



College of
Policing

Digest

July 2013

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

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 College of Policing aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request. Please email digest@college.pnn.police.uk or telephone +44 (0)1480 334527.

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Legal Services
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College of Policing Digest July 2013

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

There are reports of cases relating to administering cautions, disclosure of information and containment.

Statistical bulletins are covered which detail the quarterly figures on Arrests, Outcomes and Stop and Search under the Terrorism Act 2000.

Reports covered in this edition include the outcome of a thematic inspection of police force compliance with an MOU between the National Ballistics Intelligence Service and Police Forces, and a report on Child Sexual Exploitation and the response to localised grooming by the Home Affairs Committee.

The progress of proposed new legislation through Parliament is examined and Statutory Instruments and Circulars summarised.

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Bills Before Parliament 2013/2014 - Progress Report

On 8 May 2013, the Queen's Speech unveiled the legislative programme for the 2013-2014 Parliamentary session.

◆ **Anti-Social Behaviour, Crime and Policing Bill:**

The Bill is divided into 13 separate parts:

- Part 1 - Injunctions to prevent nuisance and annoyance

This is a purely civil injunction, available in the county court for adults and the youth court for 10 to 17 year olds. It will allow a wide range of agencies, including the police, local councils and social landlords to deal quickly with anti-social individuals, nipping behaviour in the bud before it escalates.

- Part 2 - Criminal Behaviour Orders

This will be available following a conviction for any criminal offence and can address the underlying causes of the behaviour through new, positive requirements. Breach will be a criminal offence with a maximum penalty of up to five years in prison for adults. It will demonstrate to the offender and the community the seriousness of the breach.

- Part 3 - Dispersal Powers

This will enable officers to require a person who has committed, or is likely to commit, anti social behaviour to leave a specified area and not return for up to 48 hours.

- Part 4 - Community Protection Notices

This part is split into three Chapters covering Community Protection Notices, Public Spaces Protection Orders and Closure Orders. These new powers will be faster, more effective and available to more agencies to use to tackle a whole range of place-specific anti-social and criminal behaviour.

- Part 5 - Recovery of Possession of dwelling-houses: Anti-Social Behaviour grounds

Anti-social behaviour can have a negative impact on neighbourhoods and communities. Social landlords have a key role in tackling anti-social behaviour. Provisions in the Bill introduce a new ground for possession to speed up the process in the most serious cases of anti-social behaviour bringing faster relief to victims and communities.

- Part 6 - Local involvement and accountability

The new Community Remedy will give victims of low-level crime and anti-social behaviour a say in the punishment of the offender out of court, whilst the Community Trigger will give victims of persistent anti-social behaviour the right to demand action where they feel that their problems have not been dealt with.

- Part 7 - Dangerous dogs

The proposals in the Bill are part of a wider package of measures to reduce dog attacks and make owners more responsible for their dogs. These powers sit alongside anti-social behaviour powers in the Bill that can be used to tackle dangerous dogs and irresponsible owners.

- Part 8 - Firearms

The Bill targets those who sell or transfer prohibited weapons or ammunition through the introduction of a new offence and increased sentencing powers for the courts.

- Part 9 - Forced marriages

The Bill makes two changes to tackle forced marriage more effectively: criminalising forcing someone to marry and criminalising the breach of Forced Marriage Protection Orders.

- Part 10 - Policing

The Bill builds on Government reform of the policing landscape towards greater freedom for the police to take local decisions that fit the needs of the areas they serve. It will enhance the integrity and professionalism of the police by extending the powers and remit of the Independent Police Complaints Commission and the College of Policing. The Bill will also make changes to the body that review police pay by abolishing the Police Negotiating Board and replacing it with an independent Police Remuneration Review Body. The new body will make evidence based recommendations on police remuneration. In addition, Clause 124 introduces Schedule 6, which makes amendments to the port and border security powers in Schedule 7 to the Terrorism Act 2000 and the associated Schedule 8 to that Act which governs the detention of persons detained under Schedule 7.

- Part 11- Extradition

The measures on extradition proposed in the Bill are designed to improve the efficiency of the operation of the

Extradition Act 2003 and follow from a review of the UK's extradition arrangements by Rt. Hon Sir Scott Baker.

- Part 12 - Criminal Justice and Court Fees

The Bill will improve the speed and efficiency of the criminal justice system's response to low-level offending by enabling the police to prosecute uncontested minor offences of shoplifting. It will extend the scope of the statutory witness protection scheme to cover other vulnerable individuals and ensure that offenders sentenced to custody will contribute to the costs of supporting victims by removing the power of magistrates' courts to add additional days to a sentence of imprisonment instead of the victims surcharge.

- Part 13 - General

This part contains minor and consequential amendments to other enactments and general provisions including provisions in respect of the parliamentary procedure to be applied to orders and regulations made under the Bill.

