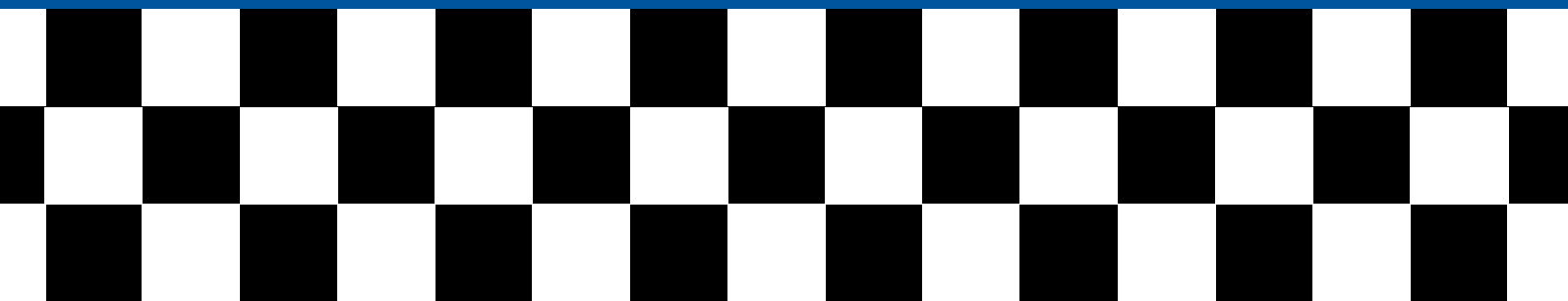


# Digest

August 2010

A digest of police law, operational policing practice and criminal justice



The NPIA Digest is a journal produced each month by the Legal Services Team of the Chief Executive Officer Directorate. The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing. During the production of the Digest, information is included from Governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

The Case law is produced in association with



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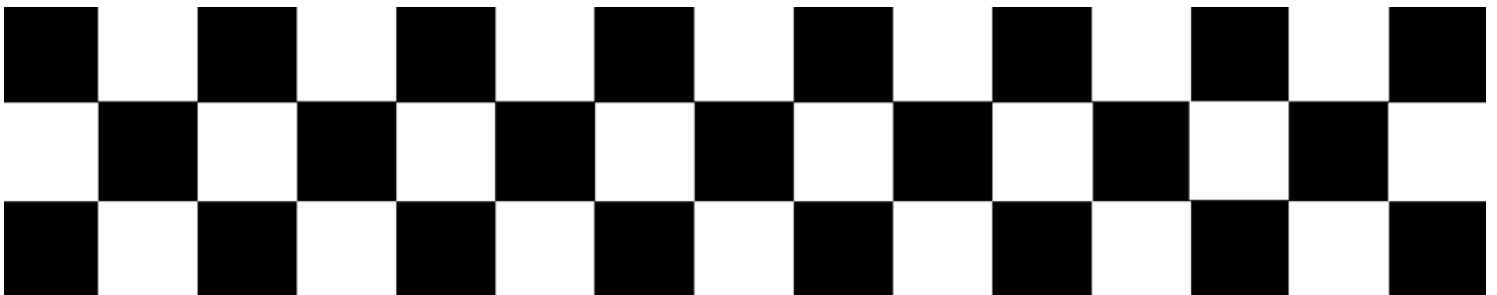
**August 2010**

# **Digest**

Legal Services

Chief Executive Officer Directorate

[www.npia.police.uk/digest](http://www.npia.police.uk/digest)



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## In this month's edition of the NPIA .....

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This edition contains a summary of issues relating to police law, operational policing practice and criminal justice. New legislation, statutory instruments and case law are covered. The *NPIA Digest* includes articles outlining recently published Government and Parliamentary reports and initiatives. As usual, the *NPIA Digest* also covers the latest Home Office Circulars, research papers, Codes of Practice and guidance.

The Home Office consultation 'Policing in the 21<sup>st</sup> Century: Reconnecting Police and the People' is covered in this month's edition. The consultation sets out wide ranging plans to reform policing including an intention to introduce directly elected Police and Crime Commissioners. Plans also include reducing unnecessary bureaucracy and changing the national framework for policing.

Other recent reports covering the future of policing are also covered, including 'Valuing the Police: Policing in an Age of Austerity' which considers the effect of budget cuts on policing and 'Sustaining Value for Money in the Police Service' which challenges the police service to make savings of up to £1 billion through it's framework for change.

The latest British Crime Survey statistics are covered and show falls in overall crime from the British Crime Survey and in police recorded crime. Experimental statistics on the risks of victimisation faced by children and young people are also detailed in this month's edition.

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## Bills Before Parliament 2010/11 - Progress Report

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The following Bills from the 2010/11 session have progressed as follows through the parliamentary process:

### Public Bills

- ◆ Police Reform and Social Responsibility Bill - this Bill was announced in the Queen's Speech but is not yet before Parliament;
- ◆ Freedom (Great Repeal) Bill - this Bill was announced in the Queen's Speech but is not yet before Parliament;
- ◆ Identity Documents Bill - this Bill started in the House of Commons and has progressed through the Committee Stage. The Report Stage is to take place on 15 September;
- ◆ Dog Control Bill - this Private Members Bill, which makes provision about the control of dogs including a new 'dog control notice' and offences for breaching provisions of the Bill, started in the House of Lords and has completed its First and Second Readings. The date of the Committee Stage is yet to be announced;
- ◆ Credit Regulation (Child Pornography) Bill - this Private Members Bill provides powers to impose penalties on credit and debit card providers that facilitate the downloading of child pornography on the internet. It started in the House of Commons and received the First Reading on 21 July. Second Reading is to take place on 19 November;
- ◆ Drugs (Roadside Testing) Bill - this Private Members Bill makes provision for roadside testing for illegal drugs. The Bill was started in the House of Commons and received its First Reading on 5 July. The Bill's Second Reading will take place on 10 June 2011;
- ◆ Young Offenders (Parental Responsibility) Bill - this Private Members Bill provides for individuals with parental responsibility for a young offender to be held to account for criminal sanctions imposed on the offender. The Bill received its First Reading on 5 July and is due to receive its Second Reading on 17 June 2011.

The progress of Bills in the 2010/11 parliamentary session can be found at <http://services.parliament.uk/bills/>

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## Stop and Search Under Section 44 of the Terrorism Act 2000 Restricted

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Home Secretary Theresa May has announced immediate restrictions on the use of section 44 of the Terrorism Act 2000 to stop and search individuals. Police officers are no longer able to use section 44 to search individuals, although they can use section 44 to search vehicles. To stop and search an individual section 43 of the Terrorism Act 2000 may be used, which requires officers to have reasonable suspicion that the person is a terrorist. The decision follows the decision from the European Court of Human Rights in the case of *Gillan and another v United Kingdom* (reported in the February 2010 issue of the *NPIA Digest*). Interim guidelines for the police have been introduced.

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## Case Law

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### For Offences of Sexual Grooming the Communications Prior to an Intentional Meeting Do Not have To Be Sexual in Nature

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R v G (2010)

CA (Crim Div) (Leveson LJ, Roderick Evans J, Judge Stokes QC)  
19/7/2010

Criminal Law - Criminal Evidence

Intention: Jury Directions: Mens Rea: Sexual Grooming: Summing Up:  
Intention To Commit Sexual Assault: S.15(1) Sexual Offences Act 2003

The aim of the Sexual Offences Act 2003 s.15(1) was to penalise those who used a relationship which they had developed as a platform from which to launch sexual offending. In the instant case, there was more than a substantial body of evidence corroborating the complainant child's version of events which justified the jury reaching the conclusion that the offender had arranged to meet her for the purposes of a sexual assault.

