

HOUSE OF LORDS
HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
JOINT COMMITTEE ON THE DRAFT COMMUNICATIONS DATA BILL

THE DRAFT COMMUNICATIONS DATA BILL

WEDNESDAY 31 OCTOBER 2012

RT HON THERESA MAY MP

Evidence heard in Public

Questions 1141 - 1207

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Oral Evidence

Taken before the Joint Committee on the Draft Data Communications Bill

on Wednesday 31 October 2012

Members present:

Lord Blencathra (Chairman)
Lord Armstrong of Ilminster
Baroness Cohen of Pimlico
Lord Faulks
Lord Jones
Lord Strasburger
Mr Nick Brown
Michael Ellis
Dr Julian Huppert
Stephen Mosley
Craig Whittaker
David Wright

Examination of Witness

Witness: **Rt Hon Theresa May MP**, Secretary of State for the Home Department, examined.

Q1141 The Chairman: Welcome, Home Secretary, to our deliberations. You gave us a very tight deadline to review the Bill. We believe we have been assiduous in covering all aspects of it. We have held three evidence sessions per week, so that we could have as thorough an understanding as possible. We have collected thousands of pages of evidence, and we are now at the end of our evidence-gathering session. We are very grateful to have you with us today. That is all from me. Do you have any opening statement, Home Secretary?

Mrs May: No, Chairman, save to say that I am conscious of the tight deadline that we set you, and I am also very conscious of the diligent way in which the Committee has been proceeding with its scrutiny.

The Chairman: Thank you very much, Home Secretary.

Q1142 Michael Ellis: Home Secretary, good afternoon. We heard from senior police officers yesterday who, amongst other of our witnesses, have spoken powerfully about the operational need for a bill along these lines. One of the concerns that has been expressed to us by some witnesses, and by others, has been the breadth of the powers that are given to the Secretary of State by Clause 1 of this current draft. The Home Office officials that came before us recently said that this was an issue of drafting, rather than intent, and clearly we appreciate that this is a draft Bill. But they said they would be going back to Ministers about this. Do you accept that Clause 1 is wider, or can be interpreted to be wider, in its current drafting than it need be?

Mrs May: Certainly I am aware that there has been a lot of discussion around Clause 1 and the interpretation of Clause 1. From what I can see, people have been interpreting it in a way that was not intended when it was drafted, and certainly we would be willing to look at the drafting, to make sure that that perhaps meets our needs and cannot be misinterpreted in the way that it has been. There is, however, an element to Clause 1 where I think that it is

important that we have a degree of flexibility. It is about getting that balance right. However, it is important that, as things are ever-moving in the technological field, we are able to build into the Bill a degree of flexibility, subject to appropriate procedures and so forth in future. Obviously, the orders and so forth would go through Parliamentary processes, but that flexibility enables us not to have to constantly come back, if there is too tight a definition.

Q1143 Michael Ellis: Because of the speed and the advance of this area of technology.

Mrs May: That is right. We know what we know now. We can do a certain amount of prediction for the future, but, of course, even by the time the Bill would come in, on a normal timetable—were it to be introduced in this session or the next session—it would be a few years on before this came into play. By that time, things could have changed, and having the ability to have that flexibility as technology changes is important. Because the aim of this, as I think everybody knows, is to ensure that our law enforcement agencies can carry on having access to the data that they find so operationally necessary in terms of investigations and catching criminals and saving lives.

Q1144 Michael Ellis: Now, some of the CSPs have told us that what your officials have proposed in private discussion seems to them to be narrow, proportionate and reasonable. But they have a concern that the Bill will empower a Secretary of State to do a good deal more. Therefore, assurances about the way it is intended to use powers do not necessarily preclude the possibility of abuse in the future, so I wondered if you had any observations about the possibilities of abuse, and the protections that you feel are in place to prevent abuse, should there be any attempt to misuse powers in this area in the future.

Mrs May: The first comment I would make is that, obviously, we have had a number of discussions with a number of CSPs over time, leading up to this draft Bill. I am absolutely clear that the key data we want is the who, when, where and how. That is clear, and there is no intention of going beyond that into content or anything, so there is a limited scope for the data that we want to have access to. We have been very clear about that at every stage, and the Bill is not intended to take us any further than that.

Q1145 Lord Strasburger: Good afternoon, Home Secretary. I am very pleased to hear what you have to say about not wanting to capture content. What I say in my emails is my business, and not the state's. Similarly, would you agree with me that records of which websites you or I or anyone in this room visits—for example, perhaps, Alcoholics Anonymous or sites about coping with mental illness—could reveal very private information about the person's life, and, in reality, is content, and so should be outside the scope of the Bill?

Mrs May: I am grateful to you, Lord Strasburger, for giving me another opportunity to confirm that we do not want to look at the content of people's emails. This, sadly, is one of the myths that has appeared in public, and I can reiterate that that is not what this Bill is about. On the issue in relation to the websites that somebody has visited, first of all, we are not in the business either of trying to get into information about personal details about individuals. As I say, communications data is about the who, when, where, and how. However, if somebody has visited a particular website, that may actually be relevant to an investigation. If CEOP is investigating a ring of child abusers, the fact that an individual has accessed a website that shows photographs of child abuse may be relevant to that investigation.

Q1146 Lord Strasburger: We have heard that the use of DPI black boxes at service providers to monitor internet activity at a national scale is only currently being done in China, Iran and Kazakhstan. How do you feel about the prospect becoming the first democracy to join them?

Mrs May: There has been quite a lot of discussion about the technicalities of how the access to the CD will be undertaken. I am sure you have had quite a lot of evidence about exactly what those technicalities will be. All I will say in response is that obviously we can go into more technical detail for you if you would like, but I do not perceive what is going to happen as a result of this Bill in quite the terms that you do, in the way in which you have asked the question. I am very happy to come back in writing or for another private session, where we can go into some more of the technicalities of exactly what is going to be done.

Q1147 Lord Strasburger: We have had some difficulty in extracting from your officials the comparative information in terms of what is being done elsewhere in the world. This information, that there is no democracy in the world currently using or contemplating such draconian measures, is what we have heard from other witnesses,

Mrs May: Lord Blencathra, I am very happy to write to the Committee with some further detail, if the Committee is happy.

The Chairman: As urgently as possible.

Q1148 Lord Strasburger: During the public evidence session last week, your officials confirmed that, as was stated in your written evidence, the data gaps that you are currently seeking to fill are subscriber data relating to IP addresses and weblogs. Is there any reason why these, and access to third party data, should not be stated in the Bill as being the only new matters for which access is permissible?

