragraph 1.17, that you tied yourself into long contracts. I do not know which one of you that is—isn’t that interesting, that I don’t know?—but you tied yourself into a long contract.

Chris Heaton-Harris: It is NOMS.

Q27 Chair: It is NOMS—who is it? It is prisons. Therefore that made you keep the less efficient prisons open, because you were tied into a long contract. That seems to be one aspect. The other thing is that you halted the privatisation of prisons, because Serco and G4S are the only two suppliers there.

Dame Ursula Brennan: No, that is not the reason why we stopped the programme of privatising prisons. The new Justice Secretary, when he came in—the present Justice Secretary—looked at the programme by which we were competing prisons: not just new ones, but taking existing public sector prisons and running a competition. That programme was quite a slow process. The business of actually competing a prison and getting an in-house bid from your existing team, and so on, is quite a slow process. He asked the chief executive of NOMS to say what would happen if, instead of doing that, we were to take the in-house bids and say, “Let’s run all the prisons at the level of those in-house bids; because we could do that quickly.”

So we stopped the programme of competing prisons block by block—prison by prison—and instead said, “We will take the savings that the public sector side came up with when they were bidding for those prisons, and apply them across the piece, and we can get savings more quickly.” So it was not really anything to do with who was bidding for the prisons. It was, “How can we get savings faster?”

Chair: Great, very good. I am very keen on that.

Dame Ursula Brennan: It was a faster way of getting the savings out.

Q28 Chair: And what about the first thing? The first thing—because you tied yourself into contracts; when we looked at the prison estate, you remember.

Dame Ursula Brennan: Yes, I recall the discussion about that. I think, in relation to prisons, we were happy to go for longer-term contracts, because a prison is an entity—I think

all those prisons had PFI deals around the building—that you expect to exist for a long time. There are other parts of our business which will change; electronic monitoring, for example, will change. But the prisons we did expect to have running for a good long time and we thought, therefore, that PFI deals of a lengthy nature made sense. It did not stop us going in and renegotiating those contracts after the spending review in 2010.

Q29 Chair: No, but it influenced the way you took decisions on whether you went for an efficient or—that is the implication.

Dame Ursula Brennan: I think the implication was, instead of saying, “Shall we close this prison?”, we sought—because the whole point of this is to get efficiency—so instead of saying, “We’ve got this new prison built, let’s close it”, we went to the contractors and said, “We’ve got this new prison built. We’re in a time of austerity. Let’s reopen the contract and get some efficiency out of it.” That seemed to us to make more sense than closing something that had not long been built. But that was the approach that we took.

Q30 Jackie Doyle-Price: Going back to the answer to the previous question, where you talked about what study was being undertaken in the marketplace about why we are only ending up with these two dominant suppliers, you listed the things that you were looking at. It struck me that these were all purchaser led, as opposed to really looking at the market. What assessment have you made of the sort of anti-competitive behaviour of companies such as G4S and Serco and to what extent do you think that is a barrier to other entrants entering this marketplace?

Dame Ursula Brennan: I do not know that the MOJ has looked at anti-competitive behaviour. Across Government, we have looked at what the barriers are to entry overall. Mostly, the barriers to entry appear to be that—we have been looking for driving out large quantities of efficiency and bigger companies have quite often pitched better low-cost bids. So one of the things we have been trying to do is say that, maybe, we bundle up too much in one contract, and that is the reason why we have broken them down.

We have concluded that there are things we can do, both to make ourselves more agile, by having smaller contracts and, at the same time, going out to the market. Sometimes, from the conversations we have, it is genuine ignorance. There are people who think that this is not a market for them or that they will not be able to enter it. So we have done quite a bit of wooing of people, to say, “Come and bid in our market.”

Q31 Jackie Doyle-Price: Is that really true, though? I have a company in my constituency that is quite a specialised security provider, with more than 150 employees, so it is an SME, but it is a well-established one and it thinks it has a product to sell. For it, trying to negotiate with Government seems impenetrable. Where does it go? Is there enough being done, really, by Whitehall to go out and identify some alternative suppliers, or is it all too easy when Serco and G4S are employing lobbyists to take all your officials out to lunch?

Dame Ursula Brennan: You are right that we need to go out and encourage people. We are doing a lot more now on the web, to have web portals where we advertise that if you

are interested in contracts with Government you can go and find out about them. We do events, when we write to people and say, “We’ve got a contract coming up. Come to a day when you can learn about it and hear about it.” But, as I said—

Q32 Chair: Give us one example of where that has paid off. **Dame Ursula Brennan:** Well, we certainly did that in relation to—

Q33 Chair: Where has G4S and Serco not then ended up getting a contract?

Dame Ursula Brennan: Certainly, in “Transforming Rehabilitation”, we have a much wider market bidding for those contracts.

Q34 Chair: Well, you’ve got A4e and Capita.

Dame Ursula Brennan: No, we have got other companies as well. I grant you that, in some of these areas—the technology areas, and so on—it is more than two, but it is not an enormous number, sometimes, of companies. But we do a lot of business with SMEs, actually, in the MOJ; more than, I think, most other Departments. About a third of the value of our business is done with SMEs.

Mr Jackson: I think that Members of Parliament are, from time to time, giving evidence that is, admittedly, anecdotal about the investment of hundreds of thousands, if not millions, of pounds, months of time and significant numbers of highly qualified people to write bids that only the largest organisations with a big market capitalisation, perhaps across a continent—certainly a very big FTSE-listed company—can devote themselves to. It is not just that they are not efficient at putting together bids. The Departments have to be quicker and make it much easier for them to put the bids together. Then you would have, not an oligopoly, but a fair playing field for all companies, including SMEs, to bid.

Dame Ursula Brennan: That is a fair criticism. It is one that the Cabinet Office team, which has been built up over the past 12 months or so, is taking across departmental look-at, to ensure that the stages of the way that we do contracting are as simple as possible.

There are certain bits of the European procurement rules that introduced a concept called the negotiated procedure or something—I will get the terminology wrong—that involved the possibility of saying that you can have a conversation, rather than saying, “I want to very specific.” You can have a conversation about things. When that first came in, lawyers got quite nervous about lots of separate conversations and how at the end we would be able to show to everybody that we said exactly the same thing to everyone and that it was fair, and so the process got rather elaborate. We have closed that down again and said that it is possible to do that negotiated procedure on a simpler basis.

Sometimes we find with bidders that, when they say, “You asked us to provide box-loads of data,” it is because sometimes they choose to say, “You asked us for a bid, here’s our bid, but we want to do a variant bid, and here is another load of data for the second one.” They have chosen to bid in different ways.

As I said about “Transforming Rehabilitation”, we did quite a lot of work with third sector bodies that were thinking of bidding, to assist them in how to go about that, to put them in touch and have almost a marriage bureau, where people who were interested in bidding could work out how they could partner up with people who could help them to do that. We have been putting quite a lot of thought into all that.

Q35 Jackie Doyle-Price: But that in itself could reinforce the monopoly position. We found when we looked at these providers that many of them have grown through merger and acquisition. Quite honestly I can see a situation where these big guys can go in and make it a loss leader from the long-term view, and the little guys you are trying to talk to and encourage just take the line of least resistance, because they just can’t take them on. We need to look at that carefully.

Dame Ursula Brennan: We will be really happy to talk to you in due course. I know that Amyas’s team will be investigating this. We looked at the criticisms that the voluntary sector made of some of the things around the Work programme, which was a bit of a trailblazer in terms of trying to do this stuff. People made criticisms then.

We then went and talked to those providers and said, “Okay, what do we need to put in place to try to put some protections in there?” I think Antonia Romeo said to you when we were here last week that if someone has bid for one of our contracts, they won’t be able just to gobble up someone else, they will have to get that agreed with us. We have put in protections to stop companies just buying each other up without our being able to do anything about it.

Q36 Chris Heaton-Harris: We would like to see that demonstrated in a note of some sort if we could. I am a big fan of the bigger companies; I think they provide a good service. I have G4S running the STC at Rainsbrook, a prison at Onley and a big children’s centre in the community as naughty youths are looked after. They are all run by G4S and all doing really well, employing lots of good, professional people dedicated to their task. I have no problem with that. Where there are screw-ups with G4S and Serco and others, I am sure there were plenty of screw-ups within Government when they were operating those systems previously, so I have no issue with that.

I have again the experience of a company in my constituency with the Home Office where it has been too small to bid. It does not have three years of accounts. I know that is not meant to be a reason any more for not being able to bid. Disparate parts of the Home Office still seem to operate under a different set of rules from others. So it would be quite good to see a demonstration, if possible, of success in this area.