The appellant (G) appealed against his conviction for meeting a child following sexual grooming. G, a friend of the complainant's family, had telephoned the complainant (L), a 12-year-old girl, to arrange to collect her from school. He collected her and they returned to L's home. L's parents were out of the house at the time but L's mother returned soon after to discover that the front door was locked from the inside. She was let in by L, who seemed nervous and in a state of undress. She then discovered G's jacket on L's bedroom floor. There were condoms in the pockets. She found G hiding under L's bed. L claimed that G had kissed her and sexually touched her. G was convicted of meeting a child following sexual grooming contrary to the Sexual Offences Act 2003 s.15(1). He was also convicted of two counts of sexual assault and acquitted of four counts. G submitted that the judge's summing up did not anticipate the scenario whereby G would be acquitted on the first four charges on the indictment and convicted on the grooming charge, with the result that his direction in relation to the grooming count was deficient and the conviction unsafe.

HELD



The only requirement prior to an intentional meeting during which an offender intended to do anything to a complainant which, if carried out, would involve the commission by the offender of a relevant offence was meeting or communication "on at least two occasions". There was no requirement that either communication be sexual in nature. The aim of the statute was to penalise those who used a relationship which they had developed as a platform from which to launch sexual offending. The statute visualised the commission of an offence whether or not a meeting took place. It was sufficient if, with the intention of meeting, a person travelled to the victim or the victim travelled to the person. In each case, however, the offender's sexual intention had to be proved. It was not enough for the offender to merely take advantage of a situation to commit an offence. In the instant case, G's acquittal on the first four counts on the indictment was irrelevant. Putting those allegations aside, there was more than a substantial body of material corroborating L's version of events which justified the jury reaching the conclusion that G had arranged to meet L intending to commit a sexual assault. It was plain, from an analysis of the judge's summing up, that the jury had been directed to the relevant issue. In those circumstances, the jury reached a conclusion which was open to them on the facts, having been appropriately directed as to the law.

#### APPEAL DISMISSED



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## **Confirmation That To Prove Murder By Joint Enterprise an Accessory Must Foresee That the Principal Would Act With Intent to Kill or Cause Really Serious Injury**

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R v (1) A (2) B (3) C (4) D (2010)

CA (Crim Div) (Hughes LJ (V-P), Wyn Williams J, King J) 15/7/2010

Criminal Law - Criminal Procedure

Intention: Joint Enterprise: Jury Directions: Murder: Need For Proof That Accessory Foresaw That Principal Would Act With Intent To Kill Or Commit Grievous Bodily Harm

The House of Lords in R v Rahman (Islamur) (2008) UKHL 45, (2009) 1 AC 129 had not altered the rule that, in cases of murder by joint enterprise, for an accessory to be guilty it had to be shown that he foresaw that the principal would act with the intent either to kill or to do grievous bodily harm.

The appellants (X) appealed against their convictions for murder. There had been an attack on the deceased in his home by three of the appellants. The attack had been organised by the fourth. It consisted of a beating, and no weapons were involved. The case was put by the Crown as a joint enterprise. It was not possible to identify individual acts of violence or to say who had done precisely what. The judge directed the jury that a defendant would be guilty of murder if, among other things, "he participated in a plan to assault

[the deceased] in which he intended to cause him some harm, less than really serious bodily harm, but realised that there was a real risk that one of the others might cause him really serious bodily harm and such harm was caused, and he did not dissociate himself from the plan". X argued that the direction was defective in that the judge should have said, "... realised that there was a real risk that one of the others might intentionally cause him really serious bodily harm". Further, the judge had omitted to tell the jury that they had to be sure that at least one of the assailants (whether identified or not) killed the deceased with intent to do him grievous bodily harm.

#### HELD

- (1) The judge had erred by omitting the word "intentionally". An accessory (D2) could be guilty of murder only if he participated in the common enterprise of a crime and foresaw that in the course of it the principal (D1), whether identified or not, might (not would) commit murder, that was to say, act with the intention to kill or do grievous bodily harm, *Chan Wing Siu v R* (1985) AC 168 PC (HK), *R v Hyde (David Charles)* (1991) 1 QB 134 CA (Crim Div) and *R v Powell (Anthony Glassford)* (1999) 1 AC 1 HL followed, and *R v Rahman (Islamur)* (2008) UKHL 45, (2009) 1 AC 129 explained. The House of Lords in *Rahman* had not altered the rule that, in cases of murder by joint enterprise, for an accessory to be guilty it had to be shown that he foresaw that the principal would act with the intent either to kill or to do grievous bodily harm. Although it had been necessary for this judgment to dissect the question in some detail, it did not follow that a direction to the jury needed to do so, and nor should it. The direction should be tailored to the issue in the case. If the issue arose, the direction need normally be no longer than the one given by the judge, with the single addition of the word "intentionally". It should be added that, in a great many cases, foresight of D1's act would almost inevitably carry with it foresight of an intention to kill or at least to cause really serious injury. If, as in many of the reported cases, D1 was carrying a knife, a gun or a broken bottle, and used it, the real question would normally be whether D2 knew that he was carrying it and foresaw that he might (not would) use it. If D2 did know that, then ordinarily that would mean that he realised (foresaw) that D1 might act with intent to kill or do really serious injury, at least unless there was some proper evidential basis for asserting the possibility that D2 foresaw an intent to inflict no or minor harm.
- (2) The judge had also erred by failing to state in terms that a defendant could only be guilty if someone (identified or not) had inflicted grievous bodily harm on the deceased with the intention of doing so, in other words if someone was guilty of murder.

#### APPEALS ALLOWED



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## Where Protective Measures to Prevent Jury Tampering Would Not Impose an Unacceptable Burden on Jurors Trial By Jury Is Appropriate

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R v (1) J (2) S (3) M (2010)

CA (Crim Div) (Lord Judge LCJ, Rafferty J, King J) 23/7/2010

Criminal Procedure

Interlocutory Appeals: Juries: Jury Tampering: Trial Without Jury: Protective Measures Imposing Burden On Jury: Trial Without Jury Decision Of Last Resort: S.44(3) Criminal Justice Act 2003

A judge had been wrong to order the forthcoming trial of three defendants to be conducted by a judge alone under the Criminal Justice Act 2003 s.44(3). Given the trial was estimated to last two weeks, the imposition of protective measures would not impose an unacceptable burden on jurors.

The appellants appealed against an interlocutory decision that their forthcoming trial should be conducted by a judge alone. The appellants faced trial for conspiring to pervert the course of public justice. The judge ordered that the trial should be conducted by a judge alone under the Criminal Justice Act 2003 s.44(3). The judge held that there was evidence of a real and present danger jury tampering would take place and the substantial likelihood of it occurring meant a trial without a jury was necessary in the interests of justice.

### HELD

- (1) Given the estimated length of the trial was two weeks, the judge was wrong to say that the necessary protective measures would either impose an unacceptable burden on the jurors or that the jury properly managed and directed would be inhibited from giving the case proper attention and from returning a true verdict in accordance with their collective conscience.
- (2) A decision of the court to order the trial of a serious criminal offence without a jury had to remain the decision of last resort and only ordered when the court was sure, not that it entertained doubts, suspicions or reservations, that the statutory conditions were fulfilled.
- (3) If during the course of the trial attempts were made to tamper with the jury to the extent that the judge felt it necessary to discharge the entire jury it should be clearly understood that the judge could continue with the trial and deliver a judgment and verdict on his own. The principle of trial by jury was precious, but any defendant who was responsible for abusing the principle had no justified complaint that he had been deprived of a right.

