

Message

RJT 38

**Richard Thomas**

**From:** Lee Taylor  
**Sent:** 28 February 2008 14:12  
**To:** Richard Thomas  
**Cc:** David Smith  
**Subject:** RE: Criminal Justice and Immigration Bill  
**Sensitivity:** Confidential  
**Attachments:** Memo for HoL on removal of clause 129 v.2 DRAFT Feb 08.doc; committee members.doc  
Richard

Attached is the text of briefing for members of the Lords. It is only slightly amended from your draft 3rd report.

I am not in the office other than for training away from desk until next Wednesday afternoon.

I do not have anyone to add to your list of interested parties meriting a copy of the briefing by post. Regarding the address list for interested Parliamentarians I would send them directly to Members and the Lords at the House at the addresses below. I have also attached a list of the members of the Committees you identified and

For MPs

House of Commons  
London  
SW1A 0AA

For Lords

House of Lords  
London  
SW1A 2LW

For committee members they should go to:

[Name of committee]  
Committee Office  
House of Commons  
7 Millbank  
London SW1P 3JA  
Lee

-----Original Message-----

**From:** Richard Thomas  
**Sent:** 24 February 2008 12:03  
**To:** David Smith; Lee Taylor  
**Cc:** Mick Gorrill; Susan Fox; James Ford  
**Subject:** Criminal Justice and Immigration Bill

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**Sensitivity:** Confidential

This e-mail follows my conversations yesterday (Saturday) with David and James. I shared with them the excellent news that Belinda Crowe phoned me on Friday evening to say that it is now 99% certain that the government will **not** now amend the Bill to withdraw clause 129. They will amend the section 55 defence to cover a reasonable belief that the person was acting in the public interest. It is not clear how / when the concession on the defence will be made.

The news is only 99% certain as Jack Straw had not yet signed off the necessary paperwork. There is also (very understandable) concern that any leak of the news that withdrawal was under consideration would be very damaging. Please ensure that any others aware of the situation at ICO are aware of this.

A message to confirm Jack Straw's decision is expected on Monday or Tuesday. In my absence in Hong Kong until Friday morning, I would like you to proceed as follows:

**If the government is going to proceed with the withdrawal - now 1% likely**

- Can David please p.p. the attached letter to Straw on my behalf on Tuesday? Please ask Jane to hard copy to it to Maria Eagle and Sir Gus O'Donnell. Please also ask her to e-mail it as soon as signed to Belinda and John Fiennes. [Note that the letter is in effect what I said to Straw when we met.]
- Can Lee please further improve the attached draft Parliamentary report, anticipating that we will publish it during the week starting 3 March? [ No need to start this until we get the news.]

**If the government is NOT going to proceed with the withdrawal - now 99% likely**

- No letter needs to be sent
- The government will need our support when the clause is debated Parliament – the media organisations will almost certainly ensure that amendments are tabled.
- Can Lee therefore please start to convert the attached draft report into a **positive** briefing paper for the House of Lords? This will **not** now need to be a Parliamentary report. It should **not** refer to the possibility of amending the public interest defence as government will probably wish to keep that up their sleeves.

**In either event**

- The following days have been reserved for Committee debate in the Lords – 26, 27 Feb and 5, 10 and 12 March. They are only up to clause 9 so far which means that clause 129 is unlikely to be reached until 5 March at the earliest and probably the week after. Randalls (our Parliamentary advisers) have promised to alert Rob Parker as soon as they get news of dates or any dates or amendments.
- As well as more general distribution of our report/briefing paper, we will need to write specifically to Parliamentarians known to be interested in the section 55 issue. Can Lee please prepare an address list? As well as any others known to you, this needs to include:

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- o All members of all the six Select Committees mentioned in the attached paper
- o Lord Soley
- o Baroness Miller
- o Lord Holme
- o Lord Ashcroft
- o Nick Herbert MP
- o James Brokenshore MP
- o Nick Clegg MP

- Can Lee please start to revise the draft Statement of Prosecution Policy in anticipation of the amended defence? We may well need to produce this as the debates proceed. Nicola Westmore at MoJ is closely involved and can be consulted on any aspect if need be.
- We all need to remember that nothing is certain. Even if this weekend's good news is confirmed, it can just as easily be reversed if things get very hot.
- The best way to contact me on Monday – Thursday is probably by text message or via the HK Commissioner's Office.

Richard

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