NPIA
National Policing Improvement Agency

Digest

March 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. Please email digest@npia.pnn.police.uk or telephone +44 (0)1480 334542.

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Legal Services

Chief Executive Officer Directorate

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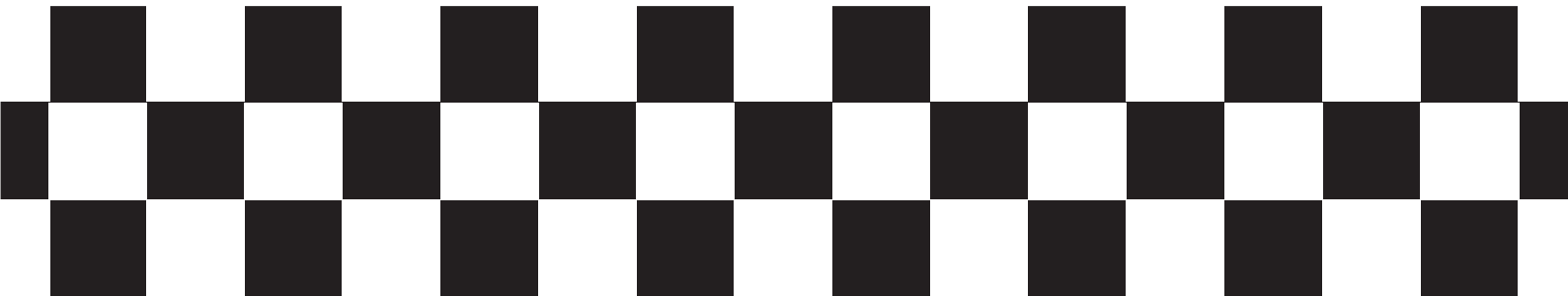

NPIA Digest March 2012

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 on the mental element of breach of an ASBO, voluntary acute intoxication as a partial defence to murder and a judicial review of police pension entitlement.

We look at HMIC reports on the experiences of young victims and witnesses in the criminal justice system, and the review of police units providing intelligence on criminality associated with protests. The IPCC guidelines on communicating with the media, Home Office Circular 6/2012 on changes to police remuneration and conditions and the revision of the Financial Action Task Force (FATF) money laundering recommendations are also covered.

Statistical bulletins are covered which detail police service strength at September 2011 and the latest CPS statistics on hate crime and crimes against older people.

There are also articles on the launch of a new guide for victims of digital stalking, the roll out of a new interpreter service, the Home Affairs Select Committee report on the roots of violent radicalisation and Home Office consultations on a Code of Practice for counter terrorism stop and search powers and proposed legislative changes to firearms control.

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

Contents

Bills Before Parliament 2010/11 - Progress Report

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

- Protection of Freedoms Bill - The Bill:
  - Provides for the destruction, retention, use and other regulation of certain evidential material;
  - Imposes consent and other requirements in relation to certain processing of biometric information relating to children;
  - Provides for a code of practice on surveillance camera systems and for the appointment and role of the Surveillance Camera Commissioner;
  - Provides for judicial approval in relation to certain authorisations and notices under the Regulation of Investigatory Powers Act 2000;
  - Provides for the repeal or rewriting of powers of entry and associated powers and for codes of practice and other safeguards in relation to such powers;
  - Makes provision about vehicles left on land;
  - Provides for a maximum detention period of 14 days for terrorist suspects;
  - Replaces certain stop and search powers and provides for a related code of practice;
  - Amends the Safeguarding Vulnerable Groups Act 2006;
  - Makes provision about criminal records;
  - Disregards convictions and cautions for certain abolished offences;
  - Makes provision about the release and publication of datasets held by public authorities and to make other provision about freedom of information and the Information Commissioner; and
  - Repeals certain enactments.

The Bill was presented to Parliament on 11 February 2011.

Line by line examination of the Bill took place during the third day of report stage on 15 February. Amendments discussed covered clauses 64, 67, 77, 79, 102 and 114 of the Bill.

The Bill now awaits third reading.

