

Government Discussion Document Ahead of Proposed Counter Terror Bill 2007

INTRODUCTION

1 Today the Home Secretary has announced to Parliament his intention to bring forward a new counter terrorism Bill later this year.

2 Some of the measures that might be included in a future bill are briefly outlined in this paper. This is the start of a process of consultation with interested parties both inside and outside Parliament. This will include publication of a fuller content paper in the next few weeks, the sharing of draft clauses later in the year and scrutiny by the Home Affairs Select Committee and the Joint Committee on Human Rights, before any legislation is introduced.

3 These legal measures are just one part of the Government's overall counter terrorism strategy. This includes a refocused Home Office with the creation of the Office for Security and Counter Terrorism which delivers a new drive, more cohesion and a greater strategic capacity in the fight against terror. By 2008, annual spending on counter-terrorism, intelligence and resilience will reach £2.25bn, which is double what it was prior to September 11. In conjunction with this it is vital that we aim to work with communities to isolate, prevent and defeat violent extremism. Prevention of terrorism must always be the priority and to do this we need the support of communities.

Pre charge detention

4 The decision to increase pre charge detention limits from 14 – 28 days has been justified by subsequent events. That means we have been able to bring forward prosecutions that otherwise may not have been possible.

5 We have made it clear that we believe it is right to go beyond 28 days but I want where possible to build broad agreement on the way forward.

6 I would therefore like to begin discussions now on how we might do this. One way might be to legislate now to extend the current limit but to make it clear that there would be further judicial and Parliamentary oversight. This would continue to include judicial approval every seven days for any requests to hold suspects. But it might also include a detailed annual report to Parliament with an accompanying debate.

Post charge questioning and notification requirement

7 At present, after charge, the police can only interview defendants to clarify earlier statements, where public safety is at risk or where, if the defendant agrees, new evidence comes to light. The CPS state that invariably defendants decline to be interviewed. We are considering legislation so that in *terrorist* cases suspects can be questioned after charge on any aspect of the offence for which they have been charged. Where a subject refuses to answer questions but then later relies on something they had the opportunity to mention previously, for example an alibi, then adverse inferences could be drawn from this where it is reasonable to do so.

8 In addition we are considering notification requirements similar to those for Sex Offenders once convicted terrorists leave prison.

Enhanced sentences

9 Although nearly all terrorist suspects are arrested under the powers in the Terrorism Act 2000, they are subsequently charged with the most appropriate offence. This may be one of the terrorist-specific offences (for example, terrorist finance offences) but it may also be a range of non-terrorist offences such as an offence under the Explosives Act 1875. We would like to ensure that sentences for terrorists who are convicted of non-terrorist specific offences are enhanced to reflect the additional seriousness that terrorist involvement represents. We intend that it would be the courts who would determine whether or not an offence was terrorism related and that the prosecution and defence would both have the right to appeal against such a determination. Enhanced sentencing is recommended by Lord Carlile, the Independent Reviewer of Terrorism, in his report on the definition of terrorism published on 15 March.

Control Orders

10 The police have identified some circumstances in which it is necessary for them to have a self-standing power of entry and search of premises to enforce and monitor the control order effectively. This will provide the police with further tools to assist in effectively monitoring the control orders system.

Data sharing powers for the intelligence agencies (including CT DNA database on a Statutory Footing)

11 We would like to legislate to provide statutory data sharing powers for the intelligence and security agencies that are similar to those already provided for the Serious and Organised Crime

Agency. Sections 32 – 34 of the Serious Organised Crime and Police Act 2005 (SOCPA) gave the Serious Organised Crime Agency (SOCA) specific data sharing powers and we would like to provide something similar for the intelligence and security agencies. Specifically, the provisions remove barriers to individuals and organisations sharing with the intelligence and security agencies information that is necessary for the proper discharge of the agencies' statutory functions.

12 We would also like to put the police's counter-terrorist data DNA base on a similar statutory footing to the National Police Database.

13 Neither of these measures will alter the powers of the Police and Security Services to collect material

Police powers to hold passports and travel documents at ports

14 The police have identified a particular gap where an individual stopped at a port is suspected, on the basis of an examination undertaken and/or other intelligence, of wanting to travel abroad for terrorism-related purposes. At present no power exists short of arrest and so the police have requested powers to enable the temporary holding of travel documents from such individuals for sufficient, though limited, period to enable further investigations to be undertaken.

Seizure of Terrorist Assets

15 The courts can currently seize the assets of someone who has been convicted of a terrorist finance offence. We are considering extending this power to cover all those convicted of a terrorist or terrorist related offence where the court believes that their assets might be used for terrorist purposes.

Increased security at Key Gas Sites

16 There is an ongoing operational requirement to provide appropriate security measures at key gas supply sites, including the deployment of additional police services, in order to counter the potential risks. We plan to legislate about the arrangements for the funding of increased security at these key sites.

Intercept as Evidence

17 The Government's position on intercept as evidence has consistently been that we would only change the law to permit intercept evidence if the necessary safeguards can be put in place to protect sensitive techniques and the potential benefits outweigh the risks.

18 The right approach is to address this carefully and fully before deciding on whether to use intercept as evidence. That is what we are doing. However we believe that we now need to reach a conclusion on this issue. Therefore, subject to further discussions to agree the structure and timescale, I am today announcing that we will commission a review of intercept as evidence on Privy Counsellor terms.

Stop and Question

19 Consideration of powers to stop and question, currently available to police in Northern Ireland and suggested for introduction across the UK by the Northern Ireland Office, is at a very early stage and is currently subject to a process of internal government consultation and we will report the outcome of that in due course.

CONCLUSION

20 Anyone who is interested in the legislation is encouraged to become involved in this consultation exercise. There are a number of ways to do this. First, we have set up a web page dedicated to the Bill. This can be accessed at <http://security.homeoffice.gov.uk>. This site will contain documents relevant to the Bill and related issues. Any queries or concerns about the Bill, measures for inclusion in the Bill or pre charge detention can email those queries to CTBill2007@homeoffice.gsi.gov.uk. We would welcome comments on the issues raised in this document and where appropriate will respond to any questions raised.