I have a couple of questions. Part 1 of this Report is all about collaboration, which I guess opens up to all these sorts of bodies. The first question that I would like to ask is about paragraph 1.8 of Part 1 of the Report: “The White Paper”—“Transforming the CJS”—“contained 64 actions...of which 30 were planned for completion in 2013.” How many of them will be completed by the end of 2013?

Chair: Or have been.

Chris Heaton-Harris: Or were completed, yes. We are in 2014 now.

Dame Ursula Brennan: The strategy and action plan is about to be refreshed, in a couple of months' time—

Chair: Can you answer the question?

Dame Ursula Brennan: And we will be reporting on the performance against the actions, but the progress in delivering them is on track.

Q37 Chair: What does that mean? You completed them all, did you?

Dame Ursula Brennan: The difficulty in saying, “Out of 63 of them, how many have been delivered?” is that a number of them were, “Let’s investigate something and plan to do something next”, so we have done that and we are now planning to do the thing next.

Q38 Chris Heaton-Harris: As cited in the Report, Ministers described the changes as “mainly straightforward management actions designed to eradicate the simple failings and mistakes that currently blight the system and lead to delay, unnecessary work and a poor experience for victims and witnesses.” If they are mainly straightforward management actions, you would have thought that the 30 to be done by the end of the 2013 was quite straightforward.

Dame Ursula Brennan: In terms of the straightforward actions, real practical things have been happening in relation to, for instance, the dedicated traffic courts, where we are now able to process—

Q39 Chair: We are asking a simple question, because we have so much to go through. Out of that plan, how many have you done? You said you would do it. I will let Chris finish, but one of the things we want is the sense of urgency. There is a heck of a lot of money not being well spent here.

Dame Ursula Brennan: I have got a long list here, all the items on which say “Complete” or, alternatively, they are work where we are reviewing something in order to be able to do something further. We have done the things that we said we would set out to do.

Chair: Give us a note.

Q40 Chris Heaton-Harris: Do you mind confirming that, if that’s okay?

I also have a question about what the Chair said about the NOMS private prisons, in paragraphs 1.17 and 1.18. A lot of lessons will obviously be learned for the shape of any future contract negotiations from the ones that you have done for private prisons in the past. When you go back out to market at some point in the future, will you have learnt those lessons? Will there be break clauses? Will the quality controls that have allowed private

prisons to remain open, where other prisons might not have, be eradicated from future contracts?

Dame Ursula Brennan: On the lessons from private prisons, each time we do one, we learn from the last one, so absolutely. We do a “lessons learned” after the contract. Our central contracting director in the MOJ feeds that into the next batch. Generally, we take the learning from our contracts not only into another private prison, but into contracting more generally. So yes, that is certainly true.

Q41 Chris Heaton-Harris: Your relationship with the private sector, it obviously has got to be strong, has it not?

Dame Ursula Brennan: Yes. You are absolutely right. We need a strong contracting, commercial specialism within the MOJ, and strong contract management—

Q42 Chris Heaton-Harris: This Committee has identified in a number of reports in the past the weaknesses at the centre of the systems in each of your Departments. How have you gone about addressing those, both up until now and going forward from here?

Dame Ursula Brennan: The electronic tagging problems were sufficient that we realised that we needed to do a thorough review of contract management in the MOJ. We asked our lead non-executive director from the departmental board to conduct a review. He came up with recommendations on a whole raft of areas.

We now have an action plan that is implementing those recommendations, and they relate to things about how contracts and commercial programmes are managed, what kind of expertise we have got, and making it clear what the role of the commercial experts in the centre is and what the role of the business managers who are managing the day-to-day business is. There is a whole set of things that we are now actively addressing. At the same time, at the Cabinet Office level there is an overarching programme about contract management and commercial management across the whole of Government, because we have taken the opportunity to look at that issue across Government as well, and we are making sure that what we are doing is in line with that. The National Audit Office is plugged into that work, both in the MOJ and in the Cabinet Office.

Q43 Chair: Can I ask two questions about that? First, are you recruiting new and different people? Secondly, on the interpreters’ contract, what was clear when we took evidence about that was that the person monitoring it was right down the food chain, and there was not responsibility—I don’t think even your finance director knew anything about it. Are you making sure that top people—your top management team—are looking after things? I suppose the third one is: are you leaving people on the ruddy job? When we went to look at Crossrail, I was pretty depressed to see that the lesson that this Committee constantly told them—keep the same person on the job during the implementation—had not been learned there. Keeping the same people on the job; putting it up the top of the food chain; and recruiting new skills—are you doing any of those three?

Dame Ursula Brennan: The very first action that we took was in relation to making sure that there was a very clear and senior responsible owner, who was senior enough, who owned that contract and was accountable for taking all the rest of the actions that we said we wanted to be taken. So, the very first thing was that we started with our largest, most complex contracts and said we want to make it really clear that we have got a sufficiently senior person in charge. That was the first thing.

In relation to people, we are indeed recruiting some immediate expertise to join us on a short-term basis, to help to design things—“How do we want to run contracts in the future?”

Q44 Chair: Those are consultants, are they? “Short-term basis” sounds to me like code for consultants.

Dame Ursula Brennan: No. They won’t be consultants; they will be contractors. They are contract management experts. We are not hiring a consultancy firm for that role; we have gone out to the market to hire some individuals to come and work for us for a short period, to help us to design our revised contract management structure. But we are going to get a partner from the private sector—a firm of contract management commercial specialists—who will work with us to decide what kind of skills we need, so that we can skill up our own people and take on that role in the future. We have already started training commercial experts and our senior civil servants—

Q45 Chair: Who is that? Who have you got in doing—

Dame Ursula Brennan: We haven’t yet; that’s in train.

Q46 Chair: Who are you looking at? Is that a PricewaterhouseCoopers-type person?

Dame Ursula Brennan: To be perfectly honest, we have said what skills we want; who the people will be will depend on who the right people are who will bid for it, but it will be people who are experts in contract management and commercial management.

Finally on this heading, we have decided to join up to the International Association for Contract and Commercial Management, so that we can get our processes validated by the international contract management experts and so that we end up with some initial private sector help to set up our structure. Then we will have something that we can get validated by an external commercial expertise body on an ongoing basis.

Q47 Chair: Finally on that point, are the people who are taking short-term contracts on PAYE?

Dame Ursula Brennan: I know that we have completely scrubbed the process by which we pay those people. Whether they are on PAYE or not I could not swear to you, because we have not got them in yet, but I do know that when they come in, we now require

to ask them very challenging questions about their tax affairs, to make sure that we are on the right side of the Revenue. I have been involved in making sure that happens.

Q48 Chair: Perhaps you could produce a little note on that for us.

Dame Ursula Brennan: That is a standard process across the whole of Government now that we all go through.

Q49 Austin Mitchell: I am worried about the general picture that comes out from the Report—I am talking about the possibility of implementing changes designed to produce more efficiency and co-ordination in a system that depends on a lot of fairly intimate contact between organisations and making things more efficient at a time of cuts, when you are just trying to cut expenditure anyway, because one purpose does damage the other. I would like you to comment on the possible effects of other changes that are going on: for instance, the cuts in the police. Humberside police tell me that they have made as many cuts as they can in the backroom services—backroom services that service the CSA and the courts—and yet paragraph 2.7 in the Report states that there has been “a marked decline, since 2011, in the quality of the police report...only 37 per cent contained an adequate summary of the evidence and 51 per cent a summary of the offender interview”. That is one area where economies and cuts in the police service are going to make the system more efficient.

The other two—I shall ask you to comment on each one when I have given you the list—include the legal aid changes, which create the possibility that people will not be represented, or that there will be breakdowns in representation as people are shuffled from one service or one solicitor to another, or as solicitors do not turn up. The whole system will be in turmoil for some time as a result of the changes and that will hold up the work of the courts, I would have thought.

Finally, there are the changes in the probation service. It is a big restructuring, with a differentiation between the top 30% of cases and the bottom, less serious cases, which will be taken by contractors. I would add that Humberside police told me they are frightened of the consequences of misalignment in that kind of distribution of cases, with cases being shuffled from one section to another. Those three things all create the possibility of delays, difficulties and problems in a system where you will face them anyway, because you are disrupting it with cuts. Can you take each in turn? What will the effect be of the police cuts on the efficiency of the police evidence?

Chair: Let’s do police reports, because I think that it is pretty shocking. Go on, Mr Sedwill; then Mr Lewis, you tell us about that. It is shocking, and there is another ridiculous stat about there being too much stuff in there—I cannot remember, but there is a stat somewhere.

