**Forensic science on trial : follow-up : oral evidence taken before the Science and Technology Committee on Wednesday 23 November 2005 / Peter Goldsmith, Harriet Harman, Andy Burnham.**

House of Commons

Science and Technology Committee

# Forensic Science on Trial: follow–up

## Oral Evidence

***Wednesday 23 November 2005***

Rt Hon Lord Goldsmith QC, Attorney General

Rt Hon Harriet Harman QC MP, Secretary of State, Department for Constitutional Affairs

Andy Burnham MP, Parliamentary Under–Secretary of State, Home Office

*Ordered by The House of Commons to be printed 23 November 2005*

**HC 685-i**
Published on Thursday 19 January 2006
by authority of the House of Commons
London: The Stationery Office Limited
£5.50

# Oral evidence

## Taken before the Science and Technology Committee

## on Wednesday 23 November 2005



Members present:

Mr Phil Willis, in the Chair

Adam Afriyie
Mr Robert Flello
Dr Evan Harris
Dr Brian Iddon
Mr Brooks Newmark
Dr Desmond Turner

*Witnesses:* **Rt Hon Lord Goldsmith QC,** Attorney General, a Member of the House of Lords, **Rt Hon Harriet Harman QC,** a Member of the House, Minister of State, Department for Constitutional Affairs, and **Andy Burnham,** a Member of the House, Parliamentary Under-Secretary of State, Home Office, examined.

**Q1 Chairman:** It is a pleasure to welcome everyone to today's follow-up session on the last Science and Technology Committee's report on forensic science, and to say how delighted both the former Committee and indeed the present Committee are at the interest there is in this key topic. It has raised a huge amount of public interest, as well as interest within the scientific community, and indeed within the police service itself and the legal community. Thank you to our expert witnesses for coming today. Could I perhaps ask a couple of opening questions? We believe that there was some reluctance that you would come today. Is that because of the fierce reputation of the Committee? The chairman has changed, and we are much better! Was there a problem or not?

***Lord Goldsmith:*** Not in the slightest. Indeed, we welcome the opportunity to speak to the Committee because, as you say, of the importance that science and technology plays, particularly in the justice system. If I may say so, the report of the Committee—whether under present or past management, as it were—has been enormously helpful. It has meant that a lot of key information has been shared across the agencies. We value that. Forensic science is a very important area. I can give some statistics, if it is helpful, about the number of cases in which this arises. But, just to deal specifically with the issue that you raised, we were not at all anxious not to be here: quite the opposite. It was just a question of who was going to help you most. What we have are three Ministers. Andy Burnham can cover the FSS, the national database and things which are specific Home Office responsibility. I am able to take the lead on things which relate to the courts, partly because it affects prosecutors, for whom I am responsible. Indeed, they have no less than five distinct projects on foot at the moment which are relevant to what the Committee was reporting on. I have also recently taken on a sort of cross-criminal justice system responsibility for experts within what we call the Office for Criminal Justice Reform. The result is that Harriet Harman, who leads for the DCA, can help with matters where the DCA is relevant; but they are probably quite narrow and so we thought that we could perhaps handle them without needing to trouble you with a third person. However, we are all happy to be here.

**Q2 Chairman:** We are absolutely delighted to see you all, but we are somewhat concerned—if I might put this on record—that a revocation order was placed before Parliament, of which the Committee had no notice at all. Today, Andy, you are giving a written statement at 10.30 which is directly relevant to this inquiry, of which we had no notice, even though our officials met your officials a week ago to ask if there was anything coming down the line. Is that just a cock-up or is it—

***Andy Burnham:*** I do not think it is a cock-up, Chairman. I specifically asked that the announcement today be sent to the Committee to arrive here in advance of today's hearing.

**Q3 Chairman:** It arrived yesterday.

***Andy Burnham:*** I wanted you to have notice of it and, as you rightly say, it directly relates to recommendations that you made in your report. Obviously there is a balance to be struck in giving information, disseminating it more widely, particularly with something we are laying before Parliament. As I say, I was clear that I wanted the Committee to have that in reasonable time in advance of today's meeting. That is why I did get the information to you.

**Q4 Chairman:** You must have known a week ago that that was going to be the case. Why could not the clerks be notified that there was going to be a statement coming down the track? I do not mean the content. I accept that.

***Andy Burnham:*** I wanted you to be notified as soon as possible without putting it out before laying the statement. Obviously we have been working up the statement. We had planned to release it today, but wanted you to have prior notice, and that is what we did.

**Q5 Chairman:** At precisely 10.30 we will return to that, so as not to break the conventions. Could I ask you this, while we have the three of you here? Do you often meet—if you like, as the three key players? Do you meet as a team?

*Lord Goldsmith:* There is a lot of being joined-up in the criminal justice system, so that essentially these days the three departments which have a responsibility in that area—that is, the Home Office, the Department for Constitutional Affairs, and my office—meet a great deal. Not necessarily the same Ministers. I will meet a lot with the Lord Chancellor, with the Home Secretary, but certainly with Harriet as well.

**Q6 Chairman:** When did the three of you last meet then?
*Lord Goldsmith:* When did the three of us last meet? On this specific topic, we met yesterday.
*Andy Burnham:* Monday.

**Q7 Chairman:** If it had not been this topic, would you have met at all?
*Lord Goldsmith:* The three of us together? Quite possibly not, but it depends what the issue is. Obviously our officials have been speaking a great deal.

**Q8 Chairman:** How do you ensure co-ordination, Harriet, between the three departments? That is absolutely crucial, is it not?
*Ms Harman:* Because we met because of coming here together to give evidence to you—

**Q9 Chairman:** We form a purpose.
*Ms Harman:* You certainly did. Because there has been such a rapid pace of change in terms of how the different bits of the criminal justice system are working together and the new structures underpinning that, because there is an ever-changing scenario in the way that forensic evidence is used in court, in a way that was unimaginable 20 or 30 years ago, and because there has been a particular experience, which the Attorney has led on, in relation to the post-Cannings and Clark case—which involved the Home Office, law officers and courts working together—I wonder whether you would find it helpful to have a thumbnail sketch, a quick bringing-up-to-date from the Attorney, about the structures. Not to trespass on your time for asking questions, but about the structures of how we work together and a couple of examples. I wonder whether you think that would be helpful. He has got something that he prepared earlier!
**Chairman:** I think that we may return to that, if it is appropriate to do so. We are very anxious to carry out the purpose for which we have invited you here. That is not a discourtesy, Lord Goldsmith; it is just the fact that we have a fairly busy schedule. Could we move on to the development of the FSS?

**Q10 Dr Turner:** Andy, can you give us a straight answer as to the Government's intentions with FSS? Is the Government genuinely prepared to look at GovCo as a prospective free-standing, permanent entity, or do you see it only as a stepping stone to PPP?
*Andy Burnham:* I can give a straight answer, Des. The answer is yes. Since I came into the job in May, after the election, I was aware of some of the background discussions that had been going on in the last Parliament. I am aware how important the service is to people who work within it, but also those constituency MPs who represent constituencies where there is a strong FSS interest. I know that there were genuine concerns put forward in that whole process. So my straight answer to you is yes; that no irrevocable decision has been taken with regard to any further development following PPP. It is my intention, and that of the Home Office, that the GovCo structure should be given an opportunity to succeed in its own right.

**Q11 Dr Turner:** Can we clarify whether any further transition from GovCo to a PPP would require primary legislation?
*Andy Burnham:* No, I do not believe they would. As the Chairman indicated a moment ago, an order has been laid before the House. That was laid, I think I am right in saying, the week before last.

**Q12 Chairman:** 5 November.
*Andy Burnham:* Yes, so it has been laid for some time. That of course is subject to the negative procedure. That order will create the legal basis for the GovCo.

**Q13 Chairman:** I am sorry, 10 November.
*Andy Burnham:* It was laid on 10 November, yes. I think that I am right in saying that further change to FSS GovCo would not require primary legislation. If I am wrong on that, Des, I will clarify that with you.

**Q14 Dr Turner:** It is an important point.
*Andy Burnham:* I think the point that you are perhaps raising, if I may say this, is that you are keen that there should be parliamentary scrutiny of any further change following GovCo.

**Q15 Dr Turner:** Should it happen.
*Andy Burnham:* Is that right?

**Q16 Dr Turner:** Absolutely.
*Andy Burnham:* I take that point entirely. When I was talking a moment ago about being aware of the strong feeling, particularly in members with a very specialised interest in this topic, I am aware of that fact. In the New Year I want to be as open and as transparent as possible about any future development of the service. I would, at the earliest possible opportunity, want to publish a framework or criteria by which any future change to the service would be judged, so that there could be clarity about that.

**Q17 Dr Turner:** Could you at least give us the comfort that any further change will be carried out by an order under the affirmative resolution procedure, so that there will at least be the opportunity for scrutiny?
*Andy Burnham:* I agree with the general point that you are making: that, if there were to be a further change to a PPP structure for the Forensic Science Service—that change is an important change, it is a

serious change, because it does have implications for the criminal justice system and the provision of forensic scientists to the police. So it is an important change, and I want to give you the assurance now that there will be full parliamentary scrutiny of that. At the appropriate time I would welcome, I would want to see, there to be a proper debate in the appropriate forum within the House. The possibility of it being an affirmative order—I will consider that. I will take that away. I would not want to resile from the possibility of there being full parliamentary scrutiny of any further decision. It is proper and right that there should be, because, as I say, I accept the seriousness of that particular change.

**Q18 Dr Turner:** When the Government responded to our report, the Government said they accepted the Committee's recommendation that FSS GovCo "should be given every opportunity to succeed in its own right". However, we understand—correct me if I am wrong—that the time period that GovCo is being allowed to prove itself is only a year. Why is it shortened to this? Quite clearly in a year, for a new company, it is absolutely impossible to judge its performance.