The second reading in the House of Commons took place on 10 June 2013 and the Public Bill Committee was scheduled to meet on 25 and 27 June 2013. The Committee is expected to report by 16 July 2013. The Anti-social Behaviour, Crime and Policing Bill Committee is now accepting written evidence and your views can be submitted in relation to this bill at <http://www.parliament.uk/business/news/2013/june/have-your-say-on-anti-social-behaviour-crime-and-policing-bill/>

Information relating to the Bill can be found at <https://www.gov.uk/government/organisations/home-office/series/anti-social-behaviour-crime-and-police-bill>

The explanatory notes can be found at <http://www.publications.parliament.uk/pa/bills/cbill/2013-2014/0007/en/14007en.pdf>

◆ **Offender Rehabilitation Bill**

The Bill makes a number of changes to the release arrangements set out in the Criminal Justice Act 2003 Act for offenders serving custodial sentences of less than 12 months and those serving sentences of between 12 months and 2 years. The Bill is designed to ensure that all adult offenders serving custodial sentences can be supervised on release for a period of at least 12 months.

In particular the Bill:

- Applies arrangements for release under licence to offenders serving fixed-term custodial sentences of more than 1 day but less than 12 months;

- Introduces new supervision arrangements for offenders released from fixed-term custodial sentences of less than 2 years so that all offenders are supervised in the community for at least 12 months;
- Creates a new court process and sanctions for breach of supervision requirements for offenders serving fixed-term custodial sentences of less than 2 years;
- Introduces a requirement that offenders sentenced to an extended determinate sentence must have an extension period of supervision of at least 1 year;
- Introduces for offenders released from custody a new drug appointments condition for the licence or supervision period, and expands the existing drug testing requirement for licences to include Class B drugs and makes it available during the supervision period;
- Introduces a requirement that any juvenile who reaches his or her 18th birthday before being released from the custodial element of a Detention and Training Order (DTO) should spend at least 12 months under supervision in the community.

The Bill also makes some changes to the arrangements for community orders and suspended sentence orders. In particular it:

- Creates a new “rehabilitation activity requirement” for community orders and suspended sentence orders and in doing so abolishes the “supervision” and “activity” requirements;
- Introduces new arrangements for the designation of “responsible officers” in relation to the supervision of offenders and makes clear that the responsibility for bringing breach action lies with the public sector;
- Introduces new arrangements for offenders serving community orders or suspended sentence orders to obtain permission from the responsible officer or the court before changing their place of residence.

The Bill had its first reading on the 9 May 2013 in the House of Lords. The second reading in the House of Lords took place on 20 May 2013, and a line by line examination of the Bill took place during the final day of Committee stage on 11 June. Amendments discussed covered clauses 12-14, 16, 18 and 19 of the Bill. The report stage took place on 25 June 2013 and the third reading is due to take place on 9 July 2013.

The progress of Bills in the 2013/2014 parliamentary session can be found at <http://services.parliament.uk/bills/>

R (on the Application of Stratton) v Chief Constable of Thames Valley Police [2013] EWHC 1561 (Admin)

A hearing in the High Court of Justice in the Queen's Bench Division Administrative Court before the President of the Queen's Bench Division and Mr Justice Cranston.

Summary

The claimant challenged a caution that was administered to her by Thames Valley Police on the basis that she had not admitted the commission of an offence and that she was not warned of the adverse consequences to her. Some time lapsed between receiving the caution and challenging it, due to the fact that the claimant only discovered the serious adverse consequences in accepting the caution in relation to her employment in December 2010, and she then spent several months thereafter attempting to get the caution withdrawn in correspondence with the police force.

Facts

On 12/13 January 2008 the claimant was at a pub in Aylesbury when an incident occurred between the claimant and another young woman, herein referred to as 'CC'. CC made a complaint to the police and stated that earlier that evening words were exchanged between her and the claimant and following this, the claimant poured a drink down her. CC retaliated and threw her drink at the claimant. Just after she saw something hit the top of her head and then saw a clear glass drinks bottle fall to the ground. As a result CC had a large lump on her head, although this had gone by the time she had made her statement.

Some time after, the police contacted the claimant and asked her to attend the police station, in relation to an allegation of assault. At 8pm on 29 January 2008 she attended Aylesbury Police Station and was arrested for committing assault occasioning Actual Bodily Harm and criminal damage. Her detention was authorised at 8.38pm.

At 9.04pm she was interviewed by PC Lilley under caution. The tape for the interview was no longer available, however a statement recorded by PC Lilley stated that the claimant said CC had thrown a drink over her for no apparent reason and that she, "in an involuntary reckless action threw a bottle in anger towards CC due to the fact that she had thrown a drink over her." The statement also said "that she was not necessarily acting in self defence and was not in fear for her wellbeing" and that "she admitted that her actions would constitute a common assault after having the legislation points relayed to her." It appears that this statement was written on the same day, 29 January 2008, but after the caution.

At 10pm the claimant, was cautioned for the offence of common assault. The form also records her age, 23, and that her occupation was as a nanny. The following declaration was signed by the claimant:

'I acknowledge I admit the offence(s) and agree to be cautioned. I understand that if, in the future, I should appear before a court and am found guilty of another offence, then details of this caution may be given to the court.'

This caution was administered by PS Digman.

