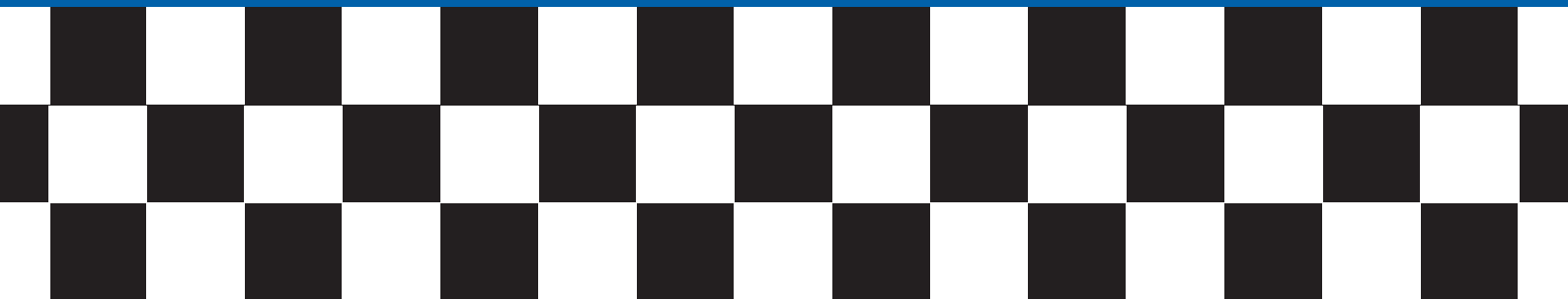


Digest

August 2012

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 NPIA aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request.

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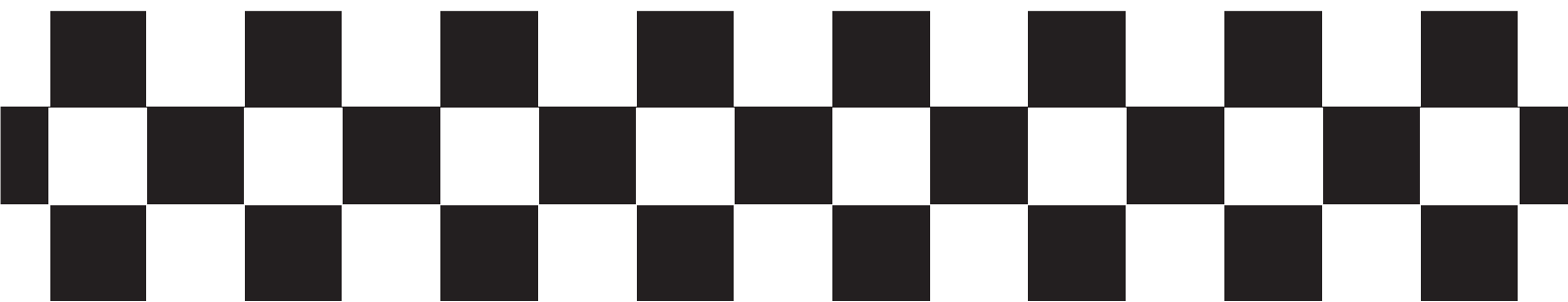
August 2012

Digest

Legal Services

Chief Executive Officer Directorate

www.npia.police.uk/digest



NPIA Digest August 2012

This month's edition of the Digest contains a summary of issues relating to police law, operational policing practice and criminal justice.

We look at the revised PACE Codes of Practice, the new Terrorism Codes of Practice, and a recent High Court judgment considering the circumstances in which police may retain property which is seized during the investigation of crime.

There are articles on the Independent Review of ACPO Operational Activity, and the Ministerial statements setting out the latest plans for two of the NPIA's successor bodies, the College of Policing and the Police ICT company.

Statistical bulletins are covered including the latest crime statistics for England and Wales, the IPCC's report on deaths during or following police contact, and reported road casualty statistics.

There are also articles on HMIC's report Policing in Austerity, the Prison Reform Trust's Fair Access to Justice report and a report, produced by the think tank Policy Exchange, looking at the use of out of court disposals.

The progress of proposed new legislation through Parliament is examined and statutory instruments published this month summarised.

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Bills Before Parliament 2012/13 - Progress Report

On 9 May 2012, the Queens Speech unveiled the legislative programme for the 2012-2013 Parliamentary session. Bills introduced in the 2012/13 session included the Crime and Courts Bill.

◆ **Crime and Courts Bill** - The Bill:

- Provides for the establishment of the National Crime Agency (NCA) to prevent and investigate serious, organised and complex crime, enhance border security, and tackle the sexual abuse and exploitation of children, and cyber crime;
- Makes provision for the appointment of a Director General as the operationally independent head of the NCA; makes provision for the governance of the NCA; and provides a framework for the NCA and other law enforcement agencies to collaborate in order to assist each other in the discharge of their functions;
- Sets out the powers of the Director General and other NCA officers, including by making provision to enable the Director General to give designated NCA officers some or all of the powers of a constable, a customs officer or an immigration officer; and provides for a duty on the Director General to publish certain information and for the disclosure of information by and to the NCA and for the use of information by the Agency;
- Provides for the NCA to be inspected by Her Majesty's Inspectors of Constabulary, and for regulations to make provision for oversight by the Independent Police Complaints Commission. The Bill places restrictions on certain NCA officers taking industrial action and makes provision for the determination of such NCA officers' pay and allowances;
- Provides for the abolition of the Serious Organised Crime Agency (SOCA) and the National Policing Improvement Agency (NPIA). The Bill includes provision for the Secretary of State to make, and lay before Parliament, staff and property transfer schemes. A staff transfer scheme may provide for a designated member of staff of SOCA or the NPIA, a designated constable or member of civilian staff in an England and Wales police force and a designated member of personnel or staff in any other body to become NCA officers, and employed in the civil service of the state. A property transfer scheme may provide for the transfer to the NCA of designated

property, rights or liabilities from SOCA, NPIA, the chief officer of, or the policing body for an England & Wales police force or any other person;

- Contains provisions to modernise the courts and tribunals including establishment of a Single County Court system and Single Family Court to allow greater flexibility for the handling of cases to increase efficiency of the civil and family court systems in England and Wales;
- Increases the efficiency of fines collection by providing incentives for early payment and compliance, so that, in the event of a default, the offender will be charged the cost incurred for collecting their fine not the taxpayer;
- Makes provisions to reform the judicial appointments process to introduce greater transparency in the judicial appointments process and improve judicial diversity; and provides for the filming and broadcasting of judicial proceedings in specified circumstances;
- Makes provisions about border control and the powers of immigration officers;
- Creates a new offence of driving or being in charge of a motor vehicle with a specified controlled drug in the blood or urine in excess of the specified limit for that drug. Makes further provision for the taking of preliminary tests to determine the level of drugs in a person's blood or urine so as to allow up to three preliminary tests of saliva or sweat to be taken when testing for drugs.

The Crime and Courts Bill was introduced in the House of Lords at its first reading stage on 10 May 2012. Committee stage, the detailed line by line examination of each clause in the Bill, commenced on 18 June 2012. The sixth day of Committee stage took place on 4 July 2012. Amendments discussed covered Clauses 24 - 27 of the Bill. The seventh day of Committee stage is yet to be scheduled. The House of Lords rose for the summer recess on 25 July 2012 and returns on 8 October 2012.

The progress of Bills in the 2012/13 parliamentary session can be found at:

<http://services.parliament.uk/bills/>

Police Retention of Property Seized in Investigation of Crime

Chief Constable of Merseyside Police v Joseph Patrick Owens [2012] EWHC 1515 (Admin)

This was an appeal to the High Court by way of case stated from the Magistrates' Court. The court considered whether the police are entitled to retain Mr Owens property which they properly seized in the course of an investigation of a crime. The basis of the appeal by the Chief Constable of Merseyside was that the court should refuse to return the property to Mr Owens as the court would be, "indirectly assisting or encouraging the respondent in his criminal act". The issues arose on an application under section 1 of the Police (Property) Act 1897.

The Facts

On 6 June 2008 the house at which Mr Owens lived with his mother was deliberately set on fire. His mother was alone at the time but escaped without injury. The incident was reported to the police and they carried out detailed investigations, including a forensic investigation and house to house enquiries. As part of the investigation the police seized a video from Mr Owens CCTV system. The video was seized under section 19(3) of the Police and Criminal Evidence Act 1984 (PACE).

The powers under section 19(3) PACE are:

The constable may seize anything which is on the premises if he has reasonable grounds for believing:

- (a) that it is evidence in relation to an offence which he is investigating or any other offence; and
- (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.

The video was reviewed by DS Weir who was in charge of the investigation. It showed the front door at which a petrol can had been left; a person could be seen whom it was believed had caused the fire, but the image was unclear and no identification could be obtained from it. Despite all efforts, including viewing the video several times and enhancing the images, the police were unable to identify the person who had started the fire. The investigation was closed.

