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Crime and Security Bill: Committee Stage Report

[Bill No 73 of 2009-10]

RESEARCH PAPER 10/22 3 March 2010

This Paper summarises the committee stage of the *Crime and Security Bill 2009-10.* It supplements Research Paper 09/97 which was produced for the Bill's second reading. The remaining stages of this Bill in the Commons are due to be taken on Monday 8 March 2010.

The Bill covers a wide range of measures, the most controversial of which concern the taking, retention and destruction of fingerprints and DNA data. Other provisions include a reduction in the recording requirements for police stops and searches; new "go" orders for suspected perpetrators of domestic violence; an extension to 14-18 year olds of new injunctions for gang-related violence; "automatic" Parenting Orders where a child under 16 has breached an Anti-Social Behaviour Order; a requirement for wheel-clamping companies to be licensed; new offences of possessing an authorised mobile phone in a prison and of allowing a person under 18 to gain unauthorised access to air weapons.

There were not many substantial amendments to the existing clauses in committee. However, the Government added a number of new clauses. These covered a new compensation scheme for victims of terrorism abroad; a new power for local authorities to ban sales or supplies of alcohol between 3am and 6am; and a new power for the police to search a person subject to a control order.

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ISSN 1368-8456

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Summary

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The Bill covers a wide range of measures, the most controversial of which concern the taking, retention and destruction of fingerprints and DNA data. Other provisions include a reduction in the recording requirements for police stops and searches; new "go" orders for suspected perpetrators of domestic violence; an extension of new injunctions for gang-related violence to 14-18 year olds; "automatic" Parenting Order where a child under 16 has breached an Anti-Social Behaviour Order; a requirement for wheel-clamping companies to be licensed; new offences of possessing an authorised mobile phone in a prison and of allowing a person under 18 to gain unauthorised access to air weapons.

The clauses relating to the taking, retention and destruction of fingerprints and DNA data provoked significant debate and nine divisions. However, they emerged from Committee largely unchanged, save for a number of minor Government amendments. A Conservative amendment that sought to replace the Government's proposed retention framework with one based on the Scottish system for retaining DNA was defeated on division by seven votes to five.

There were no amendments to the clauses on stop and search, domestic violence, gang injunctions, mobile phones in prison or minors' access to air weapons. A new clause was added to introduce an appeal mechanism for those who have been wheel-clamped. New clauses were added to introduce a new compensation scheme for victims of overseas terrorism. The scheme would broadly mirror the existing Criminal Injuries Compensation Scheme and would apply to victims of terrorist acts abroad which take place on or after 18 January 2010. A further new clause added at committee stage will give local authorities the power to impose blanket bans on the sale of alcohol between 3am and 6am in entire streets or city centres affected by alcohol-related anti-social behaviour and disorder. A further new clause would introduce a power for police officers to search a person subject to a control order imposed under the *Prevention of Terrorism Act 2005*.

1 Introduction

The *Crime and Security Bill* was introduced in the House of Commons on 19 November 2009 and had its second reading on 18 January 2010. It was programmed to have twelve sittings in Public Bill Committee, beginning on 26 January and ending on 23 February 2010. Oral evidence was taken during the first four sessions.

Detailed information on the provisions in the Bill and background to them can be found in Library Research Paper 09/97 which was prepared for the second reading. Further material and links to the proceedings on the Bill can be found on the Parliament website Crime and Security Bill page and, for Members and their staff, on the Bill Gateway pages.

2 Second reading debate

The Bill received its second reading on 18 January 2010 after a division. The money resolution and programme motion were agreed. The following highlights the main areas of debate but is not intended to summarise all contributions.

Much of the second reading debate was taken up with the new time limits for the retention of DNA samples, DNA profiles and fingerprints – indeed the Conservatives[1] and Liberal Democrats[2] both indicated that these provisions were the reason for their opposition to the Bill's second reading. The chairman of the Home Affairs Committee, Keith Vaz, also indicated that he would abstain on the vote on the Bill's second reading because of these provisions.[3] Several Conservative Members, including the former shadow Home Secretary David Davis, argued for the Scottish system, where retention of the DNA of unconvicted persons is permitted only in the case of adults charged with violent or sexual offences. The Home Secretary, Alan Johnson, pointed out that the Scottish system allowed these retention periods to be extended "for successive periods of two years as a time", and argued that the Government's framework was proportionate.[4]

The shadow Home Secretary Chris Grayling said that the Conservatives would "have to look closely" at how the new domestic violence provisions would work in practice.[5] The Liberal Democrat shadow Home Secretary, Chris Huhne, welcomed the introduction of "go" orders but highlighted the need for support and counselling for victims and temporary housing for perpetrators. The Conservative MP Humfrey Malins raised a number of questions about the domestic violence provisions. While he recognised the seriousness of domestic violence and the need to punish it, he suggested there were already sufficient remedies in the criminal and civil law. He also argued that there would be practical difficulties and that, in practice, substantive court hearings would not be possible within 48 hours, leading to the possibility of suspected perpetrators being excluded from their homes for extended periods without sufficiently strong evidence.[6] Labour MPs Robert Flello and Angela Smith went on to defend these provisions in their speeches, describing some of the practical difficulties facing police in situations where the victim does not wish to press charges, or where the suspected perpetrator is released without charge.[7] These points were the subject of further discussion in the Public Bill Committee's evidence sessions[8] and during the debate on the relevant clauses of the Bill.

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1 HC Deb 18 January 2010 c32 and c38
2 Ibid c60
3 Ibid c 52
4 Ibid c36
5 Ibid c 44
6 Ibid cc 78-80
7 Ibid cc 86-5-6
8 PBC Deb 28 January 2010 cc75-81

The debate also covered the stop and search provisions, which Chris Grayling called a "step in the right direction", although he argued that the Bill did not do enough to reduce police bureaucracy.[9] Mr Grayling also welcomed the provisions banning possession of mobile phones in prison and the licensing of wheel-clamping companies, albeit with some criticism of the Government. The Liberal Democrat shadow Home Secretary, Chris Huhne, registered concerns about the stop and search provisions, saying that "fair dealing" had to be monitored and arguing that, following the judgement of the European Court of Human Rights in January 2010, the Government should revisit the question of stops and searches under section 44 of the *Terrorism Act 2000*.[10] Mr Huhne also expressed concerns about the extension of gang injunctions to under 18s, and called for wheel-clamping to be outlawed rather than licensed.[11]

The Home Secretary, Alan Johnson, announced that a new provision would be introduced in committee to allow compensation for victims of overseas terrorism.[12] These were warmly welcomed by Ian McCartney (Labour) who had campaigned on this issue.[13] These new clauses are discussed in section 3.7 below.