On 2 February 2008 a statement was taken from the claimant by PC Lilley. It was a manuscript written by PC Lilley which set out the claimant's account of the incident. Her statement referred to CC throwing the entire contents of her drink over her and then stated 'she then quickly walked away leaving me completely drenched with the liquid and very shocked and upset at what had just happened. In reaction to what had happened I threw my bottle that I had in my possession in a reckless manner and may have struck [CC].'

This statement was then used for the purpose of interviewing CC and also cautioning her.

The judgement

In addressing the issue of whether the claimant had admitted the offence, the court stated that it is common ground that a caution could not be administered if the claimant had not admitted the commission of the offence. The claimant challenged the account recorded by PC Lilley in the statement dated 2 February 2008, and asked the court to hear evidence from her. The court permitted cross examination of the claimant and PC Lilley. The claimant stated that she told the police that she had done nothing wrong and that she denied CC's allegation that she had hit her over the head. The claimant said she discussed how the bottle left her hand and told the police she dropped it but the policeman had said "threw" described it better and she had told him she had not thrown it or intended to hurt CC. She stated that she had not said anything about acting in a "reckless manner." The claimant stated that after the interview she asked the policeman if the arrest would affect her job as a nanny as she was aware of the Criminal Records Bureau database and the claimant stated that she was assured that it would not have any effect on that. She stated that after she left the interview room a police officer asked her to sign a form and then she would be free to go. The claimant stated that she thought it was a sign out form and the officer did not explain what she was signing; she signed the form and left the police station.

PC Lilley, given the time that had passed, had only the faintest recollection about the case and when cross-examined did little more

than deny the account of the claimant and adhered to what he had said in the contemporaneous documents.

The court, although stating that it had little doubt that the claimant in her evidence was honestly trying to do her best to recall what had happened, could not accept the submission made on her behalf that she had never admitted matters which constituted the offence of common assault. It stated that it could not find that what was set out in the statement dated 2 February 2008 which was signed by her, was anything other than the gist of the account she had given, deliberately put by the police officer into more formal language.

The second issue that the court addressed was whether the consequences of accepting the caution had been spelt out to the claimant. The court stated that it is common ground that a duty lies with the police to explain the nature of the consequences to the offender before a caution is administered so that any consent given to a caution is informed consent.

The court outlined the development of the power to caution, relevant Home Office Circulars and other relevant guidance. It also addressed Home Office guidance, issued in 2008, that states that informed consent could only be given 'when the suspect had received in writing an explanation of the implications of accepting a simple caution before he/she agrees to accept a simple caution.' The status of Home Office Circulars in relation to the police power to caution and the duty of the Chief Constable were factors that were also touched upon by the Court.

The court stated that in relation to this case, as the claimant worked as a nanny and was aware of the requirement imposed in respect of working with children, it considered that on the balance of probabilities she did enquire whether accepting a caution would affect her employment. The court determined that it was not possible to say with any precision what she was told, but it did not find it unsurprising that she considered signing the form was a formality that would enable her to leave the police station. The form the claimant signed did not make clear the full consequences to her of signing it, and implied that the only consequence was use in other court proceedings. The court concluded that the claimant did not give her informed consent to the caution and the caution was quashed. The court also observed recent developments in the area concerning cautions which are likely to avoid cases like this in the future.

The full case report can be found at
<http://www.bailii.org/ew/cases/EWHC/Admin/2013/1561.html>

R (on the Application of): RK v Chief Constable of South Yorkshire Police and Disclosure and Banning Service [2013] EWHC 1555 (Admin)

A hearing in the High Court of Justice Administrative Court Sheffield District Registry before the Honourable Mr Justice Coulson.

Summary

The case concerns a disclosure made by South Yorkshire Police (SYP) to the claimant's prospective employers of information relating to events allegedly involving the claimant occurred almost ten years previously. The central issue concerned the circumstances in which it is appropriate for the police to disclose to prospective employers details of allegations in respect of which the prospective employee was tried and acquitted?

Facts

The claimant was working as a teacher in Sheffield and in 2005, was the subject of six allegations of indecent assault and sexual activity with a child. The allegations were made by four girls who were all approximately 15 years old. The allegations were similar in nature, involving brief instances of tapping or touching the girls' bottoms. There were problems concerning the credibility of the complainants, as well as the suggestion that they were seeking revenge for another pupil who had been expelled by the claimant a few weeks before. The claimant denied all charges and on 5 October 2005 at Sheffield Crown Court was acquitted of all charges.

In November 2005, SYP disclosed material relating to the trial, which caused the claimant to lose his volunteer job with the Red Cross and his post with the local Neighbourhood Watch. In May 2006 the claimant was dismissed from his job as a teacher for reasons which are unclear. There was a suggestion that he used inappropriate language in front of his pupils, although the court stated that the alleged details of this did not appear to be appropriate grounds for dismissal. A further ground for dismissal identified in the documents concerned the claimant's contact with pupils outside school hours, for which the claimant provided explanations, such as giving pupils lifts to football matches. The claimant appealed against his dismissal however this appeal failed.