- Legal Aid, Sentencing and Punishment of Offenders Bill - The Bill:
  - Reverses the position under the Access to Justice Act 1999, whereby civil legal aid is available for any matter not specifically excluded;
  - Abolishes the Legal Services Commission;
  - Makes various provisions in respect of civil litigation funding and costs, taking forward the recommendations of the Jackson Review and the Government's response to that review;
  - Makes changes to sentencing provisions, including giving courts an express duty to consider making compensation orders where victims have suffered harm or loss; reducing the detailed requirements on courts when they give reasons for a sentence; allowing courts to suspend sentences of up to two years rather than 12 months; and amending the court's power to suspend a prison sentence;
  - Introduces new powers to allow curfews to be imposed for more hours in the day and for up to 12 months rather than the current six;
  - Repeals provisions in the Criminal Justice Act 2003 which would have increased the maximum sentence a magistrates' court could impose from six to 12 months;
  - Makes changes to the law on bail and remand, aimed at reducing the number of those who are unnecessarily remanded into custody. Under the new "no real prospect" test, people would be released on bail if they would be unlikely to receive a custodial sentence;
  - Makes provision to ensure that, where a person aged under 18 has to be remanded into custody, in most cases they would be remanded into local authority accommodation;
  - Amends provisions relating to the release and recall of prisoners;
  - Gives the Secretary of State new powers to make prison rules about prisoners' employment, pay and deductions from their pay. The intention of these provisions is that prisoners should make payments which would support victims of crime;
  - Introduces a penalty notice with an education option and provision for conditional cautions to be given without the need to refer the case to the relevant prosecutor;

- Creates a new offence of threatening with an offensive weapon or an article with a blade or point thereby creating an immediate risk of serious physical harm. A minimum sentence of 6 months' imprisonment would normally be given to persons over 18 found guilty of this offence.

The Bill was presented to Parliament on 21 June 2011.

Line by line examination of the Bill took place on 15 February. Amendments discussed covered clauses 122, 124, 128, 130, 131, 134, 135 and 137 of the Bill. Report stage - further line by line examination of the Bill - is scheduled for 3 March.

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

Mental Element of Breach of an ASBO

JB v Director of Public Prosecutions [2012] EWHC 72 (Admin)

The principal issue in this case was the nature of the mental element that a prosecutor must prove when a defendant is prosecuted for breach of an Anti-Social Behaviour Order (ASBO) made under section 1(1) of the Crime and Disorder Act 1998. It provides

"If without reasonable excuse, a person does anything which he is prohibited from doing by an anti-social behaviour order, he is guilty of an offence".

The facts

The appellant, aged 15 at the time, was made the subject of an ASBO following conviction for an offence of attempted robbery. The ASBO contained three prohibitions:

i) Not to associate with certain named individuals.

ii) Not to enter a defined area, unless accompanied by an adult.

iii) Not to cause harassment, alarm or distress in the public domain to members of the public.

Later the same year, the appellant pushed or dropped a sandbag from the fourth floor of a multi-storey car park, causing it to fall. It landed on the skylight of a bus, causing the skylight to shatter. Passengers inside the bus were alarmed and distressed, although no-one was injured. As a result, the appellant was prosecuted under section 1(10) of the Crime and Disorder Act 1998 for breach of the ASBO and for an offence of criminal damage; pleading not guilty to the former and guilty to the latter offence. The appellant accepted that he had pushed the bag, but claimed that his intention was to let some sand out. He denied knowing what was underneath or having any intention to push the bag off the ledge, stating that it had just slipped.

The District Judge ruled that the offence under section 1(10) was a strict liability offence and proof of intent to do the act was not required. The judge took into account the provision in section 1(10) of a defence of reasonable excuse, on which the appellant had not sought to rely. The Judge held that, should he be mistaken in his view that the offence was one of strict liability, he would take into account the plea on a reckless basis to the offence of criminal damage. The judge held that the risk of the bag falling must have been obvious and the appellant had foreseen it; concluding that there was evidence of intent on which the Crown could rely. The judge stated the following three questions for the opinion of the court:

1. Was I correct to rule that breach of an ASBO is an offence of strict liability?

2. If I was wrong so to rule, was I entitled to rule that his plea to the criminal damage charge was admissible evidence of his intent to the substantive charge?

3. Was I entitled to draw an adverse inference from his refusal to give evidence?

Matters that must be proved for the offence under s.10(1)

The Court in the present case found that the real question was not whether the offence was one of strict liability, but, what is the nature of the mental element that has to be established in order for a defendant to be convicted of an offence under section 1(1).