Fiona Mactaggart: Yes: “case files continuing to contain unnecessary witness statements”, but do not include the stuff that you should have.

Mark Sedwill: Perhaps just two points from me, as Peter is the expert on the police report and can comment on that. The first, Mr Mitchell, is that I do not think it is right to say

that cuts make it more difficult to collaborate; I think that actually the austerity has driven organisations to collaborate more effectively. If you look at the back-office functions—I am not familiar with the exact situation in Humberside—it is driving police forces to collaborate more effectively with each other and in many cases to collaborate more effectively with other parts of local government.

Q50 Chair: Mr Sedwill, I have to say that paragraph 1.24 on page 22 states the HM Inspector of CPS in November 2013 found that effective joint performance and improvement was “slow rather than dynamic” and that performance had declined in the previous four years. You accepted that report—it is an accepted report.

Mark Sedwill: Sorry, I was talking about the back office—I was just addressing Mr Mitchell’s first point, which was about the back-office functions. I was down in Hampshire recently and they have essentially produced a collaborative back office called H3, which is police, fire service and the county council, and it is driving very significant efficiency.

Q51 Chair: No, we were talking about collaboration of back office.

Mark Sedwill: Mr Mitchell raised the issue of back office and collaboration, so I am making the point that collaboration in the back office can drive efficiency, and that is driven partly by austerity. On the overall point—Peter can talk more effectively about the police report—HMIC’s reports on policing in austerity both suggest that police performance has held up well to cuts. As you pointed out at the beginning, crime and police numbers have fallen. Actually, crime has fallen faster than police numbers, so the number of police officers per crime is slightly higher than it was in, say, 2010, but that clearly does not at all mitigate the underlying criticism.

Clearly, if police officers are not providing the correct evidence for the case files, or in some cases providing too much evidence, that is inefficient and ineffective. Some of the reforms we are trying to make through the criminal justice board to case file management are designed to address that—both digital case file management and also, for example, in Staffordshire they have co-located people to try to enable police officers to provide more effectively what the criminal justice system needs. Peter can talk in a bit more detail about that.

Peter Lewis: The quality of police files has been an issue for some time and the Report is right that it has got worse. What we have decided to do is take a fresh approach to it and rather than try the things we did in the past, such as more supervision and checks on the system, what we have tried to do—

Q52 Austin Mitchell: On your part?

Peter Lewis: Yes, and with police supervisors as well. Those are inefficient, because by that time you have already got a poor file that is in the system, and the clock is running on the criminal justice system, so it is wasting time. We have decided to see if we can take a fresh approach—to adopt the ideas that most of us experience when, say, we fill in our tax

returns online. When you do that, in fact the way you fill in the form does not let you fill it in improperly. It prompts you to put in the information you require; indeed, it is difficult to put in more than you need to.

With that thought in mind, we have been trying this new approach. We have started—I need to be frank about this—with the easiest case files to begin with: street offences, which are the public order offences that form a lot of our work in the magistrates court. But we have also looked at traffic cases. From the work and tests that we have done already, we are convinced that we can radically improve the quality of the cases.

Q53 Fiona Mactaggart: Sorry to interrupt you, but you are talking about cases where there is not usually an obvious victim. Does that not complicate producing this kind of file?

Peter Lewis: Yes. As I said—I will be absolutely frank—we have been looking at the easiest files first to see if we can prove the concept. This is a simple example, but rather than give people “free text” in which to explain what has happened, if there are simple questions to which the court needs a yes or no answer—such as: “Was this person on bail?” or “Was this person tested for drugs?”—we have made it so that when you fill in the file, you have to answer just that question. Then, if you also make it so that the file will not accept more information than you need, will that help discipline it? We have not sorted it out yet, but we have proved, certainly on the straightforward cases, that we can do better. We now need to test that on the more complicated cases and, in particular, those included—

Q54 Austin Mitchell: Are you confident that it will work?

Peter Lewis: Well, we are confident on what we have seen so far. We can make a difference on the simple cases.

Q55 Chair: Have you got a time frame for this?

Peter Lewis: Yes. We have tested the first bunch of these cases already. Subject to them being assessed and the agreement of the police criminal justice lead, we intend to roll out the road traffic file to the whole country by the end of December this year, and there will be a suite of the basic offences that we will also have available to the police service from about October. We are now starting to look at the more difficult cases—the cases in which we anticipate that there will be a not guilty plea and those where we have got more complicated victims issues—to see what we can do with those. But a lot of our cases are straightforward and without victims, so if we can sort out at least those cases, we will have made a difference. We already know that these files are easier, and therefore require less effort for the police to fill in and we are getting them right more often. So it is a good—

Q56 Chair: As a corollary to that one, how many files go missing and are lost each year? Has that gone down?

Peter Lewis: Yes.

Q57 Chair: So what is it? How many files a year?

Peter Lewis: We used to have a problem with missing paper files, but since we got digital transfer—

Q58 Chair: None at all?

Peter Lewis: I would not ever say none at all.

Q59 Chair: Do you know, Alison?

Alison Saunders: It is minimal, because we now have them digitally. More than 90% of our cases come through digitally from the police, and they do not go missing if they are on the computer system.

Amyas Morse: That is great and I am supportive of what you are doing, but I wanted to ask whether you know what is driving cost and damage into the system. Do you understand the things that you should be prioritising to make the biggest difference? People are relying on some of these things for long periods, which is driving an awful lot more cost into the system. I was interested to know whether you know what your most critical areas of information are.

Peter Lewis: We are concentrating on the volume cases.

Amyas Morse: I understand that. I am asking something different. “Rubbish in, rubbish out” is generally a pretty good motto. Those areas where there is more wrong do more damage and drive more cost into the system. Have you sampled that and worked out which areas would, if you could sort them—never mind starting with the straightforward ones—make the biggest difference in reducing inaccuracies and failures later on in the system?

Peter Lewis: We have not done a full end-to-end analysis of all of them. We started on the basis that the best place to start was dealing with the volume cases, because they are the biggest drivers of efficiency.

Amyas Morse: I am not being critical; I am just saying that it might help you to decide where to go next if you know what has the biggest effect and what does the greatest damage—if I can use that word—by being inaccurate.

Peter Lewis: We know what some of the issues are. It is about having key information, such as witness dates and compensation for victims. There are some simple things, but we believe we can cover those by dealing with the offence type.

Chair: I will come back to legal aid, because it is important, but I want to bring Fiona in.

Q60 Fiona Mactaggart: I am very concerned because, looking at the Report, it feels as though not a great deal of progress has been made on some of the IT issues since I was once responsible for this area some eight years ago in the Home Office, which is rather depressing. I am concerned about what you have been saying, Mr Lewis, because we know that when you get a cracked or ineffective trial and a witness is involved or a victim is being a witness, their capacity and willingness to keep turning up diminishes exponentially every time a trial is ineffective. I am concerned that, while your strategy might deal with all those cases on driving through red lights or exceeding speed limits or doing the wrong thing in a yellow box—that is all fine—what we actually need to do is ensure that we get going faster on those cases where, for example, people have been victims of robbery or where people are witnesses in cases like that. It seems to me that progress is not happening with those.

Peter Lewis: We have taken the view that we have to deal with the fundamental problem in the system about getting information around and sharing it properly, which affects all cases. We have worked on the basis that that is a fundamental issue. The failure to tackle that in the past has hindered all the other attempts we have made to make the system more efficient. It is a fundamental issue that we have to tackle. There have been many perfectly good initiatives that have failed because of that, although addressing that is not all we are doing.

Q61 Fiona Mactaggart: One of the other things that you need to be doing is getting better local co-ordination. Mr Mitchell has already drawn attention to paragraph 1.24, where we said that things have gone backwards. One of the things that I hear in Thames valley is that where there is a local board or whatever, the CPS does not come. The people do not turn up. If there is a human being shortage, that effort on local collaboration cannot work. It cannot work if everyone else turns up and one partner does not turn up. What are you doing to stop that happening? That seems to me to be extreme.

Peter Lewis: We have made a commitment to the police and crime commissioners. We have repeated that we will send to each local criminal justice board a senior figure, who will be able to make decisions, to report back and to get work done.

Q62 Fiona Mactaggart: Is that actually happening?

Peter Lewis: We appreciate that we were not always as good everywhere and that it did go off the boil, but we have restated it and have made a fresh commitment that we will pay our share of the funding to support each of the boards. We have got the message and have restated our commitment. In many places, we have continued to have strong relationships throughout. It did go off the boil in some places, but we have restated that now.