The Magistrates' Court Application

On 9 December 2008, Mr Owens applied to the Liverpool City Magistrates' Court for an order under section 1(1) of the Police (Property) Act 1897 (the 1897 Act) for the return of the video tape.

Section 1(1) of the Police (Property) Act 1897 provides as follows:

Where any property has come into the possession of the police in connection with their investigation of a suspected offence a court of summary jurisdiction may, on application, either by an officer of police or by a claimant of the property, make an order for the delivery of the property to the person appearing to the magistrate or court to be the owner thereof, or, if the owner cannot be ascertained, make such order with respect to the property as to the magistrate or court may seem meet.

The application was resisted by the Chief Constable of Merseyside, on the basis that he had the power to retain the video tape under section 22(1) of PACE. He argued that he had a duty to enforce the law and prevent crime. He reasonably believed that the return of the video tape to the respondent might lead to Mr Owens committing a serious criminal offence.

The evidence of DS Weir provided in a statement to the Magistrates' was as follows:

- i) Mr Owens was a member of the British National Party and shortly prior to the fire had released a book exposing police informants and "wannabe gangsters" in Liverpool.
- ii) Mr Owens told the police after the fire that he had received threats to petrol bomb his house. He identified to the police a possible suspect who had threatened him. He also said that as a result of the publication of the book there would be others who would have grievances against him.
- iii) DS Weir formed the view that Mr Owens was not providing proper co-operation to the police. Her statements set out details of his failure to co-operate.
- iv) DS Weir believed that if Mr Owens was to see the video tape he would seek revenge against a person who would either be the actual offender or a mistaken innocent third party; that person would either be killed or seriously injured. The reasons for her belief were as follows. When Mr Owens asked to see the video tape, he was aware there was no facial image of the offender but he thought he might be able to recognise the offender from his stance/gait. When he said that, he also told the police that he hoped the police would find out who did it before he did, as he did not want to go back to prison. Mr Owens had not co-operated with the police enquiry. Mr Owens had a violent past and had stood trial for murder. He could inflict serious and violent injury on any person that he might identify from the video tape.

The Decision of the Judge

The Deputy District Judge concluded that Mr Owens was entitled to the return of the video tape for the following reasons:

The application was a straightforward application. The 1897 Act dealt with ownership and nothing else. In the absence of special circumstances the police force owed no duty of care to members of the public. The judge therefore concluded:

“Whilst I understood to a degree the concerns of DS Weir I was not satisfied that those concerns were so significant as to create the special circumstances required to impose a “special” duty of care on the Appellant.”

The judge ordered the Chief Constable to return the video to Mr Owens. He stated three questions for the High Court:

1. Does the Chief Constable have a duty to enforce the criminal law and/or prevent criminal activity beyond the parameters set by *Hill v. Chief constable of West Yorkshire* [1987] UKHL 12 and *Osman v United Kingdom* [1998] ECHR 101?
2. Should the Magistrates court have declined to consider the application under S1 of the Police Property Act 1897 when the Chief Constable had reasonable belief that if the video was returned to the Respondent it may lead to serious criminal harm being caused by the Respondent to a third party on the basis this was not a suitable issue to be determined by this procedure?
3. Was the Chief Constable’s reasonable belief that the return of the Video to the Respondent may lead the Respondent to commit serious criminal harm to a third party a sufficient reason for the Court to refuse to exercise its discretion under Section 1 of the Act to Order the appellant to return the Video to the Respondent?

The Appeal

Mr Owens did not appear and was not represented at the appeal.

The Chief Constable argued that the Deputy District Judge had not considered the correct issues. He said that there were two questions:

- i) Was he entitled to retain the video tape under the statutory powers contained in s.22 of PACE?
- ii) Was he entitled to retain the video on the basis it would be contrary to public policy to allow the respondent to invoke the process of the court to seek the return of a video as the sole purpose for which the respondent wanted the video was unlawfully to inflict harm on another person?

The High Court agreed that these were the issues for the court.

Issue 1: The power to retain under section 22 PACE

Section 22 PACE provides as follows:

- (1) Subject to subsection (4) below, anything which has been seized by a constable or taken away by a constable following a requirement made by virtue of section 19 or 20 above may be retained so long as is necessary in all the circumstances.
- (2) Without prejudice to the generality of subsection (1) above:
 - (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by subsection (4) below:
 - (i) for use as evidence at a trial for an offence; or
 - (ii) for forensic examination or for investigation in connection with an offence; and
 - (b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.
- (3) Nothing seized on the ground that it may be used:
 - (a) to cause physical injury to any person;
 - (b) to damage property;
 - (c) to interfere with evidence; or
 - (d) to assist in escape from police detention or lawful custody, may be retained when the person from whom it was seized is no longer in police detention or the custody of a court or is in the custody of a court but has been released on bail.
- (4) Nothing may be retained for either of the purposes mentioned in subsection (2) (a) above if a photograph or copy would be sufficient for that purpose.
- (5) Nothing in this section affects any power of a court to make an order under section 1 of the Police (Property) Act 1897.

It was argued on behalf of the Chief Constable that the words in section 22(1) should be construed widely and the power to retain the video as long as necessary in all the circumstances was a power which extended to its retention even where the investigation was closed and the retention could not be justified by the purposes for which it had been seized.

The court rejected this argument. It said that the powers of the Executive to seize and retain goods were carefully controlled by the courts. Those powers were summarised by

Lord Denning MR in *Ghani v Jones* [1971] QB 693. In reliance on the authority of the case of *Ghani*, the court said that in order to justify the taking of an article when a person had not been arrested or charged, certain conditions had to be satisfied including:

- ◆ The police must not keep the article, nor prevent its removal, for any longer than is reasonably necessary to complete their investigations or preserve it for evidence. If a copy will suffice, it should be made and the original returned. As soon as the case is over, or it is decided not to go on with it, the article should be returned.
- ◆ The terms of section 22(2), (3) and (4) make it clear that the specific circumstances to which section 22 is directed is retention for use as evidence at trial or for investigation in connection with an offence.
- ◆ There is nothing in section 22 which suggests that the power of retention can be for any purpose other than a purpose for which it was originally seized.

The Court also relied on the case of *Scopelight Ltd v Chief Constable of Northumbria* [2010] QB 438 where the Court of Appeal concluded that that documents seized could only be used for the purposes for which the relevant legislation contemplated that they might be used and that "so long as necessary" meant necessary for carrying out the purposes for which the powers given by section 19 and section 20 had been conferred.

Accordingly, the court concluded that as a matter of principle and legal authority the Chief Constable did not have power to retain the video under section 22 of PACE.

Issue 2: Use of the powers of the court when they might assist or encourage a person in his criminal act

The court said that it is clear that the power under section 1 of the 1897 Act is a discretionary power; the courts have given guidance on its use in a number of cases which are summarised in the judgment in *O'Leary International v Chief Constable of North Wales* [2012] EWHC 1516 (Admin). The judgment in *O'Leary* was handed down at the same time as in this case.

Mr Sigee, on behalf of the Chief Constable, relied upon observations of Lord Justice May in the court of appeal case of *Webb v Chief Constable of Merseyside* [2000] QB 427 at pages 444-445 as entitling the police to retain the video. In *Webb*, Lord Justice May concluded he would not rule out:

"... the possibility that circumstances might arise where the court would refuse relief where to grant it would be "indirectly assisting or encouraging the plaintiff in his criminal act.""

Mr Sigee's submission was that the court should therefore not order the return of the video to Mr Owens as the court would, by making such an order, be assisting or encouraging Mr Owens in the commission of a crime, namely an assault upon a person that the respondent thought had set fire to the house.

The judges in the High Court saw great force in Mr Sigee's argument and were prepared to assume, whether the claim is brought in a civil court in an ordinary action or in a Magistrates' Court under the 1897 Act, that the court could refuse to grant relief and refuse to order the return if on the facts it could be established that the return of property would indirectly encourage or assist a person in his criminal act.

The judges went on to say that "the formidable difficulty that faces Mr Sigee is that there are no findings made by the District Judge which would enable this court to conclude not merely that the police believed that the respondent might use the tape to enable him to commit a criminal act but that the court itself could be satisfied that ordering the return would in fact do so. The distinction is an important one. It cannot be sufficient that the police reasonably suspect that the respondent might use the tape to commit a criminal act, for that would give the Executive power to retain property without legislative or other authority. It can only be, if the court itself is satisfied that the use of its process would in fact indirectly assist in or encourage a crime that the court could refuse to allow its processes to be used to that end."

The court concluded the appeal could not succeed on this second basis as the necessary findings of fact to support it were not available.

Conclusion

The High Court therefore concluded that the appeal could not succeed on the facts stated in the case stated for the reasons given and that the video must therefore be returned to Mr Owens.

The full decision of the court can be accessed at:

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2012/1515.html>

**SI 2012/1615 The Crime and Security Act 2010
(Commencement No. 6) Order 2012**

This Order brought into force sections 24 to 30 of the Crime and Security Act 2010 on **30 June 2012** in Greater Manchester, West Mercia and Wiltshire police areas. These provisions include the power for an authorising officer to issue a domestic violence protection notice to an alleged perpetrator of domestic violence, and the power for a magistrates' court, on an application made by complaint by a constable, to make a domestic violence protection order.