(a) Breach of the ASBO

S.10(1) firstly requires a breach of the ASBO. In this case, the judge found on the facts that the appellant's action had caused harassment, alarm and distress in public to members of the public by his action, and thus there was a breach of the Order.

(b) There was no reasonable excuse: taking account of the mental element

As the breach was proved, the question arose as to whether there was a reasonable excuse. It was the view of the Court that where the defendant raises an issue as to his state of mind in relation to the breach of an ASBO and satisfies the evidential burden that rests upon him in this respect, then his state of mind must be taken into account in determining whether the Crown has proved there was no reasonable excuse: the burden of so proving lies on the Crown. The Court found that section 10(1) does not require the Crown to prove a specific mental element on the part of a defendant at the time he committed the acts which constitute the breach of an ASBO. If, however, the issue of reasonable excuse arises in any given case, a defendant can raise his state of mind at the time of the alleged breach, since the state of mind will usually be relevant to the issue of reasonable excuse. As the effect of s 1(10) is to criminalise conduct that would otherwise not be criminal, it would not be right to exclude matters that go to a defendant's state of mind.

(c) Lack of reasonable excuse on the part of the appellant

By putting forward the explanation that the bag had slipped, the appellant was in effect saying that he had a reasonable excuse as the alarm he had caused had been accidental. The Court found that, given the facts of the case and the age of

the defendant, the judge was right in concluding that the issue arose, even though it had not been put forward. The appellant had satisfied the evidential burden and the Crown had to prove lack of reasonable excuse. The Court also found that the judge was entitled to take into account all of the circumstances, including the plea to the offence of criminal damage where the appellant had admitted he acted recklessly. Recklessness in the offence of criminal damage requires a subjective realisation of the risk, and the judge was entitled to rely on that plea as an admission that the appellant was aware of the risk of causing criminal damage when he was handling the bag.

The Court found that the judge was entitled to conclude that there was no reasonable excuse as the risk was obvious and the appellant had actually foreseen it. The alarm and distress had not been an accident but was caused by his reckless conduct in breaching the ASBO. The appeal was dismissed.

The judgement can be accessed in full at:
http://www.bailii.org/ew/cases/EWHC/Admin/2012/72.html

Voluntary Intoxication as a Partial Defence to Murder

Dowds v R [2012] EWCA Crim 281

The issue in this appeal was whether acute voluntary intoxication is now capable of giving rise to the partial defence of diminished responsibility on an indictment for murder. It is common ground that it could not have done so prior to the amendments to section 2 Homicide Act 1957, which were made by the Coroners and Justice Act 2009. The appellant argued that the amendments meant that voluntary and temporary drunkenness may now give rise to diminished responsibility and thus reduce murder to manslaughter. That is because, it was said, acute intoxication is a 'recognised medical condition' within section 2(1)(a) of the Homicide Act as amended.

The facts

The appellant killed his partner of 18 months at the house they shared; inflicting approximately 60 knife wounds to her. The appellant and the deceased had both been drinking heavily and there had been a long history of violent episodes between them. The appellant asserted that he had no recollection whatever of the events which had led to the death of the deceased, but he did not dispute that he must have been responsible for her wounds. He also asserted that he had been drunk at the time of the killing and that in consequence he could not form the intention to kill or do serious harm, and that this was the reason he could remember nothing about it.

Before the jury at trial, the principal issues left to be determined were:

- Intent; had the appellant intended death or serious bodily harm? and
- Loss of self control (section 54 Coroners and Justice Act 2009); had the defendant lost his self control as a result of an attack by the deceased causing him to fear serious violence, and then reacted in a manner in which a reasonable person might have done in such circumstance?

The jury found that he had intended serious harm and rejected the partial defence under section 54.

At the outset of the trial, the judge was invited to rule whether or not simple voluntary and temporary drunkenness was capable of founding the partial defence of diminished responsibility. He ruled that as a matter of law it could not. In consequence, diminished responsibility was not raised before the jury. The appeal challenged that ruling.