Alison Saunders: Just to reaffirm that, I have been meeting police and crime commissioners from across the country—I have not yet been to Thames valley, which is next week—but nobody has yet mentioned the CPS not turning up at local criminal justice boards.

Q63 Fiona Mactaggart: He would not know, frankly.

Looking at figure 9, the proportion of cases that have been stopped in magistrates' courts by the prosecution has gone up nearly three times. Is that a function of bad police files or is it something else?

Alison Saunders: Sorry. Which figure are you looking at?

Fiona Mactaggart: I'm looking at "Ended by the prosecution" in figure 9 on page 28 in the statistics for cracked trials. Late guilty pleas have been reduced, which is partly a function of legislation that makes it less rewarding to plead guilty late, but the number ended by the prosecution has increased significantly—I cannot remember where I found the earlier ones. It is 16%, which is an awful lot. Is that down to bad police files?

Chair: May I just interrupt? This is a really important point. A third of trials are stopped because of action by one of the criminal justice agencies. If you take the "Ineffective" figures from the top of figure 9 and add that to the 16% ended by the prosecution, you are talking about a third. That is an incredible waste.

Alison Saunders: There's lots of work going on around that, such as early guilty pleas scheme and transforming summary justice.

Chair: Just get on with it.

Alison Saunders: You are absolutely right that we cannot have victims coming again and again, because they then do not support. There is work around victim care units and ensuring that we deliver a proportionate service that victims want. We want to ensure that we do get them to court. One reason why we end a case is because victims or witnesses do not come to court.

Q64 Fiona Mactaggart: But we know that victims and witnesses will come if the trial is relatively soon. They will not if they have turned up once or twice before and have not been used or have been told to go away. It does not require a great deal of cleverness to know that. There is a reinforcement of badness if you do not look after those cases, which is one reason why I am a bit frustrated by Mr Lewis's saying, "I'm starting with the easy ones." I can kind of understand why that is very attractive as a management strategy, but if you just deal with the easy ones first and do not tackle the problem that is made worse by the fact that you have not dealt with it in the rather more difficult cases—and the ones that people care about more—it seems to me that you will end up with chronic problems.

Peter Lewis: One of the things that I hope I did get across is that just because we are doing the digital work does not mean that that is all we are doing. We have two other important and serious programmes that go to the heart of the issues that you have talked about, which are all about making effective trials in both magistrates' courts and the Crown court. We absolutely understand the corrosive effect on victims, particularly if they are called again to court. We also understand that actually appearing in court, in particular if you are the

victim in a domestic violence case, for example, is a stressful experience in itself. We are also looking at what we can do there through the greater use of video evidence.

Q65 Fiona Mactaggart: There is one simple way that you could save money in domestic violence cases, which is to suggest to all prosecutors that they ask the victim whether they want a non-molestation order as part of the criminal case, instead of expecting victims to go and get a civil order. That should just be a basic bit of CPS guidance.

Alison Saunders: It is.

Q66 Fiona Mactaggart: No, it's not. I looked at the CPS guidance today and it is not on your website as guidance for the prosecution in domestic violence cases. It does not happen in many of them.

Alison Saunders: Prosecutors are told in our training—all prosecutors should have domestic violence training which tells them—about ancillary orders to look for, which include non-molestation orders as well, if the case is proved and if they have the right evidence, for your point exactly: victims should not have to go and get a civil order if they have gone through a trial or there has been a guilty plea.

Q67 Fiona Mactaggart: Well, I looked at the guidance on your website, and it does not say that every victim should be asked if they want a non-molestation order, which seems to me a very simple piece of guidance to give to a prosecutor. Every victim should be asked. Not all will want it or need it, but every victim should be asked. That is not in the guidance at present, and I cannot understand why not, because it cost those victims £2,000 to go to a civil court, and it costs the taxpayer a huge amount of money to have a civil hearing afterwards. It is a no-brainer. It is a very simple thing to fix, and yet it is not being fixed.

Alison Saunders: I agree entirely. I will look again at our guidance, but certainly on the training, prosecutors are told to consider all sorts of ancillary orders if they get a conviction or a guilty plea.

Fiona Mactaggart: Maybe you should have a form which says, "Have you asked the victim?"

Q68 Chris Heaton-Harris: Can I ask about the quantum of cases at magistrates court? I do not know if you have got the figures for this particular time period in front of you, but how many of those cases were BBC licence fees not being paid?

Alison Saunders: I have no idea.

Q69 Chris Heaton-Harris: Does anyone keep a record of the number of licence fees that are not paid that result in—

Dame Ursula Brennan: We will have information on that, yes.

Q70Chair: But if you go to the general point, a third get lost in the magistrates court—33%, if you add in the ineffective ones and those ended by the prosecution.

Chris Heaton-Harris: A huge chunk of them in magistrates courts are actually BBC licence fees payers who have not paid. It is a massive number, which makes that percentage of slightly more complicated cases much bigger.

Dame Ursula Brennan: One of the things we are doing with magistrates—the traffic courts are one, and licence fees are another—is saying there are certain types of thing that do not really require everybody to assemble in a court and a whole load of stuff to be read out, when probably the person involved has not actually turned up. You can do it on a much more administrative basis. Grouping those things together—licence fees, traffic cases—is enabling people in the magistrates courts, as I said, to get through 100 traffic cases in a day, as opposed to something like 35 cases when they mix them all up.

We are working with the magistracy, as is the criminal justice Minister, Damian Green, to say, “We need to be focusing your efforts on the things that actually require serious judicial input, as opposed to doing processing stuff. How can we slim things down so that we use your time in a more efficient way?” That is one of the strands of the work that is going on.

Q71 Mr Jackson: Can I go back to the marketplace and the landscape around the procurement of contracts in the criminal justice system? There was a very interesting article by Sue Cameron in *The Daily Telegraph* within the last week about how some big companies are concerned about the politicisation of contracts, and the officials are probably concerned about appearing before the Public Accounts Committee. Do you think that events like G4S’s loss of one third of its share value in the wake of the problems last year have altered the culture at all? In other words, has it given a little more of a boost back to the person like yourself who awards the contract, rather than the contractor?

Dame Ursula Brennan: I think, whatever else it has done, it has made very clear that we will go after cases where we believe—

Q72 Chair: It is not where you believe; it is where whistleblowers tell you.

Dame Ursula Brennan: We have had this discussion before. We had actually started investigating this before the whistleblower came up. The whistleblower came to the National Audit Office, and Michael Spurr in NOMS was already working on this area and had already commissioned PWC. We agreed that we would put the whistleblower work with what we had already started. It was not the whistleblower who alerted us to this.

Q73 Chair: But it did take eight years.

Dame Ursula Brennan: I do not deny that it was not until we were reopening and examining the contracts for re-letting them. The scrutiny that we were taking in order to re-let the contracts was what brought it to light. Shortly after we did that, a whistleblower came separately to the National Audit Office. On your point on whether the balance of power has shifted a bit, I certainly think the supplier community is conscious that the amount of Government scrutiny of future contracts may be ratcheted up a gear. I think suppliers are aware of that, yes.

Q74 Mr Jackson: And that's good?

Dame Ursula Brennan: That's good.

Q75 Mr Jackson: It could be argued that it was win-win for them previously—even five years ago, and it certainly was 10 years ago—in that they made big profits but the collateral reputational damage fell on the Department and on Ministers. They could walk away. Do you think that has changed now?

Dame Ursula Brennan: First, I want to say that there has been an enormous amount of contracting with the private sector. First, I don't want everybody to be tarred, because not everyone is having a criminal investigation. Secondly, the taxpayer has made a great many savings out of the many kinds of contracts. We shouldn't forget that, either. Thirdly, has the relationship changed? Yes, and that is indeed a good thing. It is an improvement.

Chair: We have a quick vote. I think I am paired, so I am not going to vote. Can we come back in nine minutes?

Sitting suspended for a Division in the House.

On resuming—

Q76 Chair: We will call this bit, as Chris said to me before, “multiple small points failures”—things that we have picked up that you need to address. One that quite shook me was e-borders, which is a matter for you, Mr Sedwill. We had a hearing on e-borders a few months ago, and I understand that you have suddenly decided to terminate the entire e-borders—

Mark Sedwill: No.

Chair: That was evidence to the Home Affairs Committee last week.