***Andy Burnham:*** I think that there has been some confusion on this point. If I can help, I can be absolutely clear as to what the Government's position is, and I do not believe that it has changed. I think it relates to a statement given by my predecessor in December 2004, which may have been a communication to the trade unions. Anyway, there was a statement; it was then followed up by a written statement in the House, where she said that it was her intention that there should be no decision to move to GovCo for at least two years. That was in December 2004, so that is why it was the date of December 2006. That was the intention behind that statement: that there should be no decision before that time. I should stress that that was a minimum. It is not to say that there will be a decision then; it is saying that at least until that time the FSS can plan with certainty that there will be no further decision on its future.

**Q19 Dr Turner:** We foolishly assumed that two years meant starting from the time when it became a GovCo, not from the time of a previous Minister's remarks. That does seem a little disingenuous.

***Andy Burnham:*** I would refer you back to her exact statement at the time, because I have looked back at it too. That is very clearly what she said and that was clearly the policy that she laid out at the time. Obviously it was responding, as I said, to some of the concerns that had been put forward about the changes to the service. She was therefore responding to the concerns raised; but it was that there would be no further decision for at least two years, at that particular time. One of the things that may have changed the picture slightly is that the process of vesting of the GovCo has taken longer than we anticipated. When I came into the job back in May, officials were telling me that it was becoming clear that it would take longer to go through the procedures; that it was right that time was taken to do that work properly so that we were clear about the FSS's business plan; absolutely right that pension arrangements for staff were properly sorted out and clear before any move was taken. For me, it would have been improper to make the change with some of these questions hanging over, and people not knowing for sure that the question had been resolved before the move-over was made. So time was taken. It is right. Further time was taken to get some clarity on these questions. That has now led us to a date of vesting of 5 December. Perhaps I could say this in response to the Chairman's comments at the outset. In no way is this an attempt to circumvent parliamentary scrutiny of the process. I would remain ready to come and answer questions on the order, and give further assurances or explanation of the order if it is decided to be prayed against. But—and there is a "but"—we thought it was right at this stage to get on with setting the clear date of 5 December for the vesting of GovCo, because staff within the organisation now need some certainty to get on with the future of the organisation.

**Q20 Dr Turner:** That is entirely reasonable, but the short period of judgment on the company's performance is less than reasonable. In fact, it is completely unrealistic. Any judgment taken after so short a time would clearly be rather arbitrary. So, first of all, can you undertake to give the GovCo a reasonable time, of at least two years, to establish its commercial viability before considering further action? Two years from vesting, not from now.

***Andy Burnham:*** I think that I will have to disappoint you and say that I am not this morning going to say that December 2007 will be the date by which GovCo will be judged. What I think I can say to you this morning, Des, is that the whole of next year is a year where a decision will not be taken; so the service can plan with certainty that—

**Q21 Dr Turner:** One year?

***Andy Burnham:*** The whole of next year. That will be the time in which the service has time to become established and operate according to its new freedoms that GovCo will give it. That does not then mean that it is inevitable that there will be a decision following hard on the heels of that. The point being this: that I do not think we ought to be bound by a rigid timeframe. There are, as you know, changes happening in the forensic science market. In recent months there has been the merger of the two other players in the market. So there are changes happening within the forensic science market. I think that it is proper to give a clear time by which no decision will be taken, but then not necessarily tie the hands of whoever at the Home Office, or the Minister, if it happens to be me or whoever, to make a decision at a particular point in time.

**Q22 Chairman:** Andy, I feel that we are starting to go round the houses with this, and Des needs to come in again on another issue. You mentioned the issue of pensions earlier. Can you give a categoric assurance before this Committee today that the pay and conditions and the pension rights of the current staff

of FSS will be protected through GovCo and indeed, looking forward, if in fact you go to a PPP? Can you make that categoric assurance?
***Andy Burnham:*** I can.

**Q23 Chairman:** You can?
***Andy Burnham:*** I am happy to do that, Chairman. One of the reasons that there had been some delay—and I want to be clear with the Committee about this—is that there were questions that had been raised about the staff pension scheme, and whether, in moving to GovCo, it was fully funded according to Treasury rules. An issue had emerged about a potential—in many ways I would say a theoretical rather than an actual deficit—so the scheme would be operating potentially, theoretically, in deficit at the outset. Obviously we did not want that situation to arise, so the Home Office has made arrangements with the FSS to ensure that there is no deficit in the pension scheme, and that the pension scheme starts from day one as a fully funded scheme. Can I just say that it is of course a matter of choice as to whether staff choose to transfer their pension from the principal Civil Service scheme into the new scheme.
**Chairman:** We just wanted to make sure that there was going to be no lessening in the terms and conditions of the pension arrangements. You have given us that assurance, and you could not have been clearer. Can we now move on to the forensic sciences—
**Dr Turner:** With respect, this was the entire nub of the report.
**Chairman:** Could you be brief?

**Q24 Dr Turner:** Could you give us an assurance about the transparency of the arrangements that will be put in place for judging the performance of the GovCo? Can you tell me, from your own commercial experience or that of the Home Office, what you think would be a reasonable timeframe in which to judge the performance of a commercial enterprise?
***Andy Burnham:*** I will come to that question, but perhaps I can finish off on the pension question before I leave that.

**Q25 Chairman:** Would you like to chair the Committee as well?
***Andy Burnham:*** What I think I am saying on the pension scheme is that I do not believe it is possible to say that the new scheme is comparable in every regard to the principal Civil Service scheme that people are currently members of. What I am saying, for absolute clarity, is that people have the choice about whether or not they choose to join the new scheme. When they have made that choice to join the new scheme, then those rights, as members of that new scheme, will be fully protected through any further—if there are to be any further changes to the—

**Q26 Chairman:** That is not what you said to my question. That is a different answer.
***Andy Burnham:*** I think that the way the question was phrased was not entirely clear. That is why I am coming back, just to be absolutely clear with you. The two schemes are obviously not directly comparable; they are different. People have the choice about whether they move from the principal Civil Service scheme to the new GovCo scheme. I do not want to be in any way saying that they are absolutely, directly comparable. What I am saying is that people, if they make the choice to switch, from then on their pension rights will be fully protected through any further change. Perhaps I can now pick up Des's question.

**Q27 Chairman:** Can you try to do that as quickly as you can, Andy, because I am anxious to move on?
***Andy Burnham:*** I will do it quickly. You could probably write my commercial experience on—I am looking for something—a Post-It note. Even that would be too big, I would guess! To be honest, I do not have vast commercial experience. What I do have experience of though is the public sector, and I want to be sure that in taking forward any changes there is, as you say, full transparency. It is not just the FSS as a business going forward that we are looking at here; it is the criminal justice system as a whole; it is the role of forensic science within that system; it is the quality of service delivered to our police forces. It is that broad picture on which any future move should be judged. The business element is an important part of it, but it is absolutely right to be—and this is why it is right that the Home Office should do it—looking at the broad picture in which the FSS operates. I want to be clear with you that I want to publish some criteria in the New Year which would judge any further move. That will be available to the Committee and everybody would have some clarity about what the yardsticks were for any future changes.

**Q28 Dr Turner:** The Government in their response also promised a strategic analysis of the forensic science market. Has this been carried out? What has emerged? Was there any public consultation involved, and can we expect a final report?
***Andy Burnham:*** With regard to the work on GovCo, there has been some work being carried out regarding how the market is changing. I am not in a position to say to you today exactly what form that will take and whether or not it will be published. I will have to come back to you on that point.

**Q29 Dr Turner:** One of our other recommendations was the establishment of a Forensic Science Service Advisory Council. In the absence of such a body, how will you ensure that the criminal justice system has continued access to independent and impartial advice?
***Andy Burnham:*** You say "in the absence of such a body". That is one area where I can possibly come with some good news to the Committee. The broad thrust of the recommendation that was made and the proposal for better regulation of the forensic science market is one that I accept. Since the Committee's report was published, there has been some

discussion within the Home Office. I know that the Committee proposed a council structure. We are looking at different alternatives, to see whether something else would do the job. We have been consulting at the moment internally with stakeholders. The proposal is, in the New Year, to put forward some options for the future regulation of the forensic science market, on which we will then consult further. In broad terms, however, we accept the recommendation that, going forward now, it is important that there is some independent and impartial regulation, oversight.

**Q30 Chairman:** What is the timescale you are talking about, in response to Des?
***Andy Burnham:*** The timescale?

**Q31 Chairman:** Yes. You could have set up a Forensic Advisory Council virtually straightaway. It was a firm recommendation from the Committee. So what is your timescale?
***Andy Burnham:*** We could have done, Chairman, but we are taking time to get the structure right. The Home Office obviously have other bodies performing similar functions in related areas. The issue was, is a council the best way to organise this or is it better to have a single, named regulator?

**Q32 Chairman:** When will you have a response? When will your response be?
***Andy Burnham:*** Directly, we will publish some proposals in January for further consultation, but that will be an open consultation exercise rather than some of the more internal work that has been going on to this point. That will happen in January. As I say, we accept the broad thrust of what the Committee have said.

**Q33 Dr Turner:** What are the implications of the merger of the other two players in the British forensic science market? Will that enhance the competition that you are seeking?
***Andy Burnham:*** It is interesting, I think. We need to watch exactly how things change. The difference—and I think there is now a big difference—is that there may be two big players now rather than one big one and two medium-sized players. The difference about the merged organisations is that they can offer an end-to-end service; they can offer the full service, in the same way that the FSS can. So it is possible that that will sharpen competition within the market. Of course, there are other pressures that may develop with regard to ACPO. You will be aware of ACPO's work in this area and the move towards contracting toolkits for forces to use. That will be a further pressure. I think that it will be interesting to watch how that changes competition within the market. That will be one of the things that we will be watching and looking at next year.