### APPEALS ALLOWED



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## Proceeds of Crime Act 2002 Allows Civil Recovery Orders to Relate to Overseas Property

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SERIOUS ORGANISED CRIME AGENCY v ISRAEL IGO PERRY & 7 ORS  
(2010)

QBD (Admin) (Mitting J) 28/6/2010

Civil Procedure - Criminal Procedure

Civil Recovery Proceedings: Extraterritoriality: Jurisdiction: Proceeds Of Crime: Recovery Orders: Application Of Pt.5 Proceeds Of Crime Act 2005 To Property Outside England And Wales: S.316(4) Proceeds Of Crime Act 2002: S.286 Proceeds Of Crime Act 2002: Pt 5 Proceeds Of Crime Act 2002: Proceeds Of Crime Act 2002: S.242 Proceeds Of Crime Act 2002

The Proceeds of Crime Act 2002 was extraterritorial in reach. A civil recovery order could therefore be obtained in relation to property wherever situated, subject to s.286.

The court was required to determine whether the Serious and Organised Crime Agency (SOCA) could recover property obtained through criminal conduct which was situated outside England and Wales, through proceedings brought under the Proceeds of Crime Act 2002 Pt 5. A worldwide freezing order had been made against assets and property belonging to the respondents. The first, second and third respondents submitted that the freezing order should be limited to assets within the jurisdiction, as certain parts of the Act could only apply in relation to property situated in England and Wales, for example, pension schemes. SOCA argued that as a matter of statutory construction the Act applied to property situated abroad.

### HELD

- (1) In attempting to construe the 2002 Act, the starting point was the presumption against extraterritoriality. Unless Pt.5 of the Act clearly provided that recovery orders and ancillary orders could be made in respect of property situated overseas, then it was to be presumed that it did not, *Masri v Consolidated Contractors International Co SAL* (2009) UKHL 43, (2010) 1 AC 90 considered. The definition of "property" in s.316(4) included all property wherever situated, and Pt.5 therefore covered property obtained through unlawful conduct abroad. Section 242 therefore applied in relation to such property just as much as it did in relation to property acquired through criminal conduct in the United Kingdom. However, as P had pointed out, there were certain limitations in the Act on the effect of a recovery order or of ancillary orders made in support of it. The question therefore was whether those limitations meant that the broad definition of property in s.316(4) should be cut down in all cases.
- (2) Those limitations dealt not with the enforcement of a recovery order, but with the jurisdiction to make one. Enforcement could be problematic and would undoubtedly require the co-operation of foreign jurisdictions, at least in relation to immovable property. But the fact that enforcement

might not be automatically available did not prevent the order from being made in the first place. The courts had accepted jurisdiction to make worldwide freezing orders in a commercial context, and to administer assets in insolvency proceedings wherever they might be situated, *Singh v Official Receiver* (1997) BPIR 530 Ch D considered. Subject to s.286, the Act by its clear terms was extraterritorial in reach and nothing within it prevented it from being so. A civil recovery order was therefore available in relation to property, real and personal, immovable and movable, wherever situated, subject to that statutory exception.

- (3) Section 286 applied only to Scotland and created an anomaly. Notwithstanding that s.286 presented a puzzle to which the court could not give a wholly satisfactory answer, it did not limit the clear power granted to the High Court in England and Wales. The anomaly, if it existed, was for the Court of Session to resolve.

#### JUDGMENT ACCORDINGLY



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## Court Bound By House of Lords Decision that Retention of Biometric Samples Did Not Infringe Right to Respect for Private Life

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R (on the application of GC) (Claimant) v COMMISSIONER OF POLICE OF THE METROPOLIS (Defendant) & SECRETARY OF STATE FOR THE HOME DEPARTMENT (Interested Party): R (on the application of C) (Claimant) v COMMISSIONER OF POLICE OF THE METROPOLIS (Defendant) & SECRETARY OF STATE FOR THE HOME DEPARTMENT (Interested Party) (2010)

QBD (Admin) (Moses LJ, Wyn Williams J) 16/7/2010

Legal Methodology - Administration Of Justice - Human Rights

DNA Samples: European Court Of Human Rights: Fingerprints: House Of Lords: Precedent: Retention: Right To Respect For Private And Family Life: Judicial Review Of Police Policy To Retain Biometric Evidence: Administrative Court Bound To Follow Decision Of House Of Lords Rather Than Decision Of European Court Of Human Rights: S.64 Police And Criminal Evidence Act 1984: S.82 Criminal Justice And Police Act 2001: Art.8 European Convention On Human Rights

In an application for judicial review of the policy of the Association of Chief Police Officers to retain biometric samples for an indefinite period save in exceptional circumstances, the Administrative Court was bound to follow the decision of the House of Lords in R (on the application of S) v Chief Constable of South Yorkshire (2004) UKHL 39, (2004) 1 WLR 2196 that the retention of biometric samples did not infringe an individual's rights under the European Convention on Human Rights 1950 art.8, rather than the decision of the European Court of Human Rights in S v United Kingdom (30562/04) (2009) 48 EHRR 50 that the blanket and indiscriminate nature of the powers of retention of the fingerprint and DNA material of any person suspected but not convicted of a criminal offence was contrary to art.8. However, leave was granted for a leapfrog appeal to the Supreme Court to determine that issue.

The claimants (C) in two separate claims applied for judicial review of the decision of the defendant police commissioner to retain biometric samples taken from them for an indefinite period rather than to destroy them. C had each given biometric samples (DNA and fingerprints) in the course of police investigations. Neither was convicted of any offences and they subsequently sought destruction of the samples. The commissioner refused their requests pursuant to the policy of the Association of Chief Police Officers to retain biometric samples for an indefinite period save in exceptional circumstances. That policy had been circulated as guidance following amendment to the Police and Criminal Evidence Act 1984 s.64 by the Criminal Justice and Police Act 2001 s.82. C sought judicial review of the commissioner's decision on the basis that the Association's policy amounted to a disproportionate interference with their right to respect for private life under the European Convention on Human Rights 1950 art.8. Without considering the merits of C's individual cases, it fell to be determined whether the Administrative Court was bound by

the decision of the House of Lords in *R (on the application of S) v Chief Constable of South Yorkshire* (2004) UKHL 39, (2004) 1 WLR 2196 that the retention of biometric samples did not infringe an individual's rights under art.8, or whether it was open to the court to apply the decision of the European Court of Human Rights in *S v United Kingdom* (30562/04) (2009) 48 EHRR 50 ECHR (Grand Chamber) that the blanket and indiscriminate nature of the powers of retention of the fingerprint and DNA material of any person suspected but not convicted of a criminal offence was contrary to art.8, as it amounted to a disproportionate interference with the person's right to respect for private life and could not be regarded as necessary in a democratic society. The commissioner, and the secretary of state who appeared as an interested party, contended that the court was bound by the decision of the House of Lords, whereas C contended that effect should be given to the decision of the Strasbourg court.

#### HELD

The doctrine of precedent and the legal certainty it protected demanded that the court follow the decision of the House of Lords. The European Court of Human Rights gave a margin of appreciation to decisions of national authorities, and it was for national authorities to decide in the first instance how the principles of the Convention were to be applied, *Kay v Lambeth LBC* (2006) UKHL 10, (2006) 2 AC 465 followed. The fact that the parties were the same in both cases before the House of Lords and the European Court of Human Rights was no basis for declining to follow the House of Lords decision. In the instant applications, the Administrative Court was, accordingly, bound by the decision in *R. (on the application of S)* rather than that of *S v United Kingdom*, *R. (on the application of S)* followed, *S v United Kingdom* considered. That was sufficient to dispose of C's applications. However, it was appropriate to grant C leave for a leapfrog appeal to the Supreme Court to determine the issue of precedent.

