



From Joanna Cherry KC MP

[By Email]

1 March 2024

The Rt Hon Chris Philp MP
Minister of State for Crime, Policing and Fire

Laura Farris MP
Parliamentary Undersecretary of State

Dear Chris and Laura,

Criminal Justice Bill: Legislative scrutiny by the Joint Committee on Human Rights

I am writing to you in my capacity as Chair of Parliament's Joint Committee on Human Rights. The Committee is currently undertaking legislative scrutiny of the Criminal Justice Bill.

I am seeking urgent clarification of the purpose of Clause 27 (Access to driver licence records) in light of comments made in the House of Commons.

On 12 December 2023, you stated:

*"There is a power in clause [27] to allow police and law enforcement, including the NCA, to access driving licence records to do a facial recognition search, which, anomalously, is currently quite difficult."*¹

On 16 December 2023, you stated:

*"[W]e are not passing clause [27] expressly to authorise the use of DVLA data for facial recognition or indeed for any particular law enforcement purpose; we are simply creating a regulation-making power. Regulations might be brought forward using this power to do any number of law enforcement activities, including facial recognition, but that would, of course, have to be debated at the time and subject to the affirmative procedure."*²

The intended or foreseeable use of the power in Clause 27 to allow DVLA data to be used for facial recognition purposes is not mentioned on the face of the Bill, in the Bill's Explanatory Notes, the Bill's ECHR Memorandum, or any of the other principal publications accompanying the Bill.

As you know, the use of facial recognition technology is controversial and raises important human rights implications, especially when used to routinely scrutinise law-abiding civilians who are not

¹ Criminal Justice Bill Committee, 12 December 2023, [col 14](#)

² Criminal Justice Bill Committee, 16 December 2023, [col 230](#)



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suspected of any misconduct. Your comments appear to indicate that the Government is considering or planning to use the power in Clause 27 to allow for the application of facial recognition technology to DVLA data for “all policing or law enforcement purposes”, exposing many more law-abiding civilians to the application of the technology than is currently the case. I am therefore surprised and concerned that the Government has not yet provided any analysis of such an intended use of the power so that Parliament can make an informed decision about whether to agree to legislate for such a wide regulation making power. We would normally expect any significant intrusions into civil liberties, such as the use of facial recognition for law enforcement purposes, to be expressly approved by Parliament on the face of a Bill – such significant intrusions into civil liberties ought not to be implied or read into regulation-making powers.

I would be grateful if you could therefore make clear the purpose and intended use of the power by answering the following questions:

- 1) Does the Government have any plans to use (or foresee using) the power in Clause 27 of the Bill to make regulations allowing DVLA data to be used for facial recognition purposes, particularly in relation to offences unrelated to road traffic offences?
- 2) If one of the purposes of the power (or foreseeably likely use of the power) is to allow the Government to make regulations permitting DVLA data to be used for facial recognition:
 - a) Why is there no mention of this intention on the face of the Bill or in any of the accompanying Bill products?
 - b) What is the Government’s analysis of the human rights implications of such a use of the power?

Please could you respond by 18 March 2024.

Joanna Cherry KC MP

Chair, Joint Committee on Human Rights