

Public Accounts Committee

Oral evidence: Managing and removing foreign national offenders, HC 708

Wednesday 5 November 2014

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Members present: Margaret Hodge (Chair); Mr Richard Bacon, David Burrowes, Jackie Doyle-Price, Chris Heaton-Harris, Meg Hillier, Mr Stewart Jackson, Mrs Anne McGuire, Austin Mitchell, Stephen Phillips, John Pugh, Nick Smith.

Amyas Morse, Comptroller and Auditor General, National Audit Office, Gabrielle Cohen, Assistant Auditor General, National Audit Office, Louise Bladen, Director, National Audit Office, and Richard Brown, Treasury Officer of Accounts, were in attendance.

Witnesses: Mark Sedwill, Permanent Secretary, Home Office, Mandie Campbell, Director General—Immigration Enforcement, Home Office, Michael Spurr, Chief Executive Officer, National Offender Management Service, and Steve Rodhouse, Deputy Assistant Commissioner—Specialist Crime and Operations, Metropolitan Police, gave evidence.

Q1 Chair: Welcome. I am sorry we are a little late in starting. We have a huge amount to get through this afternoon and there is a lot of interest from all members of the Committee. We will try to keep our questions short, and I will be really grateful for very short, direct answers. If I feel the session is going on to another subject, I will interrupt. If we can keep it short and direct, we might get through it in a decent time.

Let us turn to paragraph 4 of the summary. The Report is agreed, isn't it, Mr Sedwill?

Mark Sedwill: We cleared it, yes.

Q2 Chair: In the polite way that these Reports set it out, paragraph 4 states: "Overall progress since 2006...has been slow despite increased resources and tougher powers." Why?

Mark Sedwill: It is one of the most complicated areas of Government activity. The Report acknowledges that. People of course seek to evade justice and seek to evade being deported or removed from the country at the end of their sentence. We can go through some of those issues. I agree that, over the eight years since 2006, progress has not been fast enough. We have made significant improvements to that in the last 18 months/two years since the National Security Council took an interest, and it has become a genuine across-Government strategy. Again, we can talk through the various elements of that, but I agree with the basic point you make that over the eight years we should have been in a better position than we are now.

Q3 Chair: In 2006, the Secretary of State lost his job over this issue on the back of a Report from this Committee and hard work from Richard Bacon. So you would think that it would not take until now for you to come and tell us that there is going to be jam tomorrow, particularly with 100 people working on it before, and now 900 working in the area—a ninefold increase in the number of people there. It seems as if it is impossible to deport anybody. That is what it feels like when you read the litany of failures that are set out in the Report, which is agreed with you.

Mark Sedwill: You have touched on two issues there. First, the increase in staff. Most of that increase came in the early years after the 2006 crisis. We can go through those numbers, or I can write to you with the detail if you wish.

Q4 Chair: From 100 to 900.

Mark Sedwill: But that is not an even increase. It was up, and it has essentially been level for the last few years. That is a secondary issue. You are right that we have increased the amount of resources. That has come at the same time. In the last few years there has been a huge increase in the number of appeals by foreign national offenders—a 28% increase in the number of appeals by FNOs—and that is part of the reason why we have sought to reduce their appeal rights. We have sought to reduce the number of appeal opportunities, enabling us in the most serious cases to remove them from the UK before they are able to lodge their appeal. That has only come into effect with the new Immigration Act 2014. The early data is promising, but of course it is very early data. Again, we can share some of that with you, but it covers only the last few months.

The other point worth making is that the policy framework makes a big difference, so the upcoming vote on some of the European data sharing is an important element, too. But as I say, I think we have made progress. It is not just jam tomorrow; there is a certain amount of jam today. We have increased the number of removals in the last year by over 500, from 4,600 to over 5,000, and the reduction in appeal rights is already having an effect. We hope to see further improvements both from that and from co-operation with our European partners to try and prevent more criminals getting into the UK in the first place, and we hope to make it easier to remove them if they are here.

Q5 Chair: I think I need to put it on the record that that does not seem to be a sufficient explanation of the failure to improve performance, given the massive additional resources that have been invested by the taxpayer in what is a hugely important issue to all of us and all our constituents. There has been a 900-fold increase in resources and you are only now beginning to talk about future improvements.

Let me just take you to a couple of figures and then I will pass the questioning to my colleagues. May I take you first to figure 14, which details the failed removals? I want to quarrel with your definitions, because you say that whether someone has an escort is outside your control. That is entirely within your control.

Mark Sedwill: May I pass over to Ms Campbell or Michael Spurr to answer that detailed point?

Chair: Quick and short.

Mandie Campbell: If you look down this list, you will see that some of the things that are deemed to be inside and outside of our control are interchangeable. There are things in the first block that we say are in our control, such as getting a travel document from an embassy, which we can apply for in plenty of time and not get. For others in the latter half of the table, one could argue that we could do more, which could be within our control. We might have booked the escort from our contracted company, but the escort may not show up because of other conflicting—

Q6 Chair: I bet you do not have a clause in your contract that ensures a sanction against the escort. I do not want to get deviated on this, but—

Mandie Campbell: There is a clause and we apply service credits and funds from the contract if that happens.

Q7 Chair: The reason why I quarrel with that, and with the fact that you cannot book the flights, which seems basic and within your control, is that if you were to put them in the top, you would find that more than half of the reasons why you fail to remove are within your control. They are in your control. It is not about people appealing, which you have tightened up. The reasons are within your control.

Mark Sedwill: The basic point is that we need to address everything on this page and not just focus on those that are within our control and—

Q8 Chair: Of course, but if they are in your control, since 2006, when Richard Bacon and others drew massive public attention to this problem, you should have ruddy well sorted them out. You might not have got everything 100%, but to see so much failure on the part of the Department is just awful.

Mark Sedwill: Madam Chairman, I am not going to defend that. There are administrative failures and gaps and difficulties in our system that we need to fix. That is absolutely correct.

Q9 Mr Bacon: The point of figure 14 is that it describes the conversation that you had with the National Audit Office when it was writing this Report, in which you said, “There are these things that are within our control, but you have to remember that there are these things that are outwith our control.” The numbers reflect that conversation. 523 of the cases relate to things that are within your control, in your view, but 930 cases involve things that are, in your view, outwith your control. The NAO has just reported what you said in that conversation. Yet the things that are in the list are apparently outside your control. “Nothing to do with us, NAO. It is nothing that we can control.” “Nothing to do with us” is a terribly tendentious phrase; I am sorry. But “Disruption”? The list describes disruption as “FNO became disruptive at place of detention”. Why can’t you control that? Why do you expect us to take this seriously after all this time?

Mark Sedwill: Ms Campbell has tried to answer the point. We are not saying that this is entirely binary in the way that you were just describing. We want to try to address all of these factors. Frankly, we should have done better on some of them, which is absolutely right. I will not defend the fact that we failed to book a flight when we should have done, which is quite clearly an administrative failure that should not happen. If you look at flights in the bottom half of the list,

people can become disruptive and operators can refuse to transport them. That number includes both those categories. As Ms Campbell said, there is a degree here to which some categories overlap the two. My interest is in—

Q10 Mr Bacon: My point is that in the conversations with the NAO that led it to write this Report, you were obviously describing these things as being outside your control. Otherwise, the NAO would not have produced this chart in the manner that it did. It was a sort of “Hands off—we cannot do anything about it” kind of approach. That is what I cannot understand. Now you are saying something different.

Mark Sedwill: I don’t think that we are. Because of the kind of the conversation that we had with the NAO, they have been defined into two categories. That does not reflect how we handle them. Saying that something has been categorised here as outside our control does not mean that we are taking a hands-off approach, nor that we just regard this as something that we should forget.

Chair: By saying that it is outside your control, the attempt is to say, “It’s not our fault.” What this conversation demonstrates is that most of this is within your control and most of it you have failed to do. Some might be excusable, but the enormity of what you have failed to do is inexcusable. I think that is where we are at.

Q11 Mr Jackson: If you look at page 32 of the Report, you will see a detailed breakdown of some of the most egregious examples of your Department’s maladministration and incompetence. It says, “Unnecessary delays in starting cases”, which is a very important point. That rule could be changed; it seems to be prescriptive. It seems that, as a result of one judicial review, you have decided that the rule is that you do not look to prepare foreign national offenders for deportation because of an arbitrary date. The Report also says, “Inefficient FNO information gathering”, which is pretty damning. Under “Processing delays” it says that 38%—of a small sample, admittedly—“had avoidable processing delays, including 7 where the Department did not work on the case for an average of 76 days, and a further 6 cases where delays were caused by administrative errors.” All this is within your control. Who is line-managing this?

Mandie Campbell: Perhaps I could just come in on that. The 18 months issue was the result of a court judgment that said that it would not be appropriate to consider people for deportation until 18 months before the end of their sentence, because circumstances change.

Q12 Chair: When was that overturned?

Mandie Campbell: We brought in a new immigration Act that made deportation automatic from the beginning of 2008.

Chair: It was overturned in 2008?

Mandie Campbell: Yes.

Chair: We are now at the end of 2014.

Q13 Mr Jackson: So you have taken six years to completely ignore the new circumstances and you are relying on a judicial review.

Mandie Campbell: Not at all.

Q14 Mr Jackson: Well then, why haven't you changed the rule? Why are you not flexible in order to facilitate the removal of foreign national offenders?

Mandie Campbell: We do consider for removal all foreign nationals who meet the criteria for deportation at the earliest point that we can. The Report reflects that 37% of them are now removed within their early release period. The 18-month period reflects a certain category of offenders who were sentenced before 2008. A very small set of offenders are within that block, but the Report does not go into all the detail.

Q15 Mr Jackson: No, it says: "The Department applies this to all cases, but only needs to do so for cases sentenced before 1 August 2008." You have agreed the Report—are you saying that it is wrong?

Mandie Campbell: No, I am saying that since the new immigration Act we will automatically move to deport people from the date of that Act coming into force.

Q16 Mr Jackson: No, we are not talking about future actions; we are talking about what you are doing now. The Report that you have agreed says that you are applying this prescriptive rule, which arose from a judicial review, to all prisoners. Is that or is that not the case? Do you disagree with what is in the Report?

Mandie Campbell: I don't disagree with the Report. The prior judgment was about the changes in circumstances that can take place during the course of a prison sentence, which mean that you should take the most relevant and up-to-date information into account when you make a decision to deport. We have maintained the 18-month period as a trigger point so that we know that any information after the 18 months and towards release of sentence will be as current as it can be. That is a proper basis on which to make a deportation decision. All that has been overtaken by the most recent legislation, which now means that when we make a decision to deport we give the individual a very short period in which to indicate any circumstances that would require us to consider not deporting them. Otherwise, we will proceed to a deportation.

Chair: Okay. I don't think you have answered the question. All the evidence in the Report demonstrates that if you started everything earlier, you would be more successful in the policy intent, which is shared throughout this Committee Room. You are still deliberately not starting until 18 months before someone's conviction comes to an end. Stewart Jackson was trying to get out of why he has not had an answer. I want to move on to one other thing—

Stephen Phillips: Hold on, Chair. I can see Mr Sedwill shaking his head and I think Mr Jackson is entitled to an answer to his question.

Mark Sedwill: The point I wanted to clarify is that, if you look at what it says there, it is 18 months before their earliest removal date.

Chair: Yes.

Mark Sedwill: So, the point Ms Campbell is making is that, if you start a case a long period before the earliest date before we can actually remove them, circumstances might change and therefore you have to do the case again.

Q17 Mr Jackson: What circumstances?

Mark Sedwill: Their personal circumstances can change. That was essentially what the judge—

Q18 Mr Jackson: You have got them incarcerated in the prison estate. What circumstances change? They are not changing gender. They are not going on holiday. They are not getting a job. I mean, what circumstances change? That seems to be not acceptable as an answer, in terms of where you want to get to, which is to remove them as expeditiously as possible. I could ask you, en passant, why you send them a 50-question form to fill in and then don't ensure that they all fill it in.

Mandie Campbell: That has been changed. That is one of the key changes that have been made with the new immigration Act. That no longer happens.

Chair: But why didn't you—

Q19 Mr Bacon: Can we just stick with this question, because I am puzzled by this? What are the personal circumstances? While they are sitting in jail eating their porridge each morning—

Mr Jackson: Filling in their 50-question form.

Mr Bacon: Although we know that only 9% of prisoners have daily access to porridge. I got the statistics from your Department on an earlier occasion. What is it about their personal circumstances while they are sitting there each day that changes sufficiently—other than that they are getting a bit older—that would lead a court to deem that they have a greater right not to be deported than they did, as it were, the day before?

Mandie Campbell: This is a matter regarding specifically European nationals, because the offence itself is not sufficient. We have to apply a public policy test, under European legislation. Therefore, if prisoners are being rehabilitated within the prison system, we have to take into consideration the degree of rehabilitation that has taken place when we are applying the public policy test.

Q20 Mr Jackson: When has rehabilitation been tested in the European Court of Justice?

Mandie Campbell: I am not aware.

Q21 Mr Jackson: No, because you are gold-plating the free movement directive, that is why. You are putting the free movement directive and European legislation before taxpayers' interests.

Let's be honest: that is what you are doing. I am not an expert, but I have read the free movement directive. There is nothing to say on public safety—public policy grounds—that they can be removed. If there is then a legal precedent set that you have erred in European law, that is a different matter, but you are gold-plating now and that is costing the taxpayers money. People who should be removed to places like Lithuania, Latvia and the Czech Republic are not going, because of your activities.

Mandie Campbell: This is about consideration of the case before the earliest release point. As I mentioned earlier, 37% of people are now removed within that period. There will be a group of prisoners who will never be able to be removed within that period because, for example, they are from countries where we do not have a relationship and we can't get travel documents.

Q22 Mr Jackson: No, let's go back on the European Union. You brought up the issue of European Union nationals. How can they sanction the behaviour of the Home Office and the Ministry of Justice from the European Union if no legal precedent has been established? You are making a value judgment as to rehabilitation. On what basis are you doing that? You should remove them and assume that you are complying with European law rather than saying, "We have to take longer because their circumstances have changed." It is the typical, same old British civil service approach—gold-plating European law and European regulations.

Mandie Campbell: Perhaps I can answer that. Of a cohort of individuals who are in prison, about 45% of foreign national offenders are European nationals. Of the cohort of foreign offenders, two thirds of them now are sentenced to sentences of less than 12 months, so we are focusing our efforts on the people who have quite short sentences to make sure that they are not released from prison before the end of their release period. We are working from the release period back to make sure that we catch all the short-sentence offenders and that we can consider them before they are released. Of course, we want to move as far back in the system as possible, but that is not always possible when somebody has only had a 12-month prison sentence. So two thirds of foreign national offenders in prison now are there for sentences of 12 months or less.

Q23 Mr Bacon: What in their personal circumstances has changed that means that they are more liable not to be deported than hitherto? You babbled on—I am sorry, you talked about rehabilitation. Are you saying that their personal circumstances have changed in that they are somehow more able to be rehabilitated than they were before or what?

Mandie Campbell: That was the specific judgment that caused that 18-month threshold previously—it was the case of Chindamo—and it was in relation to a young man who had committed an offence.

Q24 Mr Bacon: Can you remind us of the offence you are talking about? Was it a serious offence?

Mandie Campbell: It was a serious offence.

Q25 Mr Bacon: What was it?

Mr Jackson: The murder of Philip Lawrence.

Mandie Campbell: It was a murder. It related to an individual who for most of his life had lived in the UK and we made a decision very early in the prison sentence to deport. The judgment said that we should wait until closer to the release date to take all the relevant circumstances into account before we made a decision to deport. That does not prevent us from taking that decision twice.

Q26 Mr Jackson: No. What you did was take was take one case and article 8 of the European convention on human rights, the right to a family life. In the, thank goodness, very rare circumstance of a 15-year-old stabbing to death a headmaster in Maida Vale in 1995, which was a tragic case, you are extrapolating that case for all European Union prisoners—

Mandie Campbell: No, we are not.

Q27 Mr Jackson: Well, that is what you are implying. From memory, that case was about the fact that he had no familial links in Italy, which is where he was likely to have been deported back to. That is a sui generis case and I respectfully suggest that you should not be applying that across the whole of the prison estate.

Mandie Campbell: The changes that we have made mean that it no longer takes us the length of time it did previously to move to a deportation decision. We have been maintaining an 18-month threshold just because that means that we have plenty of time to go through the deportation process before the person leaves their custodial sentence.

With the new legislation that we now have in force, we can do it much closer to the earliest release period because there is no appeal to have to go through. We needed to do it before—

Chair: Right, Stephen, very quickly.

Q28 Stephen Phillips: In fact, you could always have done that for cases where sentencing had taken place after 1 August 2008. What the NAO found out, which is encapsulated in the first bullet point under paragraph 3.13, is that you had completely misread the case.