#### APPLICATIONS REFUSED



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## Direction on Proof Required When Qualified Supervising Driver Accused of Aiding and Abetting Causing Death by Dangerous Driving Through a Failure to Act

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R v PAUL DAVID MARTIN (2010)

CA (Crim Div) (Hooper LJ, Gross J, Judge Moss QC) 6/7/2010

Criminal Procedure - Criminal Law - Road Traffic

Aiding And Abetting: Causing Death By Dangerous Driving: Drivers: Grievous Bodily Harm: Jury Directions: Knowledge: Learner Drivers: Aiding And Abetting By Failure Of Qualified Driver To Act: Appropriate Directions: S.20 Offences Against The Person Act 1861

The court set out jury directions which could be used in trials where a qualified supervising driver was accused of failing to act when accompanying a learner driver and as a result was charged with aiding and abetting causing death by dangerous driving or aiding and abetting inflicting grievous bodily harm.

The appellant (M) appealed against his convictions for aiding, abetting, counselling and procuring another (L) to cause death by driving dangerously and for aiding, abetting, counselling and procuring L to inflict grievous bodily harm contrary to the Offences against the Person Act 1861 s.20 M was a qualified driver who had agreed to accompany L, a learner driver, whilst he drove a car carrying M and another passenger. As L drove around a bend, he lost control of the vehicle and it collided with another car. L and the other passenger were killed and the driver of the other car was seriously injured. At trial, the Crown alleged that L had been racing. M relied on the fact that a tyre on the car had been over-inflated and alleged that as a result it had caused the car to take the corner more tightly than L had intended and so he had oversteered and lost control. M stated that it had not occurred to him that L's driving just before the accident was such as to require him to give a warning. Directions were given to the jury concerning foreseeability, but not concerning the ingredients of the offences of aiding and abetting the dangerous driving and grievous bodily harm.

HELD

- (1) A possible direction for such a case, which did not depend upon any defect in the car but on the manner of driving, when (a) it was not the Crown's case that the qualified supervising driver (X) anticipated the likelihood that the driver (Y) would drive dangerously in advance of him driving dangerously, and (b) X's liability was based on his failure to act when under a duty by reason of his position as the qualified driver to do so, rather than active encouragement, was as follows. On a charge of aiding and abetting causing death by dangerous driving in those circumstances, it was necessary to be sure that Y committed the offence of causing death by dangerous driving and that (a) X knew that Y was driving in a manner which X knew fell far below the standard of a competent and careful driver; (b) X, knowing that he had an opportunity to stop Y from driving in that manner, deliberately did not take that opportunity; (c) by not taking



that opportunity, X intended to assist or encourage Y to drive in that manner and X did in fact, by his presence and failure to intervene, encourage Y to drive dangerously.

- (2) An appropriate direction where, in the same circumstances, the supervising driver X was charged with aiding and abetting the commission of an offence under s.20 of the 1861 Act by the driver Y, was as follows. It was necessary to be sure that Y committed the s.20 offence and that (a) X knew that Y was driving in a manner likely to cause some harm to another; (b) X, knowing that he had an opportunity to stop Y from driving in that manner, deliberately did not take that opportunity; (c) by not taking that opportunity, X intended to assist or encourage Y to drive in that manner and X did in fact, by his presence and failure to intervene, encourage Y to drive in that manner.
- (3) It was not disputed that the directions given by the recorder were inadequate.

APPEAL ALLOWED



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### **SI 1736/2010 The Equality Act 2010 (Commencement No. 1) Order 2010**

In force **6 July**. This Order brings into force a number of provisions of the Equality Act 2010 (the 2010 Act), which allow the making of subordinate legislation or guidance under the 2010 Act. Provisions amending the Equality Act 2006 are commenced which allow the Equality and Human Rights Commission to issue Codes of Practice on matters within the 2010 Act.

### **SI 1759/2010 The Firearms (Amendment) Regulations 2010**

In force **28 July**. These Regulations amend firearms legislation to make provision about the acquisition of, use of and sale or hire to persons under the age of 18. The effect of the changes is to raise the age at which a person can buy, hire or use firearms from 17 to 18. The provisions take effect in England, Scotland and Wales. The Regulations also amend the law in Northern Ireland about use of firearms by those under 18 and will allow a person aged at least 16 but under 18 to acquire and possess firearms subject to certain conditions. Those aged at least 16 but under 18 will not be able to buy firearms.

### **SI 1799/2010 The Misuse of Drugs (Amendment No. 2) (England, Wales and Scotland) Regulations 2010**

In force **23 July**. These Regulations extend to England, Wales and Scotland and amend the Misuse of Drugs Regulations 2001 (the 2001 Regulations). The changes insert a group of cathinone derivatives including naphyrone, often called 'NRG1' into Schedule 1 of the 2001 Regulations. Schedule 1 of the 2001 Regulations proscribe the extent to which the drugs can be imported, exported, produced, supplied or possessed and makes provision for record keeping, labelling and destruction of the drugs.

### **SI 1800/2010 The Misuse of Drugs (Designation) (Amendment No. 2) (England, Wales and Scotland) Order 2010**

In force **23 July**. This Order extends to England, Wales and Scotland and amends the Misuse of Drugs (Designation) Order 2001 in relation to naphyrone and other related cathinone derivatives. This designates the drugs under section 7(4) of the Misuse of Drugs Act 1971. Section 7(4) has the effect of preventing regulation which would allow the medicinal use of a drug.

### **SI 1833/2010 The Misuse of Drugs Act 1971 (Amendment No. 2) Order 2010**

In force **23 July**. This Order amends the Misuse of Drugs Act 1971, placing naphyrone and other cathinone derivatives into Part 2 of Schedule 2 to the Act. This renders the drugs as subject to control as Class B drugs.

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## Consultation Paper on Reforming the Police

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The Home Office has launched a consultation 'Policing in the 21<sup>st</sup> Century: Reconnecting Police and the People' which will run until 20 September.

The consultation sets out proposed reforms to policing, stating that a new approach is required to address the challenges facing the police service:

- ◆ Strengthening the bond between police and the public - making the police accountable to the public rather than to Whitehall;
- ◆ Empowering police - removing unnecessary bureaucracy and restrictive guidance;
- ◆ Making the police more visible and available while still meeting the challenges such as counter-terrorism work and the growth in serious and organised crime; and
- ◆ Responding to tightening resources and ensuring value for money.

The key priority for the police outlined in the document is to cut crime, to keep people safe from the harms caused from anti-social behaviour to serious crime and to terrorism. Proposals for reform are set out under a number of categories.

### **Increasing Democratic Accountability**

Police Authorities are to be abolished and replaced with directly elected Police and Crime Commissioners (PCCs), to represent the public and hold chief constables to account for their responsibilities. PCCs will:

- ◆ Represent and engage with those living and working in their force area, to identify their policing needs;
- ◆ Agree a local strategic plan for the force, setting priorities that meet the communities' policing needs;
- ◆ Hold chief constables to account for achieving the local priorities;
- ◆ Set the force budget and the local precept, with precept raising to be subject to referendum; and
- ◆ Appointing and removing, if necessary, the chief constable.

Legislation to achieve this is to be introduced in the autumn, with the first elections for PCCs to take place in May 2012. The document sets out further details about the specific role of PCCs, including proposed checks and balances to safeguard their work. Police and Crime Panels will be set up for each force and consist of locally elected councillors and independent and lay members. These panels will scrutinise the actions of and advise PCCs. PCCs are to ensure that neighbourhood policing teams hold regular beat meetings to engage their communities.

The consultation also outlines plans to publish crime data at a level which will allow the public to see the performance of the police in their streets and

neighbourhoods, through more regular and standardised publications. This is to take place from January 2011.

Her Majesty's Inspectorate of Constabulary (HMIC) will be given more powers to become a stronger advocate in the public's interest. This will be achieved through a light inspection regime, production of information for the public and publication of Value for Money profiles.