The law

Section 2 Homicide Act 1957 was amended by the Coroners and Justice Act 2009 and now states:

> "Persons suffering from diminished responsibility
>
> 2(1) A person (D) who kills or is party to the killing of another is not to be convicted of murder if D was suffering from an abnormality of mental functioning which -
>
> (a) arose from a recognised medical condition.
>
> (b) Substantially impaired D's ability to do one or more of the things mentioned in subsection (1A), and
>
> (c) Provides an explanation for D's acts and omissions in doing or being a party to the killing.
>
> (1A) Those things are -
>
> (a) to understand the natures of D's conduct;
>
> (b) to form a rational judgement;
>
> (c) to exercise self control."

English criminal law has, from early times, regarded voluntary drunkenness as providing no excuse and indeed as normally amounting to aggravation of the offending rather than any excuse for it. In the case of DPP v Majewski [1977] AC 443 it was held that voluntary drunkenness could be taken into account only in a case categorised as one of specific intent and only in deciding whether such intent had been present. The general approach of the law to voluntary drunkenness is reflected, for example, in the rule that whilst ordinarily a man is to be judged on the facts as he honestly believed them to be, he is not entitled to rely on a mistake which is the result of voluntary intoxication. This is also reflected in section 6(5) of the Public Order Act 1986 and section 76 Criminal Justice and Immigration Act 2008.

Following a general review of the partial defences to murder by the Law Commission, it was concluded in relation to diminished responsibility, that the existing law was causing no difficulty and stood in no immediate need of amendment. It specifically advised that the law relating to voluntary intoxication was 'clear and satisfactory'. The subsequent review by the Commission of homicide generally 'Murder, Manslaughter and Infanticide Law Com No 304 (November 2006)' contained no further discussion of the law relating to voluntary intoxication. There was a slight change to the formulation of diminished responsibility, moving from 'an abnormality of mental functioning arising from an underlying condition' to 'an abnormality of mental functioning arising from recognised medical condition'. The reasons for this were given as:

i) law ought no longer to be constrained by a fixed set of causes of mental malfunction but should be responsive to developments in medicine and psychiatry; and

ii) the altered formulation would help to make clearer the relationship between the role of the medal expert and the role of the jury.

ICD-10 and DSM-IV

The World Health Organisation (WHO) has for many years sponsored the publication of an International Statistical Classification of Disease and Related Health Problems (ICD) of which the current edition is ICD-10. It is a general classification of the whole range of medical conditions and health problems. The American Medical Association has sponsored a similar classification under the 'Diagnostic and Statistical Manual' (DSM). The part that relates to conditions of the mind is known as DSM-IV. Many of the conditions included for medical purposes raise important additional legal questions when one is seeking to invoke them in a forensic context. 'Intermittent explosive disorder' for example the Court stated, may well be a medically useful description of something which underlines the vast majority of violent offending, but any suggestion that it could give rise to a defence, whether because it amounted to an impairment of mental functioning or otherwise, would, to say the least, demand extremely careful attention. In other words, the Court stated, the medical classification begs the question whether the condition is simply a description of (often criminal) behaviour, or is capable of forming a defence to an allegation of such.

The appellant's argument

The appellant's case was as follows:

i) the Act commands attention to whether there is an abnormality of mental functioning attributable to a 'recognised medical condition';

ii) CD-10 contains at F.10.0, the condition of 'Acute Intoxication'; it is distinguished from 'harmful use' (F.10.1) and 'dependence syndrome' (F10.2); it is defined simply as "a condition that follows the administration of a psychoactive substance resulting in disturbances in level of consciousness, cognition, perception, affect or behaviour, or other physiological functions or responses"; (DSM-IV lists a similar condition of 'alcohol intoxication');

iii) that is therefore a 'recognised medical condition';

iv) that is the condition in which the defendant was when he killed his partner, whether or not he was so drunk that he could not form an intent and whether or not he was telling the truth when he asserted loss of memory;

v) intoxication involves an impairment of mental functioning and it might well, depending on the facts, affect one or more of the three functions listed in subsection (1A);

vi) therefore diminished responsibility ought to have been left to the jury.