**Q34 Mr Newmark:** Having another big player against another two big players does create a sense of competition, but it also has duopolistic implications, in that it prevents further competition coming in, because of the cost base or the cost of entry into the market. Do you see that as a bad thing or a good thing? I admit that competition is good, with having one bigger player against another bigger player, but do you think that there should be room for other people to come into the market, or do you think that having two players is enough to keep that competitive tension?
***Andy Burnham:*** I do think that there should be room for others to come into the market. If you look at how this market has change from the early 1990s, it has changed considerably—and improved considerably. I think that some of the innovation you are seeing in the forensic science market at the moment is partly the result of the move to a more competitive environment. So I do not shy away from that at all. I think that it would be a good thing if other entrants were able to join the market. It is obviously a market that needs careful watching, because there is a huge public interest vested in having ready access to high-quality forensic science services. That makes it quite an important market; but I do not for a second believe that cannot be achieved without more competition and more entrants into the market.

**Q35 Chairman:** Including foreign competition? European? American?
***Andy Burnham:*** The point for me would be the quality of what is provided. That would be the deciding and determining factor: the quality and the speed of what can be provided to police forces. I think that in this regard, rather than dictate from the Home Office, it is up to police forces to see what their needs are and for them to procure intelligently from the suppliers that are out there.

**Q36 Dr Turner:** You do not see any security implications for foreign entrants into the market?
***Andy Burnham:*** There may be, but I do not believe that would necessarily be something that could or should stop that process. Equally, I think the FSS could look to expand to other markets too. I would not rule it out. Obviously the circumstances in which it happens would need to be watched, but I would not say it rules it out.

**Q37 Dr Turner:** How much scope do you really think there is for the expansion of the forensic science market in England and Wales, given that there is a trend to producing kits that the police can actually use themselves? You could actually find a diminution of the work available to FSS and the other players in the domestic market.
***Andy Burnham:*** I think it is interesting and there is a lot of change now. As you probably know, the FSS itself has developed a series of rapid response vehicles that are able to go to a scene of crime very quickly. I think that all of these developments are welcome. Yes, you could say that in the future people are able to do on-the-spot stuff more readily, and that would affect volumes. Equally, however, if you look at the role which the DNA database is playing with regard to the detection of crime, it is a very changed picture, even since a couple of years ago. The DNA Expansion Programme, I would

argue, has been a huge success in changing this field quite considerably. Obviously it is a programme that is coming to the end of its initial phase and, in the New Year, we will be publishing some of the main figures that have come out of that.

**Q38 Chairman:** We will return to that later on. Finally on this issue, if in fact we are to have more police forces armed with, if you like, mini-labs or micro-labs which they will take with them to scenes of crime, and therefore will be doing more forensic science themselves, will we not have a diminishing market, and therefore the idea of having major competition actually goes contrary to that?
***Andy Burnham:*** I think this is the same point that Dr Turner was just raising. Yes, the market could change. There is innovation that is happening now and the picture can change and is changing. That relates to one of my earlier replies, when I said how there is probably not the need at this particular time to be bound into rigid timeframes about how and when further decisions are made. I think that it is a very changing picture. Interestingly, sitting here today, the forensic science market—as I am sure you would agree, Chairman—is very different from what it looked like in December 2004.

**Q39 Chairman:** Could I ask you for a yes or no to this question? We have now seen the LGC and the Forensic Alliance come together. If the GovCo becomes a PPP, can you see them all becoming one single company, and would the Government allow that? Yes or no?
***Andy Burnham:*** It would be hard to be forced to a yes or no. As I have just said to Mr Newmark, we welcome the competition—

**Q40 Chairman:** There would not be any then, would there, if there was just one?
***Andy Burnham:*** That has been helpful, in my view, in driving some of the scientific and innovative changes we have seen. I would say—

**Q41 Chairman:** The point I make is that is where we came from, Andy.
***Andy Burnham:*** I would probably say, if I can, that the regulator—that you are quite rightly saying is needed—would probably be a consideration on which they would advise Ministers at the time: whether that would be a development in the interests of the criminal justice system.
**Chairman:** You have quickly learned Civil Service-speak!

**Q42 Mr Newmark:** One of the implications of this whole area is, as technology improves, that rather like with the NHS there will be a greater and greater demand for using this sort of technology. Are there cost implications the Government has thought through with that? Tied to that, there is also benefit because, as you go down the learning curve, the cost should come down. The question is whether the overall cost goes up as the individual costs themselves go down. I am wondering what that tension is there and has the Government thought that through?
***Andy Burnham:*** That is a very fair question. You will know that the DNA Expansion Programme had some very clear funding attached to it. We would argue that by doing that we have enabled—and I know this phrase is overused at times—a step change to take place. However, I think it has and, if you look at the evidence about the size of the DNA database and the use that is being made of it in the detection of crime, you cannot but conclude that a step change has happened. It has happened through some very ring-fenced funding for that, so that it did produce the lift that the Prime Minister wanted when he announced the creation of the programme. You are therefore rightly pointing to an issue about how long do you carry on ring-fencing that funding to enable growth in this particular area; or how do revenue implications that come from the creation of these systems get carried through? That is something we are working through, with the police particularly, with regard to the next funding round for the police. The advances we have made—obviously we would not want to lose those now. If we can come on to this at a later stage, the practical effects of the DNA database in terms of solving crime are quite impressive.
**Chairman:** We are coming on to that. We will move on now to the use of forensic evidence in court.

**Q43 Dr Harris:** Fiona Mactaggart, in a recent written answer—and this may be for you, Mr Burnham—recently referred to a consultation exercise regarding the regulation of quality of expert witnesses. Is that the same consultation exercise that you referred to earlier, in response to Des Turner's question about the consultation on the forensic services market, or is it another one? Has it happened? Do you need the reference?
***Andy Burnham:*** Was it in the debate?

**Q44 Dr Harris:** She said, "I am aware of the recent concerns raised with regard to the quality of expert witnesses". It was a written answer on 12 September. "I have therefore instituted a consultation exercise on how best to implement a quality regulation system within the forensic science market. The decision of the GMC and the issue of accreditation with appropriate regulatory bodies will be considered as part of that process."
***Andy Burnham:*** Thank you for the clarification. If we are talking about the exercise with regard to the regulation of the market, I can say that it will be the same consultation exercise. So that issue will be bound into the consultation proposals that are published in the New Year.

**Q45 Dr Harris:** If this aspect is about expert witnesses, is it not for another department to be getting involved and not the Home Office? The danger is that the Home Office will concentrate on forensic stuff that we have already discussed, which is the job of the FSS and others. The PQ was about the quality of expert witness evidence.

***Lord Goldsmith:*** Would it help if I just said a word about what is actually happening, because there is quite a lot that is taking place? The CPS is engaged in a number of projects. One of them, which I think is important and directly relevant to this question, is what is called the Experts Disclosure Project. That is wider than its name suggests. The purpose of this is to set standards across the criminal justice system for the use of expert witnesses, by a careful analysis of the wide range of experience that the agencies have. What it is likely to do—it is not yet signed off but it is imminent—is give a clear definition of what an expert is, which is quite important. Secondly, a clear standard for the disclosure by the prosecution in relation to materials of the expert—and that is very important. Thirdly, a detailed guidance booklet for all expert witnesses as to what their tasks are, what their role is, what their disclosure obligations are; and a requirement for them to certify that they understand what their duties are and to give certain standard disclosure, for example, if they had any previous convictions—and will give guidance on the issues of competence and credibility of experts. That is an overall project which will set a framework across the criminal justice system, which will be enormously important to the quality of the expert evidence which is given in court, not just by forensic scientists but by all experts.

**Q46 Dr Harris:** And you are funding that?
***Lord Goldsmith:*** It is being funded as part of the Crown Prosecution Service. One of my departments is doing that work with other agencies, yes.
**Chairman:** I do not think that specifically was the question you were asking, was it?
**Dr Harris:** No, indeed. I will come back to this question about what you are willing to fund.
**Chairman:** We want your response to this.

**Q47 Dr Harris:** In respect to the consultation and the strategic consultation that is going on that was just mentioned, do you have a way of feeding into that? Clearly, certainly on the basis of Home Office Ministers' answers, it does look as if that Home Office-led—perhaps solely Home Office—consultation will cover a key area of the forensic science market, which is the quality of expert witnesses.
***Lord Goldsmith:*** We of course have—

**Q48 Chairman:** It should be for the courts.
***Lord Goldsmith:*** We have a real interest of course in the quality of forensic scientists who come forward to give evidence in the courts. I am comfortable with what Andy Burnham has been explaining, about the way that the Home Office are looking at that and the standards that the Home Office requires for forensic scientists within its ambit.

**Q49 Dr Harris:** Did you mention the project you have just mentioned now in the response? Was it mentioned in the Government's response to our Select Committee report, or is it of recent genesis?
***Lord Goldsmith:*** No, it was not mentioned. It had only gathered steam by last July. That therefore gives an idea of the chronology of it.

**Q50 Chairman:** Andy, do you want to clarify that?
***Andy Burnham:*** I want to be clear with Dr Harris. One of the clear points which we will be consulting on is the system of accreditation of the suppliers who supply to the police. That is an important area that we need to consult on. There is a further question—and this is a point where our departments will obviously be in close contact—whether or not that should be extended to independent suppliers to the defence in trials. That is not our primary focus and those further issues would be done in consultation with Lord Goldsmith.

**Q51 Chairman:** Surely it is a primary focus for the courts that that, if you like, body of experts is made available to the defence?
***Lord Goldsmith:*** Of course the courts are concerned that the defence have access to appropriate expertise as well as the prosecution. Absolutely.

**Q52 Chairman:** Do you not think that is a contradiction in what Andy has just said: that their prime responsibility is really to the police?
***Lord Goldsmith:*** I can understand the Home Office's concern in that respect, but I do not think that it is inconsistent. The defence do need to have access to appropriate expertise. It is important that they should have that access, of course, so that there is equality of arms. I do not think that is inconsistent with wanting to make sure that the police have access to the sort of information that they need to investigate, detect and, ultimately, for us to prosecute crime.