### **Removing Bureaucratic Accountability**

The consultation outlines plans to free police from central control, including steps already taken such as removing the public confidence target from police forces and removing the Policing Pledge. The use of crime data is to be reviewed to ensure the public can trust official statistics and to remove central targets. Crime recording will be reviewed to ensure the need to hold police forces and criminal justice agencies to account is balanced with the need to reduce excessive recording and reporting arrangements.

Plans for reducing unnecessary bureaucracy are set out. The findings of HMIC's analysis of working practices and processes, due to be completed in September will be examined. By the end of 2010 the 'stop' form is to be removed and available technology will be used to reduce the information required to record stop and searches to a minimum. Processes which require paperwork under the Police and Criminal Evidence Act 1984 and the Regulation of Investigatory Powers Act 2000 are also to be reviewed. Charging decisions for more summary offences will be returned to the police by November.

Leadership in the police service is identified as a way to reduce bureaucracy. The consultation explains the need for chief constables, PCCs and the Association of Chief Police Officers (ACPO) to show strong leadership in embedding a culture change, reducing internal bureaucracy.

### **A National Framework for Efficient Local Policing**

Plans to help forces tackle problems that extend beyond their force area are set out in this section of the consultation. Cuts are to be made to central Government and non-departmental public bodies. Forces are expected to achieve better value for money through better workforce management, using police staff or the private sector to perform roles that do not require the skills of a sworn officer, encouraging more volunteering and by removing wasteful processes. HMIC will play a role in ensuring forces and PCCs make the best use of their resources through producing value for money profiles.

A review of the remuneration and conditions of service for police officers and staff is being undertaken, details of which are to be published shortly. The review of public service pension provision to ensure these are sustainable and affordable yet fair to the workforce and the taxpayer continues, with an interim report expected in September and a final report due in time for the 2011 Budget.

The consultation details plans for a new approach to collaboration between forces. PCCs are expected to play a key role in collaboration in operational and back office support functions and frontline policing functions in tackling serious and cross boundary criminality. Mergers between forces will not be imposed. HMIC will assess collaboration decisions by forces and will report to

Government where a decision not to collaborate has been taken. The duty to collaborate is to be strengthened, with the Home Secretary having power to direct forces to collaborate.

National arrangements are to be simplified. Procurement methods will be more nationally coordinated. A strategy for tackling organised crime is to be published later this year. A National Crime Agency (NCA) is to be established to improve the response to organised crime and to enhance border security. The NCA is to be led by a senior chief constable and will:

- ◆ Improve knowledge on organised crime;
- ◆ Provide national tasking and coordination of police assets;
- ◆ Ensure law enforcement takes place against more organised criminals, at a lower cost; and
- ◆ Strengthen border policing.

The National Policing Improvement Agency is to be phased out by spring 2012. A review is to be undertaken of its functions, some of which could come within the NCA's ambit. ACPO should reposition itself as the provider of professional leadership for the police service including leadership development, advising Government and driving value for money. Work with ACPO is being undertaken to establish a governance structure to increase its accountability for its role and funding.

### **Tackling Crime Together**

Reforms outlined in the consultation include plans to involve the public more in policing. Plans are detailed to promote the ways individuals can get involved in keeping their neighbourhoods safe and to underline that crime prevention is a shared responsibility. Easier ways to report anti-social behaviour and crime will be investigated, such as a cost effective way of establishing a non-emergency '101' phone number. Support will be given to organisations that help communities and people will be encouraged to volunteer as special constables and police volunteers.

A further proposal in the consultation is a Criminal Justice System reform strategy, looking at police reform, sentencing reform, the rehabilitation of offenders and the prison estate's contribution to rehabilitation. This is intended to make the system more transparent, coherent and accountable to the public.

Partnership working is to be reviewed, although a duty to work in partnership is to be retained and unnecessary regulations about partnerships are to be repealed to allow more freedom in how partnership work takes place.

The consultation and details on how to respond can be found at <http://www.homeoffice.gov.uk/police/policing-21st-century/>

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## HMIC Recommends Re-design of Policing

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Her Majesty's Inspectorate of Constabulary (HMIC) has published its report 'Valuing the Police: Policing in an Age of Austerity', which considers the effect budget cuts would have on policing and in particular how cuts would affect sustaining the number of police who are visible and available to the public.

The report details HMIC's analysis of police availability and finds that public confidence in the police service increased when the number of police working in the community increased. It also finds that on average only 11% of police strength are visible and available to the public. In the sample reviewed by HMIC, more police were available on a Monday morning than on a Friday night and the report suggests that this could be improved by better matching supply and demand. The amount of guidance issued is highlighted as a factor which draws resources into investigation and specialised roles, away from the public.

The report argues that a re-design of policing is needed to deliver efficiencies and ensure police visibility. Such a re-design could save, at best, 12% of central government funding whilst maintaining police availability. Any cuts beyond 12% would be likely to reduce police availability unless this was prioritised. HMIC's research shows that police authorities must improve their strategic planning and value for money capability and capacity. The report notes that of the forces surveyed, just under one in five was prepared for the scale of the predicted cuts and almost one in three were forecasting a gap in funding they were not well prepared to manage.

The re-design of policing proposed in the report includes a drive to change all spending, including spending on operational functions and how front-line officers are used. Priority should be given to the availability of police to the public. Local leadership should drive reform and action should be taken to bridge the funding gap. Central government and the police should work together to cut constraints to saving.

The report can be found at

[http://www.hmic.gov.uk/SiteCollectionDocuments/Value%20for%20Money/VTP\\_NFS\\_20100720.pdf](http://www.hmic.gov.uk/SiteCollectionDocuments/Value%20for%20Money/VTP_NFS_20100720.pdf)

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## Report Challenges Police to Save Up To £1 Billion

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The Audit Commission, Her Majesty's Inspectorate of Constabulary (HMIC) and the Wales Audit Office have published their report 'Sustaining Value for Money in the Police Service'. The report is for senior officers, managers and politicians who make strategic decisions about the future of policing in England and Wales. It challenges the police service to make savings of up to £1 billion and provides a framework for change using an approach linked to threat, harm and risk.

The report notes that police spending has increased by 47% in real terms from 1997/8 to 2008/9 and suggests that expected cuts in public sector funding provide an incentive to secure better value for money. It also points out that public expectation will not reduce. It advises making savings decisions based

on each force's priorities on threat, harm and risk across all three levels of the National Intelligence Model, with spending reducing as threat, harm and risk reduce. This should involve a transformational approach with risk assessment of threat, harm and risk and resource management linked to policing priorities. The report advises that such an approach requires force leadership that can drive substantial organisational change. This would deliver and sustain quick savings and also deliver further long term savings. A transformational approach should use the best mix of warranted officers, PCSOs and police staff, along with effective partnership working.

Barriers to change are identified in the report including the need for police forces and authorities to decide about the shape of their workforce with the possibility of reducing police officer numbers. The report establishes that leadership skills, financial skills and better procurement are needed to secure better value for money. It advises better workforce deployment, further work on procurement to make savings and increased collaboration. It notes that there is the potential to save money in the back office.

A challenge for the police service is set at saving up to £1 billion. The report suggests that the following savings may be possible:

- ◆ £90 million through improved management of staff rotas and overtime;
- ◆ £20 million by reducing management posts;
- ◆ £270 million by changing the workforce mix; and
- ◆ £100 million through better procurement.

The report advises that savings can also be made through productivity measures and collaboration and states that back office savings can be made, arguing that too many warranted officers work in back office functions.

A number of recommendations are made for police authorities, police forces and the government. Police authorities are to challenge their forces, set more ambitious savings targets, improve their members understanding of their force threat, harm and risk assessment and improve their challenge to and scrutiny of police forces.