Alan Johnson was also asked by the shadow Attorney General, Edward Garnier, whether the Government would use the Bill as an opportunity to change the law on universal jurisdiction, following the issuing of a warrant for the arrest of Tzipi Livni, the former Israeli foreign minister, by a UK court in December 2009. Mr Johnson indicated that the Government was still looking into the situation and "would come to the House with proposals in due course".[14]

3 Committee stage

3.1 The taking, retention and destruction of fingerprints and samples

As in the second reading debate, this proved the most controversial subject at the committee stage. Background on this issue is provided in section 1 of HC Library Research Paper RP 09/97 and in HC Library Standard Note 4049 *Retention of fingerprint and DNA data.*

Amendments and new clauses agreed

The clauses of the Bill relating to fingerprints and samples emerged from committee stage largely unchanged. A number of minor or technical government amendments were agreed without debate or division, most of which were aimed at correcting drafting errors.

The Committee also agreed three new government clauses on division, in each case by seven votes to six.[15] The new clauses were intended to extend certain aspects of the new retention arrangements for fingerprints and DNA material to Scotland, namely:

- the provisions enabling data to be held for extended periods for the purposes of national security or terrorist investigations; and

- the provisions regarding the retention of data taken under the provisions of the *Terrorism Act 2000* and the *Counter-Terrorism Act 2008*.

The new clauses related to the reserved matter of counter-terrorism; however, Home Office minister David Hanson confirmed that there had been discussions with the Scottish

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9 HC Deb 18 January 2010 c 40
10 *Case of Gillan and Quinton v. The United Kindom*, (Application no. 4158/05), Strasbourg, 12 January 2010
11 Ibid cc57-8
12 HC Deb 18 January 2010 c25
13 Ibid c62-4
14 Ibid, c26
15 PBC Deb 23 February 2010 cc467, 472 and 474

Government, which was content with the new clauses. The new clauses in themselves did not provoke extensive debate, but were pressed to division as part of the general opposition by the Conservatives and Liberal Democrats to the Government's proposals on retention of biometric data: see page 5 of this paper (*Retention periods*).

Other significant areas of debate

Retrospective application

Douglas Hogg tabled a number of amendments (later withdrawn) that would have limited the retrospective application of clause 2 of the Bill. As introduced, clause 2 would enable fingerprints or non-intimate samples to be taken from arrested, charged or convicted persons who had been arrested, charged or convicted before the commencement of that clause as well as after.[16]

During the clause stand part debate, shadow Home Affairs minister James Brokenshire recognised that there was a clear case for retrospection in respect of taking samples from previously convicted persons whose data is not currently on the database. He asked whether the police would be taking a systematic approach, for example by focusing initially on taking samples from people who are already in custody.

In response, Home Office minister David Hanson indicated that ACPO was considering how the new powers in clause 2 would be used: "Operation Sheen is examining the extent of previous convictions and bringing the people involved on to the database.[17]

Time limits for taking samples from arrested persons

Linked to the discussion on retrospection, James Brokenshire tabled a number of amendments aimed at introducing a "longstop" date to clause 2.[18] The amendments would have required the police to exercise the proposed new power to take fingerprints or non-intimate samples from people who had been arrested but were not in police custody to be exercised within six months of the date of arrest. Mr Brokenshire considered that the power should not be available for "some sort of open-ended period".[19]

In response, David Hanson argued that:

> ...if there is an ongoing investigation, as is the case if a person is on bail or if the police wish to have a further analysis of the samples, the police should be able to take fingerprints or samples from a person after they have been released from custody, even more than six months after the initial arrest. I am of the view ... that new evidence might come to light and that there might be a need for further investigation. Fingerprints or samples might be required from the person in order to prove or disprove their involvement in a particular offence. Therefore, there are reasonable grounds for the power to be enacted.[20]

The amendment was withdrawn.

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16 PBC Deb 2 February 2010 c175
17 PBC Deb 2 February 2010 c197
18 PBC Deb 2 February 2010 cc179-185
19 PBC Deb 2 February 2010 c184
20 PBC Deb 2 February 2010 cc184-185

Speculative searches

Mark Oaten moved an amendment to clause 5 that would have provided that, for the avoidance of doubt, the taking of biometric data was not on its own a reasonable ground for believing that it was necessary to arrest a person.[21]

The amendment came in the light of the Human Genetics Commission's report *Nothing to Hide, Nothing to Fear?*, which included the following claim from an unnamed retired senior police officer:

> It is now the norm to arrest offenders for everything if there is a power to do so … It is apparently understood by serving police officers that one of the reasons, if not the reason, for the change in practice is so that the DNA of the offender can be obtained: samples can be obtained after arrest but not if there is a report for summons. It matters not, of course, whether the arrest leads to no action, a caution or a charge, because the DNA is kept on the database anyway.[22]

In response, David Hanson assured the Committee that "in no circumstances is anyone arrested simply to put their name on the DNA database".[23] On the basis of that assurance the amendment was withdrawn.

Qualifying offences: encouraging terrorism

The Liberal Democrats moved an amendment that would have excluded offences under sections 1 and 2 of the *Terrorism Act 2006*, namely encouragement of terrorism and dissemination of terrorist publications, from the list of "qualifying offences" set out in clause 7.[24] Mark Oaten expressed concern that, from a freedom of speech perspective, it might not be appropriate to treat individuals convicted of these offences in the same way as those convicted of more serious offences such as inciting terrorism.

David Hanson argued that it was appropriate to include these offences on the list, given that an individual convicted of simple encouragement or distribution may at some point "tip over" and undertake violent extremist acts such as the London 7/7 bombings. Mr Oaten expressed some sympathy with this argument and withdrew the amendment.

Retention periods

Clause 14, the Government's substantive response to the decision of the European Court of Human Rights in the case of *S And Marper v The United Kingdom*, provoked lengthy debate.[25] There were divisions on whether clauses 14, 15, 16, 17 and 18 should stand part: in each case the clauses were agreed by eight votes to six.[26] There was also a division on a Conservative amendment to clause 14. Key areas of debate are considered below.

Unconvicted persons

The Conservatives moved an amendment that would have replaced the Government's proposals regarding the retention of data from unconvicted adults with the following regime:[27]

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21 PBC Deb 2 February 2010 c203

22 Human Genetics Commission, *Nothing to Hide, Nothing to Fear?- Balancing individual rights and the public interest in the governance and use of the National DNA Database*, November 2009, para 1.19

23 PBC Deb 2 February 2010 c204

24 PBC Deb 2 February 2010 cc210-212

25 *Case of S. And Marper v The United Kingdom*, Applications nos. 30562/04 and 30566/04. Press release 880 issued by the Registrar on 4 December 2008 provides an overview of the case.

