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CRIME AND SECURITY BILL: TABLING OF GOVERNMENT AMENDMENTS FOR REPORT STAGE

I am writing to make you aware that the Government has tabled amendments to the Crime and Security Bill to address points raised in Committee stage. Some of these amendments directly respond to helpful probing amendments tabled by James Brokenshire and Andrew Rosindell. I hope that you accept that these concessions have been tabled in the common interest of securing consensus on these important matters.

I have set out further details below to aid your consideration of these important issues.

Government Amendments 8 to 13

During Committee, James Brokenshire raised a concern that the DNA and fingerprint taking powers should apply to anyone convicted abroad of serious crimes where the individual is present in England and Wales or Northern Ireland, regardless of whether or not they are a UK national or resident. I stated in Committee that in practice this is very unlikely to be an issue because the UK Border Agency would deny a visa to anyone with a serious conviction. However, I acknowledge James Brokenshire's point that there may be some foreign nationals temporarily in England, Wales or Northern Ireland to whom these powers may usefully be applied, for example, in relation to individuals whose criminal history only comes to light once they are already in the UK. Therefore I have tabled an amendment to extend clauses 3 and 9 to cover all those convicted of serious crimes abroad. I hope that you accept this concession in the spirit in which it's intended and can support its inclusion at Report.

Government Amendments 15 and 16

James Brokenshire also stated in Committee that the Bill would be improved if the National DNA Database Strategy Board were more accountable to Parliament. I committed to consider this issue and I agree that clause 23 of the Bill (as it now is in the reprinted Bill as amended by Committee) should ensure that the Board's governance rules and annual report are laid before each House of Parliament. The amendments to clause 23 would allow members of both Houses to properly scrutinise the Board's important work and hold further enquiries where appropriate. I hope that members of all sides will welcome this greater role for Parliament and support these amendments at Report stage.

Government Amendment 14

In addition to the above, the Government has also tabled another amendment to Clause 23 to address concern regarding the so-called 'postcode lottery' of the removal of DNA profiles under the exceptional case procedure. In particular, the Home Secretary is very grateful to Keith Vaz for highlighting this important issue at the Second Reading of the Bill and for suggesting the use of a central body for such cases. His tireless campaigning on this matter has led to this amendment.

The amendment states that the National DNA Database Strategy Board must issue guidance to chief police officers in connection with the early destruction of DNA samples and profiles. Chief Constables already have the power to remove such profiles under the 'Exceptional Case Procedure', but these amendments would for the first time require that Chief Constables must follow the statutory guidance underpinning the new 'Early Deletion Procedure'. We are also renaming the procedure to underline the point that deletion decisions will no longer rely on the presence of exceptional circumstances. Failure to follow the new guidance could be challenged through the Courts.

We would expect the guidance to reflect the range of circumstances where DNA retention is clearly inappropriate, such as where it is objectively clear that no offence has been committed. In particular, I am mindful of the case that Diane Abbott MP raised in Westminster Hall on the 9th of December of a constituent of hers who had been arrested for shoplifting when in fact she was merely returning an item for refund.

The National DNA Database Strategy Board, while chaired by the ACPO DNA lead and including representatives from the Association of Police Authorities and the Home Office, also includes such independent members as the Information Commissioner, the Forensic Science Regulator and the National DNA Database Ethics Group. These powerful independent figures would be responsible, with the police members of the Board, for the production and oversight of the statutory guidance. The Strategy Board will consult widely on the guidance before issuing it, and the views of Parliamentarians will of course be sought and welcomed as part of that process.

Furthermore, I know that many MPs have sought to assist their constituents' attempts to remove DNA profiles that have clearly arisen from cases of mistaken identity or where no crime has occurred. Some members have felt frustrated by the bureaucracy involved, so in addition to the amendment on the face of the Bill we will ensure that there is one point of contact for both members of the public and constituency MPs. Both parties will be able to write to the DNA Strategy Board itself, rather than individual police forces. Once a request has been received by the Board, the case will be handled by a central team who will collate the case file, provide advice and a recommendation to the relevant Chief Constable based on the statutory guidance and then inform the member of the public of the decision. As I said before, if a member of the public or their constituency MP still believe that an error has been made then it would be open to them to challenge the decision through the courts.

I hope that this is an amendment that all sides can support.

Government Amendments 17 and 18

As members already know, in bringing forward gang injunctions for 14 to 17 year olds we have been mindful that these should be preventative measures and that detention should only be used as a deterrent to ensure that the individual responds to the injunction. During Committee I agreed with James Brokenshire's comments that detention should be used as a last resort and, in order to improve this safeguard, the Government has tabled two amendments to require a pre-sentence report from the Youth Offending Team and ensure that the sentencing court must give reasons for its sentence of detention in open court. These amendments make it even more evident on the face of the Bill that these injunctions are designed to prevent young people from being sucked into a life of crime and are not a form of punishment.

Government Amendment 19 and 20

The final Government amendments respond to the helpful comments from Andrew Rosindell and Tom Brake during Committee that the proposed offence of possessing a mobile phone in prison should be widened to include emerging technology. I agree that we must 'future proof' this legislation to take account of devices that can send and receive communications, but would not fall under the category of mobile phones. The amendments would ensure that unauthorised electronic devices that are capable of accessing the Internet or sending/receiving data are also covered by an offence that could result in up to two years imprisonment. Taken together, this clause would reduce the risks of serious criminals being able to carry on their illegal businesses in prison and from causing more hurt and damage to their victims in the community. I hope that this amendment can receive cross-party support.

I am copying this letter to Sir Nicholas Winterton, Frank Cook, members of the Public Bill Committee, Chris Grayling, Dominic Grieve, Chris Huhne, David Howarth, Baroness Neville-Jones, Baroness Hamwee, Lord Henley, Lord

Thomas of Gresford and Keith Vaz. I am also placing a copy of this letter in the library of both Houses and on the Crime and Security Bill page of the Home Office website.

Jim Hughes

DAVID HANSON

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