Police forces are recommended to improve or maintain their performance while reducing spending, by:

- ◆ Linking threat, harm and risk assessment to financial and business planning;
- ◆ Using more mixed teams of police officers and staff;
- ◆ Improving shift patterns to make supply meet demand while reducing overtime;
- ◆ Sharing teams with other forces if a strong business case exists;
- ◆ Challenging back office functions by asking what is done, who does it and why they do it;
- ◆ Adopting savings ideas from other forces;

- ◆ Engaging the workforce in delivering savings; and
- ◆ Demonstrating clear leadership in delivering savings from the Association of Chief Police Officers (ACPO) team.

The report also recommends that forces work with ACPO, HMIC and the NPIA and each other in overcoming obstacles to change.

The report recommends that the government remind forces of the need to link threat, harm and risk assessment to efficiency and encourage police authorities to set ambitious savings targets. It should encourage more flexible approaches to collaboration and should reward efficiency and savings through grant allocations. It should review the Police Regulations to remove obstacles to making police officers redundant. The government is also recommended to work with police in reassuring the public that police officer numbers are not as important as what the police do.

The report and additional tools can be found at <http://www.audit-commission.gov.uk/nationalstudies/communitysafety/policevfm/Pages/default.aspx#downloads>



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## Statistics on Crime in England and Wales

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Home Office Statistical Bulletin 12/10 'Crime in England and Wales 2009/10: Findings from the British Crime Survey and Police Recorded Crime' has been published and presents findings on crime trends. The data is sourced from the British Crime Survey (BCS), which does not cover all offences or populations, and from police recorded crime (PRC), which covers a wider range of offences and covers all populations. BCS figures are based on interviews which took place between April 2009 and March 2010 which ask about experiences of crime within the 12 months prior to the interview. PRC statistics show crimes recorded by police in the financial year 2009/10.

The BCS and PRC both show falls in overall crime from 2008/09 to 2009/10, with BCS crime falling 9% and PRC falling 8%. Neither source shows an increase in property crime, despite expectations from previous research on trends suggesting that property crimes tend to increase during recessions. Increasing security in the home and in vehicles is suggested as a possible explanation for the long pattern of decline in BCS acquisitive crime. Violent crime estimates from the BCS showed a 1% decrease from 2008/09 to 2009/10, although this decrease is not seen as significant. However this decrease is consistent with longer term trends, including a 50% decrease in violent crime since 1995, which is consistent with PRC trends. PRC figures showed a 4% decrease in violent crime from 2008/09 to 2009/10.

Homicide statistics from PRC are given in the bulletin and show that police recorded 615 homicides in 2009/10, a decrease of 6% from the previous year. This figure is provisional as the definitive findings for homicide levels are reported in the Homicide Index, although the findings suggest that the final levels may show the lowest level of homicides since 1997/98. Homicide is not measured in the BCS.

In relation to sexual offences, the BCS estimates the proportion of adults who have been a victim of a sexual offence. The estimates show that, of adults aged 16 to 59, 2% of women and less than 1% of men had experienced a sexual assault or an attempted sexual assault in the previous 12 months. No change is shown in the prevalence of these offences compared with the previous year's findings. PRC showed 54,509 recorded sexual offences in 2009/10. This was an increase on the previous year of 6% although the bulletin advises caution in interpreting these figures; it is possible they were influenced by initiatives taken by police forces in anticipation of enhancements in the recording of these offences.

Data on gun and knife crime is given from PRC and shows a 3% decrease in firearms offences from 2008/09 to 2009/10 (7,995 offences, representing 0.2% of all offences). Firearm offences are now 22% lower than in 2002/03. In 2009/10 there were 33,566 knife crimes which made up 0.8% of all offences, a fall of 7% from 2008/09. BCS figures are not reported as the number of victims in the survey is too small to produce reliable trend data. Data on hospital admissions showed that from March 2009 to February 2010 there were 4,708 admissions for assaults with a sharp object, a decrease of 4% from the previous year's data.

Both the BCS and PRC show variation in the risk of victimisation depending on factors such as gender, age and area. The BCS shows that:

- ◆ Young men are more likely to be victims of stranger violence, with 2.2% of men being victims in the last year compared with 0.6% of women;
- ◆ Women are more likely to be victims of domestic violence than men, of adults aged 16 to 59 in the past year 7% of women were victims compared with 4% of men; and
- ◆ Those living in urban areas were more likely to be victims of household crime than those in rural areas, in the last year 18% of those in urban areas were victims compared with 12% of those in rural areas.

PCC shows that:

- ◆ Higher population density tends to be associated with higher crime levels;
- ◆ Robbery and knife crime are concentrated in urban areas, with three forces recording 62% of all such crimes despite covering only 24% of the population; and
- ◆ Younger people are disproportionately more likely to be victims of firearm offences.

Public perceptions on levels of crime and levels of trust in statistics are reported in the bulletin. 66% of people surveyed for the 2009/10 BCS believed crime has risen across the country over the last few years, although fewer thought crime in their local area had risen. 51% of people thought they lived in an area with lower than average crime, 39% thought they lived in an area with average levels of crime and 10% thought they lived in an area with high levels of crime. The bulletin states that public trust in crime statistics is low and that many people believe there is political interference with the statistics.

The bulletin can be found at

<http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1210.pdf>

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## CEOP Annual Review Published

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The Child Exploitation and Online Protection Centre (CEOP) has published 'Annual Review: 2009-10', which details the work of CEOP over the past year. Over the year:

- ◆ 278 children have been safeguarded or protected from sexual abuse through CEOP activity (both directly and indirectly);
- ◆ 417 arrests of suspected child sexual offenders have been made through the use of CEOP intelligence reports and the deployment of CEOP resources;
- ◆ CEOP activity has led to the disruption or dismantling of 96 high-risk child sexual offender networks;
- ◆ 6,291 intelligence reports were received by CEOP, including through the 'ClickCEOP' reporting mechanism.

The review highlights the importance of intelligence received from reports and other sources and details the partnerships CEOP is part of and the public reporting methods used. It explains CEOP's work towards identifying and safeguarding victims including those targeted in the online environment and those who are abused and whose images are shared online, both in the UK and overseas.

The review can be found at

[http://www.ceop.gov.uk/downloads/documents/CEOP\\_AnnualReview\\_09-10.pdf](http://www.ceop.gov.uk/downloads/documents/CEOP_AnnualReview_09-10.pdf)

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## **Report Proposes Reform of the Response to Youth Crime and Anti-social Behaviour in England and Wales**

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The Independent Commission on Youth Crime and Antisocial Behaviour has published its report 'Time for a Fresh Start'. The report concludes that falling crime levels gave opportunities to re-invest resources in preventative measures and these opportunities were not seized. It argues that shifts in policies and priorities about responding to youth crime contributed to uncertainty about underlying principles. It suggests that the public would be better protected by:

- ◆ Tackling anti-social behaviour, crime and reoffending through addressing the underlying circumstances and needs of the child or young person;
- ◆ Ensuring that meaningful consequences are faced by children and young people who commit crime or are involved in anti-social behaviour, ensuring that they are held accountable for the harm they caused; and
- ◆ Trying to retain children and young people in, and reconnect them to, mainstream society if they've behaved anti-socially or committed crime.

The report calls for imprisonment to be used as a last resort for children and young people, and argues that services and institutions that respond to youth crime should be kept separate to those responding to adult crime where possible. It calls for:

- ◆ Structured investment in the most promising preventative approaches;
- ◆ Restorative justice to be applied at every level of the response to youth crime and anti-social behaviour; including restorative youth conferencing used as a preferred alternative to prosecution and as standard procedure following admission of, or conviction for an offence;
- ◆ Prosecution of those under the age of 18 to only take place in the Youth Court;
- ◆ Treatment of young offenders that prevents offending and maximises chances of successful reintegration into society, with a reduction in the use of youth custody;
- ◆ Emphasis to be placed on measuring and evaluating the rehabilitation of offenders.