Mrs May: It relates to an earlier answer I gave Mr Ellis, which is about the need for flexibility as we see technology developing. There are other issues about putting gap requirements on the face of the Bill, as well, in terms of some of the messages it sends, but if we were to put those specific requirements on the face of the Bill today, that might solve today's problem but in a few years' time we might need the flexibility to be able to deal with some other aspect of data. The reason for bringing the Bill forward is that we are seeing a degradation in our ability to access important data, which is needed operationally to catch criminals.

Q1149 The Chairman: Home Secretary, what if those elements were in an order-making power in the Bill, which could be amended very rapidly and brought before Parliament? I appreciate that if it is in the main Act of Parliament, one sometimes waits a few years to get a RIPA-type Bill. Would you be happier with that, then?

Mrs May: I think, as I say, there may be some other arguments for not always specifying where you think your gap is, in terms of the message it sends to everybody as to what they can suddenly start using. Certainly, there would be a difference between having it on primary legislation and having it in some ability for secondary legislation with Parliament able to look at it.

Q1150 The Chairman: It could solve the problem of future-proofing. Having an order-making power that could rapidly plug some of these technological changes could deal with the future-proofing problem. I think we accept your point that you might not want to see it for other reasons.

Mrs May: Certainly, that would be a way of enabling Parliament to have a look at any future-proofing requirements. I come back to the point that there is an advantage and a

benefit to us from being able to retain a sufficient degree of flexibility in the Bill itself that we do not find ourselves hamstrung in the future, in the way that we are at the moment.

Q1151 Lord Jones: We understand that one reason the powers have been so broadly drafted is to attempt to deal with future developments in communication, without having to go back to Parliament. That is how we have seen it. The Committee wonders whether it would not be better to devise a procedure for Parliamentary approval that is more rigorous than affirmative resolution, but less time-consuming than primary legislation. Would you entertain that?

Mrs May: I can well see that the Committee might wish to look at an issue like that. I am not quite sure what that procedure could or might be. I come back to my point that I said right at the beginning, that it is important to maintain sufficient flexibility to allow change to take place to meet growing technological needs. Otherwise, we see criminals slipping through the net.

Lord Jones: There are two former Chief Whips here who could be of service on parliamentary procedures.

Mrs May: Former Chief Whips can be of service in many ways, Lord Jones.

Q1152 Lord Jones: That was how I found it, when I was in the other place. My second question is: would a possible procedure be one of consideration by a Parliamentary committee with the power to call for evidence, and to make recommendations, to which the Government should reply?

Mrs May: If you were going to go down that route of some parliamentary procedure, there are a number of ways in which that could be done. I come back to my central point, which is that what we want to be able to do at any point in time is to ensure that our law enforcement agencies have the powers necessary to do the job we want them to do, of catching criminals and saving lives. We would be concerned about any procedure that takes a significant amount of time and that means that we see criminals slipping through the net.

Q1153 Lord Armstrong of Iminster: Secretary of State, I quite see the need for flexibility in Clause 1 that you have been speaking about. But, of course, the more flexible it is, the greater the concern that it gives rise to about possible intrusions on privacy. There is a balance there to be struck, which is for Parliament and for you to strike. I wonder if you would like to comment on that aspect of it, and whether it would be acceptable to have a narrower degree of flexibility if there could be some procedure whereby you could move very quickly to extend the powers.

Mrs May: In a sense, Lord Armstrong, you have hit the nail on the head, if I may so. This is, as you say, a balance between protection of privacy and the issue of government being able to ensure the law enforcement agencies have the powers that they need. As I say, my concern is to ensure that there is sufficient flexibility and that we do not just find ourselves introducing a Bill that has gaps in it as soon as it comes into play, and has only achieved a limited extension of the ability of the law enforcement agencies to do their job. From the nature of the questions, obviously the Committee will be looking at other procedures that could take place to reduce that flexibility. We would obviously look at any ideas that the Committee brings forward, but, as you say, the crucial issue is where that balance lies.

The Chairman: That is very helpful, Home Secretary.

Q1154 David Wright: Home Secretary, I welcome your opening remarks about the scope of what the Home Office wants to secure in terms of this legislation. Perhaps coming at

it from a slightly different angle, my concern would be that as technology does change and content becomes more and more difficult to draw out—the more it merges in terms of content and subscriber data—aren't you concerned that you will end up in a position where you will find yourself hamstrung, because of the wide scope of the Bill and your direction to want to ensure that content is not included? So that is the other side of the argument, that it could go either way here. Giving a future Home Secretary, or yourself, the capacity to come back to Parliament to confirm the types of communications data that you want may actually be quite useful.

Mrs May: You are tempting me down a road, Mr Wright.

David Wright: I am trying to.

Mrs May: Obviously, one of the issues that is already in play is this question of how, given that we only want certain information, you separate that from content. We spent quite a long time looking at the technology on this, and I think it has been clear from some of the technical experts that have given evidence to the Committee that it is possible to separate content out from the who, when, where and how. Therefore, I am reasonably confident in terms of that. Now, you are talking about maybe some years down the line.

Q1155 David Wright: Five years down the line, we could get a piece of kit that changes the whole parameter of the game. That is the problem, isn't it?

Mrs May: If, at some stage in the future, it became the case that you could never separate content from the communications data as we describe it, then that would be a different discussion that would need to be had.

Q1156 Baroness Cohen of Pimlico: We all feel that the British public would like policemen, security services and proper authorities to be able to access the data they want, and yet, on the whole, we do not really believe in the concept of future-proofing. We think that there is where the difficulty lies. In trying to do that, you are alarming—probably unnecessarily—the civil rights people. All of us are interested in civil rights. That wide flexibility, if misused, really will cause trouble. I am really commenting that this is going to be an urgent one to solve. While we are, I think, on the same side, this one is going to be difficult to solve.

Mrs May: I accept the point. Certainly, one of the issues that has come through quite clearly is this question of drafting, and whether the way in which the clause has been set has given rise to concerns that need not be there, in terms of the intention of the Government. That is why, certainly, this is one of the issues that we are willing to look at, to make sure that we have got the best drafting to relay our intention and not raise those sorts of concerns for people.

The Chairman: I am fairly certain, Home Secretary, that this is an area on which the Committee will be commenting.

Q1157 Stephen Mosley: We have received written evidence from the intelligence and security services, saying that they believe they need the full range of powers detailed in this Bill. Now, the Lord Chairman has asked yourself if we could have permission to interview formally those services, either in public and private, and you have turned us down. If they were here, I would want to ask them if they could explain to us why any lesser powers would be inadequate.