On 10 September 2008 the Secretary of State decided that the claimant should not be barred or restricted from working with children or vulnerable adults. The General Teaching Council took no action against the claimant and he was not removed from the register of teachers.

On 9 June 2009 SYP provided the claimant with a draft of the disclosure that they proposed to make in connection with any

application they received for information about him. This draft document set out material about the allegations in respect of which the claimant was acquitted. In October 2010 the claimant issued judicial review proceedings. The case was compromised by agreement, but in essence represented a victory for the claimant who was awarded some of his costs. The judge ordered that SYP decide afresh what information, if any, to disclose. Attached to the order was a memorandum which not only stated that SYP was under an obligation to consider the claimant's rights under Article 8 of the European Convention on Human Rights but also included detailed guidance on how to deal with the allegations relating to the claimant for which he was acquitted.

On 21 March 2012 SYP wrote to the claimant to say that having considered his request afresh, they had decided that the material held "is at this time, still relevant to your working in regular contact with children under 18 years of age... we repeat that this is the disclosure that would be made, at this point in time, in respect of a position involving children." The claimant complained about his treatment by SYP and in consequence Hampshire Constabulary was invited to review SYP's disclosure.

Hampshire Constabulary was critical of SYP's approach for a number of reasons principally the fact that SYP treated the allegations against the claimant as if they had been proved, rather than rejected.

In December 2012 the claimant made a fresh application for disclosure of the draft Enhanced Criminal Records Certificate (ECRC) which SYP would provide to a prospective employer. SYP sent a copy of a proposed draft to the claimant and sought his representations. The claimant responded to the points raised and SYP then went through a decision making process of what should be included in the disclosure which was documented on an AT3 document.

The final version of the ECRC, sent to the claimant on 2 April 2013, essentially still contained detailed information relating to the allegations. The claimant sought an injunction prohibiting SYP from disclosing the proposed ECRC and this was granted on 11 April 2013. On 9 May 2013 a further hearing was held, and SYP produced another final disclosure document of the ECRC which adopted the changes suggested by the judge at the previous hearing. On 9 May 2013 the case was referred to the Administrative Court and the final hearing took place on 20 May 2013.

The judgement

The court identified the issues in the case, namely:

- ◆ Had SYP adopted a proper approach to proportionality?

- ◆ Had there been a failure by SYP to give adequate reasons?
- ◆ Had there been a reliance by SYP on irrelevant material or a failure to consider relevant material?
- ◆ Had there been an appearance of bias on the part of SYP?

In considering each issue, particular emphasis was placed on the factors relating to proportionality. The issue of proportionality was divided into subcategories, specifically the relevant factors, the gravity and seriousness of the allegations, the reliability of information, the elapse of time, the impact on the claimant and other matters relating to proportionality as well as the defendant's documents. The judge concluded that:

'In my judgment, the defendant has no proper regard to the exercise of proportionality...In consequence, the proposed ECRC of 2 April (even as amended on 25 April) is flawed and must be quashed....Although SYP have not done a detailed analysis of the evidence at the trial, they plainly believe that the claimant was fortunate to be acquitted and they have decided that they will treat the allegations as "substantiated" in any event. That blinkered view has hampered them all the way through. It was even the subject of adverse comment by Hampshire Constabulary. It explains why SYP have never got close to a proper assessment of proportionality.'

The judge ordered that the disclosure decision be quashed on the basis of proportionality, and therefore stated that it wasn't necessary to deal in detail with the other three issues identified, however these were addressed briefly.

In conclusion the judge stated that in his view any consideration of the contents of the ECRC should be limited to two contrasting matters, specifically the claimant's dismissal and the decision not to bar him from teaching. He provided further guidance in relation to what should be in the ECRC, however he did state that whilst these were observations provided to assist the parties it was not for the court to rule exactly what the ECRC should or should not disclose.

The full case report can be found at
<http://www.bailii.org/ew/cases/EWHC/Admin/2013/1555.html>

Susannah Mengesha v Commissioner of Police of the Metropolis [2013] EWHC 1695 (Admin)

A hearing in the High Court of Justice Queen's Bench Division Administrative Court before Lord Justice Moses and Mr Justice Wyn Williams.

Summary

This case concerns the claimant who was the subject of a containment being asked to provide personal information as well as being filmed whilst being released from the containment.

Facts

On 30 November 2011, the claimant attended a public sector union march as a legal observer. In the afternoon, the police observed trespass and damage taking place and a Chief Superintendent authorised the containment of approximately 100 people, including the claimant. There is no dispute as to whether the containment was justified due to the serious damage and breach of the peace that had occurred. Approximately half an hour later, the Chief Inspector who was the containment manager considered that the risk of an imminent breach was diminishing but took the view that those within the containment should be searched as part of a controlled and disciplined release from containment.

Once the resources were in place, those contained were directed to the point of search and release with the aid of illuminated signs. The Chief Superintendent at this point decided that those being released from containment would be filmed and asked for their details. This decision was based on the fact that this would assist in any subsequent post-incident investigation.