26 PBC Deb 4 February 2010 cc272 and 274

27 PBC Deb 4 February 2010 cc226-227

- The general rule would require material to be destroyed as soon as it had fulfilled the purpose for which it was taken or supplied.

- However, fingerprints, footwear impressions or DNA profiles taken from a person who had been arrested for or charged with a sexual or violent offence could be retained but would have to be destroyed no later than:

  (a) in the case of fingerprints or footwear impressions, three years beginning with the date on which the fingerprints or impression were taken; or

  (b) in the case of DNA profiles, three years beginning with the date on which the DNA sample from which the profile was derived was taken; or

  (c) such later date as may be ordered by the Crown Court on application by the responsible chief officer of police. The Crown Court could make an order amending, or further amending, the date of destruction if satisfied that there were reasonable grounds for doing so. The order would only be able to specify a date up to two years after the original destruction date. The Crown Court's decision would be appealable to the Court of Appeal.

- For these purposes, sexual or violent offences would be those set out in an order to be made by the Secretary of State. Any such order would be subject to the affirmative resolution procedure.

The Conservative amendment was based on the Scottish approach to the retention of fingerprint and DNA data, which had received specific approval from the European Court of Human Rights in the *S and Marper* judgment.[28] James Brokenshire said that while it was unclear whether the Government's proposals would be compliant with European human rights law, the Court's comments made it clear that a system similar to that used in Scotland would be compliant.[29] He also drew attention to the Council of Europe Committee of Ministers' recommendation R(92)1, which he indicated had framed the drafting of the amendment. He quoted from the recommendation and the associated explanatory memorandum, highlighting in particular the recommendation that samples "should not be kept after the rendering of the final decision in the case for which they were used, unless it is necessary for purposes directly linked to those for which they were collected" and that "data should be deleted once persons have been cleared of suspicion".[30]

Alongside the Conservative amendment, the Committee also considered Liberal Democrat amendments that proposed a framework under which fingerprints and DNA data would have to be destroyed as soon as possible after a decision not to institute criminal proceedings against the individual in question, or the conclusion of such proceedings otherwise than with a conviction.[31]

Tom Brake said that the Liberal Democrat position made "a clear and simple distinction between people being on the database if they are convicted and off the database if they have been found innocent or if charges have not been pressed against them".[32]

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28 See Library Standard Note SN/HA/4049 *Retention of fingerprint and DNA data*, section 6 for further details

29 PBC Deb 4 February 2010 c233

30 PBC Deb 4 February 2010 c231. See also Council of Europe Committee of Ministers, *Recommendation No. R(92)1 on the use of analysis of deoxyribonucleic acid (DNA) within the framework of the criminal justice system* and *Explanatory Memorandum*, 10 February 1992

31 PBC Deb 4 February 2010 cc228-229

32 PBC Deb 4 February 2010 c237

During the debate, Tony Baldry questioned whether the Government's proposals responding to *S and Marper* were "judge-proof" or whether they themselves might be liable to a human rights challenge.[33] David Hanson said that he was "confident that we have pushed the envelope as far as we can, ensuring that we achieve our justice objectives while meeting our obligations generally.[34]

On division, the Conservative amendment was defeated by seven votes to five.[35]

Young people

The Committee considered a probing Conservative amendment on the differential approach clause 14 takes to young people and adults.[36] James Brokenshire highlighted that, as drafted, clause 14 would treat young people convicted of an offence[37] more leniently than adults who have not been convicted, as their profiles would only be retained for five rather than six years. David Hanson explained:

> The reason for the differential is that we have taken a view that young people are often involved in minor crime at a young age, but we hope that diversionary activity through youth offending teams, youth custody if necessary, non-court disposals and a range of activities will help to ensure that when the individual reaches the age of maturity at 18, they will not progress into the criminal justice system for a long period.[38]

James Brokenshire acknowledged the aim of trying to give young people who have committed one minor offence a fresh start; however, he remained critical of the logical inconsistency that appeared to treat an innocent person more harshly than a guilty one.[39] He withdrew the amendment, indicating that he would reflect on the issue further.

Use of retained material – requests from overseas

James Brokenshire moved a probing amendment to test the basis on which retained material would be disclosed to foreign law enforcement agencies under the Bill.[40] He said that as drafted, proposed new section 64Z(N)(3) appeared to allow:

> ...the sharing of DNA profiles – or the DNA samples themselves, before they are required to be destroyed – with foreign law enforcement agencies, whether in the EU or elsewhere, with regard to something that was not a crime in this country and that might relate to the national security of a foreign country.[41]

He drew a comparison with extradition law, under which the general principle is that the actions of the person to be extradited must amount to a criminal offence in both jurisdictions, and queried why this "dual criminality" principle had not been adopted in relation to the sharing of biometric material. He expressed particular concern that the provisions extended to data from volunteers as well as from those who had been convicted, cautioned or arrested. He also asked how the Government proposed to regulate the sharing of material with other countries, with particular reference to the security of the data once it had been

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33 PBC Deb 4 February 2010 cc241-242
34 PBC Deb 4 February 2010 c244
35 PBC Deb 4 February 2010 cc253-254
36 PBC Deb 4 February 2010 cc254-256
37 Other than one of the more serious "qualifying" offences listed in clause 7
38 PBC Deb 4 February 2010 c255
39 PBC Deb 4 February 2010 c256
40 PBC Deb 4 February 2010 cc264-267
41 PBC Deb 4 February 2010 c264

shared: would protocols be developed, or would it be captured by the existing mutual assistance regime?

In response, David Hanson said that the exchange provisions would enable the law enforcement authorities in Scotland and Northern Ireland to access the material. Data sharing with EU member states would be regulated by the Prüm Treaty.[42] Data sharing with countries outside the EU would be regulated by mutual legal assistance treaties or bilateral agreements: he confirmed that "self-evidently, if we do not have an agreement with a country, we will not share information with it".[43]

James Brokenshire did not press the amendment to a vote, but said that he remained concerned about the lack of any dual criminality requirement and the application of the provisions to data from volunteers.

Challenging retention

During the stand part debate on clauses 14 and 15, James Brokenshire and Tom Brake raised the issue of an individual's right to challenge the retention of his or her data. Both described the current arrangements for removal, namely the "exceptional case procedure" set out in the ACPO guidance *Retention Guidelines for Nominal Records on the Police National Computer*, as a lottery. James Brokenshire referred to a statement made by the Home Secretary in November 2009, in which he said that the Government proposed to set out in statute "more clearly defined criteria where deletion would be appropriate".[44] He asked why this did not appear to be reflected in the Bill and whether it was still the Government's intention to fulfil the ideas set out in the Home Secretary's statement.

