



**GEORGE HAMILTON  
ASSISTANT CHIEF CONSTABLE**

Our Ref: 12\7291

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Ms Christine Darrah  
The Committee Clerk  
Room 242  
Parliament Buildings  
Stormont  
Belfast

Dear Christine

Thank you for the invitation to comment to the Justice Committee on the Criminal Justice Bill.

The Police Service of Northern Ireland has engaged fully with the Department of Justice (DoJ) as the provisions of this Bill have been developed.

The Bill is presented in three parts: Sex Offenders, Trafficking People for Exploitation and Retention of Fingerprints, DNA profiles, etc. I will deal with each in turn.

**Sex Offenders**

The review of Indefinite Offender Notification came about as a result of a court ruling in what is known as the 'F & Thompson' case. As a result any sex offender who is currently required to 'notify' indefinitely (sentenced to 30 months or more) will now have the right to ask for this to be removed. In line with the rest of the UK this removal application will be possible 15 years after the individual has been required to notify after leaving prison (8 years for a person under 18 upon conviction). PSNI has been liaising with the DoJ as to the appropriate mechanism for such requests and any subsequent appeals mechanism. This is reflected in Schedule 1 and I am content with these proposals.

Ending notification requirements for acts which are no longer an offence will align Northern Ireland with UK legislation and reflects the changes in legislation around offences previously described as 'homosexual offences', including the current lower ages of consent. PSNI fully supports these changes.

The drafting of offences committed in an EEA State other than the UK was introduced following a request by PSNI. This request was made following research carried out by PSNI and An Garda Síochána (AGS) as part of the work of the Inter-Governmental Working Group on Public Protection around harmonisation of legislation. Currently, if

PSNI become aware of a qualifying sex offender outside the UK taking up residence in Northern Ireland they must first apply to the court to require them to notify/register within the UK. In the Republic of Ireland any such offender must register with the AGS within 7 days or they commit an offence. PSNI had asked that the law would apply to offences in all countries outside the UK but the DoJ, on advice of the Attorney General, have drafted as outlined. Whilst PSNI would like to see the law apply to all offences in all countries outside the UK we welcome the current draft as this will at least allow PSNI to more effectively deal with EEA offenders. This applies especially to those who have been convicted in the Republic of Ireland, where the majority of those previously required to notify in this manner had offended, eg AGS advise PSNI of a sex offender moving from Dundalk to Dungannon - the PSNI will be able to require that person to notify and come under UK legislation without requiring to summons them to court for judicial ruling.

### **Trafficking people for Exploitation**

PSNI acknowledges the need to legislate to give effect to the Council of Europe Convention on Action against Trafficking in Human Beings CETS No. 197.

The Bill creates an offence of trafficking a UK resident within the UK (who was not previously trafficked into the UK) and an offence of trafficking outside the UK. PSNI supports these measures as additional means of tackling certain aspects of human trafficking.

I would however recommend that there is consistency in the Bill in referring to 'Human Trafficking' rather than, at times, 'trafficking people'. This consistency would ensure the Bill reflects accepted terminology in this area and also avoids confusion with the separate offence of 'people smuggling'.

### **Retention of fingerprints, DNA profiles, etc**

The DNA database and Fingerprint collection are major tools in the PSNI's continued efforts to protect the public. The DNA database currently generates approximately 700 'person to scene hits' annually, assisting in crime detection for PSNI for both volume and serious crime investigations. The Fingerprint Bureau generates approximately 2,200 'person to scene' identifications each year

PSNI has fully engaged with stakeholders, including the DoJ, as the retention framework in the Bill has been developed. We have also made a full submission to the formal consultation on the proposals for the retention and destruction of fingerprints and DNA.

Again the imperative of various judgments, notably S and Marper v UK, to effect change in this area is acknowledged. The PSNI has followed closely the various developments in the Crime and Security Act 2010 and the Protection of Freedoms Act 2012 and the resultant retention framework for England and Wales. Whilst we previously noted in our submission to the DoJ that any change away from the current comprehensive framework risks destruction of samples and records that may leave crime undetected we also

acknowledged that how this is balanced against the rights of the public to have their records destroyed should be a matter of political judgment.

I do consider it an advantage that the provisions in the Bill reflect those in the Protection of Freedoms Act, as when we share information with England and Wales the similar regimes will make it less likely to attract a legal challenge than if there were significant areas of difference.

One area of concern is that of the definition of 'prescribed circumstances' that will permit the retention of material from someone arrested for, or charged with, a qualifying offence in limited circumstances and for a limited period under the provisions in Schedule 2 of the Bill, as inserted into the Police and Criminal Evidence (NI) Order 1989 as Art 63D. Prescribed Circumstances will be defined and made by a separate Order but will be analogous to Section 3 of the Protection of Freedoms Act. This permits application for retention to be made to an independent commissioner where the victim is (a) under 18; (b) a vulnerable adult; or (c) associated with a person to whom the material relates. A further provision of S.3 permits an application to retain material where, when the foregoing conditions do not exist, the Chief Officer of police considers it necessary to assist in the prevention or detection of crime. A similar provision, although perhaps not as encompassing, would be to permit the Chief Constable to make an application for retention where a risk of harm exists and he considers it necessary for Public Safety. Whilst this is still to be decided for the Northern Ireland retention framework, and as noted will be made by Order rather than in the Bill itself, I would be concerned that the Order reflected the provision in the Protection of Freedoms Act as closely as possible so as to give maximum protection within the framework.

The retention framework in the Bill is complex and offers PSNI many challenges in terms of technology, decision making and resource allocation that the current framework does not. Currently the database contains approximately 123,000 DNA profiles and approximately 1,600 suspect to scene comparisons are carried out per annum. The process of legacy weeding and business as usual management of the new procedures will inevitably add expense to the operation and management of our current DNA database and fingerprint collection to ensure that material retained complies with the new framework.

I trust you will find this of some assistance to your deliberations on the Bill and we will of course continue to assist the DoJ as this matter progresses.

Yours sincerely



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