Conclusion

This case concerned intoxication which was (a) voluntary and (b) uncomplicated by any alcoholism or dependence. While this case involved alcohol, the conclusions are the same in relation to the effects of the voluntary ingestion of other drugs or substances. The Court stated that the exception which prevents a defendant from relying on his voluntary intoxication, save upon the limited question of whether a 'specific intent' has been formed, is well entrenched and formed the unspoken backdrop for the new statutory formula. There had been no hint of any dissatisfaction with that rule of law; if Parliament had meant to alter it, or depart from it, it would have made its intention explicit. Such an intention could not be inferred from the adoption on the new formulation of the expression 'recognised medical condition' because the origins of that were clearly explained by the Law Commission.

In the present case, the judge relied, in refusing to leave diminished responsibility to the jury, on the additional factor that the condition of the defendant was a transitory or temporary one. That, he was disposed to hold, was not capable of amounting to a 'recognised medical condition' for the purposes of the new section 2 of the Homicide Act. The Court did not however rest its conclusions on that consideration, and did not rule out the possibility that there may be genuine medical conditions, in no sense the fault of the defendants and well recognised by doctors, which although temporary may be within the ambit of the Act.

The Court also did not attempt to resolve the many questions which may arise as to other conditions listed in either ICD-10 or DSM-IV. It was enough to say that it is quite clear the re-formulation of the statutory conditions for diminished responsibility was not intended to reverse the well-established rule that voluntary acute intoxication is not capable of being relied upon to found diminished responsibility. That remains the law. The presence of a 'recognised medical condition' is a necessary, but not always a sufficient, condition to raise the issue of diminished responsibility.

The Court stated that if it had concluded that the defence of diminished responsibility ought to have been left to the jury, it would have been unable to accept the Crown's invitation to hold that it could not have succeeded in any event because of what must have been the findings of the jury. The Court agreed

that the jury must have rejected the defendant's assertion that he had been so drunk as to be unable to form the intention to kill or to do serious bodily harm. His use of the telephone in the immediate aftermath of the killing tended quite strongly to suggest that he was in much better control of himself than was suggested. The Court also agreed that there were good grounds on which it may well be that the jury rejected the argument that he had no recollection of the events and that he had lost self-control in circumstances in which a reasonable man might have done so. The Court concluded that if, however, it had been the law that voluntary acute intoxication could found diminished responsibility, the level of drunkenness involved would not necessarily have to reach inability to form an intent, nor would the loss of self-control necessarily have to be such as might have led a reasonable man to do as the defendant did. These considerations however did not arise. Voluntary acute intoxication, whether from alcohol or other substance, is not capable of founding diminished responsibility. The appeal was dismissed.

The judgement can be accessed in full at:
http://www.bailii.org/ew/cases/EWCA/Crim/2012/281.html

Judicial Review of Police Pension Entitlement

R (on the application of Thomas Edward Crudace) v Northumbria Police Authority [2012] EWHC 112 (Admin)

This was an application for judicial review made by Mr Crudace, a former police inspector, against a decision made under the Police (Injury Benefit) Regulations, SI 2006/932 ('the Regulations') on a review of his pension entitlement. The effect of the decision was to reduce his pension from Band 3 to the lowest band, Band 1, when he attained the age of 65. In practice this meant his pension reduced from 75% to 45% of relevant earnings.

The Facts

Mr Crudace retired on ill health grounds in March 1991 when he was aged 47. He was awarded a Band 3 pension on the grounds that he had been permanently disabled as a result of an injury received, without his own default in the execution of his duty and had a degree of disablement of between 51% and 75%.

In April 2008, the Police Authority wrote to Mr Crudace stating that they intended to conduct a review of his pension when he reached the age of 65 in April 2009. The Police Authority then requested the Selected Medical Practitioner (SMP) to conduct the review. The letter expressly referred the SMP to Home Office Guidance in Home Office Circular 46/2004 (the Guidance). The Guidance stated that once a former officer receiving an injury pension reaches the age of 65 'the force then has the discretion, in the absence of cogent reason otherwise to advise the SMP to place the former officer in the lowest band of Degree of Disablement.' The letter went on to recommend that Mr Crudace be placed 'in the 0-25% Degree of Disablement banding on the grounds that he has reached state pension age and no longer has an earnings capacity for the purpose of the Police Injury Benefit Regulations.' There was no medical examination of Mr Crudace.

