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**ISSUES FOR CONSIDERATION DURING DELIBERATIONS ON THE CRIMINAL
LAW (FORENSIC PROCEDURES) BILL**

The following are some of the broad 'policy' issues that may be considered by the Committee during deliberations on the Bill:

• **Public participation**

- Did the Committee ensure sufficient public participation on the Bill? The comments that were made on the Bill were made on the Bill before it was split. Were there substantive additions/changes made in the split Bill that required further input by the public, or not?
- Do written submissions suffice as public participation on such an important Bill, especially when taking into account that, demographically, there is a huge number of citizens who cannot read or write but may want to voice their opinion on a matter that would directly impact on their lives? Of what standing are the public hearings that were held during the Ad Hoc Committee process?

• **Constitutional implications, if any**

- Is the Committee satisfied that all constitutional concerns have been adequately addressed? For example, the use of the HANIS database for investigation purposes which has fingerprints submitted for civilian (administrative) objectives.
- Is there a difference between a so-called 'civilian' versus a so-called 'criminal' database? Should they be treated differently?

• **Other legislation**

- How does the Bill relate to other legislation, specifically the Protection of Personal Information Bill? Does the Committee want to address the requirements of the Protection of Personal Information Bill during its deliberations even though this Bill has not yet been finalised by the Portfolio Committee on Justice and Constitutional Affairs? Alternatively, does the Committee want to relook at this issue once the Protection of Personal Information Bill is finalised or comes into effect?

• **Timeframes**

- Should there be a timeframe on the retention of 'innocent' fingerprints? If so, what should this time period be?
- Should fingerprints of people not convicted be retained indefinitely? How does this issue around retention relate to the existing 'civilian databases' e.g. HANIS or eNATIS?

- **Implementability**

- Several presentations have been made to the Committee on how the legislation would be implemented.
- Is the Committee satisfied with the implementation plan?
- Does the Committee have a clear understanding as to how much it is going to cost to implement the Bill, and how much each affected Department is going to pay?
- How much is each implementation phase going to cost?
- What role will SITA play in the implementation of the Bill?
- Is the Bill implementable, in terms of the projected phases? Does a phase-in clause need to be added to the Bill?

- **Safeguards**

- Are there sufficient safeguards to ensure and protect the integrity of data (fingerprints) since the initial implementation phase(s) would be done manually?
- Is SAPS going to send its members to access HANIS or Home Affairs employees would access the database on behalf of the police?
- Should access to databases for purposes of criminal investigations be limited to vetted employees only as a safety measure?
- If vetting is one of the measures of ensuring integrity, what level of security vetting should be applied?

- **Children**

- Is the Bill sufficiently in line with Government policy relating to matters of children?
 - Is the Bill in line with other legislation relating to children, for example the Children's Act, 2005 (Act No. 38 of 2005) and the Child Justice Act, 2008 (Act No. 75 of 2008)?
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