Mark Sedwill: That was one of those occasions, and we all have them, when we look back at the transcript and think we might have put something slightly differently. Charles Montgomery wrote to the Home Affairs Committee to clarify the misunderstanding that was picked up in some of the media. E-borders has been incorporated into a broader programme,

which is the border systems programme. So all of the core capabilities that the original e-borders contract was going to deliver—you looked at the business case for it just a few weeks ago—are being delivered through a broader programme that is delivering other things, such as advanced passenger information to offload people who are a threat to the aircraft and who we do not want to come to the UK; the warnings index refresh; e-gates at Gatwick, Heathrow and other airports; exit checks; and the various technological solutions to look for various kinds of highly sensitive contraband. All of that is being done through the border systems programme. What Charles Montgomery was trying to say was that the project named “e-borders”—within the Home Office—was closed because the work was transferred into that broader programme. We no longer describe it as the e-borders programme.

Q77 Chair: What is the maximum you are going to write off on that? I know you are in negotiation, but how much is at risk?

Mark Sedwill: I will have to get back to you because I cannot remember the exact number. I think we have given it to you before, but I will come back to you in a note—

Q78 Chair: That would be helpful. These are things that, as you read through, you think, “What on earth is happening?”. Arising out of what Stewart talked about, how much do you reckon the police are currently spending on allegations of police corruption?

Mark Sedwill: Again, I do not know. I will have to come back to you.

Q79 Chair: Will there be a figure available for that?

Mark Sedwill: I doubt whether there is an aggregate figure. We could probably illustrate the cost of certain major investigations into it, and we could probably illustrate the cost of professional standards units, the IPCC and so on. We could get a reasonable proxy by aggregating those things, but I have never seen a figure with that headline.

Q80 Chair: My understanding is that in 2013 we lost a quarter of a million days in sick days in the police forces across the piece, which is 15% more than we had three years ago. Again, with declining resources, that is an inefficient and ineffective way of operating, and it says something about police morale.

Mark Sedwill: Yes, absolutely. Sick leave is always higher in operational organisations than in office-based ones; but you are right. Obviously, if sick leave is going up, it is one of the indicators I look at within any organisation, down to the team level, to see, is there a particular hot spot. Again, I do not know what exactly is behind that. We can let you have a note. Maybe I can give you an example of—

Q81 Chair: You are aware of it.

Mark Sedwill: I was aware it was rising. I do not know whether there is a detailed analysis of the causes of it. Some of it can be stress-related, in policing. That quite often arises. I was shown an example of where body-worn video actually managed to deal with a police officer who had had a stress-related illness, because it proved that a complaint against him was unwarranted, and he very quickly returned to work. I just use that as an anecdote of actually how it can—

Q82 Chair: It was ever thus. There will always be stress-related absenteeism; it is just if it goes up.

Mark Sedwill: I do not know how much of it is stress-related. I would have to come back to you with an analysis, if we have it.

Q83 Chair: And then a more general question, which is more landscape, arising out of it: why have we still got 43 police forces? What is the justification for that?

Mark Sedwill: The simple answer is that Parliament has not legislated to change it, to be frank.

Chair: It is an efficiency question, but it just seems a bit mad—

Q84 Mr Jackson: I suppose a more value for money-focused question might be what is the Home Office doing to encourage collaboration. To bring back my own local example, Cambridgeshire is working with Bedfordshire and Hertfordshire on back-office things, such as, I think, forensics, homicide, etc. I just wondered, with the exception of the sort of visionary chief constable or that even rarer beast, a visionary police and crime commissioner, what imperative is there for local police forces to work together to save money, to keep police on the front line?

Mark Sedwill: It is a really important question, this. I think there are two, really. It is efficiency and economy, if you like: with police budgets being squeezed, then they have no choice but to collaborate, particularly in the back office, as your three forces are, and Norfolk and Suffolk are, etc., in order to maintain front-line police numbers. There is a considerable amount of that around the country, both between forces, and their local authority, the fire service, etc. So essentially austerity is driving quite a lot of this.

There is also an effectiveness argument, as well, because it is not just in the back office that forces are collaborating; so some forces would now say, pretty much, that the only thing they do entirely on their own is neighbourhood policing; and crime teams, as you have suggested; forensics; but other—

Q85 Mr Jackson: Dogs.

Mark Sedwill: Yes, other services of that kind.

Q86 Chair: G4S, in this lot? They are quite a big player in this field.

Mark Sedwill: No, this is mostly just between police forces; so, for example, merging some of their criminal investigation capability, so that you have one murder team, etc., rather than every police force trying to maintain every capability.

Q87 Mr Jackson: Can I just give you an example why it has worked—it is a very pertinent example: the very distressing Dennehy murders, recently, in which the unfortunate victims were killed in my constituency. A senior police officer told me last week that that would have ground Cambridgeshire constabulary to a halt even five or eight years ago—the sheer volume of work around a serial killer in a small force; but because of the level of collaboration they were able to continue all the work that they would normally do and, of course, bring these people to justice. Would you agree that it hasn't actually impacted on front-line day-to-day policing—effective collaboration?

Mark Sedwill: I think effective collaboration, just as in that example, Mr Jackson, has improved it, because dealing with a serial killer would have sucked up resources in a small force before austerity kicked in; so it has actually improved the effectiveness of front-line policing, because you can have teams, even in smaller forces, that are more expert. They have a critical mass, and so on.

You asked what the Home Office is doing to encourage this. There are a couple of things. Apart from nudging and more general encouragement, there are certain areas, again in the back office, where we have essentially encouraged or mandated certain national frameworks. The air service is going to be a national service run by a lead force—West Yorkshire police. Fewer helicopters will be needed to support police countrywide because they can be deployed more effectively. We have talked previously about other collaborative frameworks in IT, and so on.

We also have the innovation fund, which we kicked off with the £20 million precursor fund last year. The innovation fund is £50 million this year, and to get money from it you either have to be using technology in policing, such as body-worn video, or be pursuing collaborative projects either with other forces or with other blue-light services. We are trying to make that the norm while leaving local autonomy for people to make their own judgments.

Devon and Cornwall, for example, is a police force that does not really have neighbours because of its geography, and it has a very dispersed population, particularly in Cornwall. It makes sense for the collaboration there to be with local councils and other bodies outside policing in the same area, because they face the same challenges. Elsewhere, such as in your part of the country, it makes sense for police forces to collaborate because the communications between them are relatively smooth. We are not trying to dictate, but we are trying to encourage it.

Q88 Chair: You have slightly avoided the question on the police forces. Are you thinking about the very broad landscape, or is it completely off the agenda? Charles Clarke tried hard to do it and failed.

Q89 Mr Jackson: Scotland is doing it.

Mark Sedwill: Scotland is doing it. I was up there recently, and Scotland has an interesting model, in the sense that it has gone up to a single police force, Police Scotland, and has also gone down. Instead of having the management organisation at regional level, which is what Scotland had before, it has gone down to divisional level. Police Scotland has 17 divisions instead of, I think, eight regions, and it has a police plan for essentially every local council, of which there are a couple of hundred.

Scotland has adopted an interesting model to deal with the particular challenges that it faces, which means, for example, that Police Scotland thinks it has the critical mass to deal with the Commonwealth games without needing to call on the kind of mutual aid that, say, Strathclyde police would have had to call on when it was a separate force. There are different models, and ultimately it is fundamentally a policy and political question. One of the reasons why the previous attempt at this did not prosper is because people don't feel a particular affinity with region south-west or region north, or whatever it might be, in the way that in Scotland there is a very clear affinity with Police Scotland, and the Scottish Government are able to provide close, democratic accountability. It is a very complex area, and it is an area for politicians. As a citizen, I am interested and I have an opinion, but it is ultimately a political matter.

Q90 Jackie Doyle-Price: Following on from that, the last meaningful reorganisation of police services was in 1974. Is that right?

Mark Sedwill: Probably, yes.

Q91 Jackie Doyle-Price: We went down to 43 police forces. The reality is that, as we see over and over again in the public sector, we end up staying with a structure for delivering a service while the world moves on. 1974 was before the wholesale use of computers. There has been a revolution in policing since that time. You are right to say that it is up to Parliament to decide the pattern of policing, but is it not less likely that there will be mature discussion about that now that we have police and crime commissioners?

Mark Sedwill: Police and crime commissioners have a range of views on that themselves. I have heard some suggest that they think the current structure needs reform. I do not think one should assume that there is a unanimous view among police and crime commissioners. In a sense, whatever Parliament decides about the overall structure of policing, part of the answer is the point that Mr Jackson was driving at. If you are able to drive more integration and collaboration not only in back office functions and administrative functions but in police capability functions, it matters rather less whether, in his region, you have a single force that calls itself east midlands police—or whatever it might call itself—or

three forces each associated with a county that has some kind of historical connection with the public. It is not simply about whether you have 43 or eight to go along with the ACPO regions; it is a much more complex story. I think we can answer part of the issue through the collaborative arrangements that we have been talking about.