Mandie Campbell: No, we were using that as a trigger point in order to ensure that we had sufficient time to go through a deportation decision and an appeal process—

Q29 Stephen Phillips: Forgive me; you are not answering the question. Had you formed the view, off the back of the case to which you have referred, that it applied to all cases, and not only cases where sentencing had taken place before 1 August 2008? That is essentially what you have agreed to in this agreed conclusion. Is that right?

Mandie Campbell: It is the period we have been using, but the new—

Q30 Stephen Phillips: Wrongly, as a matter of law.

Mandie Campbell: No. The new Act makes the deportation decision automatic—sorry, the previous immigration Act of 2007 that came into force in 2008.

Q31 Chair: Ms Campbell, tell me this: because you delayed taking the action, how many foreign national offenders are there in prison today whose sentence has expired, and they should therefore be released, but you are keeping them in prison to try to deport them? You delayed starting, but how many today are sitting in our prisons whose sentence has expired whom you still wish to deport?

Mandie Campbell: Those are two different issues.

Q32 Chair: How many have you got?

Mandie Campbell: There are, I believe, about 700 individuals who are time-served who are still in our detention.

Q33 Chair: Seven hundred?

Mandie Campbell: I think it is 700. I will have to check.

Chair: Let's get the figure.

Louise Bladen: I thought we said in the Report that there was a cohort of 5,600 people who had finished their sentences and, of that, about 1,400 were retained in the prison estate.

Q34 Chair: Is it 700 or 1,400? Just give us the figure.

Michael Spurr: It is not 1,400. That may include those who are held in immigration removal centres, as opposed to prisons. The Prison Service runs a number of immigration removal centres for the Home Office.

Chair: Okay.

Michael Spurr: The figure of 700 in actual prisons is right. That figure is reducing, and I could give you the actual number. I think it is closer—

Q35 Chair: What is the actual number, Mr Spurr?

Michael Spurr: I do not have it on me, but I think it has reduced to about 400 at the moment. It has been between 400 and 800 or 900 over the last 18 months and it is down to about 400-ish now.

Chair: Louise, what number do you have, which was agreed in the Report?

Louise Bladen: The number we have is 1,400 and that includes people in immigration detention centres, that is quite right, but they are still people who are pending deportation.

Q36 Mr Burrowes: Can I just ask, is that around 400 time-served? What is the longest period that they have been there after their time is served?

Mandie Campbell: I am afraid I don't have that information.

Q37 Mr Burrowes: People have finished their sentence and they are waiting to be deported. Of that around 400, what is the maximum number of months or years that they have been in?

Mandie Campbell: I would have to write to you with that information. I don't have it available.

Q38 Chair: When you looked at this in 2000 or whenever, Richard, there was a figure then. Lin Homer, who at that time had responsibility for this area, said that the Department was paying out money in compensation from people making claims because they were being held in prison beyond the end of their sentence and they challenged that. That is true, isn't it?

Mandie Campbell: It is true, yes.

Q39 Chair: How much have we spent in compensation for keeping people in prison, because we have not managed to sort out their deportation, after their sentence has been completed?

Mandie Campbell: I don't have data—

Q40 Chair: I asked you. I told you I was going to raise this.

Mandie Campbell: I don't have data that are separated for foreign national offenders. The amount of money that was stated in answer to a parliamentary question last year was the total amount of compensation paid for all immigration cases. That would include people who are other immigration offenders or other cases of people who were detained, but were not necessarily foreign national offenders. It is not broken down, because it is kept by record by individual—

Q41 Chair: One of the problems is your failure— How much is that figure?

Mandie Campbell: The figure, I think, for 2013, was just over £5 million.

Q42 Chair: Is that £5 million just for compensation in 2013?

Mark Sedwill: That is across all immigration, not just—

Q43 Chair: How many people did that impact?

Mandie Campbell: That was about 130 cases, I think.

Q44 Chair: How much is that per person? Can somebody do the arithmetic, quick?

Mandie Campbell: Around £25,000 per person.

Q45 Mr Bacon: Can you just remind us why you are paying our constituents' taxes to these people in what you call compensation? What is it compensation for? Can you just remind us?

Mandie Campbell: Our aim is to deport foreign prisoners directly from prison. Because of the situation—you will have seen examples in this Report—where people put in multiple appeals over multiple years, they frustrate our ability to remove them. We don't want to release them into the communities, where they may be able to cause more harm.

Chair: Ms Campbell, you have just admitted that you don't start the thing until 18 months before they are removed. If you started earlier you might be able to deal with some of these things.

Q46 Mr Bacon: Can we try to finish one point at once, because this is quite important. Can you explain your point again? You started talking about foreign national prisoners.

Mandie Campbell: That is right. We go through a deportation process. Often they do not make a claim until right at the point when they are going to be removed. They may submit a fresh claim, for example, for asylum. We then have to go through a series of examinations and appeals relating to that. At the end of that process, they may submit another appeal on the basis of a familial tie or another reason. During that period when they have finished their custodial sentence we seek to maintain them in detention to protect the public from harm. Also, in among that process, it may be that they do not have a travel document and we need to go through a process of getting one. If they are non-compliant, that can be a very difficult and long process as well.

Q47 Mr Bacon: Right. Going back to my question about why you are paying them our constituents' taxes in what you call compensation, what is it that you are compensating them for?

Mandie Campbell: Well, the courts have found, I believe, in relation to foreign prisoners that their detention was unlawful in certain circumstances. It can be that they have been detained and for a portion of their detention—often it is not the entirety of the detention—at some point consideration wasn't given for a particular aspect of a claim made at that particular point. We can be held liable for that.

Mr Burrowes: That is why the question about time served is important.

Q48 Mr Jackson: What is the legal case that you pray in aid in order to give effect to this policy?

Mandie Campbell: I am sorry—

Q49 Mr Jackson: What is the legal case—what is the legal precedent and when was it—that you use as the basis to put this policy forward to facilitate the payment of so-called compensation?

Mandie Campbell: The Department does not award compensation. This is a claim made to the court—

Q50 Mr Jackson: No, but you follow procedures based on a legal case. You will have had legal advice in either the Ministry of Justice or the Home Office or both as to your legal duties and responsibilities in respect of those prisoners who, it seems to me, are facilitating the delays themselves, and our taxpayers—our constituents—are paying the cost of that. What is the legal case? If you have not got that, will you write to us on it?

Mandie Campbell: I can write to you. We apply the legislation that is in force. More than 30,000 people go through our detention estate every year; the vast majority of them—

Mr Burrowes: You referred to claims for compensation.

Mark Sedwill: Sorry. Correct me if I get this wrong, Mandie, but essentially this is when we have sought to use either deportation or removal powers in order to get somebody out of the country, they have appealed time and time again and the court has concluded that we have detained them for at least a proportion of that detention—which could just be detention under immigration powers, not as part of the criminal sentence—unlawfully. It has gone beyond what—

Q51 Mr Bacon: So the compensation is awarded case by case?

Mandie Campbell: Yes.

Q52 Mr Bacon: But presumably their legal representatives are praying in aid a precedent, which the court agrees with. Then you lose, they win and you pay them compensation. What precedent are they applying?

Mark Sedwill: We will have to write to you—

Q53 Mr Bacon: I am surprised. You are busy spending £5 million a year on this, so it does not seem to me unreasonable that you would know how and why you are doing that.

Mark Sedwill: If we had a legal adviser here, they would be able to quote the case. The point, however, is that it is the courts who are making those awards, not us.

Q54 Mr Jackson: Have you appealed the case on which you are basing your policy?

Mark Sedwill: We fight just about every case we can, particularly these cases, and we lose some of them.

Q55 Chair: Why do you not know how many of those cases relate to foreign national offenders?

Mark Sedwill: I was forewarned that you would raise this, just earlier today or late yesterday. I have asked the Department to try to get at that information for you—

Q56 Chair: Why haven't they got it?

Mark Sedwill: Because we collect it across all the immigration casework and some people fall into more than one category. I do not want to come to you with a number that we later have to correct. We will try to give you that.

Q57 Chair: Mr Sedwill, the reason everyone is getting very uptight on this side of the table is that the deportation of this group of people, who have actually committed criminal offences and end up in our jails, is a huge priority. If you have offended our laws, we think that you should be pushed out. For you not even to have those very basic statistics to be able to account for your action is deeply frustrating and, I think, demonstrates why you are not able to make greater progress on the issue in its totality.

Mark Sedwill: Madam Chairman, we want to get them out, too. Everyone—

Q58 Chair: You have got to convince us of that.

Mark Sedwill: I am sorry, Madam Chairman, but just let me make this point. The people in the Home Office across the immigration and law enforcement systems get out of bed because they believe in trying to keep our public safe—that is what they do it for. We want to get these people out, too. That is why we on the professional side have been pressing for years—

Chair: You have got 900 people—

Mark Sedwill: Let me finish the point; it is only half a sentence. We have been pressing for years to get the number of appeal rights reduced, because people gaming the system, using appeals at the last minute to prolong the process, is genuinely beyond our control.

Chair: 2006?

Mark Sedwill: That is something that is deeply frustrating to all the caseworkers involved.

Q59 Mr Burrowes: What you would accept are in your control are data and management of information in relation to FNOs. How would you characterise those data?

Mark Sedwill: Our management information as a whole is incomplete. It is poor in places and one of the priorities is to try to improve it to enable us to take better-informed decisions.

Q60 Mr Burrowes: And your data as well?

Mark Sedwill: Yes, that is what I meant.

Q61 Mr Burrowes: So it is not robust?

Mark Sedwill: All of it is not robust, but our data as a whole are not where they need to be, nor is all the management information we gain from them. I accept that point entirely. It is a priority for us to improve it.

Q62 Meg Hillier: I was in the Home Office dealing with some of these issues back in 2007 to 2010. This was a priority then. There was a whole strand of work about information exchange between different parts of Government. You are sitting here now saying, “Yes, it’s a problem,” but it is now 2014. I am very concerned about how little progress has been made from then to now. You have just admitted that, Mr Sedwill.

Mark Sedwill: In broad terms, I accept that point. When I came to the Home Office and was looking at management innovation generally across the whole border, immigration and citizenship system, it was weak. We have improved it a great deal in the last 18 months, but information about older cases is particularly incomplete.

Q63 Mr Burrowes: This is not just a broader issue—it is specific. In relation to telling us how many FNOs have been released without being considered for deportation, the criticism came in 2006. You are still unable to provide us with accurate, audited data. Is that true?

Mandie Campbell: Perhaps I could answer that. We have data that we can rely on from 2009. From 2012, we have been regularly reporting to the Home Affairs Committee with that data. We did provide incorrect data to the National Audit Office at the early stage of the gathering of this Report.

Q64 Chair: Why?

Mandie Campbell: The information had not gone through a sufficiently robust clearance process.

Q65 Chair: What does that mean? Someone got the figures wrong?

Mandie Campbell: All this information has to be drawn from a very—

Q66 Mr Bacon: This is what I find absolutely incredible. The Home Affairs Committee looked at this after we looked at it in 2006—this was eight years ago—and they said: “The Home Office has not captured centrally the key data it needs to manage the foreign national prisoner population from the point of sentence to deportation or release.” Eight years later, we look at this Report from the National Audit Office and it talks about various recommendations. One of its final recommendations—recommendation e—states: “In the longer term, the departments need to work together to develop accurate management information”. Why should we take you seriously?

Mandie Campbell: Shall I go back?

Mr Bacon: I want you to tell me why we should take you seriously. What evidence have you produced, over the last decade, that indicates that we should take you seriously? Eight years ago, the Home Affairs Committee said: “For years, the Home Office has failed to get to grips with the increasing number of foreign national prisoners”. The key point then was capturing the data centrally. It is now one of your longer-term aims. Why should we take you seriously?

Q67 Mr Burrowes: We have a position now where you are unable to reconcile the data with the data provided to the Home Affairs Committee. That does not inspire any confidence at all.

Mandie Campbell: Perhaps I could explain what happened.

Q68 Mr Bacon: I want to know why we should take you seriously. I really do.

Mandie Campbell: The data provided was drawn from a casework system. The information was drawn off by statisticians. It was not verified by caseworkers with an understanding, at that time, of the individual cases. Some of the cases which were classified as “released without consideration” were released without a deportation decision having been made, but they were in our consideration process. The figures were wrong; we admitted to that when we did the factual accuracy check and we provided the correct data. That data reconciles with the data that we have been providing to the Home Affairs Committee since 2012. The important thing that I would like to note about those “released without consideration” figures is that the vast majority of those 151 cases have been located. Only 10 individuals have not been traced.

Q69 Mr Burrowes: Is that the up-to-date figure?

Mandie Campbell: That is the up-to-date figure.

Q70 Mr Jackson: Over what period is that?

Mandie Campbell: That is from 2009. The vast majority of those were released within the first couple of years. The number has been decreasing rapidly year on year, and 15 were released last year without consideration. Over the last three years, only one individual still remains at large as an absconder without having been in contact with us.

Q71 Mr Burrowes: You have not reported the number that have been traced but you have subsequently lost contact with. You have not reported that number.

Mandie Campbell: Those are reported to the Home Affairs Committee.

Q72 Chris Heaton-Harris: Sorry, what was that one person's conviction?

Mandie Campbell: I don't have that data with me. I can write to you.

Q73 Chair: I think we will have to go back to those figures because they float. Louise?

Louise Bladen: I just wanted to clarify on the reconciliation of the 151 cases to the Home Affairs Committee reporting data. We tried to do that reconciliation when we found out that there was the new number. We could not do that; we asked for that reconciliation but we have not had it. We have not audited that and we have not seen the reconciliation.

Q74 Chair: So you don't accept the figure of 151?

Louise Bladen: We don't know.

Chair: You don't accept it because it has not been audited. This is yet another feature that happens all too often here—figures that are uncomfortable. From what you said in your answer to David Burrowes, I think you did a slight redefinition of the category, which brought the figure down. That suited you politically but does not give us a real figure. It has not been audited so we cannot take it seriously.

Q75 Mr Burrowes: Tell us about those 10 people whose whereabouts we haven't got a clue about.

Mandie Campbell: I haven't got a list of their individual offences.

Q76 Mr Jackson: I have a ministerial briefing by the Home Office from 2011 with figures from March 2009 to October 2011 on non-detained time-served foreign national prisoners reoffending: 60 were arrested for drugs-related incidents, 27 for violent crime, 64 for theft, 17 for immigration offences, 14 for sexual offences, 3 for murder, 3 for kidnapping, and 19 for motoring offences. That was prepared for Ministers. You will not know where that information came from but it is a briefing from the Home Office. How were you able to collect that information? What database did you use to collate that to give to Ministers?

Mandie Campbell: I am afraid that I was not in this role at the time and I do not know where that data has come from. If you share the data, I can find that out and write to you.

Q77 Mr Jackson: I will. I will share it with the Committee.

Mark Sedwill: It might be a different cohort from the specific group who are released without consideration. I did not quite hear what you first—

Q78 Mr Jackson: Non-detained time-served foreign national prisoners who reoffended.

Mark Sedwill: Yes.

Mr Jackson: In the period March 2009 to October 2011.

Mark Sedwill: So it is a different cohort.

Chair: On top of?

Chris Heaton-Harris: It will be an additional cohort, won't it?

Chair: The fact that we cannot understand the figures, the NAO cannot get the figures and you change your figures shows that nobody knows what the hell the figures are.

Mr Jackson: This is the public safety and criminal justice context in which the lack of data is so important.

Q79 Meg Hillier: Chair, may I chip in because it is on the point? We saw a Secretary of State—a big rock of Government—lose his job in 2006. Work was put in to try to improve data and there has been lots of work across Departments to try to do better data sharing, but the Home Office's basic figures are still this complicated and bad. Mr Sedwill, you talked about the past 18 months as if none of the rest of it is your responsibility. What do you need to do, as it is still this bad, to get it to a point where anybody—the Home Affairs Committee, us, or the public—can have confidence in the figures? It is really confusing and it does not give me confidence that you are in control.

Mark Sedwill: All elements, including the data, are better than they were. I have acknowledged that, as the NAO said, management of information data remains an issue for us.

Q80 Meg Hillier: So what is the plan to improve it?

Mark Sedwill: That is partly because we are dealing with data across multiple systems in different departments. We have had IT problems in hooking all of that together. It is difficult to draw data from the individual caseworking systems. As we introduce new and more joined-up IT, we will get more robust data. A reason we have had in the past—for example, we found that we were having to correct data going to the Home Affairs Committee, which you will recall happened far too often—was that we did not have, drawing from the caseworking system, automatic summaries of data.