The report can be found at

[http://www.youthcrimecommission.org.uk/index.php?option=com\\_content&view=article&id=76&Itemid=85](http://www.youthcrimecommission.org.uk/index.php?option=com_content&view=article&id=76&Itemid=85)

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## Consultation on Changes to Powers to Stop Commercial Vehicles For Inspection at the Roadside

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The Department for Transport has published a consultation on proposals to extend powers to stop commercial vehicles at the roadside for inspection to Vehicle Operator Services Agency (VOSA) and Driver and Vehicle Agency (DVA) examiners. The proposed changes will extend the powers currently available to examiners and to simplify the process to accredit examiners as 'stopping officers'. Currently stopping officers have to be individually accredited by chief officers of police. Also proposed is the creation of offences of impersonating a stopping officer or a DVA officer and of failing to stop or obstructing a stopping officer in Great Britain. The consultation runs until 13 August.

The consultation document can be found at  
<http://www.dft.gov.uk/consultations/open/2010-27/consultation.pdf>

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## Experimental Statistics on Victimization of Children Published

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Home Office Statistical Bulletin 11/10 'Experimental Statistics on Victimization of Children Aged 10 to 15: Findings from the British Crime Survey for the Year Ending December 2009' has been published. This bulletin makes estimates from the British Crime Survey about the victimisation of children aged 10 to 15 in England and Wales. The statistics are experimental as they are new and undergoing evaluation. A consultation process has been launched alongside the statistics which runs until 26 August.

The statistics are presented using four approaches:

- ◆ 'All in law': all incidents reported that are in law a crime, where the victim perceived an intent by the perpetrator to hurt, damage or steal;
- ◆ 'Norms-based': incidents which met a set of normative rules based on research with children which informed the development of the survey and excludes relatively minor incidents;
- ◆ 'All in law outside school': all incidents reported which are in law a crime, excluding those which took place in school; and
- ◆ 'Victim perceived': all incidents which are in law a crime and are also perceived by the victim to be a crime.

Estimates of the amount of crime experienced by children aged 10 to 15 in the last 12 months varied depending on the approach. 2,153,000 incidents were estimated using the all in law approach, the largest estimate amongst the approaches. Using the victim perceived approach yielded the lowest estimate of crime, with 404,000 incidents.

Theft from the person offences made up the lowest number of crimes across all four approaches. Incidents of violence made up the highest number of crimes across all of the approaches, although more serious violence made up a

small share of this. For the all in law approach the following estimates were made of personal crime:

- ◆ 81 incidents of theft from the person;
- ◆ 260 incidents of other theft of personal property;
- ◆ 1,719 incidents of violence, of which:
  - 641 were violence with injury; and
  - 1,077 were violence with no injury;
- ◆ 93 incidents of damage to personal property; and
- ◆ 413 incidents of personal acquisitive crime.

The statistics show that children are generally at a higher risk of victimisation than adults. The proportion of adults who were victims of personal crime for the previous 12 months was 6%. The prevalence rates for children classified as victims in the same period were:

- ◆ 24% using the all in law approach;
- ◆ 14% using the norms-based approach;
- ◆ 9% using the all in law outside school approach; and
- ◆ 6% using the victim perceived approach.

The bulletin also reports on the percentage of incidents which are reported to the police. The statistics suggest that there is a lower level of reporting amongst children compared to reporting of crime by adults. These statistics varied by approach:

- ◆ Under the victim perceived approach 26.6% of incidents were reported;
- ◆ Under the all in law outside school approach 18.0% of incidents were reported;
- ◆ Under the norms-based approach 11.7% of incidents were reported; and
- ◆ Under the all in law approach 10.6% of incidents were reported.

The statistical bulletin, together with details of the consultation on the statistics, can be found at

<http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1110.pdf>

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## Statistics Published on Race and the Criminal Justice System

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The Ministry of Justice has published 'Statistics on Race and the Criminal Justice System 2008/09' which presents information on how members of the Black and Minority Ethnic (BME) community in England and Wales are represented in the Criminal Justice System. The data shows differences in the experiences of people from a BME background compared with those from a White background including:

- ◆ The risks of being a victim of crime were higher for adults aged 16 and over from a Mixed and Asian background than for those from a White background;
- ◆ The use of stop and search powers has increased in the period between 2004/05 and 2008/09 for all ethnic groups, however the largest percentage rises were for Black and Asian groups; and
- ◆ A higher percentage of BME offenders were sentenced to immediate custody for indictable offences in 2008 than offenders from a White background similarly sentenced, although the statistics note that this could be due to other reasons than discrimination.

The statistics can be found at

<http://www.justice.gov.uk/stats-race-and-the-criminal-justice-system-2008-09c1.pdf>

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## Joint Thematic Review on the Management of Gang Issues

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Her Majesty's Chief Inspector of Prisons, Her Majesty's Chief Inspector of Probation and Her Majesty's Chief Inspector of Constabulary have published a joint thematic review 'The Management of Gang Issues Among Children and Young People in Prison Custody and the Community'. The review examined how police, youth offending teams and young offender institutions were dealing with and understanding gangs and gang-related crime.

The review found a lack of coordination and a lack of clear, effective guidance on local implementation on tackling gangs, although there are a number of initiatives aimed at this issue. No agreed working definition of a gang existed either within or between the three inspected agencies.

Findings in relation to police noted that there was a relatively well-developed understanding of gang activity, although there was no single definition of a 'gang'. The review outlines the actions police are taking in the community, including multi-agency action, but states that safeguarding arrangements were generally not well-developed. The police focus on 'catch and convict' was not placed within a safeguarding agenda which would recognise the risks faced by children and young people involved in gang activity. Police services were found to have detailed problem and target profiles developed through intelligence on gang membership in the locality. There was evidence that forces sometimes struggle to maintain timely intelligence on gangs, although this was described as understandable due to the fluid nature of gang

membership and culture. There was at least one seconded officer in every Youth Offending Team in the sample reviewed, however the review expressed disappointment that the volume and quality of intelligence from these officers was generally low.

Police activity in young offender institutions was examined in the review, with police liaison officers (PLOs) reporting a lack of communication in the exchange of information. The flow of intelligence was seen as patchy, with PLOs covering a number of institutions and intelligence being received from a number of different intelligence infrastructures.

The review recommends the development of a specific strategy for tackling gang-culture among under-18s, informed by further research. The strategy should include:

- ◆ An agreed working definition or understanding of gang culture;
- ◆ Staff information and training on how to manage gang members;
- ◆ Inter-agency cooperation and a requirement for timely sharing of intelligence;
- ◆ The management of risk of harm through existing partnerships.

The National Offender Management Service (NOMS) and the Youth Justice Board (YJB) should work with chief constables to ensure collaboration between the relevant agencies and services to identify gang problems and potential solutions. NOMS and the YJB should collaborate with chief constables to ensure that gang coordinators are appointed to lead on gang issues, be the repository for intelligence on gangs, take responsibility for disseminating intelligence and coordinate the response to gang issues.

The review can be found at

[http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Joint\\_gangs\\_thematic\\_2010\\_rps\\_.pdf](http://www.justice.gov.uk/inspectorates/hmi-prisons/docs/Joint_gangs_thematic_2010_rps_.pdf)

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## **Joint Inspection on the Management of Sexual Offenders in the Community**

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Her Majesty's Inspectorate of Probation and Her Majesty's Inspectorate of Constabulary have published their report 'Restriction and Rehabilitation: Getting the Right Mix'. The report details their joint inspection of the management of sexual offenders in the community, the purpose of which was to examine the quality of work that police and probation services undertake with registered sexual offenders in the community.

The inspection found many examples of good practice by police and probation services, including:

- ◆ Consolidating practice relating to the notification requirements for registered sexual offenders;
- ◆ The use of the sexual offences prevention order;

- ◆ Monitoring of licence conditions; and
- ◆ Multi-agency public protection arrangements (MAPPA) for more serious cases.