Mrs May: To address the point that is made about the appearance, or not as the case is, of the security and intelligence agencies, one of the reasons why I asked the Intelligence and Security Committee to do a separate and parallel piece of work and liaise with this joint scrutiny committee is because I recognised that there would have been certain issues that not

only could not have been revealed in private session to this Committee, but can only be revealed to the Intelligence and Security Committee, whose job it is to oversee the security and intelligence agencies.

My answer to why it is necessary to have these powers, and why it would not be possible to have lesser powers, is that if we look at what we are trying to do, what we are saying is that, at the moment, the law enforcement and security agencies have access to certain data that enables them to pursue investigations. I think the figure is that 95% of serious crime investigations over the past 10 years have involved some form of communications data, as has every major terrorist investigation. This is data that is currently necessary and used by the agencies. What we want to do, obviously, is to make sure that as the technology develops and people communicate in different ways, they are able to have access to the same type of information on these different forms of communication. So the answer to your question would be that, if they were only able to have something less than that, that would effectively be the equivalent of a degradation of their abilities.

Q1158 Dr Huppert: It is good to see you here, Home Secretary. Can I just firstly clear something up? In the *Sun* on 3 April, you wrote, “Only suspected terrorists, paedophiles or serious criminals will be investigated” using this Bill. Clause 9 is currently written very much broader than that. Do you think, therefore, we should be recommending that Clause 9 be redrafted to tighten it to your stated intention?

Mrs May: We have certainly got no intention of setting out any permitted purposes beyond those that are in the draft Bill. There is one addition to the purposes that have gone in that is different from those that exist at the moment, in that we are putting in a reference to the Financial Services Authority that replaces something that is being repealed in the Financial Services Bill in relation to market exposure. Again, it is back to this issue that the more you prescribe on the face of the Bill, the more it tightens your hands, and the more difficult it makes it if the scope, in due course, does need to be extended.

Q1159 Dr Huppert: Can we just be clear on your intention? Is it your intention that this Bill would only be used, as you wrote in the *Sun*, for suspected terrorists, paedophiles, or serious criminals?

Mrs May: That is the current scope of the way in which the use is made. There are obviously some other public authorities at the moment who have access to communications data, beyond those that are on the face of this Bill. As you will know, we have been doing an exercise to look at those bodies, to see whether it is right that they be given the powers that are in the Bill. I think it is true to say that you might find it difficult to describe some of the individuals with which those bodies are concerned in those three categories. But the main purpose of the Bill is, certainly, to cover the categories of people that I set out in that article.

Q1160 Dr Huppert: I will move on to the obligations that this would impose on telecommunications providers. We have heard from a whole range of them, both domestic and overseas, that it would potentially involve restructuring their systems and a very large expenditure, for which they would be reimbursed from the public purse. There has also been an issue that they say—to summarise a whole lot of different responses—that there have not been that many clear consultations. I know your officials say there have been, and there is a discrepancy there, but Charles Farr, when he appeared last week, accepted that there should be much further consultation on the detail of the Bill. If this Bill does proceed any further, how will you engage and consult with them so that—if the Bill does make any progress—they would say that there has been consultation and they understand what is proposed?

Mrs May: We have had good discussions with a number of CSPs in the run-up to this Bill being drafted and published. We would certainly aim to continue that. Obviously, going forward, we would expect the discussions that would be held with the various providers to become more technical and more detailed, because there would be issues about how the system would actually work, and making sure that assumptions and discussions so far stood further testing to make sure that we got it absolutely right. It is the case that we have been having discussions with both UK CSPs and overseas CSPs, and we will continue to do so.

Q1161 The Chairman: Can I interrupt? Were those discussions specifically about the draft Bill, or were they just discussions in the past about communications data in general?

Mrs May: They have been of both types, Lord Blencathra. They started off being more general, but have then become more specific about the Bill: about the requirements, about how those requirements could be met, and about what any powers in a Bill should be.

Q1162 The Chairman: Most of the telecoms operators tell us that the first discussions they had on the specific provisions in this draft Bill were after publication, and some of the CSPs say that the first consultation they had was the day after we summoned them to give evidence.

Mrs May: We are into a definitional issue here, in the sense that it is only possible to consult on aspects that are in a draft Bill when the draft Bill has been published. It is possible to discuss the issues that then become clauses in a draft Bill afterwards.

The Chairman: Thank you, Home Secretary. I think you have been very careful in your choice of language. I congratulate you on that.

Q1163 Dr Huppert: If I can move on to another group—we have not been able to talk to anything like all of these—we have had a lot of representations from members of the general public about this issue. Those who have contacted this Committee—and there have been very many thousands, I believe—have been almost uniformly hostile to the Bill and very, very critical of the breadth of the powers as set out in the legislation, which may be different from what the Home Office intends. You may also be aware that there was a YouGov poll done for Big Brother Watch, which found that 6% of people thought that the Government had made a clear and compelling case for the Bill. There is a lot of very genuine concern about this Bill, and the effect of intrusion into private lives, given the breadth of it. What steps will you take to try to reassure people that that is not something that they should be concerned about?

Mrs May: I am aware that there has been a lot of concern, based partly on the publicity around the Bill that portrayed a number of myths about the Bill, such as that it was going to enable the Government to read everybody's emails, which it plainly is not. The other aspect that we have not got across to people that it is not the case that the Government is going to be seeing the who, what, where and how of every single person's communications. Data will be retained by the CSPs, but it will only be possible for law enforcement agencies to have access to it when they have an investigative reason for doing so, and they have to make a clear case. It goes through the process. I believe that the Committee has visited the Met, and seen the single point of contact operation and the process that is gone through to make sure that that data is only required in cases where it is indeed necessary in an investigation.

Of course, it is not just the case that data has played such a significant role in so many serious and organised crime cases and terrorist investigations, but I think it was between April and June of this year that, in the London area, it was something like—I may need to check these figures—46 out of 53 prosecutions from the CPS used this data as part of those prosecutions. So it is not just the police accessing it in investigation: it goes through into

prosecutions. And if I may, Dr Huppert, I believe that I did not say in *The Sun* article—I do not have it in front of me—that it would “only” be used in relation to serious crime and terrorism.

Q1164 Dr Huppert: The exact quote is, “No one is going to be looking through ordinary people’s emails or Facebook posts. Only suspected terrorists, paedophiles or serious criminals will be investigated.” That is, for what it is worth, the quote, but that was back in April. If I could just ask one final question, Lord Chairman: there has been a lot of misinformation and lack of clarity around this; I think we would all agree with that. Given that, are you grateful we have had the chance to go through this pre-legislative process, where yourself, police, and other people have had the chance to state publicly what they think about this, and that it has highlighted a number of things that—as officials have already accepted—would need to be updated in the Bill?