Q81 Meg Hillier: I get that. Sorry, I do want to cut you short because we have heard that. Back in 2007 when I became a Minister in the Home Office, we were looking at this in the data sharing. We are now in 2014 and you are still talking about the same problems. I am dismayed that

there has been so little process. If the systems still are not talking to each other, how many more seven-year periods before they will be? What has been the stoppage in the system that has prevented that new IT or whatever it is from being in place?

Mark Sedwill: One of the problems we had was the immigration caseworking system. One of the purposes of that system was to address precisely this problem. The immigration caseworking system did not work, as you know. We talked about it last time. We had had to cease that programme and we have replaced it with a new one. Getting better data and management information has been one of my priorities since I took this job, and I now have much better data across the entire system than was available when I arrived. That is better than it was back in 2006, but it is not where it needs to be yet.

Q82 Meg Hillier: How long?

Mark Sedwill: We are still in a position where we measure a lot of inputs. We are not measuring enough, in a sophisticated enough way, some of the impacts of our—

Q83 Stephen Phillips: You do not know the offences for which the 10 were convicted that you have talked about. You have not come here with that information today. Could you please write to the Committee identifying the offences that they committed and the length of custodial sentence that was imposed?

Mark Sedwill *indicated assent.*

Mandie Campbell *indicated assent.*

Q84 Stephen Phillips: Since you have also said today that you can reconcile the incorrect data that was given to the Home Affairs Committee with the data that was given to the NAO, but the NAO have made it very clear that you have made no attempt whatsoever to approach them to audit that data, could you also write to the NAO to make sure that that auditing exercise is carried out, so that we can have some confidence in your assertion that a mistake was made in collating the data for the Home Affairs Committee? Will you undertake to do that?

Mandie Campbell: I will.

Q85 Mr Burrowes: So this is the full data—this is the full picture?

Chair: Of what, David?

Mandie Campbell: Of individuals released without being considered.

Mr Burrowes: And those whom you can and cannot trace.

Mandie Campbell: And those that we have and have not traced. That is the full data.

Q86 Chair: Let us assume that 151, not 250, is the right figure. Out of those 150, can you tell us how many are sex offenders, how many are terrorists and how many have been convicted of violent crimes?

Mandie Campbell: I haven't got that breakdown of data in front of me, but I can write to the Committee.

Q87 Mr Bacon: Hang on. You haven't got it here, but do you know it?

Mandie Campbell: Yes.

Mr Bacon: You know the offences that all 151 have committed.

Chair: Perhaps someone behind you can tell us before the end of the session.

Mark Sedwill: We will see if we can get it. My recollection from trying to brief myself for this, and we will correct it if it is wrong, is that of the 10, there is one very serious offender. He was a violent offender. I think that kind of proportion is the same elsewhere, but we will see if we can get you the correct figures by the end of the session. If not, we will write to you.

Chair: Before the end of the session today. I hate things coming—

Q88 Mr Bacon: You are saying that of the 151, you reckon 10% are serious offenders?

Mark Sedwill: I would not want to jump to that conclusion.

Mr Bacon: I am quite surprised, in light of the history of this, that you have not got the data at your fingertips. I have got the list from 2006 of what they had done, and it was murder, kidnap, arson, rape—you name it. I would have thought that if you were preparing for this Committee, you would have brought that information with you, but you are saying that you didn't. Is that correct?

Chair: They are going to have it before the end of the session. I have told the people behind that I want it before the end of the session.

Mark Sedwill: We will try to have it before the end of the session.

Q89 Mr Bacon: I have one very closely related question. Of the one in six foreign national offenders living in the community that had absconded at the end of March 2014, presumably they are a subset of the 4,200 living in the community pending removal in the line above—this is on page 4 of the report. Is that correct?

Chair: Yes.

Mr Bacon: Yes? This is the penultimate and the antepenultimate lines of the table of key facts. There are 4,200 foreign national offenders, and the one in six who have absconded are a subset of the 4,200. Is that right?

Mandie Campbell: I am sorry; one of my colleagues just passed me the figure to answer your last question, so I was just going to check that before—

Q90 Chair: Well, let's have the figure answering the last question. That is quite helpful.

Mr Bacon: All right. If you have got that data, let's have it now.

Mandie Campbell: Of the 10 that we have not been able to locate—

Q91 Mr Bacon: I am actually talking about the 151.

Mandie Campbell: Yes. Of the 151, 141 are back in contact.

Q92 Mr Bacon: No, I want to know the offences that all 151 have committed.

Mandie Campbell: No, I haven't got—

Chair: You will have before the end of the hearing.

Q93 Stephen Phillips: Ms Campbell, you can't have a list of the 151.

Chair: No, they will have.

Mandie Campbell: We categorise them, for the purposes of this, into the most serious offences, which are things like murder and rape; more serious—other violent offences and things of that nature—and then other cases: traffic and so on. Of the 10, none is in the most serious category, one individual is in the more serious category—so a violent offence—and the other nine in other offences.

Q94 Stephen Phillips: Those in the more serious offence category will be things like actual bodily harm and grievous bodily harm.

Mandie Campbell: It could be, yes.

Q95 Mr Bacon: My question was actually about the 151, not the 10. I was expecting you not to list them one by one, but to do a categorisation, as you did in 2006. Do you have available, or can you have available by the end of today—before the end of our hearing—the categorisation of the 151?

Mandie Campbell: I think I may have that too. I just need to add up a number of columns. *[Interruption.]* So, of the total of 151, there are two in the most serious category—

Q96 Chair: Which is what? Murders?

Mandie Campbell: That's sexual assaults. 21 are in the more serious category—so, other violence. The remainder are in the other category. But I think it is important to note that 141 were back in control. Of those, I believe 68 have been removed from the country anyway, and 25—

Sir Amyas Morse: None of it audited.

Chair: None of it audited. I accept that.

Q97 Mr Burrowes: Moving on to the data on costs, is all your work on FNOs value for money?

Mandie Campbell: The figures given in this Report look at the total cost across the criminal justice system—

Q98 Mr Burrowes: Is it yes or no? Mr Sedwill, you should probably answer this. It sounds like it's difficult.

Mark Sedwill: In a sense it is, because there is a political judgment about—

Mr Burrowes: No, no.

Mark Sedwill: There is, Mr Burrowes. There is a political judgment—

Q99 Mr Burrowes: It is not; it is an issue of costs and data. Independent of policy, you can come to a fundamental judgment, in your position as permanent secretary, as to whether all your work on FNOs is value for money.

Mark Sedwill: We can clearly improve value for money—

Q100 Mr Burrowes: Is it value for money?

Mark Sedwill: My point, Mr Burrowes, is I can't give you a binary answer.

Q101 Mr Burrowes: Isn't the problem that you don't know, because you don't how much it costs?

Mark Sedwill: We do know how much it costs. We have the NAO estimate here of £850 million—

Q102 Mr Burrowes: But what about your own estimate, for you to come to a judgment? The NAO has given us a clear judgment, but before we had the NAO Report, there were no cost data for us to reach a reasonable judgment as to whether all this work on FNOs, which is considerable and getting close to £1 billion, is value for money.

Mark Sedwill: Mr Burrowes, let me try and answer that. The total cost the NAO has estimated is £850 million. The total cost for an equivalent—

Q103 Mr Burrowes: What is your estimate?

Mark Sedwill: Ours is £97 million.

Q104 Chair: £97 million to £850 million?

Mark Sedwill: Yes. It's in the Report. The total cost estimated by the NAO is £850 million. The total cost of managing an equivalent number of British prisoners is £750 million, so the additional cost of foreign criminals in the system is about £100 million. The Home Office costs, for which I am directly responsible, are £97 million. All of that is in the Report.

Chair: That's the administrative cost?

Q105 Mr Burrowes: But the Report says that there is not the robust data to enable an estimate to take place.

Mark Sedwill: Mr Burrowes, I agree we don't have robust cost data, for example, to judge at the margin—I think the Report suggests this—whether one particular intervention, which might cost a certain amount of money, is more effective and better value for money than another intervention. But the overall approach we have been mandated to take by Ministers is to use all the interventions we can to maximise the number of FNOs removed from the country and to minimise the number who get in in the first place.

Q106 Mr Burrowes: Yes, I understand that there has been a tenfold increase in resources in terms of people on the job, but the issue is whether this is value for money. How can you reasonably come to a judgment—you did seem to struggle—about value for money on all the work on FNOs without robust cost data?

Mark Sedwill: You are right; that's my point. I can't come to a judgment. Value-for-money judgments are usually about different choices you make. In the end, there needs to be a political judgment about where FNOs sit in the priority. FNOs are more expensive per head than, for example, an immigration offender. So on one very basic definition of value for money, you would say you would improve value for money—if all you care about is numbers of removals—by removing lots of low-harm people and not high-harm people. But there is a separate judgment, which is essentially one that Ministers make, about the priorities between different categories of people we want to remove from the country.

Q107 Mr Burrowes: The problem you have is that you do not even have the relevant performance information; 2.18—you do not actually know whether the resources you are throwing into dedicated FNO prisons are really bringing about the results you wanted, and you cannot compare that.

Mark Sedwill: I think that is the point I was making. At the risk of violently agreeing, the point I was making was that we do not have good enough cost data at the margin to make a judgment as to just the one technique—

Q108 Mr Burrowes: To go to 2.18, it says here, “The Department told us that this approach increases FNO removals. However, we could not validate this because neither the Department nor the Agency collect relevant performance information.” How can you, without relevant performance information, come to a judgment that what you are doing is delivering value for money?

Mark Sedwill: What we are trying to do, Mr Burrowes, is deal with the problem—so remove the highest number of FNOs we can, and stop as many as we can getting into the country in the first place. We are using a whole range of different techniques and, you are correct, we do not have robust cost data to make a judgment on cost grounds as to which techniques are more cost-effective than others.

Sir Amyas Morse: 2.18 is about people who are in prison, isn't it?

Q109 Mr Burrowes: So in terms of people in prison, a situation where you have put a lot of resources into dedicated FNO prisons, we are not sure exactly, without the relevant performance information, the true outcome of that input of taxpayers' money. On the other hand, let us go to Bristol prison; how many immigration officers are at Bristol prison?

Mandie Campbell: I don't know how many, in Bristol.

Q110 Mr Burrowes: I will tell you: there are none. And how many of the percentage of the prison population are FNOs? 20%. So somewhere along the line a judgment has been made as to where resources go and do not go. Is that based on any relevant performance indication that can enable us or you to make a reasonable decision on behalf of taxpayers, that is value for money?

Mandie Campbell: The system we have in place is we have two FNO-only prisons—

Mr Burrowes: We know. It is in there.

Mandie Campbell: But we did provide information to the National Audit Office to show that in those prisons, whereas across the piece on average 37% of offenders are removed within their early release period—

Chair: Answer the question.

Mandie Campbell: I am. In FNO-only prisons 86% of individuals are removed within that early release—

Louise Bladen: We have never seen that figure of 86%.

Q111 Mr Burrowes: So this information is not being provided to—we have to base ourselves on this cleared, agreed Report. The additional information you are providing is after the event. On

the basis of this, there is not the relevant performance information for there to be a clear judgment, which is the responsibility of this Committee, on whether there is value for money.

Mandie Campbell: As I said, our information—and we shared the information at the time that all the evidence was being gathered—is that 86% are removed within the early release period.

Q112 Chair: I have to say, because it will not go in the record, the NAO are shaking their head as to whether the information was shared.

Mandie Campbell: With regard to Bristol—

Q113 Mr Burrowes: Just in terms of the information, you are sharing it after the event of the NAO Report. The concern is that decisions are made before we get to this being exposed in a Report. You are making decisions about taxpayers' money—where the resources go and the outcomes. There is not the confidence that there is the relevant performance information that can lead you to make a clear judgment on behalf of taxpayers. For example, you have left Bristol without any immigration officers. In fact, I understand visits there led to—FNOs there have never had any contact with anyone from immigration for a long time.

Mandie Campbell: We have a model that has some FNO-only prisons, some hub prisons where we have a permanent presence of immigration officers, and we have eight of those, and then there are 18 spoke prisons, which the officers from the hub prisons go out to visit on a regular basis—it can be monthly, it can be quarterly, based on the percentage of foreign prison population. Outside of that, we have local arrangements in place with the National Offender Management Service and local enforcement offices to either provide information through colleagues in the National Offender Management Service or to have visiting officers from local enforcement offices. We do not have people in every prison where there are foreign national offenders around the country.

Q114 Chris Heaton-Harris: Just to come in on the back of Mr Burrowes's questions, Mr Sedwill, you said earlier that all elements of data are better—much better data than when you arrived. When did you arrive? Sorry, I can't remember.

Mark Sedwill: February last year.

Q115 Chris Heaton-Harris: Based on the conversation we have just had, how bad was it?

Mark Sedwill: Well, data was very poor across the whole border and immigration system, and that was partly why we found ourselves correcting large amounts of data that we released publically. One of our priorities has been to try to get that into better order.

Chris Heaton-Harris: That wasn't the point of my question, but, to use a Margaret word, it sounds shocking; it really does. It's frightening, in fact, for my constituents in many ways, but let's go—

Q116 Stephen Phillips: Why didn't you answer that, Mr Sedwill?

Mark Sedwill: Sorry, I thought I had.

Q117 Stephen Phillips: Did you find the incompetence in the collection and capture and robustness of the data shocking?

Mark Sedwill: Sorry, that wasn't quite what Mr Heaton-Harris asked.

Q118 Stephen Phillips: No, it's what I'm asking.

Mark Sedwill: I was surprised at the quality of the data, the quality of the emerging information, the lack of quality in the information on which we were seeking to make judgments and, indeed, hold ourselves accountable, yes, and that's why we made it a priority to improve it.

Q119 Stephen Phillips: "Surprised" is civil service for "shocking", isn't it?

Mark Sedwill: "Shocking" is political for "surprised". I don't think we disagree.

Chair: I don't think it is.

Stephen Phillips: I think in fact that's agreement, so that's fine.

Q120 Chris Heaton-Harris: Earlier, we were talking about removing foreign national offenders late down the line, and you did say that lots of them are gaming the system at the last minute, but a huge amount of this Report talks about interventions that could be made way before you get to the last minute. Can we go to part two of the Report and page 21? We'll just go in and out of the section on police stations and courts, if we may. It tells us: "Custody police officers are responsible for establishing a detainee's identity on arrest...Where they suspect the person to be a foreign national they should carry out further checks"—to the ones they have already done—"for example searching immigration databases." Paragraph 2.8 says: "In practice, these immigration checks and searches are rarely done." Why is that?

DAC Rodhouse: That is probably best addressed by me. From a policing point of view, this whole area is hugely, hugely significant for public safety, so it's really important we do get it right. So although it may feel uncomfortable for me at this time, I genuinely do welcome the scrutiny that has been brought on this, because we do need to do much more and much better.

Those checks in custody suites are vitally important for three main purposes. It's to establish whether somebody is wanted abroad, what their immigration status is and also what their previous offending may have been; and that influences a range of things, such as court decisions, bail decisions and the management of them in the community if they are not able to be removed.

I think it is fair to say that we started, from a policing point of view, from a low base, but we have made significant progress.

Q121 Chair: When is your start date? Ours is 2006.

DAC Rodhouse: If you take the number of requests for checks on a detainee's previous foreign convictions as a proxy for when attention was paid to this, my earliest data is 2006, when just over 500 checks were made. Now equate that to the whole of 2013, when over 60,000 checks were made—

Q122 Chris Heaton-Harris: Just out of interest, how many of those checks were made outside London, because there is a different system operating in London from the one outside?

DAC Rodhouse: There is now. I don't have data that divides it back to 2006, but you're right. In London, last week, over 90% of those checks were conducted; and we are lucky in London, because one of the other checks, not around foreign convictions but around an automated link into the immigration service database, is automated, so 100% of people arrested in London go through that. But I take the point that we started from a low base and need to do better. This is a really significant issue for us to get right.

Chris Heaton-Harris: Okay. The Report says that some of these checks and searches are rarely done. Having examined this, I understand what goes on in London and it's relatively good, but what—

Q123 Mr Jackson: Can we answer the question? Why are they rarely done? We're not sure. We are told you were starting from a low base and you want to do better. Why are they not done now?

DAC Rodhouse: My professional judgment on this is that the checks historically have been hard to carry out; they are much easier now. And my professional judgment says that actually the impact of those checks was not well understood, but they are becoming better understood, particularly as our communities become more diverse.

Q124 Chris Heaton-Harris: So it was hard to do previously and it has improved now. Now it just involves an e-mail, doesn't it, or do you operate by fax still?

Meg Hillier: Not in that system.

Mark Sedwill: No. Why I say it was harder to obtain is that in 2012 the UK joined the ECRIS system, which gave us much slicker access to European previous convictions. Prior to that, the systems were harder. In reality, my honest appraisal is that this is an area of business that was less understood prior to the last few years.

Q125 Chris Heaton-Harris: We can see what's going on in London, but just since 2012, why are these things rarely done outside London?