In response, David Hanson recognised the need for a consistent approach to requests from individuals seeking deletion of their data. He indicated that the Government was working with ACPO to develop new guidance, with a particular focus on improving consistency in the operation of the procedure for deleting profiles ahead of the normal retention period in certain circumstances. He suggested that the guidance may ultimately have statutory backing rather than taking the form of voluntary operational guidance: proposals would be brought forward shortly.[45]

Destruction of material taken before commencement

The Conservatives moved a probing amendment to clause 19, which proposes to give the Home Secretary an order-making power to deal with the destruction of data taken before commencement of clauses 14 to 18. The amendment sought to "ensure that it is clearly understood that the order-making power that he seeks is intended to give effect to equivalent provisions", rather than to implement a different regime in respect of existing data taken before commencement.[46]

David Hanson "put on record the intention to use the power to apply the same regime to existing DNA profiles as to those taken after the Bill becomes law".[47] On this basis, the amendment was withdrawn.

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42 *Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime*, OJ L 210, 6.8.2008

43 PBC Deb 4 February 2010 c267

44 HC Deb 11 November 2009 c28WS

45 PBC Deb 4 February 2010 c272

46 PBC Deb 4 February 2010 c278

47 PBC Deb 4 February 2010 c279

Ministerial undertakings to consider

Power to take samples in respect of overseas offences

James Brokenshire tabled a probing amendment to establish why the clause 3 power to take samples from persons convicted of an offence overseas was limited to UK nationals or residents. He said:

> If a serious offender comes to the UK regularly but is neither a UK national or a UK resident, they would seem to fall outside the wording of the Bill, even though they might have committed a serious crime in the UK that would be solved if their DNA had been taken, based on the information that an offence had occurred overseas. That is what would happen to a UK national or resident if it were known and the Government and police sought to use the power.[48]

In response, David Hanson said that overseas nationals requiring a visa to enter the UK would have been subject to a criminal records check as part of the application process: anyone whose check revealed a conviction for an offence that, if committed in the UK, would be punishable with imprisonment for 12 months or more would usually be refused entry clearance or leave to enter.[49] Nationals from countries that do not require a visa could be refused entry on arrival if the UK Border Agency was aware of convictions.[50]

However, he recognised that there were "unlikely circumstances in which a foreign national is in the country and the conviction has come to light after entry" and therefore agreed to reflect on the amendments further.[51] In the light of this commitment, the amendments were withdrawn.

Fingerprints and samples taken at locations other than police stations

The Liberal Democrats moved a probing amendment to clause 6 aimed at clarifying the locations in which fingerprints and samples could be taken under the Bill's provisions.[52] The amendment would have provided that the proposed clause 2 powers enabling the police to take fingerprints and samples from an individual who has been arrested or charged, but who is not in police detention, could only be exercised at a police station.

Mark Oaten said he was seeking "absolute clarity" that DNA samples would not be taken in the street or where the arrest takes place, and expressed concerns as to the security of any samples not taken in a police station setting. James Brokenshire raised the issue of mobile custody suites, and asked whether it was the Government's intention that there should be the capacity to take samples or fingerprints in such an environment.

In response, David Hanson said that there were three circumstances in which it was appropriate that fingerprints or samples might be taken elsewhere than at a police station: in court, in prison or at a mental health hospital. He also considered that in some cases it might also be appropriate for samples to be taken in mobile policing units operating in places such as the Notting Hill carnival. He added that the same security principles would apply whether a sample was taken at a police station or in a mobile unit: the sample would be sealed for evidential purposes in front of the person from whom it was taken, sent to the forensic laboratory and only unsealed there. Any sample bags that arrived at the laboratory in an unsealed state would not be valid.

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48 PBC Deb 2 February 2010 c198
49 PBC Deb 2 February 2010 c199
50 PBC Deb 2 February 2010 c200
51 PBC Deb 2 February 2010 c200
52 PBC Deb 2 February 2010 c208

Mark Oaten accepted the minister's point that the amendment as drafted might be too restrictive in excluding venues such as prisons, courts and mobile police units. However, he remained concerned that the Bill did not rule out samples being taken "in the back of an individual's car or in a side street in the middle of a riot".[53] He therefore suggested that the amendment could be expanded to require samples to be taken at a police station "or a designated location".

David Hanson took the view that even this might be too restrictive; however, he agreed to consider the matter further, suggesting that it could perhaps be covered as part of police guidance or codes of practice. On that basis, the amendment was withdrawn.

Retention of fingerprints and samples on "national security" grounds

As introduced, the Bill would enable a chief police officer to determine that fingerprints or DNA profiles should be retained beyond the date on which they would otherwise have to be destroyed for the purposes of "national security". Any such determination would only have effect for two years; however, a determination would be renewable. The Conservatives moved an amendment that would have deleted these provisions from the Bill.[54]

James Brokenshire expressed concern that the term "national security" was capable of being used to justify a wide range of activity, and asked whether it would be used in a way that restricted it to anti-terrorism and other such matters or whether the perspective would be much broader. He said that the language in the Bill suggested that the proposed two year extension periods could be renewed on a rolling basis, which would effectively continue to allow for the indefinite retention of data from unconvicted people. He also questioned how the proposal would interact with the notification requirements set out in the Bill:

> The Bill has various requirements to notify someone about the destruction of their profile or the DNA information or sample that they have provided, so will the lack of such a notification inform someone that their DNA is being retained for the extended period? Is there some other mechanism that will allow someone to know that that is the case?
>
> (...) We are almost getting into the grounds of a control-order type regime, where people are not necessarily aware of what they may be challenged with, there is no evidence and they do not believe that they have done anything wrong.[55]

Tom Brake echoed the points raised by James Brokenshire, particularly in relation to "mission creep". He also referred to evidence given by David Hanson in the Committee's fourth sitting, in which he stated that the police power to extend a retention period would be "subject to judicial oversight".[56] He asked the minister to provide more detailed information about how he expected that judicial oversight process to work.