Mrs May: I certainly think this has been a good process. As I say, I am conscious of the length of time you have given to do this. It has shown an open and public discussion about this in a way that has been very important. Obviously, I think some of the evidence that you have received, particularly from the police, has highlighted the operational necessity of this, and I think that has perhaps hopefully sent a message that we previously had not been able to get across to people.

Q1165 Lord Strasburger: If this Bill were enacted, there would be a massive increase in the data being held about every citizen who uses the Internet. This data would be a honey pot for casual hackers, blackmailers, criminals large and small, all over the world, and foreign states. Given the woeful record of public and private sector organisations in protecting the data they hold from loss or theft, why should the public have any confidence that their private and financially valuable data will remain secure?

Mrs May: Security of data is always a concern for people in their everyday life, in the way in which they use data today, let alone this. It is not the case that suddenly people should start worrying and they do not need to worry today. One of my personal concerns is that a lot of people today probably do not handle their data in as secure a way as they could be handling it. But this is not about the public sector. You said the public sector was woeful.

Lord Strasburger: And the private sector.

Mrs May: Let’s get the public sector out of the way, because this is not data that is going to be held by the public sector. This is data that will be held by the private sector, by the CSPs. Obviously, we have been talking to them about the security of that data. There will be, as you know, some sanctions in the Bill in terms of any breaches in relation to the security of that data. We will be doing everything we can to ensure that that data is held securely, as the data is held today. CSPs are holding significant amounts of data about people’s communications as we speak. This is not a new concept.

Q1166 Lord Strasburger: The Bill would require the CSPs to hold a lot more data, a wider range of data, and 12 months’ data. What will be new is that there will be a lot more data about a lot more things being held.

Mrs May: They will be holding more data. They will be retaining it for 12 months. That is what they do on some of the data today, anyway. So the concept of the private sector holding data, and whether or not that is secured for individuals, is not changed by the nature of this Bill.

Q1167 Lord Strasburger: We have heard from experts, including some of the CSPs, that they have actually had concerns about their ability to withstand attacks, given the

increased amount of data and the increased attractiveness of this data. I have got a list here of some of the breaches that we know about in private sector organisations: NASA; Microsoft; Yahoo; Bank of America; Citigroup; Apple. LinkedIn had 6.5 million passwords stolen a few months ago. They are all vulnerable, and owing to the fact that this data is being expanded and is going to hold, arguably, some very private information, many people are concerned that this data will get out there. In fact, some of the experts have told us this data will get out.

Mrs May: First of all, if I come back to the central point of why we are doing this—which is the who, when, where and how—that is the data that we will be requiring to be held. That is what we want to be able to have access to. That sort of data is held already. I am aware of the issue that you raise about issues with systems today. I do not think the fact that there is going to be a different set of data, in the sense of different communication forms for the same type of data, and that is going to be held, changes that principle. Government has to take a decision. We have to decide whether we want our law enforcement agencies to be able to carry on doing what they have been doing, which is bringing people to justice and saving lives, or not.

Q1168 Stephen Mosley: The weakest point of any computer system is the human. You talked about sanctions, but as I understand it, most of them are sanctions on the CSPs to make sure that they protect their data. What about the situation where people in authority, whether it is the police or other organisations, misuse access to that data? Do you think there should be criminal sanctions in that situation?

Mrs May: There are already procedures in place. If somebody in the police misuses access to some form of data, then it is already possible to take some action against those officers. For example, if an officer misuses access to the police national computer, and that is identified, then action can be taken against that officer. So there would already be procedures in place that would enable some form of action to be taken. Obviously it is already the case, also, that this is not just about misconduct. In some circumstances, if it can be seen that there is an element of criminality in terms of misconduct in public office, or something like that, then action can be taken on those lines.

Q1169 The Chairman: Home Secretary, I do not think we have seen any examples of police breaking the rules, but do you think it would show even-handedness to the public, and help reassure them, if there were criminal sanctions for the CSPs or the internet service providers who break the rules, and there were equally serious criminal sanctions for the police officers? Even though we have no evidence that police have actually done it?

Mrs May: Certainly I have seen no evidence that the police have mishandled or misused any of this information that they have had access to up until now. What I am trying to say is that there are already sanctions—that may be of a slightly different kind from the sanctions that appear on the face of the Bill—already available in relation to the police, should they misuse data.

Q1170 Craig Whittaker: Home Secretary, good afternoon. We have heard a lot about the spirit of the Bill, and we heard evidence that large CSPs will probably be the only ones asked to collect this information. The face of the Bill does not say that at all, so you can understand why some people are sceptical. I want to ask you about SMEs who do not have the personnel to perform some of the tasks that would need to be done to collect data. What risk assessment has been done around SMEs, and what damage will that do to business set-ups and, indeed, innovation in the UK in this field?

Mrs May: We have looked at that issue. On the innovation point, I think I am right in saying that the Minister for Science, David Willetts, set out clearly in the Business

Department's evidence that they did not see that this would in any way harm innovation in the UK. In relation to SMEs, you are absolutely right. As has been made clear, there would be certain CSPs that the Government would be naturally dealing with. There would be some very small CSPs and start-ups where they would not necessarily be doing so. If it were felt, because of any evidence, that we should be doing that, then of course appropriate discussions would be held with those bodies about their capabilities and how this could be managed. But it is not the intention, as you have said, to suddenly have an interaction with every single CSP, because we are conscious that there will be some smaller providers who do not have the capability to be able to do what is being requested.

Q1171 Lord Strasburger: When agreeing the policy of the draft Bill, you were, of course, aware of the views of the intelligence, security and law enforcement agencies that their work requires additional access to communications data. Did you, before deciding on the breadth of the new powers, consult any of the organisations concerned with protecting privacy and human rights?

Mrs May: There have been, throughout the course of this, a number of discussions with certain organisations about their views on this.

Q1172 Lord Strasburger: Could you elaborate on that a bit?

Mrs May: For example, I have had a very early discussion on this and a number of other matters with, certainly, one organisation. Officials have been discussing, have had other people in, and have had a number of meetings with individuals and organisations who take a different view from the Government.

Q1173 Lord Strasburger: But you personally have not had very many, by the sounds of it.

Mrs May: No, because that would naturally be conducted normally by officials. Obviously, they would feed back the information to me.