DAC Rodhouse: I am a Metropolitan officer so my knowledge of London is that much greater. There are many pockets of good practice outside the capital, but I do not seek to defend

what is an unacceptably low level. It is increasing significantly. Indeed, since this report was published, my information is that the proportion of ACRO checks has risen from 30% to 40%, probably based largely on the upsurge in London—90% last week.

Chris Heaton-Harris: We can't check those figures because they have not been presented to the NAO.

Chair: About 60%, Chris. Even if that figure is accurate, 60% are not checked.

Q126 Mrs McGuire: May I ask, just for the record, what was the date of the last data in this Report? We have had a couple of occasions when our witnesses have said that things have got better since the Report was published. Could you tell us, for the record, when this Report was drawn together?

Louise Bladen: We published the Report on Wednesday 22 October. We signed it off on Friday 17 October, and right up until Friday 17—

Mrs McGuire: 2014, not 2013.

Louise Bladen: Absolutely. Yes.

Q127 Chris Heaton-Harris: So what goes on in a custodial suite in a police station? Let's take Northampton. If someone got tanked up in my constituency, that is probably where they would end up. Paragraph 2.9 of the Report says: "Often officers are also unaware of the special search powers available (under the Borders Act 2007)". Why?

DAC Rodhouse: It has not been a core part of police training in the past. We recognise this and have now put in place, along with the College of Policing, a comprehensive toolkit of guidance that addresses all these issues, not just the Borders Act powers, which are a niche but important area of legislation to allow officers to search for identity documents when the identity of the detainee is not known, but also around all the other areas of checking that would lead us to that sort of certainty that we know exactly the background of those people.

Q128 Chris Heaton-Harris: When did the College of Policing start this training unit?

DAC Rodhouse: The guidance was signed off in June this year. It was presented and we launched it at an event. We now have a newly formed network of strategic and local leads from all 43 forces to take this forward.

Q129 Chris Heaton-Harris: So it took seven years.

DAC Rodhouse: I can't comment on that. Factually, the guidance was made available this year.

Q130 Chris Heaton-Harris: Paragraph 2.10 states: “As a consequence of not doing these checks, opportunities to obtain early information on an individual’s identity, nationality and criminal history are often lost.” It strikes me that something is going wrong in custodial suites outside London, and that simple, easy checks are not being done.

Later in the Report, the National Audit Office estimates that the savings that could be made further down the line, if these actions were taken properly, amount to £70 million. Quite a significant sum of money could be saved. I know from what goes on in my local custodial suite that it would save your police officers a huge amount of time, effort and no doubt money because the same people come in on a regular cycle. Once they get their pay cheque, they go out and get tanked up, get into trouble because that is the sort of people they are, and you should be checking whether they are a foreign national and you should be removing them from the country. I do not understand why the police service is not doing that.

DAC Rodhouse: I accept that. My ambition, which is shared with the network of chief constables across the country, is for 100% compliance. I am confident that—

Q131 Chris Heaton-Harris: You’ve got a long way to go.

DAC Rodhouse: We have a long way to go, but there are some measures in place that will make it that much more realistic. I talked about automatic checks in custody with the immigration database. In London, Kent and some other parts of the country, whenever a detainee is checked for fingerprints, that will automatically link across to the immigration database.

Q132 Nick Smith: You mentioned a few places. What percentage of police authorities are able to conduct that test easily?

DAC Rodhouse: My understanding is that at the moment that facility is made available in London, the West Midlands, Kent and for the British Transport Police. There may possibly be one other, but I can clarify that for you.

Q133 Meg Hillier: Back when I was involved in this, there were immigration officers in police stations, working side by side. That was a pilot programme that had a very big impact, and lots of criminals were caught through immigration control who could not be caught in all the other ways. Has this automated system replaced that?

DAC Rodhouse: No, not at all. It is in addition. The initiative you are talking about is Operation Nexus. That is something that I have personal knowledge of because I lead that part of the business within the Metropolitan police. That has seen some really positive outcomes.

Chair: Why don’t you produce the report on Operation Nexus? There is an evaluation of it that has not been published. Why not, Mr Sedwill?

Q134 Meg Hillier: It says here that Nexus has been up since October 2012.

DAC Rodhouse: That is right.

Q135 Meg Hillier: But this was happening back in 2007-08.

DAC Rodhouse: There were early precursors to test some of the tactics in the late 2000s, from 2007-08 onwards; in London that was called Operation Bite. Nexus as a methodology has been live in London since late 2012, and continues today.

Q136 Meg Hillier: These pilots were supposed to be quite short term. Did it take from 2007 to 2012 before it became a mainstream proposal and a mainstream system?

DAC Rodhouse: I do not have any first-hand knowledge of that, so it is difficult to comment, but it looks like it, doesn't it?

Q137 Meg Hillier: Or did it just change its name?

DAC Rodhouse: No.

Q138 Chair: Can I get an answer? On Nexus, the Report says at paragraph 2.12 that you had a report on whether or not it worked—you are telling us it did—but the Department has sat on it. Why haven't you published it, Mr Sedwill?

Mark Sedwill: I don't determine the publication dates of the chief inspector—

Q139 Chair: Whose report is it?

Mark Sedwill: It is John Vine's—the independent chief inspector of borders and immigration. *[Interruption.]* There are a series of his reports that are going to be released in batches.

Q140 Chair: As a chief inspector, he controls his own publication, for heaven's sake.

Mark Sedwill: He doesn't now. He used to, but he doesn't now.

Chair: That is outrageous.

Q141 Mr Bacon: When did that change?

Mark Sedwill: If you want me to clarify, you will have to—

Q142 Mr Bacon: I want a date on which it changed. It must have changed because of an edict, a policy—

Mark Sedwill: No. There was a misinterpretation of the legislation.

Louise Bladen: It was about last summer—the summer of 2013.

Q143 Chair: Hang on. Let me just get this bit sorted. This is another Vine report sitting around. He has also done a report on 27 FNOs on whom we are spending loads of money and that hasn't been published either. There are two Vine reports sitting around in your Department that are pertinent to this issue, that have simply not been published. The whole point of the inspector is that he is independent of you and therefore should be able to publish in the public domain for us to be able to influence—or us to know what is happening.

Mark Sedwill: His reports will be published. They are being published in batches.

Q144 Chair: Why aren't these two out?

Mark Sedwill: There is no particular reason. It is just that they are being published in batches. To be honest, it is not my decision.

Q145 Chair: Whose decision is it?

Mark Sedwill: These are decisions formally made by Ministers, and they have to consult—

Q146 Chair: It shouldn't be a ministerial decision. This is an inspectorial decision. It should never be a ministerial decision.

Mark Sedwill: Madam Chairman, that is the legislation. If you want to dwell on this, let me just quickly run through it. The legislation actually says that the reports should be released by the Secretary of State. They were released before just by the chief inspector, but the legislation actually says they should be released by the Secretary of State. My recollection is the same as Louise's: I think it was last summer that we had to make that change and we are now trying to release those reports in batches.

Q147 Chair: Which legislation is this? I am really taken aback that an independent inspector's report is not published independently by the inspector—whichever bit of the public sector they work in—without any reference to any politician.

Mark Sedwill: I can write to you to set out the legislation but, Madam Chairman, one of the things I have to do is follow the law, and that is what the legislation says.

Q148 Chair: When did we introduce this silly law?

Mark Sedwill: I do not know whether it was—

Q149 Stephen Phillips: Was it the Anti-social Behaviour, Crime and Policing Act?

Mark Sedwill: No. I think—I will correct this in writing if it is wrong, because this is from recollection, but I think it was the Act that set up the Border Agency and the chief inspector back in the last Parliament.

Q150 Chair: I have to say to you that there is another report about 27 foreign offenders. If it was our fault, it was stupid of us, but it is completely unacceptable that there should be an inspector whose reports are inhibited by any politician anywhere.

Meg Hillier: We have heard that they are going to release them in batches. That sounds a very peculiar way of doing it. Why is the Secretary of State not releasing them as they are published? I know everyone wants to have media management, but surely if a report is out, it needs to be released in all good faith straight away, even if it is now down to politicians to do that.

Chair: Sorry. We have interrupted you. Let's go back to Chris.

Q151 Mr Jackson: Chair, can I just quickly go back to Mr Rodhouse? I want to probe your inability to do these criminal records checks on EU citizens in particular. I ask because the Home Office and ACPO have been quite successful in two schemes. One scheme is removing street drinkers, particularly in Cambridgeshire, and street vagrants who are not exercising their treaty rights. You have obviously been able to access data there to find out who they are, what their family circumstances are and so on, so that they can be taken back to the Czech Republic, Slovakia or wherever. The other scheme is Operation Pheasant, which has been very successful in addressing illegal gangmasters in North East Cambridgeshire, and in Cambridgeshire generally. Again you have used those data. Why have you not been able to take the best practice from those two examples and extend it across the country to deal with EEA citizens and their respective criminal records checks?

DAC Rodhouse: I have obviously been unclear. I am not for a moment saying that we cannot access the data; I am just saying that it has been less understood and the systems have improved significantly. Today, access to those European data, with a turnaround within 10 days for previous conviction checks, is very much available, and it has been exploited across the country. You have given two examples, but there are plenty of others, too.

Q152 Mr Jackson: But it is guidance. Mr Heaton-Harris made the point that it has taken you seven years to develop the guidance. This always happens in these Committees. There is sometimes some carrot, but there is very little stick. How do you force those people? This is a public safety issue, as you have said right now. How do you force individual constabularies to do this?

DAC Rodhouse: I don't wish to cause the Committee to roll their eyes, but it is an operational judgment for individual chief constables about where they seek to put their resources, their emphasis and their training. What I can do as a national policing lead, alongside the College of Policing, is to make the guidance available and to offer practical force visits. We have a programme of force visits and roll-outs. National training is now available that, in the last year, is responsible for a doubling in the number of ACPO checks.

Q153 Nick Smith: Can I come in on this again? In the answer you gave to me earlier, you talked about good practice and access to data in, I think, Kent, the Met, the British Transport police and one other. How many police services use it altogether? Is it three or four? Five?

DAC Rodhouse: As I was saying, this automated link between the police fingerprint system and the immigration asylum biometric system is switched on and available in the Met, West Midlands, Kent, British Transport police and possibly Hampshire.

Nick Smith: So those five.

DAC Rodhouse: The reason it is not available across the rest of the country yet—it will be, and I am sure colleagues will be able to update you on the progress—is the capacity of the IT system to check routinely every person who comes into custody, because that is what this entails: every person, regardless of whether they are a foreign national or not, is checked through this system, and the link is made against the immigration service database.

Q154 Nick Smith: Just to be clear: five police services use it at the moment, and it is all about capacity both within the police services and at the other end.

DAC Rodhouse: No, it is to do with the capacity of the pipe, if you like, between the two databases. If we overload it, you won't get the returns that are phenomenally important in checking an individual's fingerprints.

Q155 Nick Smith: So how many services do not use it, if only five do?

DAC Rodhouse: Well, there are 43 forces in England and Wales.

Q156 Nick Smith: So just 10% of services use it at the moment.

DAC Rodhouse: That is not to say that this is the only route for getting this information. It just automates it and makes it easier. Other forces can make a conscious decision when using the system to make that check.

Nick Smith: Sounds like a right dog's dinner from where I'm sitting.

Q157 Chair: Okay. There are people who are waiting very patiently. NAO first.

Louise Bladen: I just wanted to check on that one. Obviously when we published the Report a matter of weeks ago, it was only being done in London. Have those forces come on stream in the last few weeks?

DAC Rodhouse: I don't know the dates they came on stream, but I'm told that by colleagues.

Q158 Chair: Again, we assume that the Report was signed off and therefore accurate, when it was published—

Mrs McGuire: At 17 October.

Chair: At 17 October, but magically since then four more police forces have come in.

DAC Rodhouse: I will write to the Committee with the dates on which they became live.

Q159 Nick Smith: I am more interested in the dates when all of them come in to using the system.

DAC Rodhouse: Me, too.

Q160 Chris Heaton-Harris: I am really looking forward to all these letters.

I have a question for Mr Sedwill, and then I have a question for our Treasury representative, if I may. Mr Sedwill, put yourself in the position of my constituents, who now know that in their area immigration checks and searches are rarely done in a custodial suite. They know that the police officers there do not know, or rarely know, the powers that they have under the UK Borders Act 2007. My constituents also know, because they see it regularly on their TV screens, that there are people out there from outside our country, from the EU or otherwise, who are criminals that we could be and should be getting at. What message of confidence can you give to my constituents that we are making them safer under what is going on currently in your Department?

Mark Sedwill: I think I can say to your constituents that we have three things that will make them safer, if not overnight. One is that we will be more effective in preventing foreign criminals getting into the UK in the first place. That is because we will link up to Schengen information system and into the European arrest warrant—

Q161 Chris Heaton-Harris: Why didn't we do the Schengen information system? Can you remind me of that? Was it a political decision, based on politics, or was it a financial decision, based on cost? Was it the £20 million cost, or was it a political decision not to join the Schengen system that exchanges information?

Mark Sedwill: We are going to join the Schengen system, but to be honest, I don't know.

Q162 Chair: Do you know?

Mandie Campbell: No, I don't. We have been planning for some time—

Q163 Chair: Do we know? I think we know. Go on.

Louise Bladen: Cost—that is what we were told.

Chair: Cost? Interesting we know more than you do.

Chris Heaton-Harris: Please continue.

Mark Sedwill: So, first, by joining those—by joining the European criminal records information system and by joining the European arrest warrant, we will be able to stop more foreign criminals, or people who are subject to arrest in other countries, getting here in the first place. Secondly, through Mr Rodhouse' checks, which will be expanded, the police and courts will have more information available to them to judge whether somebody is a first offender, which they might appear to be in this country, or a repeat offender. Thirdly, as we have seen, we will continue to remove more foreign criminals from the country.

Q164 Stephen Phillips: So, all things that you should previously have been doing?

Q165 Chris Heaton-Harris: And should have been doing since the last Report? Or your Department should have been.

Mark Sedwill: We are always trying to improve work across our entire—

Q166 Stephen Phillips: No, Mr Sedwill, I am going to stop you. It was a very specific question: all things that you should have been doing, but haven't been doing—correct? If you take, for example, the policing, that should have been going on since 2006; if you take the Schengen information system, which has got nothing to do with the Schengen agreement, we could have been in that but we weren't, and that would only have cost £20 million, and now you say that going in will save £70 million to £100 million; and the third point is that you are now getting better at deporting criminals, which is something the Committee was told eight years ago and now you are saying it again. So, all things that should have been happening for the last eight years, and haven't been happening. That is the message of confidence, is it?

Mark Sedwill: Mr Phillips, you are drawing me into the political space here—

Chair: No, no.

Q167 Mr Bacon: Can I just be clear, Mr Sedwill? We are of different political parties, but we don't disagree about any of this. We just want a system that works and we'd all like you to answer Mr Phillips' question.

Mark Sedwill: I am trying to. All I can do is tell you what we are doing now to improve the system. Obviously, of any improvement that we are making now to the system, you can always ask the question: why haven't you done it before, and why isn't it already better? That is a perfectly fair challenge, but Governments have to make a whole range of resource decisions across a whole range of priorities—

Q168 Chair: Mr Sedwill, this is since 2006. It cost a Secretary of State his job. It has been a priority across the political spectrum, but it hasn't been in your Department—well, it has actually, because you have given 900 people jobs there, but you haven't actually done anything about it, effectively. I know you have only been there 18 months, but you are here accounting, under the code, for the performance of your Department back to 2006.

Q169 Chris Heaton-Harris: I just want ask the Treasury official about what he feels about the value for money that the police service is offering, based on the evidence in this Report, just on the bits from paragraph 2.7 down to 2.10 and the NAO's conclusion that "The lack of robust performance and cost information makes it difficult to estimate the additional number of FNOs that could be removed, or savings that could be made...at least £70 million of costs could be cut each year from better use of databases and information by police forces."

Richard Brown: One thing that has emerged from this whole discussion is that the quality of management information that is being employed across the piece is pretty inadequate. That is something that really needs attention in order to improve performance.

Q170 Meg Hillier: I am getting very confused about these figures. I have got statistics that come from the gov.uk website on foreign national offenders, which show that in each of the first three quarters of 2013-14 that are reported 46%, 48% and 48% were removed under the early removal scheme. In 2012-13, the figures for the same three quarters were 51%, 54% and 51%. I could go through all the figures, but the point is that in that, and in the "Time Served Non-detained (including absconders)" columns, the number of those who were deported dropped. We are back to what the NAO has been saying, but you keep telling us that it is getting better. These are the figures from the Government website. Given what you have told us about management information, are these wrong?