**SI 2012/1205 Protection of Freedoms Act 2012
(Commencement No. 1) Order 2012**

Article 3 of the Order brought into force a number of provisions of the Protection of Freedoms Act 2012 Act on **1 July 2012**. These provisions include Chapter 1 of Part 2 which regulates CCTV and other surveillance camera systems, Chapter 1 of Part 3 which makes provision relating to powers of entry, including the power to repeal powers of entry and the issuing of a code of practice for non-police agencies to govern the exercise of powers of entry, section 85 of the 2012 Act which provides a statutory basis for the recording of cautions and section 104 of the 2012 Act which extends freedom of information provisions to Northern Ireland bodies.

Article 4 of the Order commenced substantive counter-terrorism stop and search provisions and provisions relating to pre-charge detention of terrorist suspects on **10 July 2012**.

**SI 2012/1635 The Prosecution of Offences Act 1985
(Specified Proceedings) (Amendment)
Order 2012**

This Order came into force on **17 July 2012**. The Order extends the range of circumstances in which the police can continue to prosecute proceedings for certain minor traffic offences in magistrates' courts. The order does not extend the range of offences that can be prosecuted in this way.

**SI 2012/1724 Counter-Terrorism Act 2008
(Commencement No. 6) Order 2012**

This Order brought into force the following sections of the Counter-Terrorism Act 2008 on **10 July 2012**:

- (a) Section 22 (post-charge questioning in England and Wales);
- (b) Section 23 (post-charge questioning in Scotland); and
- (c) Section 25 (recording of interviews) only in so far as it extends to England and Wales and Scotland.

SI 2012/1771 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2012

This Order came into force on **6 July 2012**. Part 2 of the Terrorism Act 2000 makes provision about proscribed organisations (including setting out offences in relation to such organisations in sections 11 to 13). An organisation is proscribed if it is listed in Schedule 2 to that Act or, in most cases, if it operates under the same name as an organisation so listed (section 3(1)). Article 2 of this Order adds “Indian Mujahideen” to the list in that Schedule.

SI 2012/1713 The National Police Records (Recordable Offences) (Amendment) Regulations 2012

These regulations came into force on **30 July 2012**. The Regulations amend the Police National Records (Recordable Offences) Regulations 2000 to make the offences contrary to sections 51A and 53A of the Sexual Offences Act 2003 (soliciting and paying for sexual services of a prostitute subjected to force) recordable offences.

SI 2012/1726 Criminal Procedure Rules 2012

The Criminal Procedure Rules 2011 will be revoked with effect from **1 October 2012** and will be replaced by the Criminal Procedure Rules 2012.

Amongst other changes, the existing rules about bail applications and appeals, the statement of a case by a magistrates’ court for an appeal, the service of documents in criminal cases and applications for investigation orders are to be revoked and replaced from 1 October 2012.

SI 2012/1769 Serious Organised Crime and Police Act 2005 (Designated Sites under Section 128) (Amendment) Order 2012

From **1 October 2012**, this Order designates Kensington Palace in London as a site to which a new offence of criminal trespass into secure or specified Royal or government premises applies by adding it to the list of sites designated under section 128 of the Serious Organised Crime and Police Act 2005 in article 2. A person entering on such a site as a trespasser will commit an offence under section 128(1) of that Act.

SI 2012/1697 The Domestic Violence, Crime and Victims Act 2004 (Commencement No. 15) Order 2012

This Order brings into force on **1 October 2012** section 15 of the Domestic Violence, Crime and Victims Act 2004. This provision amends section 3 of the Criminal Justice and Police Act

2001 to increase the maximum level at which the Secretary of State may set the amount of a Penalty Notice under Chapter 1, Part 1 of that Act, from a quarter of the maximum fine payable on summary conviction in respect of a penalty offence, to one quarter of the maximum fine, plus one half of the relevant surcharge payable under section 161A of the Criminal Justice Act 2003.

SI 2012/1696 The Criminal Justice Act 2003 (Surcharge) Order 2012

This Order (the 2012 Order) comes into force on **1 October 2012** and replaces the Criminal Justice Act 2003 (Surcharge) (No. 2) Order 2007 (the 2007 Order). Like the 2007 Order, the 2012 Order specifies when a court's duty to order a victim's surcharge under section 161A of the Criminal Justice Act 2003 (the 2003 Act) does not apply, and specifies the amount payable by way of a surcharge when the duty does apply.

The 2012 Order will revoke the 2007 Order, but makes transitional provision to ensure that the 2007 Order will continue to apply in any case in which a court deals with an offender for one or more offences committed before 1 October 2012.

SI 2012/1690 The Police (Collaboration: Specified Function) Order 2012

This Order came into force on **29 June 2012** and specifies the provision of police air support as a function that must be exercised in relation to all police areas in England and Wales in accordance with provision contained in a single police collaboration agreement made under section 22A of the Police Act 1996. The Order will support the more economic, effective and efficient use of the resources allocated to the provision of police air support in the 43 police areas in England and Wales.

SI 2012/1810 Coroners and Justice Act 2009 (Commencement No. 9) Order 2012

This Order brings into force section 117(1) (2) and (3) of the Coroners and Justice Act 2009 on **7 August 2012**. These provisions amend section 36 of the Terrorism Act 2006 so that the independent reviewer of terrorism may consider as part of their review whether requirements and practices have been complied with in relation to persons detained under section 41 of the Terrorism Act 2000.

SI 2012/1883 The Sexual Offences Act 2003 (Remedial) Order 2012

This Order came into force on **30 July 2012**. This Order amends the Sexual Offences Act 2003 (the 2003 Act) to remedy an incompatibility with a Convention right in relation to the indefinite notification requirements contained in section 82(1) of the 2003 Act. This Order extends to England and Wales only.

Article 3 of this Order inserts sections 91A to 91G into Part 2 of the 2003 Act. These provisions provide a mechanism for a relevant offender to apply to the police for a review of the requirement that the relevant offender remain subject to the indefinite notification requirements which apply by virtue of section 82(1) of the 2003 Act.

**SI 2012/1876 The Sexual Offences Act 2003
(Notification Requirements) (England and
Wales) Regulations 2012**

These Regulations come into force on **13 August 2012** and amend the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004 and introduce new notification requirements under the Sexual Offences Act 2003. Part 2 of the 2003 Act imposes notification requirements on offenders convicted of certain sex offences. These offenders are called 'relevant offenders'. The 2003 Act requires relevant offenders to notify certain personal information to the police, both at the outset and periodically thereafter (and to notify certain changes of circumstances).

These Regulations amend the 2004 Regulations and impose new notification requirements on relevant offenders.

Independent Review of ACPO Operational Activity

The Home Office and the Association of Chief Police Officers (ACPO) have jointly commissioned Professor Sir David Omand (King's College, London) and Sir Denis O'Connor (HM Chief Inspector of Constabulary) to undertake an independent review on the future of ACPO's operational activities.

The purpose of the review is to identify and assess ACPO's operational activities and make recommendations on future location, management and governance. The review will take into account work already undertaken by ACPO and HMIC, and will involve the police service, Home Office and other government departments as appropriate.

ACPO (TAM) will be excluded from the review but a review of the Police National Information Co-ordination Centre (PNICC) will be a key element of this work. In particular the review will:

- ◆ Consider the current effectiveness of PNICC;
- ◆ Consider the critical elements of a national coordination function for the police service including consideration of a possible national mobilisation centre;
- ◆ Consider the need for an effective coordinated response to international events involving UK residents;
- ◆ Consider the need to coordinate effectively with existing arrangements to respond to terrorist incidents;
- ◆ Consider the existing arrangements in place within other emergency services, both as a comparator, and in terms of coordination;
- ◆ Consider the response needed against national requirements, including those set out in the National Risk Assessment and National Resilience Planning Assumptions;
- ◆ Consider the effectiveness of this function in supporting the Strategic Policing Requirement in the future for government, Police and Crime Commissioners and Chief Constables, including powers of decision;
- ◆ Consider the need for the coordination function to link effectively with, and support, cross Government and central Government resilience and response arrangements;
- ◆ Consider the infrastructure and resources needed to deal with different responses, against a range of scenarios, which are affordable within existing police budgets.

The strategic review will report shortly after the London 2012 Olympic and Paralympic Games.

Further details about the review can be found at:
<http://www.homeoffice.gov.uk/publications/police/acpo-operational-activity-review>

First Anniversary of the Police National Database

The Police National Database (PND), delivered by the National Policing Improvement Agency is playing an important role in safeguarding potential victims and bringing offenders to justice more quickly. In the first year of its operation, the PND has transformed the way police and law enforcement agencies in the UK share locally held intelligence and information. They are now able to see the full intelligence picture immediately, and identify patterns of criminal behaviour much earlier.