Q92 Jackie Doyle-Price: But we do need to look at this from the perspective of driving operational effectiveness, and there is a role for the Department in doing that and highlighting good practice.

Mark Sedwill: There is. The College of Policing is doing that. You are absolutely right that we are seeking to highlight good practice. We have a force insight team now, which has a relationship with every one of the forces. It is important to remember that there are regional layers. You have the regional organised crime units, the regional counter-terrorism units, which are under the Department operationally, of course, but under regional leads and then under national co-ordination with the National Crime Agency and ACPO TAM on the counter-terrorism side. Some of that we fund directly; it is funded through the NCA. The police landscape, as you know—of course, there is a separate landscape review of the police landscape—is complex, and it has quite a lot of regional and national elements within it already.

Fiona Mactaggart: I am rather depressed reading the latter bit of this Report about the lack of progress on digital issues.

Chair: Fiona, can we come back to that? We have decided we are going to take that as our third thing. I will bring you in first.

Q93 Chris Heaton-Harris: This is one for the CPS representatives. Paragraph 2.9, which we have already discussed, says that some CPS units are considered properly resourced and practically managed by superiors and doing quite well. I just wondered if you have a percentage for how many that is. What is being done to help the others improve to that status?

Alison Saunders: We do not have a percentage, but we can probably give you one. We have had intensive management development training for all our managers in the service. We can see through some of our responses to things like the staff survey that we did last year that that has begun to have an impact. We also make sure that on a quarterly basis, we go through the performance of every single area and pick out good practice and those that are not doing so well, and see what we need to do to assist them to move up to the standard that they should be.

Q94 Chris Heaton-Harris: The last two sentences in paragraph 2.9 say that there are other issues that might cause problems for CPS systems, but that some of the work of the partners might mask the deficiencies in the effectiveness of your systems. How are you going about improving that?

Alison Saunders: What we have also done, which works with the consistency issue, is look at the way in which we operate across the country. We have gone into bigger units doing either magistrates court or Crown court work—more focus. What we have also done in relation to the magistrates court and are currently doing for the Crown court is to have standard operating practices, which means doing things in the best possible way rather than allowing people to reinvent the wheel in every single office. We have already started to roll that out across the magistrates court, which is beginning to have an impact as well on performance, and are doing it in the Crown court.

Q95 Chris Heaton-Harris: You mentioned earlier that a lot of police files are now transferred to you electronically, so I assume you have complete security and sight of where those go. When one of those leaks out into the wider world, what actions are taken?

Alison Saunders: If it was a leak, we would have an inquiry. Obviously, we disclose papers to the defence and the courts as well, so the papers will go elsewhere.

Q96 Chris Heaton-Harris: So if it is printed in a national newspaper, one might assume that that would be a leak.

Alison Saunders: Yes. If the papers go out, rather than evidence just being picked up in court, there is a leak. When you have a leak inquiry, you look at how that has happened.

Q97 Chris Heaton-Harris: And I assume it would be quite easy to trace individuals on that basis?

Alison Saunders: Yes. In our case management system, you can see who is logged in and who has looked at particular files, so there is a much greater audit trail than with paper files.

Austin Mitchell: My question is about the digital side of it.

Q98 Chair: Let me just deal with two other major issues. One is the legal aid issue, which Austin raised earlier. Somewhere in the Report—paragraph 2.10—it says that the Magistrates Association says that it is creating cost elsewhere. Are you monitoring?

Dame Ursula Brennan: We are monitoring.

Q99 Chair: Is there any truth in that?

Dame Ursula Brennan: It is difficult. The Report says, “unable to decipher the process for applying for legal aid”. We have been looking at legal aid in relation to family areas, where we have reduced it, but I must confess I am slightly puzzled by the “unable to decipher the process for applying for legal aid” point. I need to come back to you on that; I am not quite sure what that is about. In relation to criminal legal aid, that has not changed.

Q100 Chair: Okay, I have a couple of other questions on legal aid. Somewhere else, the Report talks about larger firms that have entered the market. Who are they—says she suspiciously. Is this G4S, Atos, Capita and Serco coming back in on these? I cannot believe it is the big law firms, because there is not enough money in it.

Dame Ursula Brennan: Some people have suggested that we were seeking to have larger firms in the market. That is not actually what we are seeking to do with our legal aid changes. Sorry, I misunderstood your point.

Q101 Chair: No, that is the second point. I made two points. First, I want to know whether there is any validity in what the magistrates are saying. Secondly—

Dame Ursula Brennan: That might have been in relation to family legal aid, rather than criminal legal aid.

Q102 Chair: “The Ministry expects consolidation of providers, and for some larger firms to enter the market.”

Dame Ursula Brennan: Right. If you look at legal aid providers, there are some big firms of solicitors and there are smaller firms that specialise in particular areas.

Q103 Chair: Okay. You are not thinking of Atos taking over and managing a contract and then employing legal aid practitioners, are you?

Dame Ursula Brennan: No, there is no expectation that that will happen.

Q104 Chair: Are you sure?

Dame Ursula Brennan: Well, I guess. I do not know whether Atos has expertise in this area. They would have to satisfy us—

Q105 Chair: No, they do not, but that does not stop them contracting all over.

Austin Mitchell: They probably employ the same doctors.

Dame Ursula Brennan: It might not stop them bidding, but they would need to satisfy us that they actually knew what they were about. The strategy in relation to legal aid is

that, in certain circumstances, what might happen is that we have said to the smaller firms, “You can group together.” You don’t have to say, “Only big firms can apply.” It is possible for smaller firms to come together to bid for work.

Q106 Chair: Okay. We will look at that with interest. I think we have covered it.

The only other aspect of this, Dame Ursula, is that you have introduced these alternative business licences. Is that another way to bring in—dare I say it?—the Atos’s and G4s’s of this world?

Chris Heaton-Harris: Do you have something against Atos and G4S?

Chair: I just want competition in the market.

Chris Heaton-Harris: I detect a theme.

Austin Mitchell: It is French.

Dame Ursula Brennan: I do not believe that was, but I confess that I am not an expert on alternative business licences.

Q107 Chair: Can you write to me about those two things?

Dame Ursula Brennan: Absolutely.

Q108 Chair: Can I go on to something else? I think Fiona might want to come in on this. It is a general question, again. It is about women prisoners. We had the Corston review ages ago—she did it from the House of Lords, so I do not think it was seen as highly contentious. I happened to look at bits of Vicky Pryce’s “Prisonomics”: I do not know whether you people have read it. Both those things make a compelling case about there not being effective use of public money to put mainly women who are proved guilty of a non-violent offence into jail at a hugely expensive—according to Vicky Pryce, £56,415 per year, as compared with an equivalent community sentence of just £1,360. Whether her figures are right or wrong, I leave for you. Should not we be dealing with them differently? It is not working, how we are doing it.

Dame Ursula Brennan: There is a strategy for women prisoners. There are many fewer women in prison. That in itself brings a problem, in that when you have them in prison you need fewer prisons for women and they end up being further away from their homes. An enormous amount of work has been done on alternatives to custody for women, but some of it does come back—

Q109 Chair: I know. I was just pointing you to the Corston review from 2007. Basically, she said—

Dame Ursula Brennan: Yes, indeed. We did produce a response—the Department has produced a response to that.

Q110 Chair: What does that mean? Are you acting, rather than just issuing a bit of paper?

Dame Ursula Brennan: No, there are—

Q111 Chair: The only other thing is that the two open prisons for women are both being closed.

Dame Ursula Brennan: That is partly because it is a good thing that we need fewer women—

Q112 Chair: But not in open prisons, and they are not violent and you do not want them to reoffend. The whole thing seems a bit—

Dame Ursula Brennan: The reduction in the number of prisons for women is simply because the female prison population is coming down.

Q113 Chair: But not open prisons, Dame Ursula. You are closing the only two open prisons, and given that women—on the whole, if Vicky Pryce is right—are non-violent, with 81% of women jailed for a non-violent offence, I would have thought that an open prison, with all the resources there, would help you to resettle people so they do not reoffend. That would be sensible and cheaper, yet you are closing your only two facilities for women.

Dame Ursula Brennan: We need to give you a note on this. There is a strategy in relation to women in prison, and in relation to trying to manage the decline in the volume of the number of prisoners, the type of offences that they are in prison for and where it is best to hold them, and the increasing use of non-custodial penalties for women prisoners. But maybe the best thing is if we gave you a response.