Q1174 Mr Brown: We touched on the offence of misconduct in public office in your earlier reply to us. The general public, our constituents, are frightened that they are going to be spied on and that people will obtain information about them, perhaps unlawfully, and that somehow it will then come into the public domain. Now, one way of reassuring the general public would be to ensure that those who break the law are caught and punished. The Information Commissioner said to us, repeating a call that he has made before, that if we enacted Sections 77 and 78 of the Criminal Justice and Immigration Act 2008, that would meet the case. In other words, the offences are already set out in legislation, but they have not been enacted. What would your view be on bringing in a modern and proportionate offence that could be prosecuted?

Mrs May: I think in relation to the particular offences in the 2008 Act, if I may, Mr Brown, I would like to go away and have a look at the specifics in that, and perhaps write to the Committee on that point. I appreciate the point that the Committee is making that the public want to know that if somebody does bad things or things they should not be doing with their information, that there is going to be some appropriate sanction on that individual. How that is undertaken, whether it is new powers or not, is a question that would need to be looked at. I am happy to look at the specific offences that are in that 2008 Act.

Q1175 Lord Faulks: Home Secretary, I think that particular point was one that was raised before the Business Department, and I think it is likely that he may have some observations to make when he produces a report fairly shortly.

Mrs May: Thank you.

Q1176 Lord Armstrong of Iminster: If I may revert for a moment to the permitted purposes in Clause 9 of the Bill. As I understand it, Clause 9 repeats the 10 purposes that are derived from RIPA, and then Clause 9(7) would allow you to add further purposes. The House of Lords Delegated Powers and Regulatory Reform Committee have said that they would not necessarily find that extra power acceptable, just because it derives from the existing power in RIPA, which they at the time thought too wide. If somebody said they wanted to extend the permitted purposes, what justification would you be expected to require?

Mrs May: The first answer would be that this would need to be a purpose that I felt was necessary and proportionate in its operation. I think the last time a change was made to existing powers was in 2006, and that was to added purposes relating to investigations into miscarriage of justice and the obtaining of information about persons who have died who are unable to identify themselves, which came in an order in 2010. What I hope is that that shows the sort of nature of purpose that might be used as an extension in relation to this, but it would have to be necessary and proportionate. It would have to be something where there was clearly a public benefit for adding that purpose, which outweighed the concerns that there might be about that information being accessed for that purpose.

Q1177 Lord Armstrong of Iminster: May I turn from that to the public authorities? The Bill defines the four relevant public authorities with access to communications data. Clause 21 would give you power to add to that list, and your memorandum says that, “circumstances may change over time such that an existing body may be able to present a compelling case for designation”. It rather looks as though you do not really believe that any other body than the four relevant public authorities—the police, and so on—really need to be designated, but we have seen cases made to you for extension. I would be glad to know whether you think you are going to need to designate a number of other public bodies beyond the four.

Mrs May: It has been a very good exercise for us to not assume that the existing list of public authorities should naturally translate into the new Bill, but to ask those public authorities beyond those that clearly are currently the majority users of the communications data to justify its access. Now, in some cases, they do not have very many requests that they make. In others, it looks quite small compared to, say, the police, but actually it is a reasonable number in relation to the agencies. Currently, my view is that there are those for which it is possible to make a case. I would cite, for example, the UK Border Agency, and I have already mentioned the Financial Services Authority. Further than that, there are others that we are still looking at, and there will be some where, actually, a good case has not been made.

Q1178 Lord Armstrong of Iminster: Would you be prepared to consider whether any other additional bodies that were designated should, when applying for access to data, need to go through a procedure more rigorous than that required of the police, intelligence services, SOCA and HMRC? I am thinking of, for instance, something like the National Anti-Fraud Network, which I believe is a central institution that can handle local authority applications, and has the expertise—the SPOCs, and all that—required to do so. Would it be in your thoughts that if there were other bodies than the serious crime, intelligence and security agencies designated, that they might be put through a more rigorous procedure through some kind of central body like that?

Mrs May: I have a natural disinclination to creating new central bodies, but I think what we would need to do would be to look at each individual case and the extent to which

they were able to show that they had, or were able to provide, sufficiently robust procedures, before then looking to whether there were a number of organisations where it was perhaps felt that a central body would be more appropriate. The difficulty is, obviously, for those bodies who do not use this very often, ensuring that they have a truly robust process, i.e. that somebody actually understands the full process, because the police are used to doing it. They have an operation that is streamlined and smooth. For some of the organisations that request access very regularly, there is a question, first of all, as to whether it is right for them to continue to have access, and then if they do, how it is appropriate to make sure that the public can have confidence that they are not doing this capriciously and that they are doing it properly.

Q1179 Lord Armstrong of Ilminster: That sounds as if your mind is not closed to the idea of some kind of central point for these other authorities. At the moment, each separate police service has its own systems of authorisation for access to communications data. There is some suggestion that there might be a case for centralising some of that, and that some of the smaller police authorities might conceivably go to a central police pool of SPOCs, and so on. The central body would have the expertise and the experience to handle it, and it would save the smaller authorities having to develop their own authorisation procedures.

Mrs May: On the first remark, if I may, Lord Armstrong, I think it would be ill-mannered of me to come before a joint scrutiny committee and say that I was closed to absolutely any proposals that the joint scrutiny committee might choose to bring up in its report. I had not considered fully the question of police forces going to a central point. My view would be that police forces are able to provide the robust processes internally. They are more used to dealing with this sort of request, and I think they have naturally the proper structures and hierarchies and processes in place that enable them to make these sorts of requests properly, without having to go to a central authority.

Q1180 The Chairman: I think, Home Secretary, we have heard that Devon and Cornwall, Wiltshire, and possibly another force have decided to centralise their SPOC system for reasons of efficiency, higher-quality training, and so on. So if that were to be the case, you would not be adverse to other police forces—without amalgamating police forces—at least sharing their SPOC resource?

Mrs May: There are many good examples of police forces who are now sharing resources across a variety of different areas. If they choose to do so, because it makes sense for them and is efficient, then I am very happy for them to do so. What I am less willing to go down the route of is to say that the Government will mandate that they will all go through a certain structure. If they are going to share services, they need to do it with the forces that make sense to them, where they have got some natural affinities, where it is going to work, and where perhaps they are sharing other resources as well.

Sitting suspended for a Division in the House.

On resuming—

Q1181 David Wright: Home Secretary, could I just place on the record this issue about designated bodies on the face of the Bill? The idea of getting them to review whether they need to be able to access communications data is excellent, but I understand that a number of them have not replied to the consultation, which perhaps demonstrates that they do not need communications data or perhaps they are not very good at communicating. In terms of what is on the face of the Bill, if it is going to take some time for the Government to put

this Bill together after this pre-legislative process, do you think it is going to be reasonable to specify on the face of the Bill the bodies that you want to have access to communications data?