The claimant was asked to give her name, address and date of birth, and she attempted to ask what police power was being relied upon for this information and the filming. This question wasn't answered until she was filmed and she had provided this information, and the claimant stated that she found the process oppressive, aggressive and intimidating. The issue that surrounds this case is the contention that the identification of those who had been contained was required of each individual as the price of being permitted to leave. The defendant did not dispute that to require an individual to give personal details and to submit to filming for the purpose of identification as the condition for release from containment is not lawful, but rather asserted that, in this case, the claimant voluntarily gave her particulars and submitted to filming.

The judgement

The court considered the detailed facts of the case, including information the claimant had received from a lead legal observer

who was also present. He stated he asked a police officer if they could leave, and was told that they would be allowed to leave one at a time and that people were required to have their details and images taken before being released. He also witnessed two young protesters being pushed back into the containment who stated that they had been sent back because they had refused to give their names to the police. When he himself was filmed and asked for his details, he was informed that he was required to give these details pursuant to Section 50 of the Police Reform Act 2002. Further to this, the claimant stated that the crowd was addressed by a police officer stating that everyone would be required to have their face photographed and their details taken if they wanted to leave.

The court stated that it was clear from the video that all those taking part, whether the police or those who had been contained, were behaving under the impression that there was no choice as to whether they should give their details and be filmed for the purposes of identification and that the circumstances and actions of the police establish that the claimant did not submit to the process of identification voluntarily.

The court then referred to various pieces of case law and stated that containment was not permissible for some purpose other than to prevent a breach of the peace which is taking place or reasonably thought to be imminent. It then went on to state that with particular relevance to this case, containment is not permitted as a means of ensuring that the identification of those contained has been obtained by questioning or filming. The court stated that the police could not rely on Section 60 of Police and Criminal Evidence Act 1984 as it does not contain any authority to obtain names and addresses or other identification of those being searched.

The court stated:

‘..the absence of any statutory power to obtain identification in the circumstances in this case establishes conclusively the unlawfulness of the police action in requiring the claimant to be filmed and give her name and address and date of birth before she was released from containment.’

In relation to the retention of the images and personal details the court stated that as they were unlawfully obtained they cannot be retained in any circumstances and referred to Article 8 of the European Convention on Human Rights. The application to move by way of judicial review was granted.

The full case report can be found at
<http://www.bailii.org/ew/cases/EWHC/Admin/2013/1695.html>

SI 2013/1294 The Misuse of Drugs Act 1971 (Temporary Class Drug) Order 2013

In force **10 June 2013**. Article 2 of this Order specifies the substances and products listed in the Schedule as drugs subject to temporary control under section 2A(1) of the Misuse of Drugs Act 1971. The substances specified in paragraph 1 of the Schedule include the material commonly known as 25I-NBOMe and other related substances, and those specified in paragraph 2 include the materials commonly known as 5- and 6-APB and other related substances including 5- and 6-IT. Paragraphs 3 to 5 of the Schedule specify derivatives of the substances specified in paragraphs 1 and 2.

Article 3 of this Order provides that the Misuse of Drugs (Safe Custody) Regulations 1973 and the Misuse of Drugs (Safe Custody) (Northern Ireland) Regulations 1973 apply to those substances and products, and the Misuse of Drugs Regulations 2001 and the Misuse of Drugs Regulations (Northern Ireland) 2002 apply to those substances and products as if they were specified in Schedule 1 to each of the relevant Regulations.

In accordance with subsection (6) of section 2A of the Misuse of Drugs Act 1971, the specified substances and products will cease to be subject to temporary control after the expiry of one year or, if earlier, upon the coming into force of an Order in Council under section 2(2) of that Act listing the specified substances in Part 1, 2 or 3 of Schedule 2 to that Act.

SI 2013/1482 The Justice and Security Act 2013 (Commencement, Transitional and Saving Provisions) Order 2013

This Order brings into force on **25 June 2013** those provisions of the Justice and Security Act 2013 which are not already in force. The provisions of the Act not brought into force by this Order came into force on the day on which the Act was passed. They contain the order-making powers (see section 20(2) of the Act).

Articles 3 and 4 of this Order make transitional and saving provisions in relation to, respectively: the Intelligence and Security Committee of Parliament; and those provisions of the Act which extend the existing closed material procedure under the Special Immigration Appeals Commission Act 1997 (the "SIAC Act").

Paragraph 1 of Schedule 2 to the Act abolishes the Intelligence and Security Committee created by the Intelligence Services Act 1994 ("the previous Intelligence and Security Committee"). Article 3 of this Order allows for the continuation of the work of the previous Intelligence and Security Committee by the new Intelligence and Security Committee of Parliament, created by section 1 of, and Schedule 1 to, the Act.

Article 4 makes transitional provisions under paragraph 4 of Schedule 3 to the Act. Section 15 of the Act inserts new sections 2C and 2D into the SIAC Act. These provisions extend the existing closed material procedure under the SIAC Act to certain cases where the Secretary of State has decided to exclude a non-EEA national from the UK, or to refuse a certificate of naturalisation or an application for British citizenship, in reliance on information which the Secretary of State considers too sensitive to make public.