Q114 Fiona Mactaggart: Indeed. The difficulty is that the training prison vision is actually a vision based on male patterns of offending. Finding appropriate non-custodial mechanisms to manage the behaviour of women who have offended is necessary, because if one ends up putting them in prisons and the shrinking number of those prisons means that they are further and further away from their children—most of the women in prison are mothers—there are really expensive social consequences from that. They can be dealt with by the women's centres, but the investment in the women's centres—while moving money that people do not think exists from something that is more expensive to something that is cheaper—is always difficult to do, and I completely understand that.

However, if women's centres received resources to provide alternatives to custody for those women, it would not only cost your budget less but it would cost massively less in the Department for Education, which is dealing with the problems that children develop while their mothers are in prison. Getting this right is a real value-for-money issue, and while Corston was looking at the vulnerability of women in the prison estate, she did not look, as Vicky Pryce's book did, at the economics of it particularly; that was not her brief. Nevertheless, there is a real opportunity, through shifting money from the custodial estate to community-based corrective initiatives, to save money for the taxpayer in about three different ways. If you could give us a note on how you are doing on that, it would be very nice.

Dame Ursula Brennan: We can certainly give you an update on our progress on that.

Chair: Okay. Let's now move to IT.

Q115 Fiona Mactaggart: The thing that depressed me about this is that I was once responsible for it in the Home Office, about eight years ago. I could have easily said, "Creating a digital CJS is a ministerial priority", because it was. It seems to me that we have not really moved forward at all, and that we have a situation where one of the priorities is to get a paper-free courtroom, yet when you look elsewhere in the Report it says that prosecutors find that digital files are much harder to work with than paper ones. We cannot transfer information from the police to the courts; we cannot transfer information from the magistrates courts to the upper courts. It's scarily backward.

Peter Lewis: Can I explain what we have done, because we have made some progress? We have not finished the job by a long way, but we have made some real progress. First, the police service now transfers 90% of all its case information to the CPS digitally; it started with zero. That has been done in the past two years. It is a big step forward. We have got to finish the next 10%; that is going to be difficult, but we have plans on it.

All the information that the CPS gives to NOMS to prepare reports is done digitally. All the information that the CPS gives to the magistrates court is done digitally. In a magistrates court, 75% of all cases are dealt with by a prosecutor from a laptop device. These are real changes that we have made in a relatively short period of time and that defeated us before.

This is just laying the ground rules for what takes place next, but we have already secured funding from the Treasury to change the court experience. We have five contracts coming up over the next 18 months that are going to change what it is like in court. We have already secured the money to put wi-fi in every court room in the country and hope to let the contract later this year. We have a process that will put big screens in court, so that we can show prosecution material in court. That is real and will be happening within that period of time. We also have longer-term plans to sort issues out through what we call the "common platform", which is referred to in the Report. We have done a lot, but we have not finished the job.

Q116 Fiona Mactaggart: We did not quite call it that, but the common platform was part of the story in 2006, which is eight years ago.

Peter Lewis: We made a mistake in the past by looking for these big-bang approaches, which have caused real problems within Government. We went about this in a completely different way, learning the lessons from before. The first thing we did was to join up everything to make the most of it. The second was not to let big contracts, particularly with what we are doing in court. We will let smaller contracts with known products to do simple things that will make a difference. We are even looking at the common platform in a different way. We are reusing information that we already have to try to make it a process of sensible steps that take us where we need to go.

Q117 Chair: May I just read something from the *Evening Standard*? “Police officers have to enter the same information into ten different computer systems while it takes others 30 minutes to log on their computers... about 70 per cent of the Met’s IT system is redundant while 85 per cent of its IT budget is spent on just ‘keeping the lights on’.” That does not sound like massive progress to me.

Mark Sedwill: A lot of that is within the police rather than between the police and the rest of the criminal justice system.

Q118 Chair: But if it is within the police, how do they communicate?

Mark Sedwill: A lot of that will be not specifically about the transfer of case files and so on. The Met has over 300 IT systems, which I have mentioned previously when before the Committee to discuss IT. It is very fragmented and much of it is old fashioned. Many police forces have not been able to upgrade some of those underlying capabilities.

Q119 Chair: How can they communicate with the court system? I do not understand that.

Mark Sedwill: Because the case file is a subset of that.

Peter Lewis: We are directly working on the links between the main police systems and our systems—the CPS system and the court system. In parallel with that—this is the issue that you are referring to—how do police officers on the beat get information simply into these old, creaky police systems? That is a separate piece of work for which I am not directly responsible, but I can say that the Met in particular—I have had a recent update—are actively working on that now. Their idea is to look at what can be done with modern technologies, such as iPads, so that police officers can actually take statements while on the beat. If you add that to the simple files that we are creating, you can see how that is possible now.

Chair: We had that when we looked at the issue. When did we look at this?

Mark Sedwill: We are not going to do it that way.

The police system that will plug in to the common platform is called the criminal digital information store, which goes exactly to Peter's point about having systems that are interoperable rather than trying to create a single massive system, partly because only a subset of the information that police would record on that would turn into a case file that would go forward into the criminal justice system. As it develops, that will include, for example, clips of body-worn video.

I saw this being piloted down in Hampshire just last week, which is one of the digital pathfinders and one of the few forces that really did get the BlackBerrys right, about which Amyas was just reminding me. Exactly as Peter is saying, they are changing how police officers on the beat make use of the technology, so that they do not have to return to the police station and write things up in their notebooks—all of that. They are able to take a statement while either standing or back at their car and to streamline their whole process of recording evidence that can then be used in the case file. There are about half a dozen pilot forces that are looking at this. There are slightly different variants, because that, again, makes sense, but it will all be to a common format, will all be interoperable and it will go through the criminal digital information store and into the common platform.

Q120 Jackie Doyle-Price: Hampshire have been leading the way for quite some time, haven't they?

Mark Sedwill: They have.

Q121 Jackie Doyle-Price: We had them before this Committee—it must have been a good couple of years ago. In terms of pushing out best practice, why is everyone not following Hampshire's lead when they are so far ahead of everyone else?

Mark Sedwill: This was the lesson we learned. The very first time I appeared before this Committee, we looked at mobile technology in policing. It was about BlackBerrys and exactly the same thing had happened. Hampshire had done well and we did not really have a mechanism to roll that best practice out around the rest of the country, which is why the benefits countrywide were much less than the benefits that Hampshire had demonstrated.

There are two or three things in this area. First, there is a very strong pull in this area from the criminal justice system, which of course, is more uniform than policing in the capabilities that they can deliver. There is a very strong pull for the police to use that kind of technology. There is more awareness of it, and we also have the College of Policing and the inspectorate. The college are responsible for identifying best practice and promulgating it. They have a website called POLKA—the police online knowledge area, which is designed for blue-light services to enable best practice to be spread, and of course, the inspectorate will inspect against it and now publish profiles of value for money in different police forces. The mechanisms are there—there is a national policing lead on digital; Chris Eyre, who is one of the SROs for it—but in the end, we do have to permit forces local autonomy. They need to decide what is best for them in the circumstances they face.

Q122 Jackie Doyle-Price: We dip in and out of this subject, but it was blatantly obvious to us that Hampshire had embraced this as a transformational tool. If we can see it on the basis of an hour in front of the Committee, why does the rest of the police service not get it?

Chris Heaton-Harris: Is there not meant to be some sort of cultural buy-in from you at the top to force this down the system? I do not want to be overly critical, but one of the things that came out of the Report is that there are all these bits happening, and there is good practice and bad practice. There seems to be not a complete lack of leadership, but a lack of dynamic leadership at the top driving the ethos of these sorts of changes that are happening in the Home Office, in Justice and indeed, in the CPS—all the way through the system. It is your responsibility at the end of the day.

Mark Sedwill: Up to a point. Where we have levers—the innovation fund, the funding mechanism, and our own interaction with forces and police and crime commissioners—we use them. The College of Policing was established for precisely that purpose. With a federated model of policing, which is locally accountable—previously to authorities, now to police and crime commissioners—it is up to them to decide what best suits local needs. The needs in a rural county, for example, where it can take 40 minutes or an hour just to get from place to place are different from the needs in a metropolitan area. In the end, the localist model of policing that we have always had, reinforced by police and crime commissioners, is designed to encourage forces to make the best judgments they can locally without our trying to drive a particular solution from the centre. However, we use the levers we can and I have described some of them.

Q123 Fiona Mactaggart: But the Ministry of Justice does not have to depend on such rubber levers when it comes to, for example, the prison service—it has rather more direct ones—and yet, paragraph 3.11 of the Report states that P-Nomis, which is the prisons case management system, simply cannot record the progress, training and so on that prisoners do while they are in prison. In an era of looking at reducing reoffending, that seems to me to be an absolute no-brainer. Why can't it? Ursula, you do have direct levers don't you? You could just pay for it—if you had the money.