Mrs May: Obviously, we need to specify certain bodies—those bodies that are going to have most access to it. I have a hesitation for trying to specify every single body that should have access on the face of the Bill, for a couple of reasons. First of all, it may be that by the time we have been through all of this process we will have had answers from everybody and we will have been able to make those judgements, but on a sheer practical point, bodies change. They change their names; they change their purposes; there are amalgamations, and so forth. I think if you are too prescriptive, you just end up with a situation where the legislation has hampered you and hamstrung you in a way that it was never intended to. So there is a practical issue there, and there is a value to the process of saying that there should be a consideration of any body that can be added to the list of those that have these powers and going through that process, rather than just having an approach of, “We will put everybody on the face of the Bill”.

Q1182 The Chairman: Home Secretary, on that point, would you accept that even if you whittle down the public bodies from 600 to 400, and then to 300, it still could cause public concern? On the one hand, there may be this misconception that, “The Government can tap into all my data and is going to collect massive amounts”. On the other, it is not just the security services, the police and the FSA; there are 400, 500, or 600 other bodies who could access it. Therefore, I think you seem to be edging closer to having on the face of the Bill the current big four, maybe the FSA or UKBA, a few of the big, important national bodies dealing with crime, national security, terrorism, children and so on, and then make all the rest go through extra, additional hoops, much stricter than you have at the moment, to make them justify access to even more limited data. Would it be fair to say you would be mindful to think of that?

Mrs May: What I am mindful of is a process where there is a second stage for those bodies, which is a consideration by Parliament as to whether they should be put onto the list of authorities that can have access. Then, there is an extra scrutiny for those bodies as to whether it is appropriate. I think one of the justifiable concerns has been the long list of bodies that currently exists, and people question why some of these organisations should have access to this sort of data. Now, for some of them, obviously we would not be talking about them having access to certain types of data. It might be more restricted. But I think there is a necessity that there is a separate process for these bodies, an extra rung on the ladder that they have to get up, in order to show that people can have confidence that these are bodies that are appropriate to have access.

Q1183 Stephen Mosley: Before the break, you said you had an aversion to creating new central bodies. However, the Bill does allow you to create a new central body to manage the filter. Have you given any consideration, since the publication of the draft Bill to where that filter would reside? Would it be in the Home Office, an independent body, or somewhere else?

Mrs May: This is a matter that we are still giving some consideration to. There are obviously a number of arguments on either side of this. The filter is an important function to have. It does enable, in that completely unseen way, the information to be whittled down to what it is absolutely necessary for the law enforcement agencies to have, and that is a benefit in terms of the process. Where that resides and who oversees it is something that we are still working on. Obviously, as we develop those ideas, we will be happy to share them, but we

are still looking at the pros and cons. As I am sure that every member of this Committee can see, there are advantages and disadvantages on all of these.

Q1184 Lord Faulks: Home Secretary, if I may, I would like to ask you about the ECHR and its application to this Bill. A very long and helpful memorandum was provided and attached to the Bill. It is obvious that, whatever else one may think about the scope of article 8—and this can be controversial—it is plainly engaged by the provisions of this Bill, involving as it does a potential invasion of people's private lives. One of the justifications for it given in the memorandum is that the Information Commissioner and the Interception of Communications Commissioner will have new powers of oversight as regards the exercise and performance of the powers and duties conferred and proposed by the Bill. In fact, if one looks at the Bill—and I particularly have in mind Clause 22(5)—the Information Commissioner is told he must keep under review the operations of sections, including security, which, of course, is absolutely crucial to communications, as we have already discussed. He does not appear to be given those powers, or, on the face of it, any resources. And this is not just a technical human rights point, because he in fact gave evidence to us that he was concerned about the range of keeping under review aspects of the Bill, without having a clearly defined power given to him by the Bill, or in fact, the resources. Do you have any comment about that?

Mrs May: First of all, we believe that the Information Commissioner does have the powers that he needs to carry out the role that will be set out for him. There has been a question raised around resources, and we are in discussion with the Information Commissioner about that particular issue. I am always hesitant when a questioner starts with reference to the ECHR. I am never quite sure where we are going to go down. As you know, we have had long debates about the qualified nature of Article 8, and therefore its application in a whole variety of ways. We feel that the Information Commissioner does have the powers necessary to carry out his role and the various responsibilities that he will have, and, as I say, we are looking at the issue of additional resources. He said that he would need extra resources, but we are in discussion with him about that.

Q1185 Lord Faulks: The public clearly need quite a lot of reassurance about this, partly as a result of the misinformation on one side or another about what the scope of this Bill may be. The role of the Information Commissioner—indeed, the Interception of Communication Commissioner—is not, perhaps, quite as well known as it might be, compared with, let us say, the Independent Reviewer of Terrorism legislation. Does the Home Office envisage in some way raising the profile of that person or persons, so as to give the public rather more reassurance that the potential exercise of these powers is reviewed by an independent person, and so that they can feel the weight of that independence?

Mrs May: It is always difficult to find ways of getting across the role of somebody like the Interception Commissioner. I would say the Information Commissioner has probably more public prominence, because people do see cases, sometimes, where he has intervened or where the Information Commissioner's office is commenting on various issues. I think it is the other commissioner that has less public profile. It is one of the problems across the suite of the commissioners, if you like, that they produce annual reports that are very well worth reading, but which most members of the public—indeed, I may say most members of both Houses of this Parliament—probably rarely read. However, I am afraid we do not have a, "Let's advertise the Interception Commissioner" campaign on the stocks, and I am not sure it would have much impact if we did.

Q1186 Mr Brown: It is a framework Bill that we have under consideration, and I wonder if you have given any thought to how, if it were carried, Parliament might monitor the workings of the Act?

Mrs May: I have every expectation that the existing structures of Parliament will have an interest in monitoring the workings of this Act. I am tempted to say that most Acts that are passed with a Home Office lead do come under significant scrutiny from the Home Affairs Select Committee quite regularly, but there are obviously other committees that do look at various aspects of issues like this as well.

Q1187 Mr Brown: Do you think it would be an extra reassurance to the public if there were some further Parliamentary arrangement for post-legislative scrutiny, hearing reports as to how the powers under the Act, and providing a forum where people could complain if they felt that something had been done improperly?.

Mrs May: There is already a complaints procedure that people can take forward, if they feel that their data has been misused, so there is already a complaints path for people to use. I am not sure that adding a Parliamentary complaints path would necessarily add anything extra to the system.