Article 4 provides that the Secretary of State may issue a certificate under section 2C or section 2D of the SIAC Act in relation to a decision of a kind falling within section 2C(1)(a) and (b) or 2D(1)(a), notwithstanding that the relevant decision was made prior to the commencement of those sections. Such a certificate will have the effect of terminating any ongoing judicial review proceedings (including appeals from judicial review proceedings) in relation to such a decision.

College of Policing Launches Public Consultation on Guidance on Child Sexual Exploitation

The College of Policing has launched a public consultation on a review of guidance relating to all aspects of violence and public protection, starting with phase one which is addressing Child Abuse and Child Sexual Exploitation. The consultation forms part of a number of measures currently being undertaken to review police and multi-agency practice and learning. The guidance will ultimately form part of Authorised Professional Practice (APP) which is a web-based resource primarily intended as a resource for police officers and police staff. The College of Policing is seeking comments on the following:

- ◆ Factual accuracy;
- ◆ Areas requiring further development;
- ◆ Gaps in knowledge;
- ◆ Relevant Supporting documents.

Further information can be found at
<http://www.college.police.uk/en/20414.htm>

The consultation documents can be found at
http://www.college.police.uk/en/docs/Child_abuse_draft_guidance.pdf

http://www.college.police.uk/en/docs/Child_sexual_exploitation_draft_guidance.pdf

The consultation closes on **3 September 2013**. Responses to the consultation should be emailed to VPP@college.pnn.police.uk

The review has been conducted alongside the Crown Prosecution Service (CPS) to ensure that the guidance is aligned, and the CPS has also launched a consultation on interim guidelines on prosecuting cases of child sexual abuse. This consultation also closes on 3 September 2013 and full details of this consultation can be found at
http://www.cps.gov.uk/consultations/csa_consultation_index.html#a02

Her Majesty's Inspectorate of Constabulary (HMIC) Publishes Inspection Programme for 2013/2014

Her Majesty's Inspectorate of Constabulary (HMIC) have published their planned inspection work to start or complete in 2013/2014.

The inspection programme is divided into four programme areas namely:

- ◆ Inspect efficiency and effectiveness of the police in England and Wales;
- ◆ Support police governance and leadership;
- ◆ Inspect the efficiency and effectiveness of national police agencies and other forces;
- ◆ Improve the efficiency and effectiveness of inspection.

The Inspection Programme also outlines HMIC's funding and workforce.

The full Inspection Programme can be found at <http://www.hmic.gov.uk/media/hmic-inspection-programme-2013-14.pdf>

HMIC Release Outcome of Thematic Inspection of Police Force Compliance with MOU between the National Ballistics Intelligence Service and Police Forces

HMIC has released the results of an inspection that was carried out earlier this year which assessed the compliance of police forces with the Memorandum of Understanding (MOU) between the National Ballistics Intelligence Service (NABIS), police forces and partner law enforcement agencies of England and Wales.

The MOU arose from a recognition that NABIS's effectiveness is dependent on information and intelligence sharing by police forces in relation to ballistic items that are recovered. The report states that in extreme cases failure to do this could hinder or prevent the arrest of offenders who then go on to commit other serious crimes, including firearms offences and therefore endangering life. The MOU was signed on behalf of all forces by the Association of Chief Police Officers (ACPO) in 2011 and by NABIS. The MOU places an obligation on police forces to ensure that all relevant ballistic items are registered within the set timescales and also requires forces to register and submit appropriate ballistic items for examination. In addition to this, there is a requirement for forces to ensure that the database is updated with relevant information and intelligence and that measures are put in place to ensure compliance with the MOU.

Ten forces were subject to this inspection and they were chosen to form the inspection sample because they represented a range of:

- ◆ Force size;
- ◆ Rural and urban environments;
- ◆ Rates of gun crime;
- ◆ Levels of engagement with NABIS.

The report discusses the findings of the inspection in depth. It covers the governance, management and quality assurance processes as well as the identification of ballistic items in force possession. It also discusses the management of ballistic items within forces, and the recording of information on the NABIS database. It concludes by examining the submission of ballistic items to NABIS for examination, guidance on the use of NABIS and how intelligence should be used from NABIS.

As a result of the inspection, HMIC has made two recommendations:

Recommendation 1- ACPO should ensure the MOU provides clarity about the service NABIS should provide as well as the responsibility that forces have in complying with it;

Recommendation 2- In order to maximise the effectiveness of NABIS, all forces should ensure their systems and processes are in line with the following measures:

- ◆ Forces should explicitly include NABIS within a strategic approach to firearms-related criminality. NABIS strategic intelligence and forensic information about linked incidents should be used alongside local intelligence, including any intelligence available from the management of lawfully held weapons.
- ◆ Force Operational Single Point of Contacts (OSPocS) should be managers who can ensure intelligence and investigative links are being made. Based on the experience of this inspection, it is better if the management of forces' NABIS processes rests in their intelligence or dedicated firearms crime investigation departments.
- ◆ Through robust quality assurance mechanisms, forces should regularly monitor the end-to-end NABIS process to ensure compliance with the MOU. This should include managerial oversight and accountability for compliance.
- ◆ Force systems and processes must be sufficiently robust to ensure that any ballistic item coming into police possession (irrespective of the point of entry) is considered against the MOU. There need to be sufficient measures (e.g. automated alerts or daily review of force systems) to ensure that ballistic items are not overlooked.
- ◆ Forces should limit the number of staff who can input data onto the NABIS database, as this reduces the number of people that need to be trained and would give greater consistency in the quality of submissions.
- ◆ Forces should exploit, through their systems and processes, forensic opportunities from the recovery of ballistic items. This

may provide evidence or intelligence leads for those investigating firearms criminality.