Mark Sedwill: If we look at the NAO Report, you are talking about percentages there, and of course it is not a percentage of a static number. The total removals have gone up from 4,600 to about 5,100. The NAO Report suggests just under 5,100—5,097, I think. As the Report sets out, the biggest proportion of that increase of about 550—so about 10% overall—was 300 cases that were brought into automatic consideration that had not been before. Is that the correct way to describe it?

Chair: Meg, what bit are you talking about? I haven't got a clue what you are talking about.

Meg Hillier: These are from the gov.uk website, and they are just what is available to the public.

Mark Sedwill: The point, Ms Hillier, is that they are percentages.

Meg Hillier: Exactly. That is partly my point. It is very confusing.

Mark Sedwill: Those are percentages of two different numbers. You are talking about 51% of 4,600—

Q171 Meg Hillier: No, but they are absolute numbers. There are more than 4,000 "time served non-detained" people, including absconders, in the first quarter of 2013-14, and it is paralleled for all four quarters. It is less than that in 2012-13, so there are people on the streets who should have been deported. You have just said about the figures having different bases. The NAO says that the Department removed 10% fewer foreign national prisoners in 2013-14 than in 2008-09. Whichever way we cut it, it seems as though we cannot get to the answer. When we tell you that the

figures that we have got are bad, you say that the data is wrong or it has not been reported cleanly. That is in the NAO Report.

Mark Sedwill: I have just quoted the numbers from the NAO Report from 2012-13 and 2013-14, which were the two years that you were just asking about, to be fair.

Q172 Chair: You are choosing your figures. The best performance was in 08-09. That is when it looked as though you were starting to get a handle on it and then it goes down, down, down.

Mark Sedwill: One of the reasons is that over that period, we have this 28% increase in appeals—

Q173 Chair: You have 900 people, Mr Sedwill. I keep saying that—900 people.

Mark Sedwill: For most of that period, as well, and a substantial reduction in the number of voluntary departures.

Q174 Chair: Honestly, when you go from 100 to 900 and you cannot agree some changes and make the figures better, something is institutionally amiss within the Home Office. I will bring in Austin, who has been waiting so patiently.

Sir Amyas Morse: Sorry Austin, I know you will shoot me later. So presumably as a result of this new legislation, you would expect the appeals number to go down a great deal? When we are sitting here next year, will we be looking at a much smaller number?

Mark Sedwill: We hope so, yes, because the number of appeal rights is going down from 17 to four, so the answer is yes, and therefore, we would hope to remove more people. We have some very early indications—they again are not audited data—of what has happened since the Act came into force, which we can provide you with if you wish. But they are not audited data for obvious reasons, because it only just came into force.

Q175 Austin Mitchell: To follow up on that, frankly, I have been bedazzled by this vision of life in the Home Office as wading through mud while gold-plating European regulations and handing out large sums of money to people you want to go home but can't bear to say goodbye to. I have lost sight of the basic reality. Why is it, with an increase in powers and a tenfold increase in staff, that you are managing to deport fewer foreign national offenders than you were, and why is it, on the estimate of the National Audit Office, that it costs £19,000 to deport one person and you have only got a deportation rate of five FNOs per case worker? Why is it such a disastrous record?

Mandie Campbell: The numbers of staff rose very rapidly in 2006. The numbers went from just over 100 to over 600 within the space of one year and then continued to rise up to 2008-09, up to over 800, and they have been pretty consistent in caseworking terms since that day, and 2008-09 is when the removals peaked. Part of that was getting on top of a backlog that had been in existence for very many years before that—so getting up to date or more up to date with a huge number of cases. You are right that the numbers of removals then started to drop off from 2008-09 onwards.

That happened until two years ago, when that bottomed out, and removals have now started to rise again.

The important point is that although there have been different changes to legislation over recent years, the new Immigration Act is the most fundamental change that will affect foreign national offenders, because of the changes made, first, to remove appeal rights from the non-European cohort of foreign national offenders, but secondly, to make any appeals that do exist, even in relation to human rights claims, non-suspensive unless the individual can prove serious irreversible harm. What that means now is that somebody can make an application to remain in this country on the basis of family and children, and unless they can prove that there would be serious irreversible harm, they must go abroad and make that human rights claim from abroad. We believe that will fundamentally shift the approach and the numbers of people we will be able to remove.

Q176 Chair: Can I just go to Amyas very quickly?

Sir Amyas Morse: Sorry to be boring about some of these numbers, but just to make sure we do not lose track of this growth, in 2010, the numbers went—

Chair: Which figure are you on?

Sir Amyas Morse: On 1.4 on page 15. In 2010, the numbers were 550 and they have gone up to 900 today, so since 2010, they must have gone up by another 350. That must be right, mustn't it? If I do a little bit of subtraction—in other words, implying that all the numbers went up at the beginning of the period cannot be right.

Mandie Campbell: You are not actually comparing completely like with like.

Chair: Oh dear!

Mandie Campbell: The 100 at the beginning were just in casework. The 900 now also includes a number of people who are not in the casework area that are otherwise involved with the removal of foreign national offenders.

Sir Amyas Morse: I am sorry to keep on about this, but they are described as casework here, and this has gone up by another 350. So we just keep on saying this: you need to be able to support the number on page 15. You subtract 550 from 900 and you find that the difference is 350.

Q177 Mr Bacon: I am sure if you had said at the time during clearance that this is not comparing like with like the NAO would have accordingly altered this paragraph and qualified it, but they didn't, because you didn't. You are now telling us for the first time that you are not comparing like with like. It is very clear; there were 100, then there were 550 by 2010, and there are over 900 today. The difference between 900 and 550 is 350 extra, and they are all doing casework—that is what the Report says, and you agreed with it.

Mark Sedwill: This is one where—on our side, I apologise. I think we should have had a more—I am sorry. Our numbers are not exactly the same as this and we had a series of quite difficult sessions with the NAO on the Report. We should probably have bottomed this one out. I apologise for that.

Mrs McGuire: You should have bottomed it out or identified that the number was wrong. Language is quite important in this. I am not sure whether you are saying that the numbers are wrong or that the interpretation of the individuals' jobs is wrong. I appreciate that we are asking you to think on your feet here—not literally, but you know what I mean. We need to be clear, because there has been so much confusion this afternoon about the use of statistics. Could someone give us an answer as to whether the Auditor General's figures and Report are wrong, or whether you have just missed it because you did not proofread it properly?

Q178 Austin Mitchell: Whatever the detailed figures, you cannot give us the excuse that the system you are operating is value for money for the taxpayer. It is not value for money.

Mark Sedwill: We want to improve the system we are operating.

Q179 Austin Mitchell: But you have wanted to improve it for years and it has not improved much.

Mark Sedwill: It is improving. I have set out the actions that we are taking. The objective is to improve value for money for the taxpayer but, fundamentally, it is to achieve the overall goal of cutting crime—in this case, crime committed by foreigners in this country.

Q180 Mr Bacon: Mr Sedwill, you said earlier that one of the key issues was stopping people at source—preventing them from getting here. You set out a number of measures that you hoped would do that. When we were looking at the Border Force last October, we had an exchange where you set out the problems in relation to EU and, indeed, EEA countries. The freedom of movement and data protection legislation meant, for example, that a German carrier or a carrier leaving Germany did not need to tell us who was on the plane before it took off from Germany. You could not get the passenger lists. We went on to discuss that, for the United States, that did not apply. A German carrier could not go to the US because they operated under different and obviously better rules. The Prime Minister said on 1 September that we were making statutory changes in this area: "Airlines will have to comply with our no-fly list arrangements, give us information on passenger lists and comply with our security screening requirements. If they do not do so, their flights will not be able to land in Britain." Does that sentence include planes from all EU countries and EEA countries?

Mark Sedwill: I presume yes. We are looking at taking mandatory powers in future legislation. We are working with the airlines and we now have—I will have to give you the exact data later—over 90% of advance passenger information, including within the EU, through co-operative arrangements with airlines. In terms of the border controls, which is the point that is really relevant to today's hearing, it is important to note that we have 100% checks at the border. There is a distinction between the advance passenger information we collect on people before they board a flight to the UK or some other means of getting here, and the 100% checks we do at the primary control itself.

Q181 Mr Bacon: The whole burden of our previous discussion was, "Don't let them get here in the first place, because that helps enormously." You say, "I presume so." So did I and, indeed, so did Mr Barclay, formerly of this parish but sadly no longer, who put down a parliamentary question asking whether data protection legislation in any EU country continues to prevent the disclosure of

advance passenger information to the UK. The reply from Home Office Minister James Brokenshire was: "Some carriers are unable to collect and provide advance passenger information due to concerns that this would be incompatible with EU free movement and data protection legislation." Plainly, if the Prime Minister says that we will legislate on this and change it, and that flights will not be able to land in Britain if people do not comply, one would hope that that would apply everywhere. My question is: does it? Or would it be challenged in the European Court of Justice on the basis that it was incompatible with freedom of movement?

Mark Sedwill: No, it is not about freedom of movement.

Q182 Mr Bacon: Or data protection?

Mark Sedwill: It is about domestic data protection legislation in other EU countries. It is not about an EU-wide competence; it is about that legislation in other EU countries. It relates to passports and ID cards, because in some EU countries you can travel on an ID card instead of a passport within the EU. That is the element where there is an EU angle to it. We are in discussions, which for obvious reasons I have to keep somewhat private, with other EU countries to change their data protection legislation to enable us to require this data of the carriers.

Q183 Mr Bacon: Yes, but the Prime Minister's statement is about our legislation. Are you confident that we can pass legislation now so that if EU countries do not, because of their data protection legislation, want to give us the information, or do not feel that they can, or feel that they would be challenged in the courts domestically if they did—say, in Germany—we can just say, "Sorry, but your plane cannot land," in the way that the United States can?

Mark Sedwill: Any legislation that comes before Parliament—it is not for me to prejudge Parliament—will need to be compatible with all our various legal obligations.

Q184 Mr Bacon: Right, but you have just said that it is not an EU competence, but a data protection matter. I want to know whether you are confident that if we legislate—it is not for me to prejudge Parliament either, although I notice that the Government tend to get the Bill they want and only the Bill they want, so we can safely assume that there is a serious chance that if the Government want it, the Government will get it—we will be in a position where we can say, "Sorry. Your plane is not landing."

Mark Sedwill: That is exactly the intention. Our intention is to mandate that carriers will provide this information. That legislation, assuming it goes through, would provide that authority, but as I said, we are also talking to relevant countries about their data protection legislation to try to ensure that there is no conflict between their jurisdiction and ours in this matter.

Q185 Mr Bacon: Mandie Campbell, I have a quick question for you about numbers, which we were not able to finish earlier. You categorised the 151 in three different ways: serious harm, slightly less serious harm and a third category—I forget the exact terms. Do you have, as you did in 2006, a much greater breakdown of the type of offence? We had four people who had committed arson, four who had committed kidnap, three who had committed murder, nine who had committed rape and so on. Do you have that sort of data?

Mandie Campbell: I do not have that data here.

Q186 Mr Bacon: I did not say here. Do you have it? Do you know what offences they have committed?

Mandie Campbell: The data will be available.

Q187 Mr Bacon: Can you please send that to us?

Mandie Campbell: Yes, I can.

Q188 Mr Bacon: On page 4, where it talks about the 4,200 foreign national offenders living in the community pending removal in the antepenultimate line of the table of key facts, do you know what offences were committed in each of those cases in the 4,200?

Mandie Campbell: We certainly know that for the more recent cases. Some of those individuals will be data from a number of years, including, I assume, from before 2006. I cannot tell you the quality of the data that will be available, but we will get—

Q189 Chair: From what year have you got it?

Mandie Campbell: I do not know over what period the 4,200 refers to. It might be from 2006 onwards or it might include a number that were before that as well.

Q190 Mr Bacon: But where you have it, you would have the offences broken down in the same way, to the precise offence that they were convicted of.

Mandie Campbell: We would have that.

Q191 Mr Bacon: Can you send that to us as well?

Mandie Campbell: I will.

Q192 Mr Bacon: Thirdly, where it says one in six on the line below, I take it—perhaps you can confirm this—that that is a proportion of the 4,200, so it will be 700 exactly.

Mandie Campbell: It is 760.

Q193 Mr Bacon: That is not one in six of 4,200. Anyway, of those 760, you know what offences they have committed, subject to the proviso about pre-2006.

Mandie Campbell: That is a subset of the 4,200, so yes.

Q194 Mr Bacon: Yes, so when you are sending the data, can you flag up the ones that you know to be ones who have absconded? It would be helpful to have a separate table of the 760 who have absconded and their offences and another for the 3,500 or so, where we have the data, and their offences. Are you with me?

Mandie Campbell: I am.

Mr Bacon: That would be great.

Q195 Stephen Phillips: Could you include length of sentence as well?

Mr Bacon: That would be helpful.

Mark Sedwill: If we have the data.

Q196 Mr Bacon: If you have the data, which I imagine you do. The only other question that I have is: in each case, whether for the larger cohort or for the one in six who have absconded, do you know how many of the roughly 4,200 people living in the community pending removal have reoffended?

Mandie Campbell: I don't have that data available.

Q197 Mr Bacon: You simply don't know it. So you don't know if it is 10 or 300? You simply have no idea.

Mandie Campbell: I don't. We don't collect that data in the Home Office.

Nick Smith: Do Justice collect that?

Q198 Mr Bacon: Would it not be a matter of some considerable interest? Here is a person who we are hoping to remove but we have decided to have them live in the community, presumably in many cases at taxpayers' expense, before we get round to removing them; they have reoffended, but you don't know.

Mandie Campbell: I don't have that data available.

Q199 Mr Bacon: I don't mean you personally. I mean the Home Office.

Mandie Campbell: I can ask colleagues in the Ministry of Justice to see if that data can be made available for you.

Q200 Mr Bacon: If it exists, we would like it please.

Michael Spurr: Of course we will have data for people who have been convicted.

Q201 Mr Bacon: When I say reoffended, I mean they have gone through the courts, have been prosecuted and convicted so it is a fact that they have committed another offence.

Michael Spurr: It should be possible to do a check on individuals whose names we have to find out whether they have been convicted. *[Interruption.]*

Chair: We have a vote. Stewart, you are on first when we come back, then Nick, and then Anne. I have loads of questions I have not asked yet.

Sitting suspended for a Division in the House.

Chair: Right, shall we go? We are quorate.

Q202 Mr Stewart Jackson: Let me try to be helpful if I possibly can. Clearly there is big emphasis on what has gone wrong and what you are trying to do, so can I focus on non-EEA foreign national offenders? Some of the pinch points, in terms of prisoners held in the prisoner's state, are, for instance, in Jamaica, Pakistan, India and Albania, as in the table on page 13. With the caveat that you've got a cross-departmental working group on this, how much active support have you had from the Foreign and Commonwealth Office? Specifically, how much is it a priority for it? Anecdotally, one hears that it doesn't take much interest in this issue and that it is not going to expend political capital on pressurising Pakistan, Jamaica or Albania. For it to work, however, they should be. What is your view on that?

Mark Sedwill: I think, Mr Jackson, the Prime Minister has made clear that he expects this to be a priority. We have, in the Foreign Office and the other core Departments on this—Justice and the Home Office—lead Ministers for certain countries whose job it is to do precisely as you have suggested, which is make this a big part of their agenda with those countries. DFID are also part of the effort because in some countries, part of the problem is their own prison system; for example, in order to be able to do a prisoner transfer. Through some of the reforms that DFID supports—rule of law, the criminal justice system in other countries and so on—it can help make a difference to the environment into which we would be seeking to either deport, remove or do a prisoner transfer, depending on which element of the process we got to.

The short answer to your question is that the Prime Minister has set it as a top priority and the National Security Council now looks at it twice a year.

Q203 Mr Jackson: Okay. Let me now focus on our friends in the European Union. Mr Phillips and others mentioned the Schengen information system earlier, which is coming online, and that we all support. You are talking about prison transfer agreements within the EU, which is also an important issue. Given that Mr Spurr said in February that the number of transfers would increase significantly once all member states have implemented the EU PTA, can you just update us on the progress and on whether it is having any demonstrable impact on prisoner numbers? I am just a simple fellow, but second in the list here is the Irish Republic, and I would cheerfully put all the prisoners on a coach, take them to Holyhead and put them on a ferry to Dun Laoghaire. They are not going to be tortured, murdered or whatever else. Why are they still in our prison system?

Mark Sedwill: I will let Michael Spurr discuss the detail, but there are a couple of points to make in terms of context. Most prison transfer agreements are with the consent of the prisoner, and that is worldwide. That has mostly been because we have tried to get Brits back to serve their sentences within the UK. The big change in the EU, to which you alluded, Mr Jackson, is to make prison transfer compulsory—without the prisoner complying. There are specific arrangements in place with the Irish Republic. For Poland, there is a stay in implementation while they improve their prison system. Perhaps Mr Spurr can add a bit of detail.