Since its launch, more than 700,000 searches have been conducted on the PND for information and there have been many successes that have included:

- ◆ Providing intelligence about an organised crime gang involved in the wholesale supply of drugs;
- ◆ Identifying potential leads in a double murder investigation;
- ◆ Helping police to track down a missing Registered Sex Offender; and
- ◆ Providing more information about a domestic violence offender which led police to identify a further individual who was a repeat victim.

The PND has been delivered by the NPIA in partnership with the police service, and technology and service company Logica. Working with Logica, the agency has implemented a series of upgrades to the PND to make it easier to identify and trace suspects from only limited information available to investigators. These include searches relating to an individual's description, such as distinguishing marks, height, gender or age, and other information linked directly to a suspect such as objects, locations or police records such as crime reports or custody information.

The Police National Database fulfilled the primary recommendation of Lord Michael Bichard's inquiry into the failings in police intelligence sharing which led to the Soham murders in 2002. Lord Bichard recommended that a national IT system to support police intelligence sharing in England and Wales should be introduced as a matter of urgency.

The PND does not create new information; it copies existing locally-held intelligence and information from police forces' crime, intelligence, custody, and domestic violence and child abuse databases. Access to and use of the PND is strictly

controlled so that only authorised and appropriately vetted users are able to access the system.

Further information about the first year of the operation of the PND can be found at:

<http://npia.pressofficeadmin.com/index.php/component/content/article/38-press-releases/472>

Consultation on Revised IPCC Statutory Guidance to the Police Service on the Handling of Complaints

The Independent Police Complaints Commission (IPCC) has launched a consultation on proposed new Statutory Guidance for the police service on the handling of complaints.

The IPCC has a statutory duty to secure and maintain public confidence in the police complaints system in England and Wales. This guidance has an important part to play in this. It is one of the ways in which the IPCC assists local policing bodies and forces to comply with their legal obligations and achieve high standards in the handling of complaints, conduct and death and serious injury matters. The Police Reform and Social Responsibility Act 2011 introduced a number of changes to the police complaints system which come into effect on 22 November 2012. These changes have been incorporated into the IPCC guidance.

The guidance, issued under Section 22 of the Police Reform Act 2002, applies to local policing bodies and all 43 Home Office forces in England and Wales. Police officers, police staff members and special constables working within those forces must all have regard to this guidance. If they do not follow the guidance, they need to have a sound rationale for departing from it or risk legal challenge. In addition, a failure to have regard to this guidance is admissible in evidence in any disciplinary proceedings and any appeal proceedings following a disciplinary decision. The IPCC is now seeking feedback on the draft revised guidance from stakeholders. The closing date for responses to the consultation is 17 September 2012.

The draft guidance document and the accompanying consultation questions can be found at:

<http://www.ipcc.gov.uk/en/Pages/consultation.aspx>

Domestic Violence Disclosure Scheme Pilots

Police in Gwent and Wiltshire will be the first to start piloting the Domestic Violence Disclosure Scheme, also known as Clare's Law. Forces in Nottinghamshire and Greater Manchester will join the pilot, which runs until 2013, in September.

Under the scheme women will have the right to ask the police whether a new or existing partner has a violent past. If police checks show that a person may be at risk of domestic violence from their partner, the police will consider disclosing the information.

The pilots will also look at how the police can proactively release information to protect a person from domestic violence where it is lawful, necessary and proportionate to do so. The Home Office has developed guidance for the pilots to help ensure that recognised and consistent processes are in place.

The guidance for the pilots can be accessed at:

<http://www.homeoffice.gov.uk/publications/crime/dvds-interim-guidance?view=Standard&pubID=1055376>

HMIC Report Policing in Austerity: One Year On

Her Majesty's Inspectorate of Constabulary (HMIC) has published a report looking at whether police forces and authorities have achieved their goals for the first year of the spending review.

In October 2011, the Government announced that the central funding provided to the police service would reduce by 20% in the four years between March 2011 and March 2015. In spring 2011, Her Majesty's Inspectorate of Constabulary (HMIC) carried out an inspection of forces and authorities across England and Wales to examine their preparedness to make these savings. The results of that inspection were published in July 2011 in HMIC's report 'Adapting to Austerity.'

This report not only looks at whether forces and authorities have achieved their goals for the first year of the spending review but also considers how they now plan to meet the remaining challenge as they enter the second year of the review. The review contains data and analysis which enables the public, their elected representatives and the police to see how their force compares with others.

Key Findings

HMIC found that the Police Service is generally rising to the tough challenge posed by the spending review and taking steps to protect frontline services. Key findings included the following:

- ◆ Forces are balancing their books by cutting the workforce and reducing their spending on goods and services;
- ◆ The front line is being protected, although not preserved;
- ◆ The nature of the front line is changing;

- ◆ Service to the public has largely been maintained; but
- ◆ There are some concerns around sustainability.

Forces are balancing their books by cutting the workforce and reducing their spending on goods and services

- ◆ Force data showed that they needed to save £768m by the end of March 2012. They planned to balance the books by reducing their workforces by 17,600 posts between March 2010 and March 2012, cutting their spending on goods and services by around £185m and using over £28m of their reserves;
- ◆ By the end of March 2015 forces plan to reduce their workforces by 32,400 (including at least 15,000 officers), and to cut their spending on goods and services by around £474m. Most forces can then balance the books by using reserves; but there is still a shortfall of £302m in the total amount of savings (£2.4bn) required by 2014/15. Closing this gap may mean a further reduction in police staff or officer numbers;
- ◆ The Metropolitan Police Service's funding gap represents £233m of the total £302m shortfall. The MPS does not yet have a developed plan to resolve this but the Deputy Mayor for Policing and Crime and the MPS Commissioner have declared a firm intention to deal with the issue, and are currently developing their approach;
- ◆ Forces plan to make 24% of their savings from goods and services such as IT, facilities management, uniform and equipment.

The front line is being protected, although not preserved

HMIC defines the police front line as "those who are in everyday contact with the public and who directly intervene to keep people safe and enforce the law". This definition was developed with ACPO and the Association of Police Authorities.

HMIC found that:

- ◆ On average, forces plan to reduce frontline workforce numbers by 6% and non-frontline workforce numbers by 33% between March 2010 and March 2015. Over the same period, they will cut frontline officer numbers by 6%, and non-frontline officer numbers by 42%;
- ◆ The size of the workforce will be smaller, but more of those who remain will be in frontline roles. Forces plans show that they aim to increase the proportion of their total workforce on the front line, from two-thirds in March 2010 to almost three-quarters in March 2015 (67% to 74%). At the same time however, the frontline workforce will still shrink by 6%, or 8,100 posts;

- ◆ Forces will also increase the proportion of officers on the front line, from 83% in March 2010 to 89% by March 2015. Almost half plan to have more than 90% of their officers in frontline roles by March 2015. However, this percentage varies from force to force, and overall forces currently plan to have 6% or 5,800 fewer officers in frontline roles;
- ◆ In addition, plugging the outstanding £302m funding gap might require a further reduction of officer numbers;
- ◆ Forces plan to reduce the number of police officers in non-front line roles from 17,900 in March 2010 to 10,300 by March 2015, equivalent to a reduction of 42%. In particular, they intend to cut the number of officers in back office roles such as training. This excludes the MPS and Cheshire. If they are included, the 2010 baseline is 24,600 non-frontline police officers, projected to fall to 17,300 by 2013.

The nature of the frontline is changing

HMIC found that as forces plan to reduce the frontline by 2,700 officers in Year 1 of the spending review they are changing how it is structured. Particular changes include:

- ◆ Divisions between local response, investigation and community teams are becoming less distinct, and officers are increasingly expected to carry out a wider range of activity. This approach may allow teams to manage peaks in workloads more efficiently;
- ◆ Local restructures have also meant that forces plan an extra 6% of spending in investigation teams which are less visible to the public;
- ◆ A planned 9% increase of spending in public protection roles, such as the management of sex offenders and child protection, as demand in these areas continues to increase;
- ◆ More efficient working practices are being implemented to try and ensure that fewer officers can continue to carry out the tasks the public expect of them (such as visibly patrolling communities, responding to incidents, and investigating crime). Forces are using technology (such as mobile devices), different approaches (e.g. single patrolling to increase the ground covered per officer), and in some cases collaboration with other forces and private sector partners to make their resources stretch further. They are closing police station front counters that are not well used and instead sharing accommodation or providing services online;
- ◆ A planned increase in the use of special constables to extend forces frontline capacity. Forces plan to recruit around 9,000 volunteer special constables by 2014/15 (an increase of

58% from March 2010). Specials are already being used effectively in frontline areas (such as response) at busy times. If the public join up in these numbers, it will provide further flexibility and resilience for police forces;

- ◆ Both the pace and extent of collaboration activity are increasing, with forces saving money by working jointly with each other, with other public organisations and with the private sector. Forces plan to make £169m of savings from collaboration over the spending review period, which equates to 11% of the savings requirement; but this varies from force to force. Forces are planning to collaborate across a broad range of functions and by 2014/15 around a sixth of policing will be delivered through collaboration but again this varies from force to force.