The full report can be found at
<http://www.hmic.gov.uk/publication/making-the-connections/>

Home Office Launches Consultation relating to Guidance on Early Deletion of DNA and Fingerprint Records

The Home Office has launched a consultation relating to guidance for police Chief Constables on processing applications from individuals for early deletion of their DNA and fingerprint records.

Previously Chief Constables have had the discretion to delete an individual's DNA and fingerprint records through an exceptional case procedure. The Protection of Freedoms Act 2012 (PoFA) has made changes to the Police And Criminal Evidence Act 1984 and sets out how long an individual's DNA and fingerprints can be retained. It also introduces an 'early deletion process' which will replace the exceptional case procedure.

The consultation seeks views on how the early deletion application process should work and who it could apply to, so it is fair on innocent individuals looking to have their DNA and fingerprints removed from records, without compromising the ability of the police to tackle crime.

The results of the consultation will be passed to the National DNA Database Strategy Board who will draft their final guidance which will come into effect in October 2013 when the provisions relating to DNA and fingerprints within the PoFA will come into force.

The consultation document can be found at
<https://www.gov.uk/government/consultations/dna-guidance-consultation>

The consultation closes on **29 July 2013** and is open to members of the public, police forces, members of the legal profession and interest groups.

Responses can be received online at www.gov.uk or sent to:

Home Office
Early Deletion Guidance Consultation
Police Transparency Unit
6th Floor Fry Building
2 Marsham Street
London
SW1P 4DF

Or email:

DNAConsultation2@homeoffice.gsi.gov.uk

IPCC Releases Hillsborough Investigation Update

The Independent Police Complaints Commission has released a June update in relation to the Hillsborough Investigation. The update confirms the stage the investigation has reached and outlines the document recovery that is ongoing. The update also details the recruitment that has taken place for the investigation team, as well as discussing the premises where the investigation is taking place and who has been appointed to lead the investigation.

Further information can be found at
[http://www.ipcc.gov.uk/news/Pages/pr_070613_hillsboroughupdat
ejune.aspx](http://www.ipcc.gov.uk/news/Pages/pr_070613_hillsboroughupdat
ejune.aspx)

Home Office Releases Quarterly Figures on Arrests, Outcomes and Stop and Search under the Terrorism Act 2000

The Home Office has published a quarterly update in relation to the operation of police powers under the Terrorism Act 2000 and subsequent legislation up to December 2012.

Summarising key statistics within the report, in relation to arrests under this legislation:

- ◆ There were 246 arrests in the 12 months to 31 December 2012. This is an increase from 170 in the previous 12 months and a total of 2,360 since 11 September 2001;
- ◆ Of those arrested in the 12 months to 31 December 2012, 43 people were charged with a terrorism-related offence and, of these, 16 were convicted of a Terrorism Act offence (including Schedule 7 offences); 24 of those arrested were awaiting trial as at 25 April 2013;
- ◆ On 31 December 2012 there were 122 prisoners (both convicted and remanded) classified as terrorists or domestic extremists.

In relation to Stop and Search under Sections 43 and 47A of the Terrorism Act 2000:

- ◆ There has as yet been no use of the new stop and search powers under section 47A of the Terrorism Act 2000 since they were formally brought into use in March 2011;
- ◆ In the 12 months to 31 December 2012, 614 persons were stopped and searched by the Metropolitan Police Service under section 43 of the Act which represents a 42% decrease over the previous 12 months.

The Annual Figures for 2012/2013 relating to the operation of police powers under the Terrorism Act 2000 and subsequent legislation is expected to be published in September 2013.

The full statistical bulletin can be found at <https://www.gov.uk/government/publications/operation-of-police-powers-under-the-terrorism-act-2000-and-subsequent-legislation-quarterly-update-to-december-2012>

House of Commons Home Affairs Committee Publishes Report on Child Sexual Exploitation and the Response to Localised Grooming

The House of Commons Home Affairs Committee has published a report on child sexual exploitation and the response to localised grooming. The report is the second report of the session 2013-2014 and consists of three volumes.

The report discusses the scale and prevalence of child sexual exploitation and addresses in detail cases such as the Rochdale case and Oxford case. It also covers work already conducted on the subject by organisations and departments such as Barnados, the Child Exploitation and Online Protection Centre (CEOP) and the Office of the Children's Commissioner.