Dame Ursula Brennan: If we had the money, yes. There are things that one can do if one has the money. There was a problem with P-Nomis. One thing that happens with these IT systems that are built up over time is that they are designed for a particular purpose and then later on you think, “If we captured that information, we could share it with other people.”, but it is difficult to be able to do that. Across the criminal justice system we now have recognition that wi-fi enabled locations and systems that have some common standards that enable them to share data are going to be the best ways to enable us to do that.

P-Nomis is part of an era when we attempted to design systems that captured a whole load of stuff. We came along later and said, “What a pity it was that they didn't capture some other stuff. Let's spend some years readjusting them in order to capture it.” We are on the cusp of being able to move to an era when, with web-enabled technology, we can simply plug things into a more standard set of products and we do not have to say, “We enforce this across the piece.” The leadership of the work going on around digital technology and the CJS is led jointly by Peter Lewis; Peter Handcock, from the Courts and Tribunals Service; and by

one of your colleagues, Chris Eyre, from ACPO. There is therefore leadership from all three organisations coming together to say, “Let’s stop having big case management systems in different places and have an integrated approach.”

Q124 Fiona Mactaggart: Those organisations do not include the Prison Service. They do not include NOMS.

Dame Ursula Brennan: They do not include NOMS, and that is partly because this is about the court-end of the business. In relation to NOMS and the work in relation to P-Nomis, we are addressing that much more in the context of the information flows that we will need for the transforming rehabilitation programme, in which we are designing the ability to say that information about the prisoner in prison can go through the gate to the provider.

Q125 Austin Mitchell: All these developments are very good to hear. It is encouraging, but the report belies Mr Lewis’s optimism about things as they are at present. It says at paragraph 2.7, item 5, that, “cumbersome IT systems significantly increased the time required for CPS staff to process work digitally compared to using paper forms.” It then says at paragraph 3.10 that, as Fiona indicated, “police custody records, incident logs, and crime reports, although already available electronically, cannot be similarly transferred to the prosecution, due to limitations in police IT systems.” The next paragraph repeats the point made earlier: “it takes significantly longer to process work digitally rather than on paper, including basic activities”.

Paragraph 3.11 says, as Fiona has said: “Ten years after magistrates courts and the Crown Court were brought together in the same service, it is still not possible to transfer data automatically between them.” Paragraph 3.11 point 2 says, “The National Offender Management Service is testing a new online facility to arrange prison visits. It still faces the challenge of directly linking to existing prison systems...The prisons case management system, P-Nomis”—we’ve just mentioned that—“has little capacity for holding and sharing information about the education and training”. Here you have a series of different organisations with different computers, and they are not speaking to each other in the same language as effectively as they could. I do not see what you are going to do about it. You say that you will arrange earlier and easier communication, but wouldn’t that demand a wholly new system? That produces the danger of overselling by consultants. You could finish up with some kind of health service monster.

Peter Lewis: Can I just address some of the issues that you rightly pointed to, which are some of the problems we had? We started this process with the existing IT systems that were designed for another age. We decided we would not wait to fix all of them before we started work. We thought it was about time somebody took the first step forward. Our first step was, “Make the best of what you have now.” What we have discovered from that is that there are a huge number of advantages we could get immediately by doing that, but we weren’t solving some of the problems.

One of the examples quoted is the CPS. Working digitally has saved us an enormous amount of effort, but it gave us one extra job we did not have before, which was creating the digital bundle that we use in court. We decided that it was better to get on with that, accept that it was not perfect and do something to make a difference, rather than wait until we fixed it.

We are trying to fix all these problems as we go along. We are still confident that we can do more with what we have got, and I know we can solve part of the CPS problem. But the real answer is the common platform—having one database that is going to be very simple.

Q126 Austin Mitchell: Are they fixable without massive expenditure?

Peter Lewis: We are finding a way through most of the problems we have. We had a problem getting the record of somebody's previous convictions sent electronically, but we have solved that. We had a problem with digital witness statements, and we have solved that. What we are doing is an incremental process, in which we are trying to knock off each of the problems rather than stopping and waiting until we have solved the lot. We thought that we could make progress now, and also we needed to get used to the culture of working in that way. The real transformation will come when we have just one set of data that we all use, one evidential database that all the cases are lodged in and one case management system that we can all use. That is what we are building next.

Q127 Chair: If Richard Bacon were here, he would wax lyrical about your inability ever to get there. There are 2,000 separate systems in the police. You will never get it down. They can at least talk to each other—Amyas, that is probably the point you were going to make.

Amyas Morse: I guess so—or perhaps I could go even a little wider, if I may. You are doing all the good work you have outlined, and I do not want to say anything negative about it, because it all sounds good, practical and sensible. But I am wondering whether you have a clear idea of it—whether you can see the whole picture and how it is supposed to connect up. Imagine how heartbreaking it would be to do a lot of this good work and then find you still had the same level of failures, roughly speaking, as you have now, because you had not taken into account some of the other points that have made those trials fail. You have some things under control, but not everything.

I am not trying to stop you in anything you are doing. But the reason for describing this as the justice system is because there are things that are clearly interdependent. If bits fall out, the whole thing clunks to a halt and doesn't happen. We have already heard about just how damaging that is to some of the people who are involved in it. I am not asking you to boil the ocean and look at everything, but is anyone looking at the bits that are interdependent with an understanding of what matters most, what the priorities are and how to plan this? While you are doing all your step-by-step work, is someone looking at it from a general's point of view and guiding how it all comes together? I would really like to know. That is important and it is important for us to see how it plays out in future.

Dame Ursula Brennan: I think that there are two things to say about that. One is that we talk about the criminal justice system, but these are bodies that have a constitutional independence and separateness that is really important. It is important that police, the prosecutors and the judiciary are not the same thing. They have a specific separateness. That sometimes causes difficulty, but it is important that they have a different focus that they bring to this. It is not simply about whether we can meld them into some sort of joined-up thing.

There is a Minister overseeing this, who is Damian Green. He is a joint Minister in both the Home Office and the Ministry of Justice, and he chairs the criminal justice board. It is that board that says, “Let us look at all the things we need to do.” We have been talking just now about the technology stuff. You can do all the technology in the world and address all those technology issues, but if you do not address some of the issues about the way the rest of the system works, you will, of course, ensure that the data are right when they get there, but you still will not have solved some of the other problems.

One of the reasons why it is important that the Lord Chief Justice has recently appointed Sir Brian Leveson to lead a piece of work about streamlining the criminal justice system is because some of what has to happen in that system is for judges to be able to say, “We are not going to have repeated hearings without the work being brought together.” He is now leading a piece of work. So what you have is, on the one hand, the technology to say, “When the stuff goes there, it is in the right shape, and we are not adjourning for lack of data”, and alongside that, the judiciary leading a piece of work to streamline and get the prosecution, the police and the defence—it includes defence barristers and solicitors as well—to work together.

Amyas Morse: That sounds great. The only question I have is: saying what should happen does not get it done.

Dame Ursula Brennan: No.

Amyas Morse: What I have not detected yet is the integrated actual planning. In other words, that’s all great, and I recognise that they’re all terribly separate and everything must be independent, and I am not trying to argue about any of that. I am just trying to ask this: are you satisfied that you have everything balanced and in control, and that you clearly understand how the components are all supposed to work together? Is that where we are going to be? If so, when are we going to be at that point?

Dame Ursula Brennan: As I said, there are separate players in this game. Therefore you are never going to get someone who owns the whole of it and is able to say, “You do that”. One of the places where a number of these strands come together is in the courts, and the most powerful person there is the judge. The ability of the judiciary to have said for themselves, “We want to take leadership and ownership of making that work” is a significant step. That is the opportunity to do something quite powerful.

Where there are other places where people can come together, as Peter Lewis was describing, in the criminal justice board, where you have agencies, you can say, “Let us share our approach to this. Let us agree on what the common set of data and the common processes are.” Yes, you can make that work, but I would not want to say that at some point, we will

have a kind of criminal justice supremo, sitting there masterminding the entire thing. The judiciary would point out that doing that would be constitutionally dangerous.

Amyas Morse: That was not what I was asking anyway.

Dame Ursula Brennan: Indeed.

Chair: Okay. Thank you very much.

ⁱ Note from witness: Although both Dame Ursula Brennan and Mr Jackson referred to the Sentencing Guidelines Council it was abolished and replaced by the Sentencing Council, which is what they meant.