Service to the public has been largely maintained

HMIC looked at the impact of making savings on key areas of interest to the public, including crime levels; user satisfaction; visibility of local policing services; and how responsive the police are when the public seek assistance. HMIC found that:

- ◆ Overall crime levels fell by 3% between years ending December 2010 and December 2011;
- ◆ At the same time, the overall level of victim satisfaction among members of the public who have contacted the police increased from 83.4% to 83.9%;
- ◆ There was no significant link between crime levels and the scale of the budget reduction. Similarly, there was no evidence of a correlation between the change in number of officers and the change in total recorded crime;
- ◆ The level of satisfaction among victims who contacted the police specifically about Anti-Social Behaviour has also increased, with some improvement in all forces;
- ◆ Although both the number and the proportion of officers in visible and available roles has declined slightly, a survey of 1,322 members of the general public conducted as part of this review found that the majority of respondents had noticed no change in how often they saw the police on a day-to-day basis;
- ◆ Based on a small sample of calls examined as part of this review, the majority of forces are not taking longer to respond to emergency calls, despite the reduction in response officer numbers. All forces have a presence on social media; and while all also provide some web-based services, the range of facilities varies.

HMIC has some concerns around sustainability

HMIC has put together information on a range of efficiency and effectiveness indicators for each force (included at Annex B of the report) which forces can use to compare themselves against others. HMIC considered forces' financial plans and operational contexts in assessing if any gave cause for concern. HMIC were looking for multiple issues, such as:

- ◆ Forces planning to have a smaller proportion of frontline officers than other forces, with more officers in the non-front line, while crime levels in their area are increasing;
- ◆ Forces planning to cut a larger proportion of police officer roles than other forces, and to have fewer officers on the front line, with more in non-front line roles; or
- ◆ Forces still drawing up their plans for delivering spending review savings, while some crimes (such as burglary and robbery) are increasing in their area, and user satisfaction levels are comparatively low.

The forces that HMIC identified as giving cause for concern were Devon and Cornwall Police; Lincolnshire Police and the Metropolitan Police. HMIC considered that the Metropolitan Police Service presented the most significant level of both financial and performance issues; and as the biggest force in England and Wales, it was therefore of the greatest concern.

Conclusion

The HMIC review concluded that the majority of forces have plans in place to balance their books and 31 forces and authorities already have plans in place to save all the money they need to by 2015. Forces plan to reduce their total workforce by 32,400 by the end of March 2015. This includes 15,000 officers, of which at least 7,600 will be from non-frontline areas. A survey conducted by HMIC alongside this review suggests that on the whole the public have not noticed a change to the service they receive.

With just under 20% of police budgets spent on goods and services (IT, facilities management, uniform and equipment), HMIC found that nationally 24% of the savings are being made from non-pay, although there is significant variation (from 8% to over 50%). One of the ways forces are making savings is through collaboration with other forces or the private sector.

HMIC found that forces are generally achieving the rest of the savings through a series of measured changes to the way they work. These are taking place to varying degrees across forces; some are not fully implemented; and the effects of many are still to be felt.

HMIC considered that there is a risk that three forces may not be able to provide a sufficiently efficient or effective service for the public in the future. These forces are Devon and Cornwall Police; Lincolnshire Police; and the Metropolitan Police Service.

Recommendations

HMIC recommends that all forces and authorities consider the data and analysis contained within this report, to see how their efficiency and effectiveness compares with others. Annex B sets out a package of efficiency indicators that may help forces to make this comparison. HMIC will continue to monitor the efficiency and effectiveness of all forces but particularly those it has identified as presenting multiple causes for concern.

HMIC intends to develop a further round of inspections and plans in particular to:

- ◆ Do further work on the constable as an independent practitioner;
- ◆ Follow up on the issue of police officers in the non-frontline and back office; and
- ◆ Work with the National Audit Office to inspect a major force procurement, in order to identify good practice and learning from collaboration with the private sector in the context of austerity (with the aim of publishing the results in autumn 2012).

The full report 'Policing in Austerity: One year on' can be found at:

<http://www.hmic.gov.uk/publication/policing-in-austerity-one-year-on/>

IPCC Report: Deaths During or Following Police Contact

The Independent Police Complaints Commission (IPCC) has published its annual report into deaths during or following police contact. This report presents figures on deaths during or following police contact which occurred between 1 April 2011 and 31 March 2012. It provides a definitive set of figures for England and Wales and an overview of the nature and circumstances in which these deaths occurred.

The report shows that the general trend of a reduction in these fatalities over the last eight years has continued and that there were:

- ◆ 18 police road traffic fatalities;
- ◆ 2 fatal police shootings;

- ◆ 15 deaths in or following police custody;
- ◆ 39 apparent suicides following release from police custody;
- ◆ 47 other deaths following police contact.

The number of road traffic fatalities and apparent suicides following police custody are the lowest recorded since the IPCC began work in 2004. The 15 deaths occurring in or following police custody equals the lowest number recorded during that period, in 2008/09.

The two fatal shootings took place in the Greater Manchester and Metropolitan police areas. Both are the subject of independent IPCC investigations.

Of the 18 police road traffic deaths, all were male. The average age of those who died was 34, three were under 18 and the two youngest were both 16 years old.

Of the 15 who died in or following police custody, five were taken ill or identified as being unwell at the point of arrest. Ten were taken ill or identified as being unwell at a police station or in a police vehicle.

The number of apparent suicides following release from custody fell to 39.

The report shows that in a high proportion of deaths, the person was known to have mental health or substance misuse issues.

Under the Police Reform Act 2002 forces in England and Wales must refer to the IPCC any incident or complaint involving a death which has occurred during or following police contact and where there is an allegation or indication that the police contact contributed to the death.

The full report, Deaths during or following police contact: Statistics for England and Wales 2011/12 can be found at: http://www.ipcc.gov.uk/en/Pages/reports_reports_polcustody.aspx

Revised PACE Codes of Practice and New Terrorism Codes of Practice in Force

Revised PACE Codes of Practice

The Police and Criminal Evidence Act 1984 (Codes of Practice) (Revision of Codes C, G and H) Order 2012 (SI 2012/1798) came into force on 10 July 2012.

This Order brings into force revised codes of practice under section 66(1) of the Police and Criminal Evidence Act 1984, which will supersede the corresponding existing codes of practice issued under that section. Revised PACE Codes C and H came into operation after midnight 10 July 2012 and revised Code G will come into effect on 12 November 2012.

The amendments to Code C implement improvements and safeguards concerning the care and treatment of detainees and the right to legal advice. These amendments are mirrored in the amendments to Code H. The revisions to Code H also implement post-charge questioning which may be authorised under the Counter-Terrorism Act 2008 and reflect changes to terrorism detention provisions. The amendments to Code G update the provisions and guidance on the exercise by police of their statutory power under section 24 of the Police and Criminal Evidence Act 1984 to arrest any person without warrant for any offence. These amendments clarify and emphasise the application of the statutory necessity criteria in section 24(5) of PACE and reflect a number of court judgments. The changes to the PACE Codes were considered in more detail in the July *Digest*.

New Terrorism Codes of Practice

- ◆ The Protection of Freedoms Act 2012 (Commencement No. 1) Order 2012 (SI 2012/1205) repealed sections 44 to 47 TA 2000 and brought into force the new stop and search powers in new sections 43A and 47A of the Terrorism Act 2000 with effect from 10 July 2012.
- ◆ The Counter-Terrorism Act 2008 (Commencement No. 6) Order 2012 (SI 2012/1724) brought into force sections 22-25 CTA 2008 (post charge questioning and recording of interviews) on 10 July 2012.
- ◆ The Terrorism Act 2000 (Codes of Practice for the Exercise of Stop and Search Powers) Order 2012 (SI 2012/1794) came into force on 10 July 2012. This order brought into force two stop and search codes of practice for searches under sections 43 and 43A TA 2000, and the authorisation of stop and search powers relating to section 47A and Schedule 6B to TA 2000. One Code of practice is for England, Scotland and Wales and the other for Northern Ireland.

- ◆ The Counter-Terrorism Act 2008 (Code of Practice for the Video Recording with Sound of Post-Charge Questioning) Order 2012 (SI 2012/1793) came into force on 10 July 2012 and brought into force the code of practice for the video recording with sound of interviews where such questioning has been authorised in accordance with sections 22 to 23 of the Counter-Terrorism Act 2008.
- ◆ The Terrorism Act 2000 (Video Recording with Sound of Interviews and Associated Code of Practice) Order 2012 (SI 2012/1792) also came into force on 10 July 2012 and brought the code of practice for the video recording with sound of interviews into force in respect of interviews conducted under section 41 of or Schedule 7 to the Terrorism Act 2000.

A summary of the new terrorism provisions and the new codes of practice can be found in the July *Digest*.