The report states that sexual exploitation is a large-scale, nationwide problem and evidence to the Committee indicates that it is increasing.

The Home Affairs Committee states in the report that 'Despite recent criminal cases laying bare the appalling cost paid by victims for past catastrophic multi-agency failures, we believe that there are still places in the UK where victims of child sexual exploitation are being failed by statutory agencies. The police, social services and the Crown Prosecution Service must all bear responsibility for the way in which vulnerable children have been left unprotected by the system.'

The Home Affairs Committee outlines in its report the roles official sectors such as Children's Social Care, the Criminal Justice System, Health and Education and the voluntary sector have in addressing Child Sexual Exploitation and Localised Grooming.

The report concludes by addressing the issue of race and what other steps the government could take to tackle child sexual exploitation and localised grooming. It draws a number of conclusions and makes recommendations under the following headings:

- ◆ Child Sexual Exploitation: scale and prevalence;
- ◆ Children's Social Care;
- ◆ Scrutiny of Children's Social Care departments;
- ◆ Rochdale and Rotherham;
- ◆ The Criminal Justice System;
- ◆ Identifying vulnerable victims and ensuring they have access to support;

- ◆ Court Processes;
- ◆ Health and Education;
- ◆ Voluntary Sector;
- ◆ The Issue of Race;
- ◆ Multi-Agency Safeguarding Hubs;
- ◆ Legislation.

Volume I of the report together with formal minutes can be found at
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/68/68i.pdf>

Volume II which contains Oral and Written Evidence can be found at
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/68/68ii.pdf>

Volume III which contains additional written evidence can be found at
<http://www.publications.parliament.uk/pa/cm201314/cmselect/cmhaff/68/68vw.pdf>

Government Bans Two Groups of Legal Highs

The Government has banned two groups of legal highs for twelve months whilst the Advisory Council on the Misuse of Drugs (ACMD) decides whether they should be permanently controlled. The Government has introduced a Temporary Class Drug Order (TCDO), by way of a statutory instrument (SI 2013/1294) which bans the groups of substances known as 'NBOMe' and 'Benzofuran' as of 10 June 2013.

The TCDO means that it will be unlawful to supply, possess with intent to supply, produce, import or export these substances without a licence. The TCDO will expire after twelve months of it coming into force unless the substance is brought under permanent control or if the TCDO is varied or revoked.

The banning of NBOMe substances has arisen following a recommendation made by the ACMD to take urgent action because of the high risk of overdose in powder or liquid form. Some suppliers have taken the step of supplying the NBOMe substances in pre-loaded paper doses to avoid the risk of overdose. A report produced by the Serious Organised Crime Agency (SOCA) has also confirmed that there are large quantities of these substances entering the UK.

In relation to the benzofuran substances, the government states that the brand name for these is 'benzofury' and is marketed as a legal form of MDMA which is available in powder and tablet form. The ACMD has advised that some users of these substances have experienced adverse effects and several deaths and hospitalisations have been associated with benzofuran substances, albeit mostly with other drugs.

The Government Circular addressing this TCDO can be found at <https://www.gov.uk/government/publications/circular-temporary-class-drug-order-on-nbome-and-benzofuran>

Further information can be found at <https://www.gov.uk/government/news/nbome-and-benzofury-to-be-banned>

Home Office Announces Proposals for New Legislation for Undercover Policing Operations

The Government has announced that changes will be made in relation to the law that governs undercover policing.

It is proposed that new secondary legislation will mean that the Office for Surveillance Commissioners will be notified at the start of all undercover police deployments and will have to approve any deployments which will last longer than twelve months. The new proposed legislation will also ensure that the same long term deployments must be authorised by the force's Chief Constable as well.

The proposals follow work conducted by the Home Office with the police to implement recommendations made in Her Majesty's Inspectorate of Constabulary's report titled 'A review of national police units which provide intelligence on criminality associated with protest.'

Further information can be found at <https://www.gov.uk/government/news/independent-approval-for-undercover-policing>

New Surveillance Camera Code of Conduct Comes Into Force

The Home Office has published a new code of practice relating to public authority use of surveillance cameras. This code of practice has been laid before Parliament for approval, and forms part of the Protection of Freedoms Act 2012. It is expected to come into force over the summer.

The Code of Practice provides a background and overview of the use of surveillance cameras, as well as defining the guiding principles which system operators should adopt, namely:

- ◆ Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need;
- ◆ The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified;
- ◆ There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints;

- ◆ There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used;
- ◆ Clear rules, policies and procedures must be in place before a surveillance camera system is used, and these must be communicated to all who need to comply with them;
- ◆ No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once their purposes have been discharged;
- ◆ Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes;
- ◆ Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards;
- ◆ Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.

The code of practice addresses the development or use of surveillance camera systems and the use or processing of images or other information obtained by virtue of such systems. In conclusion the code of practice examines the role of the Surveillance Camera Commissioner and the statutory functions of this office.

The full Code of Practice can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

Further information relating to the Code of Practice can be found at <https://www.gov.uk/government/news/surveillance-camera-code-of-conduct-comes-into-force>



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