In response, David Hanson said that there was no clear or standard legislative definition of national security. However, he said that he wanted to "place on record" the fact that in this case it was intended to cover counter-terrorism, counter-espionage and counter-proliferation.[57] Regarding judicial oversight, he said:

> The Home Secretary has said that he is considering whether there should be provision for an independent reviewer of the legislation, in relation to the national security

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53 PBC Deb 2 February 2010 c209
54 PBC Deb 4 February 2010 cc256-264
55 PBC Deb 4 February 2010 c258
56 PBC Deb 4 February 2010 c259. For David Hanson's evidence, see PBC 28 January 2010 cc133-134, Qq284 and 285
57 PBC Deb 4 February 2010 c260

> provisions, but that is not in the Bill, and we have made no final decisions. We are seeking oversight. Lord Carlile is undertaking oversight of the application of section 44 of the Terrorism Act 2000, and we are considering a similar process for the retention of DNA.[58]

He indicated that there was no formal appeal mechanism as the individual in question would often not know about the extended retention. Tom Brake asked how an enquiry from a person trying to find out whether their data was subject to extended retention might be handled. David Hanson replied:

> I cannot give the hon. Gentleman an assurance that Mr or Mrs X would know that their DNA was being retained for eight years, rather than six. If we said, "Actually, Mr X, your DNA is being retained," Mr X would know that we knew that he was involved in some aspect of terrorism. I am sorry, but that is one of those rubs where the interests of the majority are put against the interests of the few.[59]

James Brokenshire queried how this approach would tally with a request from an individual under proposed new section 64ZM:

> "If a person make a request to the ... chief officer ... to be notified when anything relating to the person is destroyed under any of sections 64ZA to 64ZJ, the .. chief officer ... or a person authorised by the chief officer or on the chief officer's behalf must within three months of the request issue the person with a certificate recording the destruction."
>
> That may require further consideration in Committee, because if someone, thinking that their DNA profile would be deleted at the end of the six-year period, were to make a formal request to the chief officer, some response would be required.[60]

The minister indicated that he would consider this issue further and decide whether clarifications were needed. On that basis James Brokenshire withdrew the amendment. He did, however, indicate that he would give further thought to whether to draft a definition of "national security" or to rely on the minister's statement regarding the Government's intention as to interpretation.

The National DNA Database Strategy Board

The Committee considered a number of Conservative amendments aimed at making clause 20 more specific.[61] As introduced, clause 20 would require the Home Secretary to make arrangements for a National DNA Database Strategy Board (the Board) to oversee the operation of the National DNA Database, and to publish "governance rules" and "reporting requirements" for the Board.

The amendments sought to include a specific requirement for the Board to report on the effectiveness of the database and to make recommendations on the use of DNA profiles. They also sought to give the Board responsibility for monitoring data sharing with other agencies and organisations. The amendments would also have specified that the governance rules to be published by the Home Secretary should cover the Board's membership, and that both the governance rules and the Board's reports should be laid before Parliament.

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58 PBC Deb 4 February 2010 c261
59 PBC Deb 4 February 2010 c262
60 PBC Deb 4 February 2010 c262
61 PBC Deb 4 February 2010 c279

James Brokenshire said that it would be helpful for the Bill to set out the purpose of the Board, as well as details of its membership: for example, whether members would have certain qualifications or whether certain organisations would be represented. He also emphasised that there should be a role for Parliament in ensuring that appropriate scrutiny is applied to any recommendations that come from the Board. Tom Brake supported the amendment as it made clear that one of the Board's outputs would be to document the effectiveness, and presumably the cost-benefit, of the database. This would enable the Government to demonstrate that the database is a cost-effective way of tackling crime.

In response, David Hanson said that the amendment requiring the Board to report on the effectiveness of the database and to make recommendations was unnecessary as this role is already part of the existing (non-statutory) Board's responsibilities. He did, however, agree to look at the amendments requiring the governance rules and reports to be laid before Parliament. He also agreed to look at whether the Bill should include further detail on the Board's membership. In the light of this commitment, James Brokenshire withdrew the amendment.

3.2 Stop and search recording

There were no amendments to clause 1 of the Bill, which reduces the reporting requirements for police stops and searches under section 1 of the *Police and Criminal Evidence Act 1984* (PACE). Background on the changes is in section 1 of HC Library Research Paper RP 09/97. There was discussion on whether the provisions allowed for the use of electronic devices (the minister confirmed that they did, although he stated that a voice message would not be adequate)[62] and whether recording names and addresses should be left to the discretion of the officer (as they are in the Bill) or should be required in the legislation.[63] The debate also covered the recording of ethnicity. The Bill requires the record to state the person's self-defined ethnicity alongside the constable's own perception of this if different,[64] as recommended by the MacPherson report into the death of Stephen Lawrence,[65] and some Members expressed concern that this might harm community relations.[66] There was also a debate on Conservative and Liberal Democrat new clauses which would have amended to two controversial stop and search provisions. These provisions, unlike section 1 of PACE do not require the police to have reasonable suspicion.[67] These are section 60 of the *Criminal Justice and Public Order Act 1994* and section 44 of the *Terrorism Act 2000*, the latter of which (as noted above) has been the subject of a recent successful legal challenge at the European Court of Human Rights.[68] In the event, the new clauses were not called.[69]

3.3 Domestic violence

No amendments to the domestic violence provisions on the Bill were agreed during the committee stage – policy background is in section 3 of HC Library Research Paper RP 09/97.

Clauses 21-30 of the Bill as introduced (now clauses 24-33 of the Bill as amended in committee) give the police the power to issue a domestic violence protection notice (DVPN) pending application for the court order (DVPO). Both the notice and the order must prohibit the suspected perpetrator from molesting the victim, and can prohibit him (or her) from

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62 PBC Deb 2 February 2010 cc141-152
63 Ibid
64 Clause 1(6)
65 *The Stephen Lawrence Inquiry Report of an Inquiry by Sir William MacPherson of Cluny,* Cm 4262, February 1999, Chapter 47: Recommendation 61
66 PBC Deb 4 February 2010, cc148-152
67 PBC 4 February 2010 cc160-175
68 *Case of Gillan and Quinton v. The United Kindom*, (Application no. 4158/05), Strasbourg, 12 January 2010
69 Public Bill Committee Proceedings, *Crime and Security Bill*, 23 February 2010

entering the home or require him (or her) to leave it. All the amendments which were called were subsequently withdrawn. The debate covered the impact of domestic violence on children,[70] the potential difficulties in hearing the substance of the case in court within 48 hours (the policing minister David Hanson said that magistrates had confirmed that hearings could occur that quickly)[71] and the question of police discretion in applying for a DVPO.[72] The Committee also discussed whether 28 days was the correct maximum length for a DVPO;[73] the enforcement powers in the event of a breach of the order;[74] and the funding of the pilot schemes.[75]

In the course of the debate, the minister undertook to consider whether the Government might make it explicit in the Bill that the DVPN should be given to the victim, or whether this should be left to guidance.[76] He also acknowledged that in theory the notice period could be longer than DVPO itself, and undertook to consider how to address this in the guidance.[77]