Q1188 Mr Brown: In a fast-moving world, do you not think there is a case for keeping the legislation itself under review, and considering whether it needs updating or reshaping as events and technologies move on?

Mrs May: Part of the purpose of having some flexibility in the Bill is to make sure that we do not need constantly to be adapting the Bill and reviewing it as technology moves on. It is always open to Parliament to decide to do a piece of work on post-legislative scrutiny. There is more and more post-legislative scrutiny now being done of Acts. That is entirely in the hands of Parliament.

Q1189 Mr Brown: But you are not opposed to it in principle.

Mrs May: If I can put it like this, when I sat on the Modernisation Committee of Parliament, I was in favour of increasing post-legislative scrutiny.

Q1190 The Chairman: As I understand it, Home Secretary, you have got a technical advisory committee, which is a permanent committee advising on the technical aspects. Do you see scope for that being beefed up in some way, and maybe becoming part of some standing review committee under some Parliamentary authority, or with Parliamentary input, even?

Mrs May: I have no objection to looking at the technical advisory committee and saying, "Is it still, in the new circumstances, the right shape of body to undertake the job that we want it to undertake?" What I hesitate to do is to overlay everything with so many different committees and meetings and bodies that, actually, you end up with no real scrutiny at all, because everybody is falling over themselves to try to be the one body that is scrutinising the action of the Bill.

Q1191 Mr Brown: What would your attitude be to inserting a sunset clause into the Bill, so that it expired after a fixed period of time unless Parliament renewed it?

Mrs May: Because of the fast-moving world that you yourself described, Mr Brown, it is quite difficult to insert a sunset clause. I accept that that does not kick in unless Parliament decides; there is a Parliamentary procedure that looks at it. However, by their very nature, police operations are ongoing day on day. It seems to me that anything that acts to interrupt the ability of the police to have access to the data that they need to be able to catch criminals

and save lives is a problem. The whole purpose of this is to say that we want a Bill that is going to enable our law enforcement agencies to have access to the information they need to do their job, and trying to overlay that with lots of scrutiny and boards and interruptions, and so forth, can just get in the way of what is—I believe—a very appropriate purpose, which is that we want our police and law enforcement agencies and others to be able to do the job of protecting the public.

Q1192 Baroness Cohen of Pimlico: The other answer to all of this is to improve the independent supervision. One of the exciting things the Information Commissioner produced was an overlay of the various surveillance commissioners, which was absolutely dazzling. I had no idea, as you suggest, and I also suspect that no member of the general public would know where to start. Would it be appropriate to suggest that the Home Office could consider de-complicating this structure, and does it lie with you to do so?

Mrs May: We did look at de-complicating the structure. In the consultation paper we put out on the Justice and Security Bill last year, we suggested an amalgamation of commissioners, to have a sort of super-commissioner—“Inspectorate General”, I think, or some such title. However, it was rejected. It did not meet with any high degree of support, publicly or elsewhere, and so we chose not to go ahead with it.

Q1193 Mr Brown: How have you satisfied yourself that the costs associated with the measure represent value for money? Specifically, can you say how you have accounted for inflation in the overall budget?

Mrs May: I am confident in the work that has been done so far on costs, but we are refining that. We recognise that we cannot just stand still on this. We are going back to talk to providers and others about the costs, to make sure that when we come to a Bill, we are able to give as good an approach as possible.

Q1194 Mr Brown: And inflation?

Mrs May: I believe inflation has been taken into account, but we are making sure that we take every single aspect that we need to take into account into account in the refinement. I am sure that has been done in the first place, but we are going back and having another look at it.

Q1195 Mr Brown: Parliament will have something in front of it.

Mrs May: There will be a proper impact assessment, which will set all of this out, yes.

Q1196 The Chairman: On costs, Home Secretary, nearly all of the internet service providers who talked to us were sceptical about the £1.8 billion cost. They all expect that to escalate, and not only because no government has ever brought any computer technology project in on budget. Looking at the other side of the coin, the estimated savings were up to £6 billion, and about £3 billion of that could have been on lives saved. Now, when we spoke to your officials, they said it was not just a Home Office costing of £1.7 million per life; it was following a Treasury model, a Department of Health model, or a police model. I find those savings a bit fanciful. I can understand why the cost is paid by the taxpayer, the Chancellor and the Government, but I do not understand how the Government gets the benefit of £1.7 million savings, on average, if I am not killed. All I am saying, Home Secretary, is I think those cost saving are fanciful. Can you elucidate today?

Mrs May: I am very happy to send something into you that would go into more detail, but the point is there is an overall cost. We are talking about 1,000 to 2,000 lives being saved. That is the figure that comes through. Quite a lot of work has been done by the Home Office

and the Treasury in terms of looking at that figure, and how that figure comes out. If somebody is killed, then there is an immediate cost to the state of what happens around that death. That can be quite considerable in terms of the cost of investigation, and so on and so forth.

Q1197 The Chairman: The benefit to the family of someone not being killed can be estimated in millions or hundreds of millions of pounds, they would feel, but the cost to the state of someone being killed is certainly not £1.7 million. I read through the figures again, and I cannot, for the life of me, get my head around how the Government thinks there is an individual saving to the taxpayer of £1.7 million on average for someone who is not killed.

Mrs May: There is an initial saving in relation to the case. There is then, potentially, a saving depending on the circumstances of the family, as the death of one individual might actually throw the family onto the state. There are all sorts of factors that could be taken into account in relation to this.

Q1198 Dr Huppert: This is essentially the question I put to Charles Farr last week. If the Home Office figures about projected savings, whether it is lives or financial, have much backing, you can presumably point to evidence over the last 10 years of the lives saved and the amount of money that has been saved. I think the Home Offices figures are £6 billion as a projected benefit over the next 10 years. How many lives have been saved in the last 10 years using communications data, and how much real money—as opposed to the lives saved—has been brought to the Government as a result of communications data in the last 10 years?

Mrs May: It is difficult for us to say that, because I am not sure that we have actually been accumulating that data in the way that you would require it to be accumulated in order for me to answer that question. We have been able to have some estimates from cases of how many lives might have been saved, but we have not been sitting there in the Home Office totting up these things in the expectation that I might have to answer a question at a joint scrutiny committee.

Q1199 Dr Huppert: I am just trying to understand, because if the estimates are accurate going forward, presumably one would expect them to be based on the evidence that we have already accumulated. If they are not based on past evidence, which is what I would have expected, where do they come from? Will you, if the Bill ever comes before Parliament, be able to justify the estimates based on historic data by that point.

