

Lord Rosser and Lord Falconer of Thoroton

29 October 2021

Dear Richard and Charlie,

POLICE, CRIME, SENTENCING AND COURTS BILL: PUBLICATION OF DRAFT GUIDANCE

I am writing to let you know that, to assist the scrutiny of the Bill, we have published draft statutory guidance relating to unauthorised encampments and Serious Violence Reduction Orders. We have also published updated draft guidance on the extraction of information from electronic devices. I attach a copy of the guidance, which is also available at: [Police, Crime, Sentencing and Courts Bill 2021: draft guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/101111/Police-Crime-Sentencing-and-Courts-Bill-2021-draft-guidance).

Unauthorised encampments

We have published draft statutory guidance that will accompany clause 64 of the Bill, which deals with unauthorised encampments. This has been produced in consultation with the National Police Chiefs' Council, along with relevant Government Departments.

The draft guidance addresses a number of concerns, notably:

- Providing further detail on how the powers under clauses 62 and 63 of the Bill should be used to tackle a range of harms proportionately, including how each case should be dealt with on its own merits by police.
- Clarifying the meaning of key terms within the Part 4 of the Bill, including 'significant'.
- Clearly outlining the responsibilities of the police to consider the potential impact issuing a direction to leave, arresting a person, or seizing a vehicle may have on the families involved and on the vulnerable, before taking an enforcement decision.

Through this draft guidance, our aim is to ensure that police are able to take action where appropriate against those who break the law, but in doing so they consider their obligations under human rights legislation, their Public Sector Equality Duty and wider equalities legislation.

Serious Violence Reduction Orders (SVROs)

The draft guidance provides detail to the police about the exercise of their functions under Chapter 1 of Part 10 of the Bill. In exercising such functions the police are required to have regard to the guidance. The guidance also address a number of key issues. Notably:

- Provides detail on the power of the police in relation to SVROs. Including how officers should confirm the identity of those subject to an order and how forces are required to have their stop and search records scrutinised by community representatives and to be able to explain the use of their powers locally.
- Clarifies that the pilot will test the deterrence effect of SVROs, trial how we ensure that vulnerable offenders are directed to local intervention teams, test community responses to the orders and examine any potential disproportionate impact on particular communities.
- Clarifies that SVROs can only be made in relation to an individual who did not use or possess a weapon if they were convicted of an offence where a bladed article or offensive weapon was involved.
- Outlines that the policy intention is that SVROs should be used as part of a wider approach to intervene and support offenders and the steps the police should take to ensure that offenders subject to an SVRO are supported and directed to relevant interventions, as appropriate.

Our aim with this guidance is to ensure that there is clear and consistent guidance to the police on their exercise of the stop and search powers under SVRO. The draft statutory guidance alongside the Police and Criminal Evidence Act 1984 (PACE) Code A, the statutory code of practice that governs the use of stop and search, makes clear that stops should be conducted fairly and responsibly.

Extraction of information from electronic devices

Clause 40 of the Bill requires the Secretary of State to produce a Code of Practice in relation to the extraction of information powers. A draft of this code was published at Commons Report to assist Parliament in understanding the approach we are taking to the use of the powers.

During the Commons debates we received feedback, including oral evidence given to the Public Bill Committee by the Victims' Commissioner, and written evidence received from, and our own engagement with, civil society organisations such as those representing the rights of women and girls, on the safeguards in the powers and the guidance offered in the code of practice.

We have updated the draft, taking on board this feedback, to ensure that the code better supports individuals, and in particular, vulnerable victims of crime. This revised draft contains updated guidance on the appropriate data protection regime, an expanded section on identifying and dealing with vulnerability, further clarity on deciding whether the extraction of information meets the criteria for a reasonable line of enquiry, and additional detail strengthening the expectation that extraction of information from devices should be the last resort.

We would welcome any comments on the guidance from peers.

We are copying this letter to Lord Ponsonby, Lord Coaker, Lord Paddick, Lord Marks of Henley upon Thames, Lord Judge, Baroness Jones of Moulsecoomb, Lord Beith, Baroness Bennett of Manor Castle, Lord Moylan, Lord Pannick, Lord Macdonald of River Glaven, Lord Sandhurst, Baroness Whitaker, Lord Alton of Liverpool, Lord Bourne of Aberystwyth, the Lord Bishop of Manchester, Baroness Massey of Darwen, Lord Dubs, Baroness Bakewell of Hardington Mandeville, Baroness Brinton, Baroness Lister of Burtersett, Baroness Chakrabarti, Baroness D'Souza, Lord Hain, Lord Garnier, the Earl of Shrewsbury, Baroness Meacher, Lord Ponsonby of Shulbrede, Harriet Harman (Chair, Joint Committee on Human Rights), Nick Thomas-Symonds, David Lammy and Jess Phillips. I am also placing a copy of this letter and enclosures in the library of the House.

Best wishes,

A handwritten signature in black ink, appearing to read 'Susan', written in a cursive style.

Baroness Williams of Trafford