**Q53 Dr Harris:** In our report we expressed concern about how the rapport between an expert witness and the jury might unduly influence the jury, or at least influence the weight that they gave to that evidence. Do you think that there is a role for your departments, between you, to try and address this problem, in the interests of preventing miscarriages of justice? It was something we heard a lot in our evidence. I hope you accept that.
***Lord Goldsmith:*** I am well aware of that. I have obviously read what you said in relation to that and the summary of the evidence which lay behind it. I think it is right to say—and I certainly do not want to be accused myself of being complacent about this—the first step is for the court to determine, when expert witnesses come forward, whether they are qualified to give that evidence. Secondly, for the adversarial process to ensure that that evidence is tested and, if necessary, sometimes tested to destruction—and it is. In my experience, which is now over many years, I have seen that happen on a number of occasions. The adversarial process can be good at doing that. In the course of that, how the expert comes across will be a significant factor. I would not myself describe it as charisma or personality. I would describe it as how well the

expert gives his evidence, particularly under cross-examination. Someone can be authoritative and impressive even though they are diffident and hesitant, because it is apparent that their background, experience and the way that they deal with difficult questions indicate that they really know what they are talking about. So I would not put it myself in terms of personality or charisma. The third element I want to emphasise is—which is the relevance of the project I referred to before—what is important is that experts know what their job is in court; that their job is not to advocate a particular outcome, whether they are appearing for the prosecution or for the defence, but they are to give the court, the jury and the judge, the benefit of their expert assistance in understanding the evidence in the case. That is one of the things which the disclosure project will make clear. It will emphasise—and the experts will have to sign off on this—that they understand that their duty is to the court. So they need to disclose information, for example, which may be unhelpful to the conclusion which the side which is calling them wants to give. I think that this is extremely important. We have advocates in court as it is; we do not need experts to be advocates. We need them to give their expert opinion and let it be tested.

**Q54 Dr Harris:** I think that is an important answer which you have given, and one that we benefit from. You have said that you were keen not to stand accused of complacency. When we made this suggestion in the report we stated, and I will repeat it, "There is clearly no easy answer to this problem"—that is, the "jury's ability to distinguish between the strength of evidence and the personality of the expert witness presenting it"—"but that does not justify the complacent attitude of the CPS". The only response we got from the Government on this was seven words: "This is a matter for the CPS". Is that not asking for an allegation of complacency, when you could have said in your response—if you had engaged—all the things that you have just said, and mentioned more about the project you have been talking about?

***Lord Goldsmith:*** First of all, I welcome the opportunity of being here today and I hope that I can give some of this information, which may demonstrate that the attitude of the CPS is not complacent. They have been engaged in a considerable amount of work, as indeed I have been, in this particular field. I am told that the CPS had a rather longer answer to the response which missed the deadline, so the Committee did not get it—and I am sorry about that. I have just been told about that now. If I can deal as well as I can with the questions that are there that the Committee would like to put, I am very anxious to do that. The main point that I am making is this. I do not think that this is just a question of charisma or personality, but I do accept that there are a number of areas in which we have to work, in order that juries and judges are best equipped and best helped to reach the very important decisions which it is their responsibility to make.

**Q55 Dr Harris:** If we had had the information that there was an answer but it had not reached us, and if we could have been circulated with that, it would have been better than just seeing that short thing. I think that our staff then had to engage with the CPS. However, I am grateful to you for clarifying that. How do we ensure that expert witnesses are employed for the right reasons? That is, for the quality and accuracy of their evidence rather than their ability to impress a jury? How do we, in the supply side and the selection side, address that issue? That is, the issue before we get to what is actually their approach in court?

***Lord Goldsmith:*** I would suggest two points. First, the judiciary, who have control over all the trials which come in front of them, whether they are criminal, civil or family, have an ability to exercise control over the experts that are called before them. In the civil side at the moment the rules provide that they can limit the number of experts. They need to be satisfied of the relevance of those experts' evidence to the question in issue. The Criminal Procedure Rules Committee, which is currently working, is looking similarly at what rules it will provide in relation to criminal trials. I cannot prejudge what they will say. It is under the control of the judiciary, and rightly so. However, I am sure that they will be looking at issues like a single expert, qualifications of expert; and already, in all trials where an expert is to be called, there is an obligation to provide the details of that expert in advance, so that challenges can be made to the appropriateness of that expert to the evidence. That is the first point. The second point really is a repetition of what I said before. It is enormously important that the experts know what their job is, even if parties would like them to do something else. They are not there to advocate a particular point of view, but they are there to help with the particular scientific or other issue in which they are expert and to give their genuine opinion on that.

**Q56 Adam Afriyie:** My interest is in the adversarial nature of the criminal justice system and the pressures that may place on expert witnesses. What evidence do you have that expert witnesses are not affected, or their evidence is not affected, by the party that employs them? What evidence is there that, when they are working on behalf of the prosecution, they are not putting the prosecution case?

***Lord Goldsmith:*** On the prosecution side, there is an important safeguard in the disclosure obligations which the prosecution has. If, for example, an expert were to produce one report and were persuaded for some reason to produce a different report and that expert was being called, that first report would have to be produced to the defence so that they could see that. That is therefore a safeguard on the prosecution side. More generally, I do regard it as very important that experts should know what their responsibilities are. Some of them have been picked up quite severely in court by judges for actually having been partisan. For that to happen—for someone to stray outside the field of their proper

expertise and to try to become an advocate for a party—is a pretty serious criticism to make of an expert.

**Q57 Adam Afriyie:** Are you satisfied that the current system works? Are you satisfied that it is adequate?
***Lord Goldsmith:*** I think this is an important safeguard. I am not complacent. I recognise that there are cases where things go wrong. We have the Court of Appeal, and the Criminal Cases Review Commission. Occasionally—as in relation to the review which I commissioned into nearly 300 infant deaths after the judgment of the Court of Appeal in *Cannings*—we need to take a further step, to look to see whether exceptionally something has gone wrong. I think that we need to keep this constantly under review; but there are some powerful safeguards.

**Q58 Chairman:** How does a judge interpret the difference if an expert witness is asked for their personal opinion?
***Lord Goldsmith:*** Forgive me, the difference between what?

**Q59 Chairman:** How do they know that that in fact is an expert opinion, or whether it is their personal interpretation of, if you like, their expert knowledge and applying it to that particular case? That does then become very personal, and was that not the case with Meadow?
***Lord Goldsmith:*** He—and I am anxious not to say a great deal about an individual—developed a particular theory—

**Q60 Chairman:** Nobody is listening actually!
***Lord Goldsmith:*** It did not look that way to me.

**Q61 Dr Harris:** Every single newspaper in the country managed to have an opinion.
***Lord Goldsmith:*** Putting it more generally rather than dealing with a particular individual, there are methods, where you have an expert in court under the adversarial system, where you seek to test whether it really is his opinion or not. You would look to see the published papers or the previous reports of that expert, to see whether he had previously said something else. You would obviously test, with the help of your own expert, the opinion that is being put forward. If somebody puts forward a proposition, you will want to know what is the proof behind it; what scientific studies are there; what papers are there which demonstrate that point of view. These are the ways which broadly—I am not saying in every single case—will keep an expert up to the mark, together with the sanction of being criticised for having put forward a partisan point of view which may, at the very least, stop that expert being instructed in other cases in the future. The one thing you would not want to do is to instruct someone as an expert to support your case who has previously been criticised for not being objective.

**Q62 Adam Afriyie:** It sounds as if you are satisfied with the measures that are in place at the moment and how it all operates, despite some of the history. I wonder if Harriet Harman could comment on her view on the same situation—the adversarial system placing pressure on expert witnesses?
***Ms Harman:*** I do not have much to add to what the Attorney has said on that, except that, against a background of an increasing opportunity for expert evidence, we have to make sure that we have the best processes we possibly can. I do not think any of us are saying that they are perfect, because they are changing so rapidly. All the time, we are just looking to what the best processes are and reviewing them. Also, as the Attorney has said, making sure that we have retrospective safeguards. Basically, we want a safeguard to stop things going wrong in the first place, but we have to be sure that if things have gone wrong the mechanisms are sufficiently flexible that, when apparently something has gone wrong, people get together and sort it out. It is effectively what happened outside of the procedures in relation to the Attorney setting up the inquiry which was undertaken post-Clark and Cannings. There was no statutory procedure for that. The Attorney took that action to try to sort out a problem which had arisen on the back of expert evidence. So there is vigilance in addition to the processes, and the processes are constantly under review.

**Q63 Adam Afriyie:** Are you satisfied that the absence of a single joint expert in criminal cases is an acceptable position? I understand that in civil cases there is a single joint expert who is appointed from time to time. Do you think that makes a difference to the outcome in the civil system? Is it something that you would like to see in the criminal justice system?
***Lord Goldsmith:*** It is actually quite rare still in the civil system for there to be a single expert, though it is possible. As I said, it is one of the things I understand the Criminal Procedure Rules Committee are looking at—because it is the judges and the Rules Committee who meet and lay down what the rules are for criminal trials—that the judge should have the power to order that in appropriate cases.

**Q64 Chairman:** We made a recommendation that pre-trial meetings should be held—this is to agree on the forensic science—as a matter of routine, and yet you were not keen on that, or the Government was not keen on that. Why?
***Lord Goldsmith:*** I am just reminding myself of what we said. I am not sure that I would accept that we were not—

**Q65 Chairman:** Let us say you have not taken that up as a proposal to implement it.
***Lord Goldsmith:*** Again, if I may say so, this is part of the work that the Criminal Procedure Rules Committee do. Historically, there was an excellent report by Lord Woolf, which created a completely new approach to civil cases and the new Rules Committee. We established—and it was one of the

results of the Criminal Justice Act 2003—that there should be a Criminal Procedure Rules Committee that should be able to look radically at the criminal rules that apply throughout the country, and determine how they should change. That Rules Committee was set up when the new procedures were put in place. It is working. It has produced a great deal already, and experts is one of the topics which I know that they are looking at at the moment. I am sure that requiring pre-trial meetings between experts in appropriate cases is one of the things that they will look at hard, make recommendations about, and lay down rules for judges to apply.