The new PACE codes of practice can be found at:

<http://www.homeoffice.gov.uk/police/powers/pace-codes/>

The new code of practice for the exercise of stop and search powers for England, Scotland and Wales can be found at:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/stop-search-code-of-practice?view=Standard&pubID=1054317>

The new stop and search code of practice for Northern Ireland can be found at:

<http://www.nio.gov.uk/>

The code of practice for the video recording with sound of interviews can be found at:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/video-recording-code-of-practice>

Forced Marriage to be made a Criminal Offence

The Government has published a summary of responses to its consultation on forced marriage. The consultation, launched in December 2011, sought views on how the Government might implement the criminalisation of a breach of a forced marriage protection order (FMPO) and whether to criminalise forced marriage. Views were sought from key partners, and directly affected parties including victims of forced marriage, the police, local authorities, legal practitioners, third sector agencies, and others with a direct interest in tackling forced marriage. Comments were also invited from members of the public.

The common themes that emerged from the responses to the consultation included:

- ◆ Broad support among key stakeholders such as the police, the voluntary sector and the legal profession for

new legislation to criminalise FMPO breach, which many considered would bolster the effectiveness of the Forced Marriage (Civil Protection) Act 2007;

- ◆ General consensus that the non-molestation order model should form the basis of new legislation to make breach of a FMPO an offence;
- ◆ General agreement that victims should have a choice of using the existing civil remedy in relation to breach, for example if the Crown Prosecution Service decided that there was not enough evidence to prosecute alleged perpetrators;
- ◆ Agreement that additional support mechanisms were needed to assist and protect victims who disclosed the breaches or were engaged in criminal proceedings.

After considering the responses, the Government has decided to make forced marriage a criminal offence. The proposal is that the new law would be accompanied by a range of measures to increase protection and support for victims with a continuing focus on prevention.

Responses to the consultation paper can be found on the Home Office website at:

<http://www.homeoffice.gov.uk/publications/about-us/consultations/forced-marriage/>

Crime Statistics for England and Wales Published

The Office for National Statistics (ONS) has published the latest crime figures for the year April 2011 to March 2012. The quarterly release presents the most recent crime statistics from two different sources: the Crime Survey for England and Wales (CSEW, previously known as the British Crime Survey), and police recorded crime.

Key findings

- ◆ Latest figures from the CSEW show no change in overall crime against adults compared with the 2010/11 survey. Crimes recorded by the police fell by 4 per cent between 2010/11 and 2011/12. Overall the number of police recorded crimes dropped to just below 4 million in 2011/12;
- ◆ CSEW crime has remained at the same level in the last three years. Prior to this there were large reductions between the 1995 and 2004/05 CSEW, after which the rate of decline slowed. Police recorded crime has continued to show annual reductions since 2004/05;
- ◆ Whilst most categories of police recorded crime fell in 2011/12 compared with 2010/11, there was a 2 per cent increase in other theft offences. This was driven principally

by rises in theft of unattended property, theft from the person, bicycle theft and shoplifting;

- ◆ Estimates over the last four years indicate an upward trend in CSEW other household theft. This category includes theft of household items which are taken from outside the dwelling (e.g. garden furniture);
- ◆ 2011/12 police recorded crime figures for robbery fell by 2 per cent compared with the previous year. The Metropolitan Police force area showed higher levels of robbery compared with 2010/11 whilst most other police forces areas showed reductions;
- ◆ Police recorded violence against the person decreased by 7 per cent, continuing the downward trend in recent years. More serious violent crimes such as homicide and grievous bodily harm showed marked decreases in 2011/12 compared with the previous year.

The ONS has also published an accompanying document which looks at the headline crime statistics for England and Wales in the context of longer term trends, the wider research literature and international trends.

The statistical bulletin 'Crime in England and Wales, Quarterly First Release to March 2012' and the accompanying document discussing the trends in crime can be accessed in full at: <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-march-2012/stb-crime-stats-end-march-2012.html>

<http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/period-ending-march-2012/trends-in-crime--a-short-story.html>

Consultation Response: Dealing with the Problems of Late Night Drinking

The Government has published its response to the consultation on 'Dealing with the Problems of Late Night Drinking.'

The consultation concerned two measures in the Police Reform and Social Responsibility Act 2011 that will be implemented through regulations: early morning restriction orders (EMROs) and the late night levy. The consultation sought views on certain aspects of EMROs and the late night levy, including the process of adopting an EMRO and/or the levy; and the categories of business which will be exempt from any EMRO.

The Government response confirms its commitment to ensuring that licensing authorities and enforcement agencies are given the right tools to address the problems in their area, whilst promoting a healthy night-time economy to benefit business

and the community that they serve. EMROs will give licensing authorities the freedom to respond to the needs of their local area. The Government's decision that there should be no exemptions from any EMRO ensures that licensing authorities can apply them to the crime hotspots in their area, without the risk that their effect will be diluted.

The levy will contribute to the costs incurred by licensing authorities and the police when tackling alcohol-related crime late at night so that taxpayers do not bear the full burden of these costs, rather than those who sell alcohol. Exemptions will be available, at the discretion of the licensing authority, to premises that are not part of the wider night-time economy. This is to ensure that a meaningful contribution is raised to tackle alcohol-related crime and disorder subject to secondary legislation. Reductions will also be available, to allow licensing authorities to use the levy to promote and support participation in other business-led best practice schemes.

The Government intends to commence the provisions containing the framework for EMROs and the levy in October 2012. Guidance in relation to EMROs will be included in statutory guidance issued under section 182 of the 2003 Act.

The Government's response can be found in full at:
<http://www.homeoffice.gov.uk/publications/about-us/consultations/late-night-drinking/>

Domestic Violence Protection Notices and Orders

On 30 June 2012, the domestic violence protection order (DVPO) provisions operating in the West Mercia, Wiltshire and Greater Manchester police force areas were extended for another year.

The domestic violence protection order (DVPO) pilot closed on Saturday 30 June 2012, but all three police forces will continue the scheme for a further year while the Home Office evaluates the pilot to assess whether or not a change in the law is needed.

Under the scheme the police and magistrates can protect a victim when they are at their most vulnerable, in the immediate aftermath of an attack, by preventing the perpetrator from contacting the victim or returning to their home for up to 28 days. This helps victims who may otherwise have had to leave their home and gives them the space and time to access the support they need and to consider their options.

Previously, there had been a gap in protection for victims of domestic violence due to either the police being unable to charge the perpetrator due to lack of evidence or the process for granting longer-term injunctions taking several days or

weeks to apply for. DVPOs are designed to bridge this gap by empowering the police and magistrates to issue an immediate order to ban the perpetrator from returning home or making contact with the victim for up to 28 days.

The Home Office has commissioned an evaluation of the pilot to capture lessons learnt and explore the implications of DVPOs for victims, perpetrators and criminal justice agencies. Pending the evaluation reporting in late summer 2013, the Home Office has published interim guidance. Further information about the pilot and the interim guidance can be found at:

<http://www.homeoffice.gov.uk/crime/violence-against-women-girls/domestic-violence/dv-protection-orders/>

Memorandum of Understanding: Handling of Cases Involving Undercover Officers

A memorandum of understanding (MOU) to ensure consistent and thorough handling of cases involving undercover officers where there may be a criminal prosecution has been signed by the Crown Prosecution Service (CPS), Association of Chief Police Officers (ACPO), Serious Organised Crime Agency (SOCA) and Her Majesty's Revenue and Customs (HMRC).

The agreement, signed in June 2012, directs that close and early working between relevant organisations takes place so that the best evidence is gathered for prospective court cases, and more criminals are brought to justice.

The purpose of the agreement is to ensure that investigators and prosecutors work closely together from the very outset of any relevant covert operations and that all necessary actions are carried out and documented.

The Memorandum of Understanding will apply whenever:

- ◆ There is a use and conduct authorisation for the deployment of an undercover officer under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA);
- ◆ The undercover officer has been authorised in circumstances in which a prosecution is contemplated, or where it has become apparent that there is the clear potential for a prosecution;
- ◆ The investigation is being carried out (alone or jointly) by any ACPO police force, the Serious Organised Crime Agency, the UK Border Agency or Her Majesty's Revenue and Customs; and
- ◆ Any prosecution or advice on a possible prosecution would fall to be considered by the Crown Prosecution Service.

The Memorandum of Understanding will be reviewed after it has been in place for 6 months, so that its implementation and impact can be assessed. Further information about the MOU can be found at:

http://www.cps.gov.uk/news/press_releases/closer_working_on_prosecution_cases_involving_undercover_police_officers_as_agreement_is_signed_between_investigators_and_prosecutors/

Reading the Riots Research Study Published

A project run jointly by the Guardian and the London School of Economics (LSE), the aim of which was to produce evidence-based social research that would help explain why the rioting spread across England in the summer of 2011, has published its findings.

'Reading the Riots' is the only research study into the causes and consequences of the August 2011 riots involving interviews with large numbers of people who actually took part in the disorder. The interviews with 270 people directly involved in the August riots formed the core of the first phase of Reading the Riots. The report of the first phase was published in December 2011.

