

October 2007

NORTH YORKSHIRE POLICE

Further to our telephone conversation this morning

In General (and in the light of Lord Carlisle's recent proposals for a "Rights" based system to determine the length of pre-charge detention) we would advocate that the hierarchy of Rights encapsulated within the Articles of the HRA 1998, should guide determinations in respect of issues of length of pre-charge detention - HOWEVER we would respectfully suggest that the Article 2 "Rights to life" of the many - must legally and morally temper the Article 5 "Rights to liberty" of the few .

NYP RESPONSE TO PROPOSALS (with Typo's removed)

> Thank you for providing the opportunity to comment upon the Counter
> Terrorism proposals contained in David Ford's letter of 12 June
2007.

> North Yorkshire Police would wish to comment as follows:

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> * with regard to the proposal that pre-charge detention should continue beyond the current 28 days (your paragraph 5) - we would agree with the extension of the period of pre-charge detention although we have no specific views in respect of the length of the period of pre-charge detention. It is absolutely critical that the investigation period facilitated by a legal pre-charge detention period is as long as is necessary to conduct thorough investigations and ultimately to ensure that people are not the subject of unnecessary prosecution .

> * with regard to the proposal that pre-charge detention should be subject of additional judicial or parliamentary oversight (your paragraph 6) - we would agree with the notion of an additional weekly judicial oversight but we would urge that the process of oversight is conducted in an "inquisitorial" manner rather than "adversarial". We would strongly urge the adoption of an inquisitorial process because we firmly believe that weekly oversights should not be converted into "mini trials".

> * with regard to the proposal for data sharing powers (your paragraph 11) - we strongly agree with this proposal.

> * with regard to the proposal to place the police counter terrorist data DNA base on the same statutory footing as the NDNAD (your paragraph 12) - we strongly agree with this proposal.

> * with regard to the proposal to grant powers to police to hold passports and travel documents at ports (your paragraph 14) - we agree with this proposal.

> * with regard to the proposal to extend the power to seize the assets of someone who has been convicted of a terrorist finance offence (your paragraph 15) - we agree with this proposal, however, we strongly suggest that in order to prevent unnecessary litigative debate a tight definition of what constitutes a "courts belief" that "assets might be used for terrorist purposes" must be devised. The most operative word in this proposed concept is "might". We would suggest that "might" should be defined in the following terms - if there is any possibility (NB NOT "probability") that assets might be used for terrorist purposes a court should be entitled to form the necessary "belief" to constitute the offence. We strongly urge the adoption of such a tight definition in order to avoid the otherwise

inevitable, costly and unproductive judicial argument about whether "belief" was constituted by "possibility" or "probability".

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> We respectfully forward these comments for consideration within the
> context of deliberations regarding counter terrorism legislation
> proposals.