



Home Office

Baroness Williams of Trafford  
Minister of State for Countering  
Extremism

2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

Paul Wiles  
Commissioner for the Retention and Use of Biometric Material  
Office of the Biometrics Commissioner  
PO Box 72256  
London  
SW1P 9DU

2 July 2020

Dear Paul

## **BIOMETRICS COMMISSIONER'S ANNUAL REPORT**

Thank you for your letter to the Home Secretary of 19 March covering your Annual Report on the Retention and Use of Biometric Material. I am grateful for the report, which provides valuable analysis on how the police are using sensitive biometric material.

### **Policing issues**

*Compliance with PoFA:* I am pleased to note that you can confirm, as in past years, that law enforcement agencies' compliance with the requirements of the Protection of Freedoms Act (PoFA) 2012 is generally good and that they show a high level of commitment.

*Governance of police use of new biometrics:* I note your views on the need for improvement of governance and for new legislation, and that you welcome the commitment in the Government's November 2019 election manifesto to empower the police to safely use new biometrics within a strict legal framework. The Government plans to announce more details of our future plans shortly. [DN: If the response to the S&T Committee is published before this response then it will be possible to reference it here]

*Voluntary attendees (VA):* I note your concern that a reduction in the taking of biometrics has arisen as an unintended consequence of the increased use by the

police of interviewing suspects on a voluntary basis. We are discussing with policing how this can be addressed.

*Police use of pre-charge bail:* I note your concerns about the effect on retention of biometrics of past changes to pre-charge bail. As you note, the Home Office is currently conducting a public consultation in this area and will propose changes in due course.

*Need for more trials of new biometrics and data analytics.* You call for more trials and a standard methodology. I note you also welcome the fact that the latest trials the police and Home Office are running have rigorous design and evaluation. The Policing Minister announced in January that funding will be made available for a Police Chief Scientific Adviser and investment in science, technology and research. This will support rigorous design and evaluation of trials. The Government is working closely with the National Police Chiefs Council to develop this role

## **National security issues**

*Revised National Security Determination statutory guidance.* I am pleased to note that you are supportive of the changes we made to the National Security Determination (NSD) regime through the Counter-Terrorism and Border Security Act 2019. The updated NSD guidance reflecting those changes will improve current arrangements relating to the retention of biometrics and strengthen the ability of the police to use biometrics to support counter-terrorism investigations. It is anticipated that the draft revised guidance will be laid before Parliament in the coming weeks and come into force subject to Parliamentary approval. I would also like to take this opportunity to thank you for the helpful feedback you provided during the consultation process which has been incorporated into the guidance.

*NSD process.* I am pleased to note that you are content with the current operation of the NSD process and that your challenges to NSD applications in 2019 were minimal, with only six cases requiring you to use your powers to order the deletion of material. I also note that you are satisfied with progress that has been made on the revised system of holding codes that the Security Service has introduced to ensure that there is more efficient risk assessment to inform NSD applications. I anticipate that the operation of the NSD process will be improved further when the measures in the Counter-Terrorism and Border Security Act 2019 come into force.

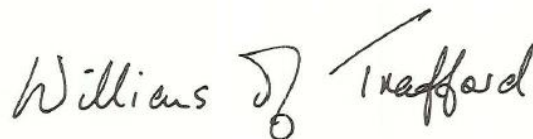
*MoD searching the police national fingerprint database.* I note your continued concern that fingerprints obtained from theatres of conflict are checked by MoD staff

against law enforcement databases. While I fully agree that it is in the public interest that these searches continue, I also acknowledge the pressing need for there to be greater clarity on the relevant legal and governance issues surrounding this process. I am aware the NPCC has sought further legal advice on the matter from Counsel and I am hopeful this can be shared with the relevant parties shortly. The Home Office has been, and will continue to be, fully supportive of the ongoing work to try and bring this matter to a resolution.

*Holdings of biometric material received from foreign law enforcement bodies.* I note your concern that there remain 298,572 fingerprint records and 1,290 crime scene fingermarks awaiting 'bulk deletion' and that these are in an unsearchable format. Following a review of holdings in 2017 a total of 900,000 records were identified for deletion and so far over 500,000 of these have been removed in accordance with section 18 of the Counter-Terrorism Act 2008. Discussions continue to be held to decide on the most appropriate way to complete the bulk deletion of these records and I anticipate that the matter will be resolved soon.

*Data Losses.* I am pleased to note that you are satisfied with the steps that have been taken to reduce the amount of lost biometric material, and that only four records were lost in 2019 compared to 144 in 2018. The Home Office is continuing to support efforts to reacquire lost records and to implement the new case management system to further mitigate against loss of data.

Finally, I would like to thank you for all your dedicated hard work throughout your term of office. Your review of NSDs and applications for retention of biometrics under Section 63G of PoFA has provided a safeguard that powers in this area are being used properly. Your oversight of the wider system for police use of biometrics has also helped law enforcement agencies improve overall efficiency and reassured the public and Parliament that its use is proportionate.

A handwritten signature in black ink, reading "Williams of Trafford". The signature is written in a cursive style with a large, stylized 'W' and 'T'.

**Baroness Williams of Trafford**