**Q66 Chairman:** What is the timescale for that, Lord Goldsmith?
***Lord Goldsmith:*** The consultation finishes in December. I am reminded, rightly, that formerly the Lord Chief Justice issued guidance on particularly complex cases earlier this year. That was one of the things he included in that protocol for judges to consider when they are case-managing. We have not had a great deal of case management of criminal cases in the past. I think that we all think it is extremely important, because then judges can really get hold of cases, understand what the issues are, and make sure that things happen in advance of a trial which are necessary so that the trial can then focus on what the real issues are. Having a close look at what the experts' evidence is going to be, and what the real issues between them are in particular, by getting the experts to meet to see whether there really are differences between them and agreements, is a very good way of doing that—in appropriate cases. It will not work in all cases.

**Q67 Chairman:** How do we stop an expert witness like Meadow giving expert information on an area in which he was not an expert? Was that the judge's fault, or the prosecution's fault for asking him a question which was of a statistical nature rather than in fact within his remit?
***Lord Goldsmith:*** All of these cases teach us lessons, both on the prosecution side and on the defence side. A particular statistical statement was made. I do not know whether the defence even challenged it or challenged his expertise to give that answer—which would really be the right way of dealing with it. I am certainly not blaming the defence.

**Q68 Chairman:** It was the concern of the Committee, if I read the report correctly, that they were concerned that star witnesses become so powerful that they stray off-piste and their evidence is then taken, if you like, as gospel—as it appeared to be at that time. I am interested, Harriet, whether in fact that has changed. Could that happen again?
***Ms Harman:*** As the Attorney said, one of the things that has really changed, and there is a big trend towards, is more front-loading of the case management and more clarity about what should be sorted out in advance. To characterise it, instead of everybody turning up in court, nobody knowing what is going to happen and everybody being taken by surprise, or alternatively a bit of a chat in the judge's chambers without necessarily any clarity about what is going to be sorted out and what are the appropriate areas for that sort of chat, and whether or not any record is kept of it, that is changing so that there is a real emphasis on effective trial management. The judge leads the management of the trial, not waiting until it turns up in court, in front of him or her, but scoping out what the nature of the issues will be. The question of the expert evidence is increasingly a feature within that, and I know that the Attorney has some numbers about the trend of the increase in criminal cases of the use of expert evidence. What we do not want to do is have the courts working in a world where we are behind the game; that we set rules that exclude evidence that actually could be very important. So it is quite difficult to get hard-and-fast rules that say, "This sort of evidence should not be allowed", and apply a template to it. As I say, I think that you have to have processes and vigilance, and transparent and high demands of effective case management; so that anything that might start to go wrong in respect of expert evidence can be seen even before you get to the situation of the defence having to challenge it in court.

**Q69 Dr Harris:** Lord Goldsmith has just said that he would not blame the defence in this case. I do not understand why. Here was a man, an expert, who was asked a question which was not his specialty. The defence could have noticed that; the judge could have noticed that. He then said something that was a more obvious fallacy than the well-known prosecutor's fallacy, and it should have been obvious to lawyers and the judge in this case that that was the case. It was, as far as we know, never challenged by the defence and it was not corrected by the judge. Everyone has blamed the expert who is said to have given it, and judged by the GMC to have given it, in good faith; he was not malicious in so doing. So all the blame is on the good-faith guy, and then you are saying no blame attaches to the professionals who are paid to ensure that juries are not misled.
***Lord Goldsmith:*** If I may say so, I think that you make a very good and important point. I think it is unfair to put all the blame for these things which go wrong on a single expert, and I think that some of them have been vilified. Sometimes there is a genuine disagreement between experts and they should not be criticised at all. Sometimes they have gone too far and they deserve some blame. I entirely agree with you, however, that it is wrong to lay it all at their feet. All I was seeking to do was to avoid, frankly, the headline "Attorney Blames Defence" in this particular case. I think that the system did not work in this case, as the Court of Appeal made clear when it came to look at it—the system working, but at the second stage. This was evidence which ought not to have been there before the jury to influence them.

**Q70 Dr Harris:** In the Clark case, as I understand it, the Court of Appeal found that the failure of Dr Williams to disclose the microbiological result

was the basis of the acquittal. They did not criticise Roy Meadow, yet he was still referred to the GMC and we know the subsequent events. It has been suggested to me by a large number of people with an interest in preserving people willing to give expert evidence that referral to the GMC should only occur in these cases where the Court of Appeal or the judges have criticised the witness. Would that not be a far better way, because then you have some *prima facie* basis, rather than simply people feeling that they are going to be sent to the GMC with the attendant publicity—without ever being criticised by the judicial process, which is the field in which they work?

***Lord Goldsmith:*** You are absolutely right as to the basis of the Court of Appeal's decision, which was on the non-disclosure by another expert of certain important material, as the Court of Appeal saw it. I do not think any of us are responsible for the GMC, how it determines which cases it should take, or how matters are referred. If matters are referred to the GMC, like any professional body, it will then consider those on their merits. I do not think that we can really add anything to that.

**Q71 Dr Harris:** I am arguing that there was a case to be made, because it is in our interest to preserve people willing to testify as expert witnesses. You know the background. I know that you know the background, and Harriet Harman has dealt with it sensitively, of the dispute around these sorts of cases. Yet people I speak to are just not willing to go into that field—and it is the same with child protection—because they are liable to be sent to trial by the other side, even when they have not been found fault with. It must be a matter for the Government to be concerned about.

***Lord Goldsmith:*** Absolutely. That is why it is important that we have a very clear framework where we know and experts know what is expected of them. When I was answering questions before about the adversarial system, I was not actually saying that everything is working absolutely as it should do—which is why all the work that I have been referring to is taking place. I think that it is very important particularly that experts know what is expected of them, and they will be supported. They will be supported if they say simply, "In accordance with my duty, I can't answer that question because it is not within my expertise", rather than going into court thinking that somehow, because they have been engaged by one side or the other, there is a sort of obligation to try.

**Q72 Dr Harris:** But if they make a mistake in good faith, they will be hung out to dry. Could I ask one question on the statistics? How are we doing with progress on how to present the statistical evidence to juries? There is some work that you have instigated or which has been instigated by the Home Office Scientific Adviser, so obviously it is a court matter. Who is leading this? How is it going forward?

***Lord Goldsmith:*** The Home Office are leading on it, though the Director of Public Prosecutions has also met. The work is ongoing and has included discussions, not just with some of those who gave evidence to this Committee in its original session but also with the Royal Statistical Society, with a leading member of the School of Mathematics and others.

**Q73 Dr Harris:** We recommended some research in our report into how statistical evidence is best presented so that juries can understand it.

***Lord Goldsmith:*** Yes.

**Q74 Dr Harris:** I think that this is a critical area and I think the Committee thought so. Can you report back on whether any research has been done in this area?

***Lord Goldsmith:*** In terms of having important and detailed discussions with those who really understand statistics and the presentation of statistics, I would hope that the Committee would think that is a strong and good step. You will obviously want to know what the outcome of that is, and I will undertake to make sure—we will all undertake to make sure—that when that work is completed the Committee is informed of that.

***Andy Burnham:*** Home Office officials have, since the Committee reported, met with the Royal Statistical Society on 21 September to discuss precisely the issues that you are raising. There is the intention to maintain a dialogue with them on this particular issue.

**Q75 Mr Flello:** In the Committee's report it was argued that jury research is vital to understand how juries cope with highly complex forensic evidence. The Government response stated that the issue was being addressed in the context of the current Department for Constitutional Affairs' consultation exercise on jury research. Further to the publication of the DCA's response, what will the next steps be?

***Ms Harman:*** When you have the decision about guilty or not guilty being made by the jury, and the jury do not say anything during this process, there is a great eagerness for the defence, the prosecution, everybody, to know what is in the jury's mind, how they come to that decision, and what the discussions are. Traditionally, there has always been the rule that, in order to allow the integrity of the process of each individual juror in that individual jury room, there should not be any questioning afterwards; that they should not have to go through the different elements; that you preserve the integrity of the process by putting them in a room, then coming out and getting their answer. However, because there is this quite natural curiosity, across not just issues about forensic evidence but also identification issues and all sorts of issues—not least of which is the general dynamics—the Department of Constitutional Affairs undertook to consult, to see whether the clause that prohibits research which relates to particular cases should be amended. On the basis of the response to the consultation, which was published on 8 November this year—41 responses were received—the decision has been made for no change to section 8 of the Contempt of Court Act, to allow research into jurors' deliberations. So there will not be any change which

would allow research in future to pick out those jurors who have been involved in cases which have had expert evidence—and of course some have not—in order to ask them, "How did you respond to the evidence? Could you understand it? Was it influential? How did you decide between the defence and prosecution experts?". Having said that, however, there is the possibility—and this is done by researchers where they have a mock jury, so they do not pick a real jury but have a mock jury—that that can still go on. There is the possibility that you can do it and ask people who have been on juries in general what they thought. The difficulty, of course, is that if you are asking what they thought about expert evidence, you would be asking them that only because they had been involved in a particular trial where expert evidence was an issue. The long answer to your question, therefore, is no, there will not be any change. It is uncomfortable. The Department for Constitutional Affairs is the department for freedom of information. We all want to know; we want to test what we are doing. However, it seems that the disadvantages to going through this *ex-post facto* outweigh the advantages, so that is the decision that has been made and the responses have been placed in the House of Commons Library.

**Q76 Chairman:** You are not going to do any further research in this area?
***Ms Harman:*** We are not going to change the rules about what research can be done.

**Q77 Chairman:** Are you going to do any further research?
***Ms Harman:*** I am sure there will be further research done by the Home Office, by independent researchers applying for permission to do research. So I am sure that research will go on in this area, but the actual rules which set the parameters for what you can and cannot research will not change. This is something that Andy and I did discuss, on whether or not there should be a further look, in terms of the Department, at the Home Office's research programme—which is vast and marvellous—and whether or not we are doing enough. That is something we are looking at.
***Andy Burnham:*** We are going to carry on talking about that.

**Q78 Chairman:** Is there any deadline for when you will conclude those?
***Andy Burnham:*** Not at present. Harriet, as she rightly said, raised it with me. I have responsibility for Home Office research, and it is something that I would want to take forward with her. The commitment is there to take it forward.