Q204 Mr Jackson: Okay. What about Lithuania and Romania?

Michael Spurr: I think that they are part of the agreement. Poland has a derogation until 2016. We have an agreement with Ireland that we will not enforce prisoner transfers, which is an agreement between the two Governments and is not for me to comment on.

Q205 Mr Jackson: No, I want you to comment on it. We have had that before. Why is that the case?

Michael Spurr: It is not for me to comment on agreements made between our Government and—

Q206 Mr Jackson: No, I am not asking you to rewrite European Union law or regulations; I am asking you to explain to us, who are not specialists, why there is this arrangement. As a well paid professional and a senior person, why is that arrangement in place?

Michael Spurr: This not an area of expertise for me, but my understanding is that there has been long-standing freedom of movement between Ireland and the UK. We do not have any controls on movement and do not routinely deport Irish citizens back to Ireland. Therefore, as part of that, when the prisoner transfer agreement was going forward, under the 2009 framework decision, an agreement was reached between our two Governments that that position would be retained and that we would not enforce prisoner transfers between the two countries.

Mark Sedwill: And that would be in either direction.

Michael Spurr: Yes.

Q207 Mr Jackson: But that is to the disadvantage of the British taxpayer.

Michael Spurr: You may say that, but that is not for me to comment on. That is—

Q208 Mr Jackson: It is self-evidently the case. There are 778 prisoners who are citizens of the Irish Republic. You cannot just say that we have made a decision not to deport them. Why have we made that decision? It is a foreign country. It is not Berkshire or Devon. It is a foreign country. They are foreign nationals and they should be removed. I want a proper explanation—if you can furnish me with one—as to why they are not being removed. They are costing my constituents money.

Michael Spurr: I don't think it is for me to give you an explanation of why the UK has that arrangement with Ireland. That is a matter for Ministers and others.

Mark Sedwill: It is a bilateral agreement, so there will be British citizens in Irish jails in the same circumstances. I cannot recall—it is some five or six years old—the rest of the agreement, but it is a bilateral agreement between the two Governments.

Q209 Mr Jackson: What about Lithuania and Romania?

Michael Spurr: I think that they will be part of the agreement, but I would need to clarify that. The agreement is for implementation by the end of this year. My understanding is that 18 of 28 countries have implemented the agreement to date. I am not certain about Romania and Lithuania, but I can clarify that for you.

Q210 Mr Jackson: In terms of the performance thus far, paragraph 3.20 on page 35 of the Report states: "These expected benefits may be optimistic. Over the last 4 years, the number of British nationals returned to UK prisons through these agreements has been broadly double the number of FNOs removed from the UK." So we are actually not exporting criminals; we are importing criminals. One of our growth areas is importing foreign criminals. It takes a special genius to put in place a system under which we are net importing foreign criminals into our prison estate.

Mark Sedwill: They are Brits.

Mr Jackson: Well, they are still coming.

Michael Spurr: No, they are British people. The primary reason why we signed the number of prisoner transfer agreements that we did was, as Mr Sedwill said, to enable British nationals to return to this country. The vast majority of transfer agreements require the consent of the individual. British nationals abroad generally consent to coming back to Britain, and a lot of nationals in our prisons will not consent to going back to their own countries. The prisoner transfer agreement—the European framework 909 agreement—is compulsory. The aim is that member states will compulsorily transfer people back, but it has not yet been fully implemented. I can confirm—I have just seen it in my notes—that Romania has implemented it, Lithuania has not implemented it yet and 18 of the 28 member states have implemented it in principle.

Q211 Chair: Have you seen any improvement, Mr Spurr?

Michael Spurr: No. As I say, 18 of the 28 have now implemented it.

Q212 Mr Jackson: But why has it taken so long? This issue was reported to the Home Office in 2006, and it has taken eight years for us to get to this situation. Most of those countries were members of the European Union before then, and the Accession 8 countries became members in 2004. Why has it taken so long? It is all very well saying that you have no control of the system and that we are at the bum end of it, but we are selling them a Rolls-Royce and getting back a Trabant, frankly. That is the situation. The system is not working for our taxpayers. It is no good saying that it

is just the system. We need to change the system, and we have not been reassured that it is being changed.

Mark Sedwill: Do you know when that agreement was reached on the compulsory PTA?

Michael Spurr: So 2008 was when the agreement was reached. The requirement is that members implement it by the end of this year. Not all members have implemented it. I cannot take responsibility for the implementation of an agreement by other European countries.

Q213 Chair: Stewart, can I interrupt? It was agreed in 2008, and they were supposed to implement it by 2014. You told us last year that you had seen an improvement. Okay, they haven't all implemented it, but 18 have. Have you seen an improvement?

Michael Spurr: Not to date.

Q214 Mr Jackson: But in February you wrote to us telling us that you expected the number of transfers to increase significantly once all the member states had implemented the EU PTA. What evidence were you using at that stage to make that assertion?

Nick Smith: And you said that there was the potential for 4,400 additional removals and a saving of £110 million. That is quite significant stuff. What is going wrong?

Michael Spurr: We signed the prisoner transfer agreement because, as you were saying, Mr Jackson, up until now we have taken more people back into our prisons than we have transferred to others. The European agreement, if implemented properly, will enable us to transfer prisoners compulsorily to their own countries. Because it does not require voluntary agreement, we will be able to proceed with it. I said that 18 out of the 28 have implemented the agreement, which means that it is not yet implemented across the whole system. There is a range of factors that we estimate will potentially allow us to save that amount of money and deport 4,000 over a number of years. The impact assessment that was published in the summer gave a range of savings from £20 million up to £170-some million. Our best estimate of what we can achieve is about £110 million, but that requires a set of process to go through.

Q215 Chair: Sorry, Mr Spurr, I have got to stop you. Eighteen have signed up to the agreement of 2008, yet you are telling us this afternoon that you have seen no improvement on the basis of that.

Michael Spurr: There are small improvements, but no significant improvement, which is the point you asked me about.

Chair: So that must make us hugely sceptical of any of your estimates.

Mr Jackson: Particularly as the top two for the largest proportions of foreign nation prisoners are Poland, which you say has a derogation—

Q216 Mr Burrowes: What is the problem with Polish prisons, by the way?

Michael Spurr: Poland has a derogation not to implement the agreement before—

Q217 Mr Jackson: Poland is the No. 1, and the No. 2 is Ireland. You have already stripped out the thick end of 1,600 prisoners of the roughly 10,500 or 11,000. Then, going down the list, Jamaica is not yet in the European Union, but perhaps will apply—I doubt it. Romania is 588, which represents probably 6% of the total population. So my point is that it is almost statistically impossible for you to have a major impact on these changes if you accept the derogation from Poland, which might be a different issue and outside your competence, or Ireland.

My last question is: is there any review of the decision with regard to Ireland, given that they are the No. 2 for foreign national offenders?

Michael Spurr: My understanding is that the Foreign Office are having discussions with Ireland about the position, but, again, that is not for me. I have to accept what the position is in terms of agreements. The agreement is: with Poland, they do not have to implement it; with Ireland, we are not implementing it. If this positive agreement that has been signed by member states is implemented properly, we should significantly increase the number of people we transfer. That is still the case. I said that in February. It still is the case. It has not yet been implemented across the piece. There are a whole range of issues on implementation that we now need to work through. In some countries, for example, although there is an acceptance of the agreement, you then have to go through—

Q218 Chair: Have you implemented any, Mr Spurr, out of the 18?

Michael Spurr: We have implemented—

Chair: Give us a country.

Q219 Mr Jackson: To which one are you actively deporting foreign national offenders in the European Union today?

Michael Spurr: We have deported to, for example, Italy, where there was then a challenge, and that has gone to the courts for our deportation to Italy. We have routinely deported to countries such as Holland.

Q220 Mr Jackson: How many?

Michael Spurr: I do not have the figures.

Q221 Mr Jackson: You should have the figures. This is important.

Chair: Perhaps before the end of the hearing we can have those figures.

Michael Spurr: There are figures in the Report about the numbers that we have deported.

Q222 Chair: You have got them, have you?

Michael Spurr: They are in the Report.

Q223 Mr Jackson: But you have not included all the countries. This is the point. The words and figures differ, as we used to say in banking. On the one side, you are saying we are in a position, as a result of a change in the policy on the transfer agreements, to make substantial changes to the good, but I have already shown you that we have had to strip out 1,200. You have only just made an arrangement with—I think you said—Lithuania and Romania. I was not sure which one.

Michael Spurr: It is for the member states to implement an agreement that has been signed by the member state. It is not for me to do. I cannot force the member state to implement the agreement.

Q224 Mr Jackson: I know, but you are responsible for carrying out the policy.

Chair: You can ruddy well negotiate.

Michael Spurr: I was—

Mr Jackson: No. It is no good your coming back here and saying to my constituents at this Committee, “It’s not my fault; it’s someone else’s. I am not responsible; the Foreign and Commonwealth Office is.” I am putting you on the spot and you are not giving me the numbers. You have mentioned Holland and Italy. I am saying it is probably not possible that you can make any changes before the end of 2016, because you have already stripped out two of the largest ones, and you are not able to give me numbers on any of the others.

Michael Spurr: To be absolutely clear, I have not stripped out two of the largest ones. I am attempting to implement a European agreement—when member states implement them—and do everything possible to ensure that in the case of those who are able to be transferred compulsorily to those European nations, we progress. There are obstacles to it, even with the agreement, including in some countries a requirement for a court to endorse the sentence to be served in their country, and that takes time and process.

Q225 Mr Jackson: Yes, but it is disingenuous to say in February that there will be a significant change to EU prisoners being deported, and pray in aid—as ever gold-plating—the European free movement directive, which is what you are doing. You do have the capacity, on public safety and public policy, to remove these people.

Michael Spurr: I do not.

Q226 Mr Jackson: You do. Notwithstanding those arrangements, you do have the capacity, and I am challenging you to come up with figures to comply with what you promised in February, and you are not able to do that.

Michael Spurr: What I said in February was that the agreement should enable us to make a significant difference to prisoner transfers. I stand by that position. That is what we are working to achieve.

Q227 Chair: You have spent a long time telling us how you cannot do it. How can you stand by the position?

Michael Spurr: I am trying to explain the realities of what we are trying to do.

Q228 Mr Jackson: But it is not working. The system is not working. I do not want you to tell me what the problem is. I want you to tell me what the solution is.

Michael Spurr: The solution is to work hard to compulsorily transfer prisoners to member states that have implemented the agreement, and to go through the processes that they have put in place to accept those prisoners. That is what we are doing, and we will work very hard to achieve that.

Q229 Nick Smith: Mr Spurr, was it not your Department's impact assessment that said that the savings would be about £110 million and that there would be a potential 4,400 additional removals over 10 years?

Michael Spurr: It was a departmental impact assessment that showed a range of potential savings from £20 million to £170 million and that a realistic assessment would be that, over a number of years, we could achieve the £110 million.

Q230 Nick Smith: Okay. So it was your Department's impact assessment. We have heard how difficult it is, so do you still stand by that impact assessment or was it over-optimistic?

Michael Spurr: It depends on the implementation of the agreements that member states have signed up to. Those have been put in force in good faith, and we were taking account of the number of prisoners that, by those agreements, we should be able to transfer. So, in that analytical sense, those figures are right. The obstacles to implementing a European agreement are the things that get in the way of delivering that. But, on the face of it—

Q231 Chair: Surely you should have thought about that before you made the commitment. We are not asking you for theoretical figures. You came and told us that this is what you would achieve, and now you tell us that 18 have signed up—do not forget that we are a member state, so it is about not just them but what we do in negotiation with them—and you are sticking by theoretical figures that you have not got a cat in hell's chance of achieving.

Michael Spurr: It was legitimate to do an analysis on the basis of a new regulation—

Chair: It is not legitimate in the end—

Michael Spurr: —and then to aim to transfer the people against that analysis. That is exactly—

Q232 Mr Jackson: No, it is not. It is no good being obstreperous, Mr Spurr, because this is an important issue. You have only just said that Romania has signed up—was it Romania or Lithuania?

Michael Spurr: Romania.

Q233 Mr Jackson: You have to go down to 518 in Lithuania, which is the sixth largest in the prison estate, to make a reasonable assumption that you can make any impact. At the time you gave those prognostications in February you were already parking Poland and the Irish Republic—obviously Jamaica and Pakistan are outside of that bailiwick—and Romania had not signed up, so you only had Lithuania. Then you have to go all the way down to Albania, which is not even in the EU.

Michael Spurr: But we have signed a compulsory agreement with Albania. And we have transferred to Albania.

Q234 Mr Jackson: Okay, that is good. As chairman of the all-party parliamentary Albania group, I am delighted with that. I am always keen to increase British exports to Albania, including criminals.

Mr Sedwill, there are lots of issues in your letter of 31 October on which the Committee might want to pick up, but will you expand a little on the wording? In the second paragraph in which you talk about non-EEA, you make the fair point that immigration rules have, for a long period, provided for refusal of entry. In the last sentence you say, “We also refuse EEA national criminals on the basis of serious or persistent criminality using public policy grounds where it is proportionate to do so within the free movement directive.” What is your understanding of the word “proportionate”? Where you are making that judgment of proportionality, how many are we talking about and who makes that decision?

Mark Sedwill: I think Ms Campbell can probably give you a better answer than I could.

Mandie Campbell: At the moment, we do not routinely have data on our front-line border systems for people who have committed crimes overseas, but we have been working under a special piece of work with the Met police and the British Transport police to gather information about low-level offending and to get the data on those individuals on to our front-line systems, so that if they leave the country and come back, we can take action against them.

Since that piece of work has been under way, we have refused entry at the border to around 1,500 European nationals who have been committing those lower-level offences. Obviously, if someone is deported, their details go on to the warnings index system and they are not then able to re-enter. There would be an automatic refusal at the border. In the same way, if someone not exercising treaty rights is removed—so they fall below the threshold for deportation, but we still pursue and remove them, because of their low-level offending—they are also prohibited from re-entering.

Mark Sedwill: If I may, Mr Jackson, a quick point that goes to your earlier concern about gold-plating: the changes to the immigration rules, according to our legal advice, were pretty aggressive in terms of EU law. We await to see whether there will be a challenge under EU law, but we take the view that we should push that envelope as far as we can.

Mr Jackson: It is only fair, given that you have had a welter of criticism this afternoon, to put on the record the fact that, in my experience, the removal of street drinkers and vagrants in Cambridgeshire who were not exercising their treaty rights was exemplary. The Home Office did a very good job of working with Cambridgeshire police and other agencies. So there is some good news, albeit—

Q235 Mr Burrowes: Stewart, just on EEA nationals if they are criminals—if they receive a custodial sentence, will they be removed?

Mandie Campbell: For an EEA national, it depends on the severity or whether they are a repeat offender. We would consider every single European national who commits a crime for deportation. If they do not meet the threshold for deportation in relation to public policy, we would still look to pursue removal if they are not exercising treaty rights. If we cannot deport—

Q236 Mr Burrowes: In public policy terms, receiving a custodial sentence is not sufficient—

Mandie Campbell: Not one custodial sentence if it is a low-level—

Q237 Mr Burrowes: Even though, from a public policy point of view, we have strengthened the immigration laws in relation to non-EEA individuals who receive a custodial sentence, and that is a mandatory refusal. That is a public policy decision.

Mandie Campbell: That is, so—

Q238 Mr Burrowes: So we have made a different public policy decision in relation to EEA—

Mandie Campbell: We are governed by free movement and other—

Mr Burrowes: I appreciate that.

Q239 Chris Heaton-Harris: Is that under article 45(3) of the treaty of Lisbon?

Mandie Campbell: I don't know which article.

Mark Sedwill: There is a threshold with custodial sentences within the EU. It does not mean any custodial sentence—perhaps I should mention that.

Mandie Campbell: If the person has committed a violent offence, for example, we would always look to pursue deportation. If they have attracted a custodial sentence of two years or more

and they are a European national, we would always pursue deportation. If they committed repeat offending, we would always pursue deportation.

Q240 Chair: Can I just ask one question on that?

Mr Jackson: I wanted to pursue this issue, because it seems to me to be about bolting the stable door after the horse has—

Chair: I will bring it back, but may I just ask one? Two hundred and one foreign nationals were convicted in relation to the London riots and, as I understand it, only 15 have been deported. Just in the descriptor you have now given, many more ought to have been deported, even under the public policy settlement that you described to David. Only 15 out of 201 convictions.

Mandie Campbell: I don't have the detail of that cohort of individuals, but what I would say is that some will still be serving a custodial sentence and cannot be removed until they have completed their minimum period—

Chair: Fifteen—one, five—out of 201 and the riots were in 2011.

Mark Sedwill: We will have to come back to you, because we do not know the lengths of the sentences—

Chair: It won't be that. When was it?

