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04 JUN 2008

PRE-CHARGE DETENTION: 28 DAYS ANNUAL RENEWAL

Thank you for your letter of 23 May 2008 about the annual renewal of the 28 day pre-charge detention limit. The answers to the points raised in your letter are set out below.

Has the Government now considered our recommendations for improving parliamentary review of extended pre-charge detention (as set out in the JCHR report published in July 2007) and decided to reject them? If so, we would be grateful to receive your reasons.

The Government has considered carefully the recommendations made by the JCHR. Where possible, we will ensure that the report by the independent reviewer of terrorism legislation is made available in advance of the pre-charge detention renewal debates. We cannot, however, guarantee that the report will be available at least a month before the debates.

We do not believe that the Metropolitan Police Authority should be charged with conducting an independent scrutiny of pre-charge detention beyond 14 days. This wrongly assumes that the only police force with the power to detain suspects beyond 14 days is the Metropolitan Police Service. It is also not

clear what an independent body would scrutinise. It would not be appropriate, for example, for a police authority to scrutinise the decision of judges to authorise continued detention or for them to comment on charging decisions taken by the Crown Prosecution Service.

As you will be aware, we have included in the Counter-Terrorism Bill proposals for the increased scrutiny of detention of suspects beyond 28 days. Under the proposals in the bill, the independent reviewer of terrorism legislation would be required to report on both the reasonableness of the decision by the Home Secretary to make the reserve power available and on whether the detention of individual suspects was in compliance with the relevant legislation and codes of practice. The report by the independent reviewer would be subject to parliamentary debate.

We do, however, accept that Parliament needs to be fully and reliably informed about the operation of detention beyond 14 days if it is to properly consider whether to approve the annual renewal of the 28 day limit. I do therefore accept, that where appropriate, the Government should endeavour to provide detailed statistical information of the use of the 28 day limit in advance of the renewal debates. We would intend to do this by placing a memorandum setting out the relevant information in the libraries of both Houses in advance of the debates.

I am sure you will accept, in the context of this years renewal debate, that the subject of pre-charge detention has received extensive scrutiny over the past nine months in relation to the Counter-Terrorism Bill. This has included the questioning of a wide range of witnesses by your own Committee, the Home Affairs Select Committee and the Counter-Terrorism Bill Committee and the publication of a number of documents on pre-charge detention.

Will Lord Carlile's annual report on the operation of the Terrorism Act 2006 during 2007 be available before the renewal debate ? If so when ?

The intention is that Lord Carlile's report on the operation of the Terrorism Act 2000 during 2007 will be published in advance of the renewal debate. The draft order renewing the 28 day limit was laid before Parliament on 21st May 2008 and the debate on the order in the Commons is expected around the end of June.

Have you asked Lord Carlile to ensure that his next report on the Terrorism Act 2000 contains a detailed analysis of the operation in practice of extended pre-charge detention ?

The requirements placed on the independent reviewer are set out in section 36 of the Terrorism Act 2006. It is for the independent reviewer to decide what he includes in his report.

Will any other independent reviewer be providing Parliament with any analysis of the use which has been made of the extended period ?

No.

Will you be providing your own detailed report to Parliament, in advance of the renewal debate, on the use which has been made of the power to detain without charge beyond 14 days, in the year since renewal ?

As no suspect has been held for more than 14 days since the renewal of the power on 25 July last year, there would be nothing to report. However, as mentioned above, the Government intends to provide relevant information to support the renewal debates in future if the power has been used during the period under consideration.

What additional statistics or information in relation to pre-charge detention did you or the police decide to collect as a result of your joint review ?

The review is not yet complete as we are now in the consolidation phase, checking with all police forces to ensure that all records can be, and are being, properly captured. However, once complete, we expect to be able to provide a breakdown of the exact detention time periods applied in all terrorist cases together with more detailed information on the outcome of detention including the charges brought against those charged.

How many times in the past year has a terrorism suspect been released without charge and then subsequently rearrested, or sought for arrest, because of information which has only subsequently come to light as a result of searching computer or related material after their release ?

None

In respect of how many terrorism suspects has the power of extended detention beyond 14 days been used since its renewal in July 2007 ? Please provide the dates on each occasion when detention was extended.

There have been no cases since 25 July 2007 in which a terrorism suspect has been held for more than 14 days before charge.

Please provide a thorough analysis of the way in which each of those suspects were dealt with, including:

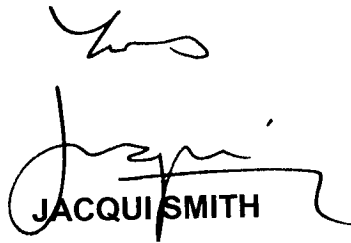
- **Precisely how long after their arrest they were charged or released without charge**
- **The reasons relied on at each application to a court for an extension of authorisation for detention**
- **The exact charges brought against those charged**
- **Whether the Threshold Test of the Full Code Test was used when charging them.**

There have been no cases involving the detention of suspects beyond 14 days and it is therefore not possible to provide the analysis requested.

What independent medical evidence have you sought of the psychological impact of extended pre-charge detention on those detained for more than 14 days ?

We have not obtained any independent medical advice on the psychological impact of extended pre-charge detention. However, Annex G of PACE Code H provides guidance to the police and health care professionals to help them decide whether a detainee might be at risk in an interview.

A copy of this letter goes to Deputy Assistant Commissioner John McDowall, Sue Hemming and Lord Carlile of Berriew QC.


JACQUI SMITH