3.4 Gang injunctions for the under 18s

There were no amendments to clauses 31-36 in the Bill as introduced (now clauses 34-39) which, in effect, extend gang injunctions (dubbed "gangbos" in the press) to young people aged 14-18. The provisions governing these injunctions for adults are contained in part 4 of the *Policing and Crime Bill 2009,* and background is in section 4 of HC Library Research Paper RP 09/97. The Committee debated whether 14 was, in fact, the best lower age limit for these injunctions; whether the Bill should explicitly mention violence through animals such as dangerous dogs; how often the injunctions should be reviewed in the case of juveniles; and how social services should be included in the consultation process.[78] There was also debate on the powers of the court regarding breaches of injunctions. Amendments moved by James Brokenshire were designed to make a specific requirement for the court to consider a report from the relevant youth offending team (YOT) before decisions were made on breaches, and for the court to state why it believed a detention order was necessary before issuing one. The minister pointed out that judges are already required to consider representations from a YOT, but he undertook to consider the amendments, and see whether it would be desirable to introduce a requirement for a written report. He said that the Government might return to this at the Bill's report stage if Mr Brokenshire withdrew his amendment, and the amendment was accordingly withdrawn.[79]

3.5 Licensing of wheel clamping companies on private land

The policy background to this issue can be found in section 6 of HC Library Research Paper RP 09/97.

The Committee received written evidence from the RAC Foundation and the Automobile Association and took oral evidence from Edmund King (AA), Patrick Troy (British Parking Association), Cllr. Shona Johnstone (Local Government Association) and the Home Office minister Alan Campbell. For the most part, the witnesses reiterated the well-known problems associated with regulating not only wheel clamping but also parking enforcement activities on private land. The witnesses, and the Committee members, were divided as to whether the proposals in the Bill would adequately address the problems associated with 'rogue' wheel

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70 PBC Deb 4 February 2010, cc 290-3
71 PBC Deb 9 February 2010 c312
72 PBC 9 February 2010 cc 322-6
73 Ibid cc328-332
74 PBC Deb 9 February 2010 cc 336-9
75 Ibid cc 345-349
76 PBC Deb 9 February 2010 c314
77 Ibid c317
78 Ibid cc349-372
79 PBC Deb 23

clampers. In their written evidence, both the RAC and the AA indicated that they thought the Bill was inadequate and that too much detail would be left to the Code of Practice for which "there is no evidence that the House will be shown even a draft of this before being asked to vote".[80] More broadly, the AA indicated that:

> If the Bill is not widened to cover ticketing on private land then many vehicle immobilisers will migrate into uncontrolled ticketing as happened following implementation of the Private Security Industry Act 2001 in 2005.
>
> The Automobile Association has concerns that if these changes to the legislation are not implemented then the legislation will create further bureaucracy without being effective. If these amendments cannot be implemented then steps should be taken to outlaw clamping on private land as happened in Scotland in 1991.[81]

The day following his appearance before the Committee, Mr Campbell indicated in a press notice that the Government would seek to amend the Bill to include recourse to an independent tribunal for those who have been clamped.[82]

The Committee considered clauses 39 and 40 and Government new clause 10, relating to appeals, on 23 February. The Committee debated the principles of the Government's licensing scheme as opposed to other options such as an outright ban, but other than the addition of new clause 10 (which provides for the appeal mechanism) there was no significant amendment to the provisions. The Committee divided on the principle of clause 39, with only Tom Brake (Liberal Democrat) voting against.[83]

The relevant provisions are now contained in clauses 42-44 and Schedule 1 of the Bill.

3.6 Mobile phones in prison

This provision,[84] which creates an offence of possessing a mobile phone in prison, was not amended in committee. There was debate on a Conservative amendment as to whether the offence should cover other devices capable of sending or receiving electronic data, and the minister expressed sympathy with this and undertook to consider the idea and possibly introduce a similar Government amendment at the Bill's report stage.[85]

3.7 Minors and air weapons

There were no amendments to these provisions, background to which can be found in section 8 of HC Library Research Paper RP 09/97. Shadow Home Affairs minister Andrew Rosindell moved an amendment which would have turned the new offence of allowing minors access to air weapons into a strict liability offence, by (in effect) removing the defence that a person had taken reasonable precautions to prevent access. Home Office minister Alan Campbell said this would have "unintended consequences" and the amendment was withdrawn,[86] as was a further amendment to reduce the age limit of the young people who would be covered by the provisions from 18 to 14.[87]

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80 *Memorandum submitted by the RAC Foundation (CR 03)*, January 2010, para 10
81 Memorandum submitted by the Automobile Association (AA) (CR 04), January 2010, section 3
82 Home Office press notice, "Independent appeals tribunals and cap on fines to be introduced as Home Office moves to curb rogue wheel clampers", 29 January 2010
83 PBC Deb 23 February 2010, cc392-421 &461 (10th & 11th sittings)
84 covered in section 7 of HC Library Research Paper RP 09/97
85 PBC Deb 23 February 2010 c424
86 Ibid c430
87 Ibid c431

3.8 New provisions

Compensation for victims of overseas terrorism

As announced in the second reading debate, the Government introduced several new clauses (now clauses 47-54) to provide a framework for a compensation scheme for victims of overseas terrorist attacks. The Criminal Injuries Compensation Scheme currently covers victims of violent crime, including terrorism, in Great Britain and a separate scheme covers Northern Ireland. The new scheme would broadly mirror the Criminal Injuries Compensation Scheme, and would apply to victims of terrorist acts which take place outside the UK on or after 18 January 2010. Victims of earlier attacks abroad, providing they took place since 1 January 2002, would be covered by a separate time-limited scheme to be introduced following Royal Assent.[88] Further background on the new scheme is provided in a Ministry of Justice press release.[89] The amendments were agreed to.[90]

Blanket bans on 24 hour alcohol licences

Under the reform of alcohol licensing introduced in November 2005, opening hours are no longer set by statute. Premises can apply to open for whatever hours they thought fit, and these hours would be written into their premises licence, unless the local authority chose to curtail the proposed hours, which they had scope to do, since the *Licensing Act 2003* requires them to have regard to four overriding "licensing objectives":

> the prevention of crime and disorder;
>
> public safety;
>
> the prevention of public nuisance; and
>
> the protection of children from harm.[91]

This development led to public anxiety, reflected in the media, about so-called "24-hour opening". In fact, as figures compiled by the Department for Culture, Media and Sport (DCMS) have shown, only a very small proportion of licensed premises have applied to open round the clock. There were approximately 7,200 premises licensed for the sale or supply of alcohol for 24 hours in their standard timings, on 31 March 2009, representing 4% of all premises licences and club premises certificates authorised to sell alcohol. Of these, six in ten are hotel bars. Furthermore, the possession of a 24 hour licence does not necessarily mean that the premises will choose to open for 24 hours.[92]