Mr Jackson: August 2011.

Q241 Mr Burrowes: In terms of consequences, how do we differ from other EU countries?

Mandie Campbell: My understanding is that we apply the most robust interpretation of this of any country in Europe. We would take action against—

Q242 Mr Jackson: More than the French?

Mandie Campbell: More than any other country in Europe.

Mark Sedwill: It might be worth mentioning a piece of data from open research. About one in eight of our prison population is foreign born; in France, it is about one in five; in Germany, about one in four; and in Italy and Spain, about one in three. It is not a direct connection to the point that you were asking about, Mr Jackson, but it is perhaps worth logging the scale of the issue elsewhere.

Q243 Mr Jackson: Okay. You use the word “routinely” about criminal records checks data. Are you saying that, really, the system only kicks in once EEA citizens have committed an offence in the UK, which goes on to the system and the process then starts to remove them if they are subject to an “appropriate” custodial sentence? My concern is that, frankly, I do not want convicted serial burglars—such as in the case I mentioned last time of the burglar who “self-deported” but came back and burgled the same residential property in my constituency, causing a lot of distress—and I

do not want rapists, career criminals, or those types of people from, say, Lithuania, getting off the coach at Victoria, and coming up to Peterborough within a couple of hours to begin their nefarious activity. How do we prevent that? Are we moving towards a situation where we keep these people out, notwithstanding the fact that they are EEA nationals?

Mandie Campbell: That is our aim. We are leading a piece of work with some European partners to look at serious offenders overseas in particular. We are looking at the MAPPA—our multi-agency public protection arrangements—that exist in this country and those that exist in other European countries. We are negotiating with them to look at sharing that information in a proactive way, rather than waiting, as you say, until someone has come and committed an offence. There is a meeting in The Hague—today, I think—at which we are pushing forward with that work, not only to try to get that information from all European partners, but also to recognise that that may take some time and that not everyone is as forward-looking as us in that respect. We are also doing it bilaterally with some countries.

Q244 Mr Jackson: Let's get this into perspective, Ms Campbell. You say "forward-looking", but these A8 members have been members of the European Union for 10 years. It is not forward-looking; it is a bit backward-looking, if anything.

Mandie Campbell: There are no countries that have criminal records data for all other countries on their front-line systems. For example, the UK does not give a subset of our police national computer showing all our offenders to any other country in the world. It is forward-thinking.

Q245 Mr Jackson: Mr Burrowes made an astute point earlier about public policy and public safety. What is the point of having a public policy or public safety caveat in the free movement directive if you don't ever exercise it in a practical way, not just by doing remedial work and removing people, but to prevent criminal activity from these citizens before they come to the UK?

Mark Sedwill: There is one category where we are able to. This is essentially about pressing ahead with international agreements to share this data, so that we have it available to us. We would like it and have been pressing this, but, of course, it must be by agreement. On the assumption that the opt-in of the 35 goes through, we would be able to stop anyone subject to a European arrest warrant.

Q246 Mr Jackson: We have seen your party political broadcast on behalf of the European arrest warrant in your letter—I think we have some divided views on that. I jest, but obviously you will put that position because the Secretary of State for the Home Department is very muscular in her position on that.

My final point, on which I would like to invite your comments, is that there is potentially ample opportunity in the free movement directive to give effect to what we want, which is to not only throw criminals out but prevent them from coming in. That must be a priority for the Department if it wants to deal with the whole problem of foreign national offenders upstream, because although I do not know what proportion of them are from the EEA, I know that it is a very significant number.

Mark Sedwill: Agreed. You asked for short answers: absolutely agreed.

Chair: Okay, let's keep going. I want to go to Nick, then Anne, and then I have some questions. We will then go to Chris and after that try to draw the sitting to a close.

Q247 Nick Smith: I will be quick. I want to pick up on something Mr Burrowes pointed out earlier, Mr Spurr, when he mentioned Bristol prison having an inmate population that was 20% FNOs but no immigration officers. Is that the case?

Michael Spurr: I don't have the actual figure for foreign nationals in Bristol at the minute, but it is a local prison, so it will receive prisoners from the Bristol area. A number of those prisoners will be on remand. It may well have a significant foreign national population—that would not be unusual throughout the country. Once sentenced, foreign nationals at Bristol would generally be allocated to other establishments. The aim would be to move them into the type of hub-and-spoke prisons that Ms Campbell was discussing earlier.

Q248 Nick Smith: Okay, so how many of the hub-and-spoke prisons have immigration officials at them and could help you with this work?

Mandie Campbell: We have two prisons that have only foreign national offenders, so we have a permanent staff there, and then another eight prisons that have a permanent immigration enforcement presence. As I say, they work on a spoke basis with a number of prisons around their area. The officers are based in one and they will visit.

Q249 Nick Smith: It sounds as though you have immigration officials at about 10 prisons, though they are peripatetic and so some of them may go to other prisons in the justice estate.

Mandie Campbell: That's right.

Nick Smith: I am trying to understand if you need more immigration officials, Mr Spurr, to help you with this task. Do you, do you think?

Q250 Chris Heaton-Harris: Before you answer that, could I just ask whether you have done any analysis to prove that having immigration officials at prisons actually improves removals?

Mandie Campbell: We come back to the discussion we were having earlier. We have information, we believe, that shows—

Q251 Chair: Why didn't you give it to the NAO?

Louise Bladen: We did have something, but the quality was such that we did not feel it was sufficient for the Report.

Q252 Nick Smith: Okay. So, poor information; 10 prisons with immigration officials at them. How many officials is that all together?

Mandie Campbell: I don't have the total number of staff working there. I can write to you with that number. It will be different for different prisons, depending on the size.

Q253 Nick Smith: But in the round, back of the envelope, how many immigration officials work in the prison service?

Mandie Campbell: At least five per prison, I would assess. I don't know in the FNO-only prisons whether it is more than that.

Q254 Nick Smith: So that is 50. What is the foreign national offender population in our justice system?

Michael Spurr: 10,400 at the moment.

Q255 Nick Smith: They seem a bit underweight.

Mandie Campbell: Although a large proportion of those offenders are either on remand or maybe post-condition of sentence or on recall. The serving population is about 6,500.

Q256 Nick Smith: Okay. Mr Spurr, do you think you have enough immigration officials in your prisons to help you do your job?

Michael Spurr: We work with the Home Office and will facilitate the best way to try to remove prisoners. We are happy to have more immigration officers if that is the best model for helping to remove prisoners quickly. We will continue to work with the Home Office and facilitate that where we can.

Chair: One thing that shocked me with prisons is that it takes for ever to get a form out to them and then half of them do not fill in the form.

Mr Burrowes: It starts off by fax—in this day and age—and then there is a manual reporting system.

Chair: If you were really working together you would be making sure that these ruddy forms were filled in.

Q257 Mr Burrowes: The way a solicitor can arrange a visit now is by e-mail—you have got over faxes. Why isn't it the same?

Michael Spurr: It is now. We have put electronic systems in.

Q258 Mr Burrowes: Since when?

Michael Spurr: Very recently.

Q259 Mr Burrowes: What do you mean by that?

Michael Spurr: I'm sorry. My briefing is wrong. We are planning to put the electronic system in place and it will be rolled out, I guess in response to the Report.

Q260 Chris Heaton-Harris: So when do you liberate the pigeons?

Michael Spurr: We still have pigeons, unfortunately, around too many prisons.

Q261 Nick Smith: Mr Spurr, you did intimate that it might be helpful to have more immigration officials in the prisons, and you were trying to work together. Have you done any analysis or review of the immigration officials in the justice system and whether more or fewer would be helpful?

Michael Spurr: I think that is what Ms Campbell was talking about in looking at the analysis of how best to remove people. We should work with the Home Office on that basis. I accept that that was not accepted by the NAO.

Louise Bladen: We said in the Report that the report is due by the end of 2014, so I think we were seeing an early version.

Q262 Mrs McGuire: When do you expect the roll-out of your IT devices? According to the NAO Report, there is currently only one prison, Pentonville, that is using them.

Mandie Campbell: This is the mobile system. We have our Home Office caseworking systems available in all prisons over the NOMS prison network now. Officers going to any prison can access our systems through the NOMS IT. We are trialling in Pentonville a mobile capacity on our caseworking systems. That is brand new for the Home Office anywhere.

Q263 Chair: What mobiles are new for the Home Office?

Mandie Campbell: It is new to have the caseworking systems on them, and to have them available in prisons. Obviously, in prisons, you take all technology away that is able to transmit data in and out in a mobile capacity. So we have had to have permission from NOMS, and we are trialling that in Pentonville to see how it works and how effective it is. That enables us to be at the point of initial prisoner inflow to the prison with our mobile data there. We can check as people are being booked into the prison to see whether they are known to us on our systems. So if that works we will look to roll that out to other prisons.

Q264 Mrs McGuire: And what sort of time frame have you got for that because the lack of a mobile IT system was identified by the NAO as one of the impediments to good management of FNOs? Do you have a time frame because Mr Spurr indicated that it was almost imminent?

Mandie Campbell: We have the technology now available. The trial was to see how effective it is and whether having a mobile capacity over the static capacity adds extra value. The problem before was that we just could not access our systems at all. Now we have both of those options available to us.

Q265 Mrs McGuire: Nick mentioned the number of immigration officers. I am just wondering whether that will solve the problem. The NAO Report says on page 26 that there is “Insufficient join-up between immigration officers and prison staff to make the most of opportunities” and identifies cultural barriers as “a root cause of this silo working”. Could you, Mr Spurr, interpret what you think the NAO meant by the term “cultural barrier”?

Michael Spurr: Different organisations working together often struggle to work together as effectively as they should. That is not good enough and I accept that. We have to do better at working together.

Q266 Mrs McGuire: Well, what are you doing? I could sit here and say, “Yes, you need to look at how you can work better together.” What actions are you taking to ensure that, regardless of the cultural issues of two services, you look at what the job is to be done, which is to manage the flow of FNOs? The Report says that is more prevalent in some prisons than in others.

Michael Spurr: We are working with the Home Office team to take forward the general action plan and improve all of the ways that we are working together. In terms of cultural change, getting people to engage between a whole range of different organisations will differ between individual sites. We have to make clear, which I have done, the priority to ensure that we are tackling the issue of foreign nationals and the importance of removals.

Q267 Mrs McGuire: But you are running a prison service. Why should there be major differences between one prison and another in terms of working together with Home Office immigration staff to deliver an outcome which has been decided by Government and, indeed, is supported by the wider community? What are you doing to encourage the collaboration that there needs to be and which has been identified in the NAO Report?

Michael Spurr: As we have been saying, the NAO Report was published a few weeks ago.

Q268 Chair: No. How many days ago was it?

Louise Bladen: It was on the 22nd.

Chair: Not even 10 days ago.

Mrs McGuire: Please don’t use the short gap between the Report being published and this hearing. You must have been able to identify that there were major cultural difficulties which

impeded the delivery of the management of FNOs. You must have been able to identify that. You didn't need the NAO to come along and tell you that.

Michael Spurr: We have been improving the way we work with the Home Office over a number of years. I think we work much better than we have ever done with the Home Office. But the NAO Report said that that was not good enough in a number of places and there are still things that are not right. I have to take that and say, "Okay, what more do we need to do?", working with my Home Office colleagues. Of course, my aim would have been perfect working all of the time as long as we have had to do it. The reality isn't that, so we need to do some more work to ensure that the learning from the places that are working best is shared with those that aren't working as well and we make sure that it is a priority for everybody to get to that level.

Louise Bladen: I was thinking of a practical example, if it helps, of something we saw. We went to Maidstone prison, which is one of the FNO-only prisons. What we observed there was that Ministry of Justice staff and Home Office staff had different levels of security clearance, so they could not access each other systems because of the security clearance levels. That was just a practical example of something we thought could be sorted.

Sir Amyas Morse: We are not plucking generalities out of the air; these are really practical points. You could integrate a lot better.

Michael Spurr: We will take that and we will look to integrate better on that basis.

Q269 Chair: But actually, Mr Spurr, with the greatest respect, you should not be waiting for these guys to tell you that sort of thing. I keep going back: in 2006 you should have done something.

Q270 Mrs McGuire: A very practical point has been raised about the security clearance of staff from two different Ministries of the same Government, working towards the same end. Can that be sorted?

Michael Spurr: Yes, it must be.

Q271 Mrs McGuire: That can definitely be sorted? Is there a link between that and the difficulty—the cultural issues in some prisons—about the fact that immigration officers only interact with FNOs during certain time slots each week? Is that to do with the way the prison operates or to do with the way that the immigration side operates?

Michael Spurr: That operates differently depending on the role of the prison. So in a foreign-national-only prison there will be much more engagement on a daily basis. In terms of the working arrangements for how immigration officers see individual offenders, generally, it has been through surgeries and in some cases that might be a weekly surgery where they would see people. Again, we need to look at what the best practice is and ensure we are doing it in all of our prisons.

Q272 Mrs McGuire: Has that been raised by the immigration service as a major issue—that you can actually have advice surgeries? You are talking to MPs; we know a lot about advice surgeries. Has there been consideration of how you can schedule time that makes the management more effective?

Mandie Campbell: It has not been raised as an issue. As Michael said, we do have regular surgeries. We also go out around, in some of the prisons, and sort of ask and talk to people. We talk to people now on reception and make them aware that they can come and talk to us. We give them lots of information. So the surgeries are there, really, just to allow people to come to us as a drop-in, but people in those prisons can make appointments to come and see our officers outside those times.

Q273 Mrs McGuire: Can you think why the NAO raised the issues, saying, “Even in designated prisons, immigration officers only interact with FNOs during certain time slots each week”, and identified that as an impediment to effective working?

Mandie Campbell: I will have to look at that and—

Q274 Mrs McGuire: But I thought you had already agreed the Report.

Mandie Campbell: Yes, but what was behind that was whether the time slots—whether it was a fact that it was actually impacting on the business or whether it was to do with the fact that the prison system only enabled it in certain slots. I do not know what the answer to either of those things is.

Louise Bladen: Again, this was something we saw in Maidstone: the surgery they had for FNOs was 9 till 10 in the morning. There were still people they had not seen in that surgery—a backlog of people—but we had to finish bang on 10 o’clock because, I think, a learning or a health session was due to start in the same room. So there were people who had not been seen, and it had to end.

Q275 Mrs McGuire: Frankly, I think this working practice is bizarre. There is a public policy imperative to deal with FNOs and we have two branches of the Government—all members of the civil service, no doubt—actually working in a way that militates against each of them delivering their primary objective. Are you talking about it? I am astonished that it took the NAO to come in and identify this.

Michael Spurr: NAO makes the point that we could work better. It is not that we are not working together; it is that we are not working together well enough, at enough times, and that is what we have got to do more to achieve.

Chair: I think it is almost dysfunctional, Mr Spurr. That is what is coming out of this hearing.

Q276 Mrs McGuire: Just one more question, picking up on something that Richard said about people who were absconding. I also noticed that on page 37 of the report it states: “Cases are

put on hold for...2 years if the initial investigation fails to find the FNO.” Why is that? Could you do a cursory—

Mandie Campbell: Which paragraph?

Q277 Mrs McGuire: Paragraph 3.26. And who does the investigation? Is it the immigration service or the police? Are you working together?

Mandie Campbell: We are working together with the police. The team that is referred to in the document is the team that works for immigration enforcement. They have a group of 760 individuals whose data they are putting through various data systems, making checks. Those individuals are also all on the police national computer, so if any of them come to light, they will obviously be detected. They are also on our warning systems, so if any of them leave the country and come back, they will be detected.

Q278 Mrs McGuire: So you think a team of 11 people, 10 of whom are junior grade, is sufficient to deal with 700 absconders?

Mandie Campbell: The evidence shows that since 2009—I have firmer data from then—1,280 individuals have been listed as absconding. During that same period, the same team located 1,148. Some of those were pre-2009, but the team has a very high success rate locating people. I don’t think the answer is necessarily more people; it is better-connected data systems. We are now moving to a position—Mr Bacon raised this during my last appearance—of better data matching with other Government Departments to determine whether information is known elsewhere in Government that is not known to us.

Q279 Mrs McGuire: There is an almost equal number of new absconders. I have one final question, linking back to my theme about working together. The NAO Report also identifies what it calls bureaucratic restrictions: HMRC can accept only 250 requests for information a month, either individually, by fax or by e-mail. Has there been any movement on that, given the fact that HMRC should be part of an integrated approach?

Chair: Lin Homer has written to us saying that that is not true.

Mrs McGuire: Did she? I haven’t seen that.

Louise Bladen: Shall I explain the context to that? We were told by the team in Liverpool who were doing the tracing and locating that they had quota systems. This was confirmed in clearance. Lin has written to say that they were not aware of that particular reference and that that is not right. We are looking into it. We have got people looking into why the two Departments have a different perception. Certainly, the perception that we heard was that there was a quota.