**Q79 Mr Flello:** The Chairman of the Criminal Cases Review Commission, Professor Zellick, pointed out that we are now asking juries to decide things for which they have never been designed. Do you agree that? How do you respond to his concern that trying highly complex cases by jury could lead to miscarriages of justice?
***Ms Harman:*** The answer to that goes to the point that, fundamentally, for serious cases where there is a possibility of a long time in prison, you have the judgment of your peers; that it is a question of truth or lies, guilt or innocence, and that the best safeguard in the system—and one which can not only command the confidence in that particular case as being the right decision, but generally command the confidence of the public about the legitimacy of the system—is a jury of ordinary people. So it is about making a decision which lay people will respond to, and not somehow taking the criminal justice system away from that area where people really understand it. We have plenty of examples of technical decision-making which the public lose track of. I do not think they lose track of understanding what is going on in magistrates' courts. I do not think that they lose track of what is going on in crown courts. They can see it; they can understand it. When it is reported in the papers it is quite clear what is going on. There are some court processes or tribunals which are very mystifying and expert, and where all the experts can absolutely have free range and do not have to decode anything they say; they can just let rip. The question is whether or not there is any public engagement in that sort of process.
***Lord Goldsmith:*** We do believe that there is a compelling case for not having a jury in one specific category of case which is contained in the Criminal Justice Act 2003, and that is serious and complex fraud cases, which are enormously long and which usually involve highly technical issues. That would be only with the leave of the judge and of the Lord Chief Justice. That is obviously a debate for another occasion. We believe that the case is made out there and we have consulted on that very significantly in the past. We did believe that there was a case to go a little bit further than that and put forward proposals in the Criminal Justice Bill; but they were not accepted by Parliament. Parliament limited the decision to serious and complex fraud cases. That is precisely where we are and we have no plans therefore to extend that limited extension beyond that category of case.

**Q80 Chairman:** Do you support Professor Zellick's view that, in complex cases which involve scientific forensic evidence, the judge, together with two scientific advisers, could in fact assess the case without the jury being present, and then the judge advise the jury?
***Lord Goldsmith:*** I think that is a very different process from the one that we are used to having. We either have a process in which a judge—either a judge alone or, as someone has suggested, the judge with assessors—makes the decision, or you have a jury which hears the evidence itself.

**Q81 Chairman:** Do you support the former though?
***Lord Goldsmith:*** I do support that there should be a different system in the case of a serious and complex fraud. I most certainly do, and have for a long time.

I believe that there is a special case there why it is not in the interests of justice that in all those cases there should be a jury.

**Q82 Adam Afriyie:** Do you not think that the similar situation could be argued in a situation where there is very complicated scientific evidence? Is that not similar to a complex criminal fraud trial?
***Lord Goldsmith:*** I certainly accept that it can be argued, but I think that these are questions of balance. I recognise the strong support there is in many parts for the jury system, and therefore think that it is only in the most compelling cases that that should be set aside. I do believe that the case of serious and complex fraud is such a compelling case. The Government was of the view, when it put forward the Criminal Justice Bill, that that compelling case could arise in other cases as well; but that is not a position that we put forward at all at the moment.

**Q83 Adam Afriyie:** You are not convinced at the present time that cases involving complex scientific evidence represents a similar situation?
***Lord Goldsmith:*** I am convinced at the moment that there is a compelling case in relation to serious and complex fraud. That is all that the Government is seeking to do. I do not seek to go beyond that at all.

**Q84 Chairman:** You do not have a view?
***Ms Harman:*** Can I add to that? To the extent that Professor Zellick is saying there ought to be more help to the jury in advance, I think that the process of case management and the consultation which is being undertaken by the Criminal Cases Review Committee may address some of those concerns. I might regret trying to make this distinction, but it seems to me that the distinction between complex fraud and the question of medical evidence in a case of homicide is that, in complex fraud cases, part of the problem for the prosecution has been to frame an indictment in such a way that the jury can understand, without being experts in the technicality, what the act which is alleged is, because it is all so complex—albeit that there is a new Fraud Act going through. In relation to whether or not somebody has killed a child, that is something where everybody understands what the act alleged is. Sometimes in fraud cases it is a question of understanding the indictment. Everybody understands the indictment in homicide cases, and then there is very complex medical evidence where, hopefully, with good case management and possibly new rules, more help will be given to the jury. However, I think that is one of the distinctions with fraud—where you do not even get to first base, or they have to sever the indictment into bite-size pieces, so that you cannot try one big thing. You take a snapshot because you think that makes it comprehensible, and then you lose the big picture. That is how people who commit complex frauds get away with things, whereas people who commit benefit frauds do not.
***Lord Goldsmith:*** I absolutely agree with that, and the answer to the question is I do not believe that we should extend this beyond what we are presently intending. I do not believe that we should.

**Q85 Chairman:** That is your personal view?
***Lord Goldsmith:*** Yes, it is my personal view.

**Q86 Mr Flello:** Thank you, Harriet. I thought that your last comment was very helpful. Returning to an issue that was raised earlier, the Government's response "noted" the Committee's concerns about the lack of independent scrutiny of expert evidence. Is that an appropriate response to such a serious issue? Are you satisfied that the current safeguards are sufficient to prevent further miscarriages of justice due to flawed expert evidence? Could they prevent another Professor Sir Roy Meadow from slipping through the net?
***Lord Goldsmith:*** Could I ask which recommendation you are referring to?

**Q87 Mr Flello:** This was the adversarial system "providing sufficient safeguards to obviate the need for independent scrutiny".
***Lord Goldsmith:*** The answer is that there is more that needs to be done, and that is why work has been in progress, some of which I have identified today. There are others that are being worked on. For example, in the specific context of the shaken baby, Sudden Infant Death Syndrome cases, as well as the review that I undertook looking at historic cases, the Crown Prosecution Service[1] undertook, quite rightly, an analysis of all the current cases and what guidance should be given to prosecutors in the light of our present understanding about the medical evidence as to which cases should be brought. That is a specific example where a particular issue comes up. Rightly, the prosecutors then look and they can then give guidance to the police as to what cases to take forward. There are other areas too where further work is being done which I can identify; such as the Criminal Cases Review Commission has given researchers from Warwick University access to something like 7,000 cases dating back to 1997, with specific reference to the use of expert evidence. That project has started looking to see whether that would give some guidance as to how miscarriages of justice where expert evidence is involved can be avoided in the future, and we would look forward to seeing what the result of that research is.

**Q88 Mr Flello:** Moving on from that, what steps have you taken to restore expert witnesses' confidence in the court system, following the public vilification of Meadow? What are you doing to remedy the shortage of experts willing to give evidence, particularly in paediatric specialities?

[1] *Note by the Witness:* The Crown Prosecution Service undertook an analysis of all the relevant cases to date to consider what guidance should be given to prosecutors and CJS partners in the light of our present understanding about the medical evidence. Consideration has also been given as to which cases should be brought and guidance is being produced on the most appropriate case management processes for such cases.

***Lord Goldsmith:*** I think that one of the most important things that we can do, as I was saying before, is to be very clear indeed, across the criminal justice system, as to what we expect from experts; so that they know that, as long as they stick to that, they will be able to give their evidence within the area of expertise which they have, giving their opinion, not advocating a particular conclusion for the case. I hope that clarity will help them to see that the process is one in which they can be more ready to engage. However, I do recognise the concerns which underlie your question, as they underlay Dr Harris's as well, of people being put off from giving expert evidence. It is critical, both for prosecutions and for defence. We need people to come forward to give that expert advice which will help determine guilt or innocence. On the specific issue of medical expert evidence, the Chief Medical Officer Sir Liam Donaldson has been asked to consider and report on that particular issue and for there to be recommendations. I am told that he will report before the end of this year.

**Q89 Dr Iddon:** Do you think it is in the best interests of justice that a judge with absolutely no technological or scientific knowledge should be the gatekeeper for allowing that kind of evidence to proceed into court, or should there be some kind of independent gate-keeping process?

***Lord Goldsmith:*** Judges are called upon to oversee all sorts of trials, in many of which they will not necessarily have any detailed knowledge of the subject matter. If we are talking about criminal trials, it is not their job to determine who is right in relation to perhaps disputed expert evidence but to ensure that evidence is given in accordance with the rules, which include rules as to admissibility, such as that people should not give evidence if they are not qualified to give that evidence, and to make sure that it is put properly before the court. There are a number of different mechanisms they can use to help them. Where someone comes forward who does not have any recognised qualifications in a particular field, that would be a reason for questioning whether that person ought to be entitled to give expert evidence at all. It does not necessarily exclude. I can think of cases where a lifetime's experience in a particular field, with no professional qualification, may give one a very good ability to give expert evidence. In others, however, judges will look at those and see whether or not someone is qualified to give evidence. If not, even if they say, "Well, we're just past the threshold to give evidence", the absence of those qualifications will no doubt be ruthlessly put to them in the course of the evidence that they give, so that whichever is the fact-finding tribunal will not accept it. That is a rather long answer to say that I do not believe that we need to have some other system for determining, before the judges get to it, who should be allowed to give expert evidence in court, though I think there are a number of tools which will help them make the right decision.

**Q90 Dr Iddon:** Harriet referred earlier to the fact that it was unimaginable, 20 or 30 years ago, how much expert evidence would be given in courts today. My second question, therefore, is this. Do you think the criminal justice system is well equipped enough to deal with the ever-increasing amount of that kind of evidence that will be given in courts in future, or should a review be undertaken?

***Lord Goldsmith:*** I think that we are keeping this all under review, and the work of this Committee has been very helpful in that respect. It has had agencies share information; it has had us focus on particular areas with a greater urgency. I think that is helpful. Do I think that the criminal justice system is coping? Broadly speaking, yes; but plainly we have incidents where we get, for example, to new areas of scientific knowledge which it is more difficult to deal with. Expertise grows. Now, DNA and fingerprinting evidence is a commonplace; it obviously was not many years ago. People had to develop the expertise, and it may be that there are certain aspects, for example probabilistic statements, where there is still some expertise to be gained.