An evaluation of the operation of the new licensing laws published in March 2008 reported that there had been an increase in alcohol-related crime in the small hours of the morning:

> There was a one per cent rise in the overall number of incidents occurring between 6pm and 6am, and a steep rise in the small minority of incidents occurring in the small hours (3am or later). Thus for the – well-measured – category of more serious crimes of violence, there was an increase in the number of offences committed between 3am and 6am that was small in absolute terms (236 incidents) but large in proportionate

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88 PBC 23 February 2010 c 439
89 Ministry of Justice Press Release, *New support for victims of terrorism overseas*, 18 January 2010
90 PBC 23 February 2010 c447
91 *Licensing Act 2003* s4
92 DCMS, *DCMS Statistical Bulletin: alcohol, entertainment and late night refreshment licensing, England and Wales, April 2008 – March 2009*, October 2009, p18

> terms (25%). The peak time for serious violent crime shifted forward by about an hour.[93]

The figures quoted here derive from an analysis of data collected in 2007 from a sample of police forces which compared the twelve month periods before and after the introduction of licensing reforms (i.e. 2004/05 and 2005/06).[94] The statistics were not broken down in such a way as would show whether there was a correlation between the location of violent incidents and the siting of "24 hour" premises.

In his speech to the Labour Party Conference in September 2009, the Prime Minister made the following pledge:

> "No one has yet cracked the whole problem of a youth drinking culture. We thought that extended hours would make our city centres easier to police and in many areas it has. But it's not working in some places and so we will give local authorities the power to ban 24 hour drinking throughout a community in the interests of local people."[95]

On 4 February 2010 a Motion was tabled by the Home Secretary proposing the addition of a new clause to the present Bill, on a matter which was outside the remit of the Bill as originally introduced:

> That it be an instruction to the Crime and Security Bill Committee that it has power to make provision in the Bill to enable restrictions to be placed on the hours during which alcohol may be sold or supplied.

A press notice issued on the same day by the DCMS summarised what the new clause was intended to do:

> Local authorities are to get the power to impose blanket bans on the sale of alcohol after 3am in entire streets or city centres affected by alcohol-related anti-social behaviour and disorder. The move was confirmed today by Licensing Minister Gerry Sutcliffe, as he announced that the new powers would be brought in through the Crime and Security Bill, currently before Parliament.
>
> Announced by the Prime Minister in September 2009, the new rules would mean that, where disorder or public nuisance cannot be attributed to particular individual premises, local authorities would be able to limit late opening across an entire area.
>
> The ban will operate between 3am and 6am in respect of all premises selling alcohol, including pubs, bars, clubs, supermarkets and convenience stores. It could be imposed all week or only on particular days of the week. Councils would need to show that the restriction was necessary to prevent crime and disorder or public nuisance, or to promote public safety.
>
> When a council proposes to use its new power, it will first invite views from everyone affected, including local residents, the police and licence holders and if necessary, it will hold a public hearing before making a final decision.
>
> Mr Sutcliffe said:

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93 Mike Hough et al, *The impact of the Licensing Act 2003 on levels of crime and disorder: an evaluation*, Home Office, March 2008, p.ii

94 Penny Babb, *Violent crime, disorder and criminal damage since the introduction of the Licensing Act 2003*, Home Office Online report 16/07, 2nd edn, July 2007

95 Labour Party, *Gordon Brown's speech to Labour Conference*, September 2009

> "The Licensing Act has done a great deal to make it easier for local residents and councils to deal with alcohol-related nuisance and disorder, and the number of 24 hour licences remains low. But we recognise that some concerns still exist about anti social behaviour, and are determined to give councils the powers they need to act.
>
> "This new power will help local authorities and the police make life better for local residents. It will also help ensure that licensees take their obligation to run responsible businesses more seriously."[96]

To be precise, Government new clause 31 amends the *Licensing Act 2003* by inserting five new sections into that Act. New section 172A will provide licensing authorities, almost all of which are local authorities, with the power to ban sales or supplies of alcohol between 3 am and 6 am, either in the whole of its area or in a smaller, more confined part of it. The provisions require that such an order may not be made unless certain preconditions are met:

- First, the order must be necessary for the promotion of one or more of the four statutory "licensing objectives".

- Secondly, new section 172B requires the licensing authority to advertise the proposed order and to consider at a hearing any relevant representations made to it by any of three different groups. The Secretary of State is empowered under the new section to prescribe the detailed procedure governing how and when relevant representations should be made and how they will be processed. Under the provisions, representations are relevant if they concern the likely effect of the order on the statutory licensing objectives, and are made in the prescribed form and within the prescribed time.

Of the three groups that may make representations, the first includes any persons affected by the order, which means the licence and club certificate holders, people who give temporary event notices, and the holders of provisional statements. The second group includes responsible authorities -- for example, the police and environmental health officers. The third group comprises interested parties, including residents or other businesses in the vicinity of the affected premises. It also includes local councillors who are members of the licensing authority. Where no relevant representations are received, the licensing authority will be free to make the order it had proposed and advertised, but, where representations have been received, the licensing authority must hold a hearing before finalising its decision. The arrangement for such a hearing will be set out in the regulations.

The effect of an order would be to override the effect of any premises licence, club premises certificate or temporary event notice otherwise authorising sales or supplies at that time in the early morning.

Don Shenker, Chief Executive of Alcohol Concern, said of the new proposal;

> "This announcement is a belated acknowledgement that the government has not been able to tackle alcohol-related crime and disorder effectively on behalf of local residents.
>
> "These changes will still not allow residents any greater say over local licensing issues – a travesty for those who've had to suffer alcohol-fuelled night time disorder for too long.