Mrs McGuire: Well done. You’ve got HMRC and the Home Office moving together to work to an end.

Mandie Campbell: To supplement that—this would not have been included in the Report—we have now moved into an arrangement with HMRC. Since September, we are now routinely

sharing information every month, not only about absconders but about a wider set of people who have had refusal or removal decisions taken against them, to cross-check them against HMRC's systems. That will now happen every month, not just as a special exercise.

Chair: We hope there isn't a cap.

Mrs McGuire: That only works if your front-line staff understand that that is the situation, and if local decisions aren't being made that differ from that understanding.

Q280 Chair: I am going to ask some quick questions that have not been covered. How many foreign national offenders have been let out of prison before serving their full sentence, under the early release scheme, without being deported?

Michael Spurr: I don't have that figure, because we do not publish figures in that way. The majority of foreign nationals would not be eligible for early release schemes. If they are liable for deportation or consideration for deportation, they are either excluded automatically or presumed unsuitable. Therefore, the only people eligible for the home detention curfew early release scheme would be foreign nationals who it has been determined will not be deported. We publish figures for people released on the home detention curfew scheme. You mentioned before this hearing that you wanted those figures. I do not have them, because we do not publish them in that way, although we will have data on people who have been released.

Chair: I would like them. The policy says you don't. Given the answers that we have heard to other questions, my guess is that some people released under the early release scheme—

Q281 Mr Jackson: I don't understand that answer. *[Interruption.]* Let me finish the question. You are getting rid of them early because otherwise the taxpayer would have to bear the cost of a formal removal process. With the gentleman I mentioned earlier—the Lithuanian serial burglar who came back to Peterborough twice—the whole point of that was that he was implored to self-deport voluntarily, to use a Mitt Romney phrase, but he didn't. He came back. You are saying that he wouldn't have been in the scheme? Can you clarify that?

Michael Spurr: Unless I have misunderstood what the Chair was asking for, I thought you were asking for the number of people whom we have released as though they were going to live in this country under early release schemes.

Q282 Mr Jackson: No.

Chair: Slightly different.

Michael Spurr: Is that what you are asking for?

Q283 Mr Jackson: It would be helpful if you could write to us to clarify. Do you collect the data on the foreign national offenders, and maybe it is a small number, who you identify to be self-deported—those who agree to go but come back, commit offences and get back in the criminal justice system?

Michael Spurr: That would be the Home Office. I do not know whether we have that.

Q284 Mr Jackson: That needs to be collected, if it isn't.

Mandie Campbell: The scheme you are talking about is the early removal scheme, where people can have some time off their sentence if they agree to leave. They only leave as a deportee. They are deported, put in our systems and if they present at a port of entry, they are prevented from entering.

Q285 Mr Jackson: Or not, in the case of—

Mandie Campbell: If somebody comes into the country clandestinely, that is, they do not come through our border controls, as in the case you mentioned—

Q286 Chair: Do they all leave? I have seen evidence that suggests that although they are released under the early release scheme with the money, they actually do not all leave.

Mandie Campbell: The early release—

Chair: They are released early on the understanding—

Mark Sedwill: There is a risk that we are confusing two things: the early release scheme and the early removal scheme.

Q287 Mr Jackson: I think we mean the early removal scheme.

Mark Sedwill: So perhaps Ms Campbell can cover that point. Early release is about prisoners—

Q288 Chair: I understand that. I want, from you, the number of people released under early release who are foreign national offenders. If there aren't any because you say the policy says there aren't any, I want your assurance on that.

Michael Spurr: I didn't say that there weren't any. I am sure there are some foreign national offenders who have been released under home detention curfew. The only ones there will be are cases in which decisions have been made not to deport because if you are liable for deportation, you are not eligible for the early release scheme. That is the point.

Mark Sedwill: Then you have the early removal scheme, which I think Mr Jackson was referring to.

Mr Jackson: That is the confusion.

Q289 Chair: Are there any who take up the early removal scheme and then do not leave? Stewart told us that people have come back.

Mandie Campbell: No. The reason that that gentleman came back was that he came into the country without coming through our border—

Q290 Chair: Are there any who don't leave?

Mandie Campbell: No. If they leave under the early removal scheme, they are removed from prison, escorted to an aircraft and deported.

Q291 Chair: Okay. Can I ask about foreign national offenders who are women? Some 14% of women in prison are foreign national offenders. From my experience in my constituency, I know that some of those women have done wrong, but some are trafficked and coerced into prostitution. How do you handle that lot?

Michael Spurr: How do we—

Chair: I am worried about this issue in my constituency. A number of Romanian women are coming in and it is pretty obvious to me that they are being coerced or trafficked. They end up in prison, come back out again and are back on the streets, or they go home and come back. I am concerned about how we respond to that because, although they are Romanian so might be foreign national offenders, they are women who are being subject to coercion and trafficking.

Michael Spurr: I understand; it is about the potential vulnerability, safety issues, and individual characteristics of those offenders. We would look to support them by understanding their background in relation to their conviction. We have support programmes generally using third-sector providers—charitable organisations and others—that work with those offenders. Equally, we work with the Home Office if those individuals, for whatever reason they are in custody, are going to be removed. Our responsibility is to make all prisoners safe and ensure that we look after them properly in prison, whatever their nationality.

Q292 Chair: What is the policy on that? Would you remove them?

Mandie Campbell: There is a national referral mechanism. All cases that are identified as vulnerable because the individuals have been trafficked for sexual or other exploitation are now referred by the front-line services, such as immigration, the police, and the National Offender Management Service, to the national referral mechanism. They will then make an assessment as to the veracity of that claim. They can make arrangements for removal to be delayed or prevented, depending on the outcome of that assessment.

Q293 Chair: One other thing. What about the conditional caution scheme, which was introduced in the hope that that would also help? Where are we on that?

DAC Rodhouse: I think that's one for me to deal with. The conditional caution scheme has only been applied in a very small number of cases. Some analysis has been done, with case studies

across the country and in some boroughs in London, to try and understand exactly why that is. I think it is best summarised by saying that, when tested operationally, the cohort that it can be applied to is extremely small, because a relatively small number of people meet the criteria, inasmuch as there has to be no right for them to remain in the country, they have to be non-EU nationals and they have to have been sentenced for something up to two years. So it is a choice for that individual as to whether they would rather take their chance, so to speak, in the justice system in the UK or they would rather go. Work is ongoing under Chief Constable Lynne Owens, who is the ACPO lead in this area, to understand exactly what it is that we can do to make the system work better or to change those terms of reference and negotiate them.

Q294 Chair: How many have been deported to date?

DAC Rodhouse: I don't know, actually. I will get back to you.

Q295 Chair: The figure I have is six. Does that seem out of the world to you?

DAC Rodhouse: I believe there have been slightly more than that.

Louise Bladen: 17. That is in paragraph 2.10. That is in the last year.

Q296 Chair: So—this is to you, Mr Sedwill—the ambition to save £10 million on that scheme is not going to be fulfilled.

Mark Sedwill: Sorry? £10 million on conditional—

Chair: Conditional—sorry, conditional. You're right, the conditional caution scheme. It was supposed to save £10 million. The number of people deported I had was six—it was 17.

Mark Sedwill: Sorry?

Chair: £10 million was supposed to be saved on that scheme. That is obviously not going to be achieved. Am I right?

Mark Sedwill: It would seem not.

Q297 Chris Heaton-Harris: On figure 15, could you explain the governance set-up in the Home Office? I looked at that figure, and I couldn't work it out for love nor money.

Mark Sedwill: That is a description of the entire system, so you have several Government Departments there.

Q298 Chris Heaton-Harris: It seems very top-heavy.

Mark Sedwill: It is important not to assume that the size of the boxes is the same as the number of people involved. We have political supervision at the top of this, as you see, with the

Home Secretary and other lead Ministers. That brings together the senior Ministers responsible for the countries. We have a steering group of officials, which is essentially designed to bring together the whole of Government. You're right: it is complex, but, then, for the reasons we have discussed all afternoon, it is a complex issue, and we need lots of different Departments to be engaged. Within the Home Office, most of the wiring diagram on the left-hand side is actually teams within immigration enforcement. There are various teams that play different roles in this, but most of the wiring down the left-hand side is part of the immigration enforcement command. From where I am, it is clear to me who I am holding accountable for what.

Sir Amyas Morse: Just to record our view, we describe the system as over-complicated. The reason for that was that, when we were conducting our work—it may well be for you, Perm Sec, that it is clear who is accountable for what—we found it difficult to get people to put their hand up to what they were accountable for, to be honest. A lot of people were keen to admit to having an encouragement role, rather than an accountability role. That was what we found as we were putting this together, for what that's worth.

Q299 Mr Bacon: It is extraordinary that there are two directors general who are Director-General Immigration—one responsible for international and immigration policy, and the other for immigration and enforcement, which is you, Mandie Campbell. That's right, isn't it?

Mandie Campbell: Immigration enforcement.

Mark Sedwill: There's a typo. It is not immigration and enforcement; it's immigration enforcement. Just to be clear, Mr Bacon, those are two different jobs. Immigration enforcement is the law enforcement body that we created when we broke up UKBA, to deal with enforcement. International immigration policy was actually taken out of UKBA right at the beginning of the Parliament, when policy was brought back into the Department. That is a policy director-general responsible for legislation, etc. Personally, I think keeping policy and operation separate is right, and it was right to bring it back out of UKBA—that was even before UKBA was broken up.

Q300 Mr Bacon: We will not go into policy and operations. There is not time.

The facilitated return scheme uses our constituents' taxes to support early removal by providing an FNO with "up to £1,500 on return to their home country on the condition that they comply" with the removal process. So it "is often given to non-compliant FNOs." Those people are paid money on condition that they comply with the procedures. So essentially we are bribing them to behave; but it says there was a "policy decision to reduce the value of the payment", since when the use of it has halved. What has it gone down to from £1,500?

Mandie Campbell: It was £5,000 before 2010.

Q301 Mr Bacon: The £1,500 is the new number?

Mandie Campbell: That is the new number. It was £5,000 before 2010 and it was reduced to £1,500.

Q302 Mr Bacon: So all these people in figure 13, pre-2010, they were getting £5,000.

Mandie Campbell: Pre-2010, it was up to that, although an amount of that was cash and the majority was in kind—so support from international organisations to set up businesses, find employment and so on.

Q303 Mr Bacon: Yes, but does that mean we were paying those international organisations in cash—just not giving it to them as money?

Mandie Campbell: We were providing support to the organisations, who would in turn assist individuals on their return.

Q304 Mr Bacon: I am just not clear; plainly there is a cost somewhere. When one says “We are providing support,” does that mean we are seconding civil servants to these international organisations, or what?

Mandie Campbell: No, we are not. We were providing money—

Q305 Mr Bacon: Yes, so it was real cash.

Mandie Campbell: No, up to the value of the £5,000 in total.

Q306 Mr Bacon: But the cash wasn’t just going to the person—the prisoner, the foreign national offender. It was going to these organisations. None the less, real money was transferring.

Mandie Campbell: That’s right.

Q307 Mr Bacon: In figure 13, you have got 2,400 people in 2010-11, and then it goes across—it is about 6,000 or 7,000 people over those four years. What were the numbers pre-2010?

Mandie Campbell: I don’t have those numbers available, I am afraid.

Q308 Mr Bacon: So £1,500 is what they are paid now. So the figure here—all these people, the 2,432 in 2010-11 and onwards, in the subsequent year when it is 1,741, etc.—these are the people who are paid £1,500, the lower amount?

Mandie Campbell: They are given an amount when they leave the country and then they can apply to get a residual amount when they are removed home.

Q309 Mr Bacon: Right, but I am just trying to be clear in my own mind. These people here that we are talking about—these are the £1,500 people, not the people who are getting the higher amount.

Mandie Campbell: That's right.

Q310 Nick Smith: What is the residual amount?

Mandie Campbell: The total value for each individual is £1,500—the maximum; so they are given an amount when they leave the country, on a card that essentially gives them a sort of cash resettlement amount, and then they can apply when they are in-country for the residual—

Mark Sedwill: In their home country.

Mandie Campbell: In their home country, up to the value.

Mr Bacon: We give them a pre-paid credit card, so to speak.

Mandie Campbell: Yes.

Q311 Mr Bacon: Great. Marvellous. I just wanted to be clear, because you said you did not know the numbers. Do you have—you might not have them with you, but do you have—the numbers? Do you have the data on how much was spent on this before the amount was reduced to £1,500?

Mandie Campbell: I would have to check. I do not know whether that data is held.

Mr Bacon: You must have it, surely. Can you send it to us please?

Chair: Let us have it.

Q312 Mr Jackson: Can I ask you a very technical question that I think is very simple? The majority of the foreign national prisoners are released by the immigration and asylum tribunal. Under section 36 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 the AIT can require foreign national prisoners to co-operate with electronic monitoring. However, you cannot mandate that to happen, as I understand it. Did the new immigration legislation change that situation; or have you any plans to look at that? Obviously, where you have got the most serious, or generally serious, criminal records, you would want those people, until they are deported, to be able to be monitored. I just wondered what is your viewpoint on how that is going to change—if it is going to change.

Mandie Campbell: The new Act did not make that change to allow us to make electronic monitoring compulsory. It is, as you say, at their discretion. We can apply to have individuals monitored, and about 10% of the individuals currently in the community are subject to electronic monitoring. We are looking at whether we should change the legislation in order to ensure that there is no room for anyone to refuse.

Q313 Mr Jackson: What is the time scale for that?

Mandie Campbell: That would only be with new legislation.

Mark Sedwill: It would depend on a new immigration Act, I think.

Q314 Mr Jackson: Could you not do it under delegated legislation? I know this is a policy issue, but could you not put together regulations?

Mandie Campbell: My understanding is that it would take primary legislation.

Q315 Mr Jackson: Could you write to us to clarify that particular point?

Mandie Campbell: I will.

Q316 Mr Burrowes: This is a question to the Treasury Officer of Accounts. I remember seeing a letter from the Treasury permanent secretary to all other permanent secretaries, reminding them of the importance of ensuring that information was on time, accurate and that there was an agreed process in relation to the NAO Reports. We have a situation where a series of information has come late after Reports, and where there has been discrepancy and concern. That is not the way for NAO Reports to have proper integrity or for us to function as a Committee. What do the Treasury think of that? What are you going to do about it?

Richard Brown: I will look very carefully at what has happened here. I am sure that there are lessons to be learned. I have observed the process of putting together Reports for this Committee, and it involves a mad rush towards the end of the study. Putting in some sort of slightly better-defined protocol for handling how Departments and the NAO work together is something that would have merit.

Q317 Chair: Do you want to say something about the process, Amyas?

Sir Amyas Morse: One thing I would say is that we often have the experience of the clock being run down early in the clearance process by people in working level who are not the ultimate arbiters of whether the Report will be agreed. I always write to permanent secretaries to advise them of the fact that a Report might be interesting to them, and I try to tell them what I think the main points of the Report are. We start the clearance process, and they know that a Report is coming towards them. Despite that, I have had the experience in the past of permanent secretaries not having a clue from their own Department that a Report was coming, so it lands on their desk quite a short time before clearance. We are trying quite hard to make it work better.

In the case of this particular Report, I have found this unusual. The permanent secretary and I have agreed on the sidebar that we will have a meeting at the Home Office and go over everything, because we need to understand this and there may be some lessons. In any case, I would rather be able to follow this up in much more detail, and we have kindly agreed to do that. We are always ready to do that, to be honest.

Mark Sedwill indicated assent.

Q318 Chair: When I started this, there was just so much—we did not even know where to begin. The questions have not been waffly around the table; they have been pertinent and to the point. I am grateful to you for keeping your answers direct, but what is so deeply depressing at the end of this is that this was a dysfunctional system in 2006. Here we are, eight years on, and it remains pretty dysfunctional across all three Departments and the agency. I know that people try hard, but there is something in there; you have the money, the resources and the political sign-off on it all but it still does not happen. It is deeply frustrating and depressing for all of us. Worst of all, it destroys confidence in the immigration system, which all of us care about.

Mark Sedwill: Madam Chairman, I recognise that that is your perspective. I said right at the beginning that I absolutely recognise that this system needs significant improvement. We have explored quite a lot of different elements of that. I think we have both a political and official commitment and, in my view, we now have the big elements of getting it right in place. I entirely accept that it seems a long time since eight years ago for those elements to have come into place, but they have come into place. We still have an awfully long way to go. We have to test our systems, improve our management information and put into place the strategy that I set out earlier. To reassure you, I share your frustration; in the end, the people who do the jobs for us do it because they want to keep their fellow citizens safe. It is our job to give them the tools to do that. I absolutely accept that overall direction from the Committee.

Chair: Okay. Thank you very much.