**Q91 Chairman:** Much of what we have said so far relies almost exclusively on lawyers and judges being able to pick up problems with expert scientific evidence. If scientists require expert legal advice, they go to lawyers. Yet it seems inconceivable that the judge does not have sitting at the side of him or her a scientist who can actually advise them during the case. What is so special about lawyers that they do not need that advice and yet the rest of us do? Am I being very naïve, Harriet?

***Ms Harman:*** Absolutely not. It seems to me that what in practice happens, and the way that the system has tried to respond to dealing with this very big change, is that the judge does not try and usurp to him or herself and take away from the defence or the prosecution the right to put forward various assertions and to bring forward evidence, but an awful lot, in this fast-changing world, depends on how the prosecuting and defence barrister deal with this. I would give just one example of some cases I was involved in when I was the Attorney's Deputy Solicitor-General, cases which had come to us as unduly lenient sentences. They were to do with child pornography on the internet, which involved very serious abuse going on internationally and then being sold and finding their way to offenders in the UK. What emerges is a group of barristers who become highly technically expert in really complex issues about what is or is not on a computer. They are backed up by experts and they call evidence, depending on whether they are the defence or the prosecution. They are, if you like, the kind of intermediary. They set up societies; they set up groups whereby they exchange information; they talk to each other; they work internationally. So at the moment it seems to me that there is a kind of informal network; but they are trying all the time to be the best level interface between the experts and the judge. The question is whether the judge should be doing this or whether we need to get it right at the level of the prosecution and defence. I can see the

pattern emerging where it is the barristers who are trying to develop that level of expertise to put it forward to the judge and indeed to the jury.
**Chairman:** We are moving on now to the issue of training of lawyers.

**Q92 Mr Newmark:** In a response that Lord Goldsmith made to Dr Harris, you either explicitly or implicitly said that the adversarial system should be testing evidence to destruction. I guess my questions surround the training of judges and lawyers. Would you agree that the adversarial system functions properly only if lawyers and judges have sufficient understanding of expert evidence, tested properly? Are you happy with the current levels of understanding?
***Lord Goldsmith:*** First of all, one needs to distinguish between the position of judges and lawyers. As I said, particularly in criminal cases, which is where these issues crop up very acutely, the judge is not himself determining the facts in the case and does not thereby have to judge personally between what may be competing medical or scientific theories. He needs to understand the evidence that is being given in front of him, so that he can help the jury understand it. That is certainly true. However, judges do receive quite a degree of—whether "training" is the right word—familiarisation with these matters, both through the experience that they have in court but also through the work that is done by the Judicial Studies Board in training judges. I have spoken, in preparation for this session, with the Chairman of the Judicial Studies Board, with the judge who is in charge of family judges' training, and the senior presiding judge. They do have, for example, regular updates on developments in forensic science. This does not make them forensic scientists. I do not for a moment want to suggest that. However, it gives them an understanding of the area, so that they can understand the evidence that is being given.

**Q93 Mr Newmark:** Has there been any research there to test the levels of awareness and understanding?
***Lord Goldsmith:*** I am not aware that there has been, but I emphasise that it is in order to understand the framework within which evidence is being given. What will then happen in court is that the evidence has to be given. It has to be given so that it is understood by the jury, if it is a jury that is sitting there, and the jury will have to be educated by the expert as the expert is giving evidence; indeed, if there is conflicting experts, by both of them. So far as the lawyers are concerned, they certainly need to understand the subject that they are dealing with if they are going to test it to destruction or present the case well. However, they will often be educated in it by the expert they are calling or the expert who is assisting them.

**Q94 Mr Newmark:** Given the increasingly important role of forensic science, there seems to be no compulsory training at all with this. Do you find that acceptable or not?
***Lord Goldsmith:*** The DCA are discussing with the professional bodies whose responsibility it is to train lawyers whether part of the compulsory continuing professional development ought to include this aspect, and those discussions are going on.

**Q95 Mr Newmark:** Clearly there is a benefit to having closer links—you would probably agree—between the science and the legal profession. What has been done to promote links between, for example, the FSS and the judiciary, the Bar Council and the CPS, if any?
***Lord Goldsmith:*** In particular areas, a significant amount. I referred before to what I regard as a very important project—the Experts Disclosure Project—which will produce this guidance for experts. In the context of that there has been very close co-operation between these bodies. The project, although led by the CPS, has included ACPO, the Home Office, other prosecutors, the GMC—and this is relevant to the question I was asked by Dr Harris before, because I understand that one of the questions they have looked at is this very question of when to report misconduct and information-sharing on that level, in a general and perhaps not a prescriptive sense—with the FSS, with the CRFP, with the Home Office Chief Scientific Adviser, and with other bodies as well. There is another piece of work which I have not mentioned before, which the Crown Prosecution Service are dealing with. They are working with ACPO—the police chiefs—together with the FSS on what is called "staged reporting". It is relevant to the question you raised before about cost. That is, to look at a way, when you have a case that is coming before you, to identify what you really need in terms of the forensic report so that you do not have everything done—the full, long report in every case—if in fact that is not what will be necessary for the case. That will help the cost-benefit analysis. I am told on the statistics that there are, as the Committee would expect, a very large number of cases these days in which forensic evidence is relevant.

**Q96 Mr Newmark:** When can we expect to hear when you will take up the Committee's recommendation to establish a forum for science and the law? What are the arguments against setting it up, if any?
***Lord Goldsmith:*** What I suggest I may do is to send to the Committee after this session details of other contacts that are taking place. Not perhaps in the context of a single forum that is meeting once a month, but contacts that are taking place between those who are concerned with the science and with the forensic preparation and the presentation of cases. I have given two examples already which I think are very important. Others would include, for example, the awareness lectures which judges get. They are given those by practitioners in the field. I spoke to the judge in charge of family cases and she was telling me that she had just been at a seminar with judges who are on their refresher course, which they have every third year, and they had been addressed by a psychiatric consultant.

**Q97 Chairman:** Did you say "assessed"?
***Lord Goldsmith:*** "Addressed". That is another example. So these contacts, although perhaps not in that formal sense, are very close contacts.

**Q98 Mr Newmark:** So there is no forum, but you are saying that what is going on at the moment, in your view, is enough to develop shared knowledge between the science and legal professions?
***Lord Goldsmith:*** Plainly we must keep this closely under review, for all the reasons that the Committee has given. My sense is that a great deal is going on, but we must continue to look to see whether more should be done.

**Q99 Adam Afriyie:** But there is no specific forum for science and law at the moment?
***Lord Goldsmith:*** I will provide a note on this, so that I do not get this wrong. There is a monthly tripartite meeting.

**Q100 Dr Iddon:** I am going to reactivate the Home Office Minister, and turn to DNA databases in particular. This Committee has been very concerned, with the progression of FSS to a GovCo and perhaps eventually to a PPP, about the ownership of the national databases that they handle now and that the police handle. Let me pick up the question of the National DNA Database. An announcement was to be made about the ownership of this particular database, but we are also worried about the firearms database and the footprints database, where personal information is collected. Who will own these databases and who will gate-keep the access to them in future, when the FSS moves on?
***Andy Burnham:*** The short answer is that obviously it is a public sector resource, and not in the ownership of the FSS. With the vesting process having been carried through, I would want to inform the Committee that I will make a very clear written statement on 5 December, or at or around that time, with the clear arrangements for the future management and custody of the databases, if you like—which does respond to recommendations that the Committee have made. As a general response to your question, however, it is not the property of the FSS; it is a public sector resource. The governance of it will transfer directly to the Home Office on vesting of the FSS, and there will be a clear separation between the two. So we have taken on board the recommendations that the Committee have made. I will make a further statement to Parliament, but I obviously want to let the Committee know that that is coming and it will respond directly to the recommendations that you have made.

**Q101 Dr Iddon:** The database is expanding quite rapidly and it will carry on expanding into the future. The Committee has two concerns about that. First of all, Professor Alec Jeffreys, who discovered this technique at Leicester University, has expressed a view that we should move from 10 to 16 markers, to avoid miscarriages of justice as the database increases in size—which becomes a possibility. I asked you this question at Home Office questions recently. Are you able to provide an answer today as to whether you agree with Professor Jeffreys? Now is the time to do it. It is too late when you have to start going backwards, when the database is too large to do that.
***Andy Burnham:*** I mentioned before that I did not have much commercial expertise, Chairman, but I can tell you that the members of your Committee, particularly the member for Bolton South East, is stretching this lowly English graduate to the hilt, and his Biology O-level is at creaking point, given the questions that he has been asking in the House! Since he stumped me at the dispatch box, I have been looking at this point in more detail. I now, I think, have a much better understanding of the point that he was raising. We moved to SGM+—and Brian will know what I am talking about here—some years ago, as a more reliable technique. The quoted figure is that that gives reliability to one in 1,000 million, and it is possibly higher, as you may know. So that gives incredible accuracy. However, I am aware of concerns that are being suggested that we should go further still, and go to a 13 or even 16-marker technique. That is a very valid and very real concern. As the database has expanded rapidly, it may slow at some point. Even so, as the Attorney has said, great use is being made of DNA evidence and there may be this potential for more international use of that evidence. It would make sense, if we know that the accuracy can be further improved, at least to carry out the work that would enable us to do that. I can assure you that that work is being done and we have had discussions with European counterparts on the value.

**Q102 Chairman:** Have you a date for a decision?
***Andy Burnham:*** I do not think that there is a clear timeline for a decision. However, the change to the law which allowed retention of samples was for a number of reasons, and one of those reasons is very much that: that if a decision is taken in the future, you can generate a more sophisticated reading from the original sample. Brian has raised this many times and he is right to do so, because if we can use the science further to improve the accuracy, then that is something we should do. It is under active consideration.