The inspection also found three main areas where practice could be improved: engagement; communication; and MAPPA. The report notes that leadership at a national and local level for police and probation in relation to engagement with offenders is good. However, engagement with offenders not required to attend a Sexual Offender Treatment Programme could be improved; guidance to the probation service was overdue, some probation staff felt they were ill-equipped to work with these offenders and in some areas the inspectorates found caseloads were too high to enable effective engagement.

In relation to communication, the report found that structural issues hindered otherwise good communication between police and probation services. The use of the Violent and Sexual Offender Register (ViSOR) database was entrenched within police forces, although data quality varied, yet there were often restrictions on probation staff's access which reduced its potential. Police and probation services' use of the term 'risk' without explanation of whether this meant risk of reconviction, risk of reoffending or risk of harm could hinder communication. The inspection found that it was possible for three risk management plans to exist for each offender (through ViSOR, probation and MAPPA), each focussing on different issues and stated the importance of these reports being co-ordinated. Communication within police forces could be improved, as information was found to be handled differently within and between forces. More consideration could be given to the role of non-specialist staff in intelligence gathering. Information could be used more effectively; the inspection found that before making home visits to offenders not all forces conducted risk assessments such as checking ViSOR and no forces checked the Police National Computer.

MAPPA frameworks were found to be effective for management of levels 2 and 3. Practice was found to be varied for level 1 management and the report raises concerns that a high proportion of cases were managed without any multi-agency oversight.

The report makes a number of recommendations to improve practice in the management of sexual offenders, including that:

- ◆ Police forces should ensure that operational public protection supervisors have the capacity to carry out the full range of their supervisory functions; and
- ◆ Police forces, probation trust and chairs of MAPPA meetings should ensure that risk management plans through ViSOR, MAPPA and the Offender Assessment System are coordinated and aligned.

The report can be found at

[http://www.justice.gov.uk/inspectorates/hmi-probation/docs/Sex\\_Offenders\\_Report-rps.pdf](http://www.justice.gov.uk/inspectorates/hmi-probation/docs/Sex_Offenders_Report-rps.pdf)



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## Welsh Assembly Government Consultation on Draft Guidance on Safeguarding Children and Young People from Sexual Exploitation

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The Welsh Assembly Government has issued draft statutory guidance, supplementary to 'Safeguarding Children: Working Together Under the Children Act 2004', on safeguarding children and young people from sexual exploitation. A consultation on the guidance runs until 31 August.

The draft guidance, following consultation, will replace 'Safeguarding Children Involved in Prostitution', published in 2000. The guidance covers key issues and principles in safeguarding children and sets out roles and responsibilities, including those of the police. Also covered is guidance on managing individual cases and on identifying offences, offenders and prosecuting perpetrators of exploitation of children.

The draft guidance and consultation documents can be found at <http://wales.gov.uk/consultations/childrenandyoungpeople/exploitation/?lang=en>

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## Green Paper on Criminal Justice and Addiction Published

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The Centre for Social Justice (CSJ) has published 'Green Paper on Criminal Justice and Addiction'. In it the CSJ argues that drugs and alcohol are fuelling much of the crime in our communities. The Green Paper recommends a restructuring of the criminal justice system to put rehabilitation at its heart.

The Green Paper considers drug and alcohol reform, recommending a fully collaborative and outcome-focussed government and a change in the emphasis and balance of local treatment provision. It also makes a number of recommendations for police reform, including:

- ◆ Directly elected Crime and Justice Commissioners (CJCs) should be introduced, to chair police authorities and act as figureheads for community safety;
- ◆ Police authorities should be smaller and have a new mandate including the appointment, appraisal and dismissal of chief constables and the power to set budgets and precepts;
- ◆ Chief Constables' operational independence should be reaffirmed and they should no longer be subject to fixed term appointments or receive performance-related bonuses and should be able to appoint their own top teams;
- ◆ The Home Secretary should set a small number of national priorities and hold forces and CJCs to account if they are under-performing;
- ◆ Performance indicators should be replaced with a Harm Index as a central measure of police performance, allowing police forces to set their own priorities about police-preventable harm;

- ◆ Police officers should adopt a zero-tolerance approach to anti-social behaviour, with a commitment to intervene;
- ◆ Police officers should be properly trained and incentivised to use discretion and common sense and to deliver restorative justice disposals where conventional disposals are inappropriate;
- ◆ Charging decisions for 'volume crimes' should be made by the police; and
- ◆ Collation, interpretation and presentation of crime statistics should be the responsibility of an independent body.

Recommendations are also made for reform of courts and sentencing, and prison reform.

The Green Paper can be found at

[http://www.centreforsocialjustice.org.uk/client/downloads/CSJ\\_Green\\_paper\\_criminal\\_justice\\_07%2007\\_WEB.pdf](http://www.centreforsocialjustice.org.uk/client/downloads/CSJ_Green_paper_criminal_justice_07%2007_WEB.pdf)

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## Report Calls for Repeal of Section 44 of the Terrorism Act 2000

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Human Rights Watch has published a report 'Without Suspicion: Stop and Search Under the Terrorism Act 2000'. The report examines the use of stop and search powers under section 44 of the Terrorism Act 2000 by police in the United Kingdom.

The report states that in England, Wales, Scotland and Northern Ireland section 44 powers were used 173,339 times to stop people without any suspicion that they were engaged in terrorism or other criminal wrongdoing. It argues that the government has failed to demonstrate that section 44 serves its intended purpose, as despite nearly 450,000 stops between April 2007 and April 2009 no one has been successfully prosecuted for a terrorism offence as a result. The report further argues that the section 44 powers are used inconsistently and improperly and are damaging community relations and undermining counter-terrorism policing. It calls for a repeal of section 44.

The report can be found at

<http://www.hrw.org/en/reports/2010/07/05/without-suspicion-0>

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## Review of Counter-Terrorism Powers Announced

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Home Secretary Theresa May has announced a review of counter-terrorism powers, to be overseen by Lord Ken Macdonald QC. The review is to consider whether legislation should be amended to ensure that the counter-terrorism regime is proportionate and transparent and will look at:

- ◆ The use of control orders;
- ◆ The use of stop and search powers under section 44 of the Terrorism Act 2000;
- ◆ The use of terrorism legislation in relation to photography;
- ◆ The extension of powers to deport foreign nationals who present a threat to national security with assurances;
- ◆ Measures available to deal with organisations promoting hatred or violence;
- ◆ The use of the Regulation of Investigatory Powers Act 2000 by local authorities; and
- ◆ Access to communications data in general.

The Home Secretary will report back on the findings of the review in the autumn. The full press release on the review can be found at <http://www.homeoffice.gov.uk/media-centre/press-releases/counter-powers>

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## Consultations on the Provision of Courts Services

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The Ministry of Justice has published consultations on proposals to modernise and improve the use of courts in England and Wales. The proposals include the closure of 103 magistrates' and 54 county courts which could save £15.3 million in running costs and £21.5 million in maintenance costs. The consultations which apply to Her Majesty's Court Service regions run until 15 September 2010.

The consultation papers can be found at the Ministry of Justice's consultations page, at <http://www.justice.gov.uk/consultations/consultations.htm>

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## Munro Review of Child Protection Commissioned

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The Government has commissioned an independent review of children's social work and frontline child protection practice, to be conducted by Professor Eileen Munro. The review is to set out the obstacles preventing improvements and the steps required to improve child protection. Views have been sought in a call for evidence from a variety of sources including police, a first report is due to be published in September 2010, with an interim report is due in January 2011. The final report is expected by April 2011.

Further information about the Munro review can be found at <http://www.education.gov.uk/munroreview/index.shtml>