The second phase of Reading the Riots sought to better understand how the courts and the criminal justice system coped after the riots, using interviews with judges and magistrates, as well as court staff, prosecutors, defence lawyers and the police. The project found that many police expect more rioting and feel they may not be equipped to cope. However the police also reported huge public support for their work and said that their general strategy for containing the disorder was correct.

The report's key findings on policing were:

- ◆ Many officers from all ranks expect a repeat of the riots that spread across England last summer and are concerned they may not have the resources to cope with future unrest on such a scale;
- ◆ In the hours and days after the disorder, police in riot-affected areas reported unprecedented displays of support from members of the public, sometimes from people who were normally unfriendly. Many cited these gestures as their abiding memory of the riots;
- ◆ The system of "mutual aid" between forces failed to bolster the available resources at a critical time in the capital. The Met did not activate a national alarm system to call for more resources until the third and final day of riots in the capital. Once officers from other forces arrived, they were restricted by poor communication with central command;
- ◆ Forces across England did not know how to respond to social media networks, particularly encrypted Blackberry Messaging, which enabled rioters and looters to organise and at times outmanoeuvre police. Control rooms were also swamped with intelligence from the internet and unable to sort rumour from fact on Twitter and Face book, leading to mistakes when deploying resources;

- ◆ However, police believe their general strategy in August, which focused on the protection of life and the use of the minimum force necessary to disperse crowds, was the correct approach, and almost certainly reduced the overall number of injuries and deaths. They also believe that relying on CCTV evidence as the basis for later arrests has been vindicated by the thousands of convictions for riot-related offences;
- ◆ Police agree the Met was too slow in mobilising sufficient numbers of police in London and should have attempted to prevent looting more quickly. Police in Manchester, Birmingham and Liverpool, who had greater time to prepare and were faced with less extensive disorder, were able to deploy proportionately greater numbers of officers;
- ◆ Officers were largely content with their equipment and training, and do not believe they need further powers to tackle rioters. One of the most common complaints from front-line officers was lack of food and water. Radio communications were also said by many police to have been overwhelmed by the sheer amount of communications;
- ◆ Police of all ranks were shocked and surprised by the extent and nature of violence directed at them, as well as the speed with which it escalated. Police generally believed that, should further riots occur, greater numbers of officers on the ground were far more important, and likely to be more effective, than introducing new water cannon or using plastic bullets;
- ◆ Police across the country said there had been a shift in training and tactics introduced since the Met's controversial handling of the G20 protests in London, which led to complaints of heavy-handed policing and the death of the newspaper seller Ian Tomlinson. On the whole, officers supported the new, consent based approach to public order policing;
- ◆ Police of all ranks said they were astonished no colleagues were killed. Nearly all of the officers interviewed described the riots as the greatest physical and psychological challenge of their careers. Most remain deeply proud about the heroism shown by their colleagues.

Further information about the reading the riots research can be found at:

<http://www.guardian.co.uk/uk/series/reading-the-riots>

Research Report on the Use of Out of Court Disposals Published by Policy Exchange

A new report published by the think tank Policy Exchange shows that there is widespread and inconsistent use of out-of-court disposals such as cautions and penalty notices. The report 'Proceed with Caution' also found that some serious offenders are escaping justice by avoiding prosecution or by simply not paying a penalty notice.

Analysis of 2011 Ministry of Justice data showed that despite peaking in 2007, the total number of out-of-court disposals issued in 2011 was still 68% higher than in 2003 and in some circumstances, cautions were being used in response to serious offences. Data from Freedom of Information requests to 43 police forces across England and Wales showed that 828 cautions were handed out in 2011 for three very serious (or "indictable-only") offences - robbery, grievous bodily harm with intent, and racially or religiously aggravated criminal damage.

The report recommends a shake-up of the criminal justice system to prevent inappropriate and erratic use of cautions and penalty notices and to bring greater transparency and accountability to the regime for out-of-court disposals.

The specific recommendations made in the report are:

- ◆ To ensure justice and to maintain public support, there needs to be a much more systematic administration of out-of-court disposals with a view to creating a single guidance regime that applies to simple and conditional cautions, cannabis warnings and penalty notices. This should include consideration of the implications for the offender of criminal records bureau checks and the Rehabilitation of Offenders Act 1974 and associated reforms;
- ◆ Aside from infrequent national inspections, there is no formal oversight of the administration of out-of-court disposals in local police areas. The Ministry of Justice should explore what role the magistracy might play in providing local oversight of these sanctions and their subsequent operation to help monitor for erratic or inappropriate use in cases that should be prosecuted and taken to court;
- ◆ The lack of detailed and transparent data on the use of out of court disposals contributes to uncertainty over their appropriate use and undermines public confidence. A requirement should be placed on police forces to routinely publish breakdowns of out-of- court disposals in their area, with clear explanations of the disposals and the offences for which they were given;

- ◆ From November 2012, elected Police & Crime Commissioners (PCCs) should regard the use of out-of-court disposals as an important factor for monitoring local police response to offending. Ultimately, PCCs should be answerable to ensure that cautions, Penalty Notices for Disorder and other out-of-court disposals are being applied appropriately in the interests of justice, and never to boost detection rates.

The full report of the review 'Proceed with Caution: Use of Out-of-Court Disposals in England & Wales' can be accessed at: http://www.policyexchange.org.uk/publications/item/proceed-with-caution?category_id=24

Criminal Records and Independent Safeguarding Arrangements

The Home Office has published a leaflet highlighting important changes which the Government will be making to criminal records and barring arrangements in September 2012.

The leaflet is aimed at organisations, including employers, voluntary groups and charities whose work involves children and other vulnerable groups.

The leaflet can be found at: <http://www.isa.homeoffice.gov.uk/Default.aspx?page=502>

Fair Access to Justice Report Published by the Prison Reform Trust

The Prison Reform Trust has published a report for criminal justice professionals. The report examines the current arrangements for special measures for vulnerable witnesses and defendants and makes various recommendations to improve the support for vulnerable witnesses, victims and defendants.

The report states that high numbers of defendants have particular support needs which, if left unmet, can affect their ability to participate effectively in court proceedings and compromise their right to a fair trial, as protected by Article 6 of the European Convention on Human Rights.

The report identifies that court proceedings can be especially challenging for certain defendants, such as children and adults with particular disabilities, so rendering the individual 'vulnerable'. In these instances certain support or special measures can be made available to assist the vulnerable defendant, so helping to ensure their effective participation in court proceedings and right to a fair trial. However, the availability of special measures for defendants is problematic for two main reasons:

- ◆ There is no routine or systematic procedure for identifying the particular support needs of defendants;
- ◆ There are few special measures available, in statute, for defendants in need of such support.

The report sets out the legal framework governing the treatment of defendants in court, the availability of special measures for defendants and of intermediaries, in particular, and the lack of parity between vulnerable defendants and vulnerable witnesses. The role of the newly developing liaison and diversion services is also considered as it relates to identifying and supporting vulnerable defendants, and clear recommendations are made.

According to the report, current arrangements for special measures to support individuals rendered vulnerable by court proceedings are inequitable. Vulnerable witnesses are, by statute, able to access certain support (special measures), such as an intermediary, whereas vulnerable defendants do not have statutory protection and must rely on the discretion of the individual court and on the common law.

Recommendations

Support for vulnerable defendants:

The report recommends that special measures available to vulnerable witnesses and vulnerable defendants should be equitable in law and in particular:

- ◆ Child defendants and vulnerable adult defendants should have access to Registered Intermediaries to prepare for and during court proceedings, according to personal need;
- ◆ Responsibility for ensuring that special measures and other reasonable adjustments are made for vulnerable defendants, according to personal need, should be clarified. The particular role of the judiciary, court staff and defence lawyers in fulfilling that responsibility should be specified;
- ◆ An integral part of liaison and diversion services/criminal justice liaison services should be to facilitate special measures and other reasonable adjustments for vulnerable defendants, according to personal need, and to provide guidance to members of the judiciary and criminal justice staff on how particular impairments and disabilities can manifest themselves in court proceedings;
- ◆ The use of special measures and other reasonable adjustments for vulnerable defendants should be monitored, reviewed and reported on. For England, this should be an integral part of the reporting arrangements for the National Liaison and Diversion Development Network. For Wales, this should be an integral part of the forthcoming Policy Implementation Guidance.

Intermediaries:

- ◆ All intermediaries should be registered and subject to the same stringent recruitment, training, quality assurance, professional standards and monitoring procedures. There should be one register of intermediaries for all vulnerable people - witnesses, victims and defendants - in the criminal justice system.

Information sharing:

- ◆ Routine and systematic procedures should be in place to ensure that liaison and diversion services/criminal justice liaison services provide the courts with relevant information concerning an individual defendant's particular impairments and support needs;
- ◆ This should include when an Appropriate Adult has been called to support a vulnerable adult or 17 year old at the police station.