**Q103 Dr Iddon:** I am just reminding the Minister of something Professor Jeffreys has said to the Committee, and I remind him also that the tsunami victims were identified on the basis of 16 rather than 10 markers, to make sure that there was no misidentification in the cases there. Professor Alec Jeffreys has also expressed another concern, which I think is also a concern of the Committee. I can perhaps put that by quoting something that he has written down. "I have repeatedly argued that I am totally opposed to the extension of the database. I regard it as highly discriminatory". He goes on to say, "... you will be sampling excessively within ethnic communities, for example. The whole thing seems to be predicated on the assumption that the suspect population are people who would be

engaged in future criminal behaviour. I have never seen any statistical justification for that assertion; none at all". Therefore, what the Committee is really arguing is that there should be some ethical oversight of the use of the database, especially the DNA database which stores personal details. There does not seem to be any ethical oversight of any of these databases at the moment, especially that one. My question therefore is this. Is the Home Office going to provide such ethical oversight in future?
***Andy Burnham:*** There are a lot of issues in the question there. There is of course a public debate to be had about the proportionate nature of the use of the database. From my perspective, I believe that the vast majority of the public believe that this is justified and right, in terms of detecting serious crime. You will know something of the court case review programme, which is delivering some incredible results to very serious violent crimes and rapes committed many years ago, and that would simply not have been possible. I think that the public interested attached to it is clear in the results it can produce. In terms of the proportionate nature of the system, obviously the issue of the retention of data has been challenged in the courts. We estimate that, since the change in the law in 2001, something in the region of 162,000 DNA samples of individuals have been retained that otherwise would have fallen to be removed from the database because a conviction was not secured. Of those 162,000 samples, 7,990 have subsequently been matched.

**Q104 Chairman:** We do not want to get into a lot of detail on this.
***Andy Burnham:*** No, but I think that it is important, Chairman. We are talking of 96 murders, 50 attempted murders, 116 rapes. It is absolutely important to balance up the other side of the equation here. We hear a lot about civil liberties and the intrusion on the privacy of the individual. The principle of the database has been upheld legally and the Law Lords found that the people to whom I am referring here, whose samples have been retained, would not be stigmatised as a result.

**Q105 Chairman:** We would like a note on that, to put into our record.
***Andy Burnham:*** Yes, sure.

**Q106 Dr Iddon:** I think that the point we are making is that not even Parliament has discussed the extension of the database. We might well agree with you on the basis of the facts that you have just given us, but we do think, as representatives of the people, that we ought to be able to discuss in Parliament and agree the guidelines that the Home Office give us, because this is a very important issue out there in the general public.
***Andy Burnham:*** It is an important issue. I agree with you, Brian. You say Parliament has not decided, but Parliament did. Parliament subsequently amended the Police and Criminal Evidence Act to make this possible. So I do not think it is right to say that.

**Q107 Dr Harris:** You misunderstand what Brian was saying, if I can help here. What he was saying was that the extension of the use of the database to familial searches—that particular use—has never been debated by Parliament, and it is highly ethically contentious. That is what I think we would like you to address: why that should be allowed to happen without this place, other than this report, discussing it.
***Andy Burnham:*** The points being raised are entirely fair, and I am not seeking in any way to avoid them. Brian did actually say it was the expansion of the database that—
**Dr Iddon:** I am sorry I did not make myself clear.

**Q108 Dr Harris:** I think he said "extension of the use".
***Andy Burnham:*** . . . was not considered by Parliament, and I just wanted to make that clear. Where I agree with you entirely is that clearly this is a resource that has huge potential, and a huge potential for public benefit; but if there is misuse or usage with which people do not feel comfortable, that is rightly a matter for Parliament. I would want to bring forward the figures and lay those before the Committee and, if we need to have more discussion in Parliament in relation to the use of the database, particularly in the issue you mentioned of familial searches, then I would want to do that—be it via debate in Westminster Hall.

**Q109 Chairman:** Can I ask you a very simple question? If there is to be any further extension of the uses of the National Database, you will bring that to Parliament for scrutiny?
***Andy Burnham:*** I will.

**Q110 Dr Harris:** In respect of existing uses, we drew attention to the lack of specific ethical oversight of research uses of, effectively, intimate samples. I declare an interest as a member of the BMA Medical Ethics Committee. That would not be permitted in the NHS and in medical research without a research ethics committee saying that it is acceptable to do so without specific consent. You know from our report that we regretted that we were misled as to the role of the Human Genetics Commission, and your response was that it was given in good faith—which did not really help Sir Roy Meadow, as we have heard earlier. So I think that there is an onus on you now to say how you are going to deal with this issue of ethical oversight of research. That was a long question, to give you a chance to find your answer. We are keen to get it.
***Andy Burnham:*** It was also the second part of Brian's question. The Committee was right to make recommendations in this area. You will have your full answer on 5 December. I have said that we will bring it forward. When FSS is vested as GovCo we will make our full answer but, just to be clear, the operation and maintenance of the database will initially be with the FSS, but the oversight and governance of the database is being transferred to a Home Office unit. Further, the chairmanship of the governance of the database will be via'd from ACPO

but with Home Office and the Association of Police Authorities' involvement too. Additional to that there will be ethical and lay oversight of the whole process. There will be a further panel established, in co-operation and consultation with the Human Genetics Commission.

**Q111 Chairman:** So nobody with any independent authority will sit on that oversight organisation? Everybody will have a vested interest.
***Andy Burnham:*** What I am saying is that we are now working through the way in which ethical and lay oversight of the database will be properly built into the system, but in a way in which the database is operating and it is operating to meet the functions we have outlined for it.

**Q112 Dr Harris:** In the new system, sadly not currently, it will not be possible for the Home Office/ ACPO/whoever to grant themselves permission to do research—research, not operational work on these samples—without there being independent ethical oversight.
***Andy Burnham:*** Yes, that is true.

**Q113 Dr Harris:** I think that is what you are saying.
***Andy Burnham:*** That is true. There is permanent ethical and lay oversight of the operation of the database.

**Q114 Dr Turner:** One of our concerns, as you are aware, was the proliferation of degrees labelled "Forensic Science" in universities but which are of little or no value in practical terms, and which certainly have no chance of being accredited. What steps have you taken since our report, in conjunction with the DfES, to deal with this situation and to try and rationalise and set up a system of accreditation of genuine forensic science training?
***Andy Burnham:*** It is not directly a Home Office responsibility to set out what should be the content or not of university courses. I think that this area has had a welcome boost of interest; possibly some television programmes, *CSI* and others, that have encouraged an interest in the whole area of forensic science—which is probably a welcome thing. You rightly draw attention to how we can capitalise on some of the interest in forensic science, in terms of driving up quality. It is not directly my responsibility to determine the university courses on offer, and I hope that you will accept that. FSS does have an interest but, from their point of view, we would not want a situation where the FSS was constrained in any way in terms of which graduates it took into the service. Obviously it will draw from a range of scientific backgrounds. I am probably not answering the question fully—

**Q115 Chairman:** The answer is no, is it not?
***Andy Burnham:*** No, the answer is not no. We have had discussions with the Department for Education and Skills, but the direct answer is that we are not going down a path where we are going to dictate a university course.

**Q116 Dr Turner:** What about the question of accreditation of forensic scientists?
***Andy Burnham:*** I think that is properly a role for the Forensic Science Society rather than the Home Office. We all have an interest in the course being made as relevant as possible to the needs of the Forensic Science Service, and I would certainly welcome their input into these discussions and their ability to talk to educationalists about what is provided. However, I do not believe that it would be right for it to go further than that. Also, the FSS has to retain an ability to recruit from across the scientific spectrum; not just from people pursuing forensic science degrees.

**Q117 Dr Iddon:** We have estimated that there are 401 courses on forensic science in 57 universities, but there does not seem to be an awful lot of research attached to those courses going on, and certainly not blue-sky research. If we increase competition in the Forensic Science Service, that might reduce costs and might also provide less money in the private sector for blue-sky research. The Committee is extremely worried about staying cutting-edge in research in forensic science but, for those two reasons, we cannot see a way forward. Are you doing anything to increase the amount of research that goes on in forensic science, either in academia or in the private sector?
***Andy Burnham:*** What I can assure you of, Brian, is that, in the business plan that the FSS has submitted to the Home Office in advance of the move to GovCo, research and development is a very prominent strand and feature of that plan. I cannot at this stage—for obvious reasons, now that the service is moving into a different commercial environment—give you the precise figures on what will be spent in what year; but I can give you the assurance that there are very clear commitments going forward to research and improving the quality of what we do. Actually, I think that the market could increase. With more job opportunities, more players in the market, it could enhance the research often; but that is something that we will look at.
**Chairman:** On that note we will conclude. Could I thank you all very much indeed for a fascinating session this morning? I hope you also feel that it has been worthwhile. We may have one or two follow-up notes, in order to complete this piece of work, but could I again thank you very much.

Printed in the United Kingdom by The Stationery Office Limited
1/2006 324016 19585

**Distributed by TSO (The Stationery Office)**
and available from:

**TSO**
(Mail, telephone and fax orders only)
PO Box 29, Norwich NR3 1GN
General enquiries 0870 600 5522
Order through the Parliamentary Hotline *Lo-call* 0845 7 023474
Fax orders 0870 600 5533
Email book.orders@tso.co.uk
Internet http://www.tso.co.uk/bookshop

**TSO Shops**
123 Kingsway, London WC2B 6PQ
020 7242 6393 Fax 020 7242 6394
68–69 Bull Street, Birmingham B4 6AD
0121 236 9696 Fax 0121 236 9699
9–21 Princess Street, Manchester M60 8AS
0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
028 9023 8451 Fax 028 9023 5401
18–19 High Street, Cardiff CF10 1PT
029 2039 5548 Fax 029 2038 4347
71 Lothian Road, Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

**The Parliamentary Bookshop**
12 Bridge Street, Parliament Square
London SW1A 2JX
Telephone orders 020 7219 3890
General enquiries 020 7219 3890
Fax orders 020 7219 3866

**Accredited Agents**
(see Yellow Pages)

and through good booksellers



ISBN 0-215-02703-5
9 780215 027030