Mrs May: These sorts of issues about the cost-benefit of the programme should come through in the impact assessment that will be done and will be presented to Parliament. So Parliament will see what the various figures are.

Q1200 Dr Huppert: They have been presented to us, and what we are saying is that there is not the evidence to back up the impact assessment that was produced with this draft Bill. Can you be sure that you will have sufficient evidence by the time this gets any further, if it does?

Mrs May: I am able to reassure you that we will be able to show why we have come to those figures. I recognise, as a research scientist, you want absolutely hard evidence on everything. It is not necessarily the case that every kidnap that has been stopped, so a life has been saved, the police officer or somebody has sat down and said, “Well, that has saved the state X amount of money”. That is what I am trying to say. Obviously, there are some estimations in here, and so forth. So we can show you how we have arrived at the figures. I am not sure they would satisfy your eagerness for absolutely hard, concrete evidence.

Dr Huppert: It would be helpful to see where the estimates do come from. If you can send them to the Committee, that would be fantastic.

The Chairman: I am just amazed that Home Office accounting officers have been able to put one over on the Treasury.

Q1201 David Wright: Home Secretary, in the foreword to the draft Bill, you say that you will consider the views of this Committee and the Intelligence and Security Committee carefully, before introducing the Bill later in this session. Now, your officials have told us that they do not expect royal assent for this Bill until 2014, so could you tell us whether the Bill is going to come forward in this session, what your timetable for implementation is, and whether there is coalition agreement on this Bill?

Mrs May: The timetable that we have set is that we would be able to receive the evidence from this Committee and the ISC in time to introduce before the end of this session, but to carry over into the next session.

Q1202 David Wright: You expect this to come in to this session

Mrs May: I am expecting it to come in to this session. Now, obviously, that slightly depends on the new evidence that we get from the committees, and the extent to which we need to look at the draft Bill in relation to the reports that come through from the two committees. But that would currently be my expectation.

Q1203 Craig Whittaker: Home Secretary, I know we have briefly touched on this already, but our evidence does show that, despite assurances from the Home Office, CSPs definitely do not feel as though they have been consulted widely on the draft proposals. Do you believe, going forward, an opportunity will be taken to consult with not only CSPs but perhaps civil liberty people as well?

Mrs May: As I indicated earlier, we have discussed this Bill with a range of people, and we have been talking to CSPs about the nature of CD and about what we need to do, and, obviously, more latterly, about the specifics that have been in the Bill. We will indeed continue to do so. We want to work operatively with the CSPs, so it is not in the Home Office's interest not to talk to them, and we will continue to talk to them. Obviously, as we get closer to introducing a Bill, throughout the discussions on that, we will be able to talk to them in more detail.

Q1204 Michael Ellis: Home Secretary, I just wanted to, if I may, just come to the nub of some of the issues, because I see the time is passing. Would you agree, in a nutshell, that this is a Bill that has been subject to some grossly inaccurate reporting? The measures that are proposed in this draft Bill have not been very accurately transposed in the media. Various names have been ascribed to it that imply, for example, intrusions that the Bill does not include. But would you agree, in a nutshell, that this is a Bill that, if enacted by Parliament and given royal assent, will catch criminals and save lives? Can you give some reassurance that the police that we have heard from, and no doubt the senior officers you have heard from about this, are convinced that this is the case?

The Chairman: I think you just have to say yes, Home Secretary.

Mrs May: I am very happy to say yes. I think there has been misreporting; I think there has been misunderstanding from the public. There have been lots of references from members of the Committee to the public having concerns about this. I think the vast majority of the public want the law enforcement agencies and the police to be able to do exactly as Mr Ellis has said, which is catch criminals and save lives. The first duty of the Government is

about protecting the public, and that is why I think this Bill is so important. I think you will have heard of its operational importance yesterday, from Sir Peter Fahy and others.

Q1205 Lord Strasburger: Home Secretary, is it the case that one or more of the senior Home Office officials who are trying to drive this Bill through Parliament are employees or former employees of the security agencies.

Mrs May: We never comment on that.

Q1206 Lord Strasburger: If it were the case, how appropriate would it be for them to be based inside the Home Office, promoting the security agencies' agenda in pressing for massive increases in state surveillance of citizens, in a way which significantly changes the contract between the state and its citizens?

Mrs May: As I say, I do not make any comment about individuals in relation to the security service, or any of the other security and intelligence agencies. It would not be appropriate for me to do so. Everybody who is working on this Bill is doing so because this Government believe that it is important that the police and the other agencies are able to continue to have the powers that they have today to do as we have discussed earlier, which is to save lives, in a new technological environment. I understand that the police estimate they get 30,000 urgent requests for communications data per year, and they estimate that they save lives in 25% to 40% of those cases. I think that matters to the public.

Q1207 The Chairman: Home Secretary, as we come to the conclusion of our session with you, I think the Committee would conclude that there seemed to be some considerable movement from your officials between their last evidence session and the first one. As one of our colleagues commented, they had read the body of evidence, and they seem to be willing to be more flexible in how the Bill was drafted—as you have been today—and in some of the outside organisations and public authorities who may be attached to the Bill. Depending on the conclusions of the two committees looking at this Bill, Sir Malcolm's and this one, are you willing to accept that you might have to do quite a bit of rewriting of the current draft Bill in order to achieve the aim?

Mrs May: I am not able to say how much rewriting we would look at for the Bill until I have seen the reports of the two committees. However, I hope you will have seen from what I have said today, and indeed what officials have said recently, that we recognise that there are some areas in particular where the interpretation of what has been drafted so far is not what we intended, and therefore we need to look at those areas.

The Chairman: I think the Committee would find those remarks very helpful, and perhaps some of the misconceptions we have had have been because the Home Office initially gave the impression they wanted far too much material. As we narrow down what it seems the police and the security services want, and indeed what you want, all of us may be better able to reassure the public. Home Secretary, my very final point is this: it is Halloween, and on the day of Halloween a Home Secretary who is suffering from a heavy cold, or possibly flu, is allowed to put honey and hot water in her large malt whiskey, which I strongly recommend you have tonight.

We are very grateful to you for coming. We are grateful that you have managed to endure over 90 minutes of questioning, despite your heavy cold. We are grateful for the information we have received from you. We will get one or two other things in writing, and we do firmly intend to continue working as hard as we have done over the last few months and over the recess; I want to put on the record that when the Commons was here, Lords came

back as well, so we could have meetings. We firmly intend to deliver on time, if we possibly can. Thank you, Home Secretary.