Information and training:

- ◆ Information on how particular impairments and disabilities can manifest themselves during court proceedings, and ways in which special measures and other reasonable adjustments can help ensure the defendant is able to participate effectively in court proceedings should be routinely available for members of the judiciary, court staff and defence and prosecution lawyers;
- ◆ Legal professionals and practitioners who undertake criminal work, members of the judiciary and liaison and diversion staff should be required to participate in awareness training in mental health problems, learning disabilities and other learning, developmental and behavioural disorders such as autism, attention deficit hyperactive disorder, communication difficulties and dyslexia;
- ◆ The Advocacy Training Council recommended that court advocates be trained in how to identify witnesses and defendants who may be vulnerable, how to consider and obtain measures in terms of procedure and how to make adjustments in practice (Advocacy Training Council, 2011).

Appropriate adults:

- ◆ The anomalous position of 17 year olds should be changed and Appropriate Adults should be available for all 17 year olds;
- ◆ There should be statutory provision of Appropriate Adults for vulnerable adult suspects and timely access to such support.

The full report 'Fair Access to Justice? : Support for vulnerable defendants in the criminal courts' can be accessed at:
<http://www.prisonreformtrust.org.uk/Publications/vw/1/ItemID/156>

Reported Road Casualty Statistics 2011

The Department for Transport has published statistics on personal injury accidents in 2011 on public roads (including footways) which became known to the police. Figures for deaths refer to people who sustained injuries which caused death less than 30 days after the accident. A more comprehensive analysis of 2011 casualty statistics will be published later this year in Reported Road Casualties Great Britain: 2011 annual report.

The statistics show that:

- ◆ The annual number of people killed in road accidents reported to the police has increased, by 3 per cent, from 1,850 in 2010 to 1,901 in 2011. This is the first increase since 2003;
- ◆ The number of people reported killed or seriously injured has also increased by 2 per cent to 25,023 from 24,510 in 2010, the first annual increase since 1994;
- ◆ The total number of casualties (slight injuries, serious injuries and fatalities) in road accidents reported to the police in Great Britain in 2011 continued to fall, by 2 per cent, from 208,648 in 2010 to 203,950 in 2011;
- ◆ Total reported child casualties (ages 0-15) have continued to fall, by 0.5 per cent in 2011 to 19,474. The number of children killed or seriously injured also fell, decreasing by 4 per cent to 2,412 in 2011, from 2,502 in 2010;
- ◆ Vehicle traffic levels are broadly stable after falling for 3 years. The overall casualty rate for accidents reported to the police per billion vehicle miles continued to fall to 666 per billion vehicle miles, compared to 681 casualties per billion vehicle miles in 2010 but the killed or seriously injured rate increased to 82 per billion vehicle miles.

The full statistical bulletin can be accessed at:
<http://www.dft.gov.uk/statistics/releases/reported-road-casualties-gb-main-results-2011/>

Ministerial Statement about the Professional Body for Policing

A written ministerial statement was laid in the House of Commons on 16 July 2012 by the Home Secretary, Theresa May, and in the House of Lords by Lord Henley setting out the plans for the 'College of Policing', the new professional body for policing.

In December 2011, the Home Secretary set out plans to establish a professional body to increase professionalism in policing. In March 2012 she announced which of the National Policing Improvement Agency's functions would transfer to the new body when the agency closes in December 2012.

The College of Policing, to be established by the end of 2012, will have a powerful mandate to enable the service to implement the standards it sets for training, development, skills and qualifications. This will ensure that the body, through the work it takes forward to develop professionalism, is able to provide maximum support to the police service to meet the challenges it faces. Representatives from the police service, including the Association of Chief Police Officers and the Superintendents' Association are working with the Home Office to create the College of Policing.

The ministerial statement provided further information about the role and functions of the College of Policing which will include:

- ◆ **Protecting the public interest:** by promoting the values of effective policing; learning from and supporting improvement in policing; and maintaining ethics and values;
- ◆ **Setting and enhancing first-class national standards of professionalism to ensure excellence in operational policing:** by developing a set of nationally agreed standards for officers and staff to attain; providing frameworks for standards to be tested and achievement rewarded; and by supporting national business areas;
- ◆ **Identifying evidence of what works in policing and sharing best practice:** by providing access to a body of knowledge that is informed by evidence-based research and best practice; continuing to develop an understanding of the evolving threats to public safety, the challenges of leading complex organisations and enabling the service to develop the capabilities needed;
- ◆ **Supporting the education and professional development of police officers and staff:** by developing and maintaining the national policing curriculum, assessment and accreditation frameworks; delivery of leadership and specialist training; accrediting and quality-assuring training

providers; developing future leaders and expertise through effective talent management;

- ◆ **Enabling and motivating staff and partners to work together to achieve a shared purpose:** by working with partners to make the best use of specialist knowledge; supporting desired behaviours and actions that embody the service's values; and by ensuring interoperability with partners and other sectors.

The ministerial statement went on to say that to deliver these objectives, the College of Policing will:

- ◆ **Strengthen the links between the police service and other organisations:** by working with universities to share and develop the underlying evidence base for policing practice; working with other organisations, including with the private sector to ensure that, where appropriate, the police service is able to access the very best training from outside the police service; working closely with international partners, to ensure the police service is able to share and access the very best thinking from across the world;
- ◆ **Reflect a shift towards greater public accountability across a reformed national policing landscape.** It will be chaired by someone independent of the police service and its board will have an equal balance of police and non-police representatives. Democratically elected police and crime commissioners will be represented on the board and the non-police service representatives will ensure the body serves the public interest. Operating in this way, the College of Policing will serve the public interest, enhancing the British model of policing by consent. This is a model for which the police service in England and Wales is admired right across the world. The College of Policing will help to create the best conditions to sustain that model. The statement makes it clear that there is no plan to require individual officers and staff to pay to be members of the College of Policing, for their training or to sit exams. These are issues which the statutory college may consider in the future.

The College of Policing **will not**:

- ◆ Issue any licence to practice policing;
- ◆ Duplicate the roles other bodies play, like HMIC or the IPCC;
- ◆ Be a rebranded National Policing Improvement Agency;
- ◆ Investigate complaints or allegations of misconduct against police officers and staff. This will remain within the remit of the relevant police force;
- ◆ Create a raft of bureaucratic guidance for the police service.

It will, however, play a vital role in the training and development of police officers and police staff in the future ensuring that they continue to retain the skills they need in order to fight crime and protect the public. More information about the College of Policing can be found at:

<http://www.homeoffice.gov.uk/police/college-of-policing/>

Tom Winsor Appointed Her Majesty's Chief Inspector of Constabulary

Tom Winsor has been appointed Her Majesty's Chief Inspector of Constabulary. Mr Winsor was named as the preferred candidate for the post by the Home Secretary on 7 June 2012. The appointment was subsequently supported by the Home Affairs Select Committee and has been approved by the Prime Minister and the Queen. He will take up office on 1 October 2012.

Tom Winsor is the first Chief Inspector of Constabulary to be appointed from outside the police service; he was the rail regulator from 1999 to 2004. In October 2010, he was appointed by the Home Secretary to carry out a wide ranging review of the remuneration and conditions of service of police officers and staff in England & Wales. The final report of that review was published on 15 March 2012.

Tom Winsor will take over from Sir Denis O'Connor CBE, QPM who will retire after more than three years in the role. Sir Dennis O'Connor was awarded the Queen's Police Medal in 1996. He was appointed a Commander of the Order of the British Empire in 2002, and was knighted in the 2010 Birthday Honours.

Ministerial Statement on the Creation of New Police ICT Company

On 16 July 2012, a written ministerial statement was laid in the House of Commons by the Home Secretary, Theresa May, and in the House of Lords by Lord Henley, to update the House on the creation of a new police information communications technology (ICT) company.

The creation of the ICT Company is part of the wider package of reforms of policing and is intended to enable police forces to get better value for their ICT spend. It is intended that the company be owned by Police and Crime Commissioners (PCCs) and led by police forces, as customers. As PCCs will not be elected until November, the Home Office has put in place arrangements to create the company with interim owners.

'The Police ICT Company Ltd', is a company limited by guarantee and is jointly owned by the Association of Police

Authorities (APA) and the Home Office. The owners will be appointing 12 directors from the policing community to form the board of directors of the company. The board of directors will be responsible for electing a chair and recommending the appointment of an interim CEO. The APA ownership will transfer to Association of Police and Crime Commissioners (APCC) ownership in November.

The purpose of The Police ICT Company at this stage, through its board of directors, is to provide governance and oversight of the activities necessary to make the company fully operational after PCCs are elected.

The NPIA functions transferring to the new company in due course (the Home Office in the interim) will include: ICT strategy, ICT contract management, procurement and service management, and the management and implementation of ICT projects and programmes.

Further details about the ICT Company can be found at:
<http://www.homeoffice.gov.uk/police/police-it/>

Notes



NPIA
National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate
www.npia.police.uk