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[96] DCMS press notice 021/10, *Councils to be able to impose blanket bans on 24 hour licences in problem areas*, 4 February 2010

> "The government urgently needs to add a public health objective to the Licensing Act and must create new mechanisms for residents views to be considered."[97]

Although the Home Office is leading on the Bill, licensing policy is primarily a DCMS responsibility. This sharing (or division) of Departmental responsibilities was reflected when the Motion to add a licensing clause was debated on the floor of the House: the debate was introduced by Gerry Sutcliffe, licensing minister (DCMS), and wound up by Home Office minister Alan Campbell. This debate, as the Deputy Speaker repeatedly reminded Members,[98] was concerned with the procedural appropriateness of bringing the new clause before the Public Bill Committee, not with the substantive change to opening hours proposed by the clause. Mr Sutcliffe was asked several times why this clause had not appeared in the original Bill. He replied that the Government's aim was to maximise support for the police and local authorities in relation to alcohol and crime and disorder, and this required a strengthening of the 2003 Act in the light of the evaluation report published in March 2008. The new clause represented "the first opportunity that we have had to put it before the House since our decision to include it in the Bill".[99] When asked why the Government had chosen to restrict such bans to the hours between 3am and 6am, Mr Sutcliffe alluded to the evaluation report of March 2008 quoted above.[100]

In Committee the minister, Alan Campbell, came forward with a more detailed justification of the Government's choice of closing hours:

> As for why we are centring on the hours between 3 am and 6 am, a fixed closing time of 3 am minimises the disruption to businesses, with only those trading between 3 am and 6 am potentially affected. We believe that 3 am is late enough to allow closing times and departures from licensed premises to be staggered, which the police continue to value as a support for dispersing large numbers of people from city and town centres. Moreover, 3 am should be sufficiently late not to interfere with plans for wedding receptions and other special celebrations that may continue later than a normal evening's pleasure. At the other end of the closure period, 6 am allows people to sell alcohol with breakfast. It may come as a surprise to some that that is a habit, but I am told that champagne breakfasts sometimes have an appeal for tourists. People celebrating Christmas might also decide that they want a particularly early start, so 6 am offers that flexibility and allows the period for closure.[101]

James Brokenshire repeated his scepticism as to why the Government had "taken so long to act" on this matter. He also questioned the potential effectiveness of the measure, given that incidents occurring so late at night are likely to be the result of drinking earlier in the evening, and wondered how licensing authorities would exercise their new power: "Can they make a restriction if they consider it necessary, or must the necessity be demonstrated with objective evidence?" he asked.[102] Tom Brake (Liberal Democrat) recognised that the change might result in a "slight dent" in alcohol-related disorder but regretted that it failed to deal with other problems of alcohol consumption, such as pricing, promotions, advertising, the strength of alcohol and under-age drinking.[103]

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97 Alcohol Concern press notice, *Alcohol charity says new changes to licensing laws are still too weak*, 4 February 2010
98 E.g. at HC Deb 10 February 2010 cc987, 988, 989, 1003
99 HC Deb 10 February 2010 cc988, 989
100 HC Deb 10 February 2010 c990
101 PBC 23 February 2010 Twelfth Sitting, c449
102 PBC 23 February 2010 Twelfth Sitting, c450
103 PBC 23 February 2010 Twelfth Sitting, c451

In reply the minister conceded that he did not "expect the measure to be used hugely" but reiterated that he considered it a "proportionate response" based on a sound "evidential base".[104] The new clause was passed without Division and added to the Bill.[105]

Searches for people subject to control orders

New clause 32 (and consequential amendments) would introduce a power for police officers to search a person subject to a control order (imposed under the *Prevention of Terrorism Act 2005*) in specified circumstances, and allow them to seize and retain "articles of concern".[106] The clause would introduce a new Section 7D into the *Prevention of Terrorism Act 2005*.

The Government stated that the amendments were introduced following two court cases in which it was ruled that such powers were not currently available. In a case in 2009, [107] the Court of Appeal held that the powers granted under the 2005 Act did not authorise the imposition, by a control order, of an obligation to submit to a personal search.[108] In a separate case[109], in the High Court, it was determined that the Government could not enforce a requirement for a controlled person to submit to a personal search prior to being escorted by the police outside the geographical boundary imposed by their control order.[110]

The principle of the amendment was supported by the Government's Independent Reviewer of Terrorism Legislation, Lord Carlile QC. In his most recent report he observed that:

> A power of personal search of controlees by a constable should be added to the legislation as soon as possible.[111]

The minister, David Hanson, described the amendments as first and foremost a point of drafting to close "a loophole that causes difficulties for us".[112] James Brokenshire, indicated that while the Opposition would "not object to or vote against" the new clause and amendment, the Opposition believed that the control order regime itself "should be reviewed [...] to examine ways in which a suspect could be tried through the normal courts system."[113] This position was echoed by the Tom Brake for the Liberal Democrats, who said "[o]ur starting point is that we do not think that control orders are appropriate, so we would perhaps not be in the position that the Government are in. We would like to see the judicial process used to ensure that there is no requirement for control orders in the first place."[114]

The amendment was agreed without a vote.

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104 PBC 23 February 2010 Twelfth Sitting, c452-3

105 PBC 23 February 2010 Twelfth Sitting, cc474-7

106 PBC Deb 23 February 2010, c453 (defined as anything" that could be used to threaten or harm any person", evidence in relation to an offence, or items which are prohibited under the control order – such as mobile telephones)

107 *GG v Secretary of State for the Home Department* [2009] EWCA Civ 786 (on appeal from [2009] EWHC 142 (Admin)

108 PBC Deb 23 February 2010, c454

109 *BH v Secretary of State for the Home Department* [2009] EWHC 2938 (Admin)

110 Most controlled individuals are subjected to geographical boundaries aimed at restricting or disrupting their ability to engage in terrorism-related activities. The Government has argued that the judgments make it very difficult to manage risk when those individuals need to make trips outside their geographical boundaries (to attend a legal or medical appointment, for example)

111 Lord Carlile QC, *Fifth Report of the Independent Reviewer Pursuant to Section 14(3) of the Prevention of Terrorism Act 2005,* 1 February 2010, para 4

112 PBC Deb 23 February 2010, c454

113 *Ibid*

114 *Ibid*, c455

Appendix 1 – Membership of the Committee

Chairmen: Sir Nicholas Winterton, Frank Cook

Tony Baldry *(Banbury)* (Con)
Tom Brake *(Carshalton and Wallington)* (LD)
James Brokenshire *(Hornchurch)* (Con)
Simon Burns *(West Chelmsford)* (Con)
Alan Campbell *(Parliamentary Under-Secretary of State for the Home Department)*
Jim Dobbin *(Heywood and Middleton)* (Lab/Co-op)
Robert Flello, *(Stoke-on-Trent, South)* (Lab)
David Hanson, *(Minister for Policing, Crime and Counter-Terrorism)*
Douglas Hogg, *(Sleaford and North Hykeham)* (Con)
Dr Brian Iddon, *(Bolton, South-East)* (Lab)
Siobhain McDonagh, *(Mitcham and Morden)* (Lab)
Shona McIsaac, *(Cleethorpes)* (Lab)
Mark Oaten, *(Winchester)* (LD)
Andrew Rosindell, *(Romford)* (Con)
Alison Seabeck, *(Plymouth, Devonport)* (Lab)
Dave Watts, *(Lord Commissioner of Her Majesty's Treasury)*