On 20 February 2009 a decision was made by the Selected Medical Practitioner (SMP) under Regulation 37 of the Regulations reducing his pension to Band 1. The reasons given by the SMP for his decision were that "he no longer had an earnings capacity for the purpose of the Police Injury Benefit Regulations". Northumbria Police also determined that "there was no 'cogent reason' why the pensioner should not, therefore, be considered to have a 0% loss of earnings capacity and as a consequence of their injury, and should be placed in the 0-25% Degree of Disablement banding".

Following a decision of the Court of Appeal (in the case of Metropolitan Police Authority v Laws [2010] EWCA Civ 1099)

dealing with the interpretation of regulation 37, Mr Crudace requested the Police Authority to refer the matter back to the SMP to reconsider the decision of the 20 February 2009 under regulation 32(2). By letter dated 21 December 2010, the police authority refused to refer the matter back to the SMP on the basis that the decision made under regulation 37 was final and that the time limits for appeal had expired.

In his application for judicial review, Mr Crudace requested an extension of time to review the decision of 20 February 2009 and also challenged the decision made on 21 December 2010.

The Basis of the Challenge

It was argued by counsel for Mr Crudace that the decision of 20 February 2009 was fatally flawed as a matter of law in that the SMP failed to carry out the review in accordance with regulation 37. In particular, he argued that the 'cogent reason' test in the Guidance was wrong in law and is not contained in regulation 37. He also pointed out that there had been no medical examination of Mr Crudace and that the SMP had accepted the determination of the police authority that there was no cogent reason why Mr Crudace should be considered to have a 0% loss of earnings.

Counsel for the police authority argued in response that the review was carried out in good faith in accordance with Home Office guidelines and that as the application was 22 months out of time it was not appropriate to extend time.

The Decision

The judge decided that he was satisfied that the decision by the SMP was legally flawed and that Mr Crudace had not had a valid review of his pension. He accepted that the test proposed in the Home Office Guidance is not in accordance with regulation 37. He agreed that the SMP is not entitled to conclude that 'in the absence of cogent reason; the pensioner's uninjured earning capacity is reduced to zero when he attains the age of 65.' The judge went on to say that the SMP must carry out a proper review under regulation 37 and 'consider whether the degree of disablement has altered and if so whether the alteration is substantial'.

The Judge also decided that he was satisfied in all the circumstances of the case that that there was good reason for the delay in making the application for review. The judge accordingly allowed the application of Mr Crudace and quashed the decision of the police authority dated 20 February 2009.

The judgement can be accessed in full at:
http://www.bailii.org/ew/cases/EWHC/Admin/2012/112.html

SI 1786/2011 The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) (Amendment) Order 2011

This Order, which comes into force on **30 March 2012** and ceases to have effect on **9 November 2012**, amends the Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003. This Order enables the Immigration (Provision of Physical Data) Regulations 2006 to have effect in a Control Zone in France, to enable biometric information to be taken from persons accredited for the 2012 London Olympic and Paralympic Games. These persons would usually be required to apply for a visa and therefore have their biometric information taken as visa nationals. When Her Majesty's Government signed the Host City Contract for the Games it gave a commitment that in specified circumstances there would be no requirement for certain holders of the accreditation card to apply for a visa before travelling to the United Kingdom. As such, an amendment to those Regulations are necessary to enable UK Border Agency to maintain the current level of checks of biometric information on all visa nationals and this order applies those Regulations as amended to the Control Zone in France.

SI 2833/2011 The Money Laundering (Amendment No.2) Regulations 2011

These Regulations, which come into force on **31 March 2012**, amend the Money Laundering Regulations 2007 which implement in part Directive 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. Regulation 2 changes the supervisory authority for credit unions in Northern Ireland from the Department of Enterprise, Trade and Investment in Northern Ireland to the Financial Services Authority. Regulation 3 requires the Treasury to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Treasury to consider whether the Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or amend the Regulations.

SI 2834/2011 The Police Reform and Social Responsibility Act 2011 (Commencement No.2) Order 2011

This Order specifies a number of provisions of the Act which came into force on 19 December 2011. The following provisions come into force on **30 March 2012**: section 141(1) of the Act insofar as it has not already been brought into force and section 141(2) of the Act. The repeal of sections 132 to 136 and 138

of the Serious Organised Crime and Police Act 2005 is brought into force on **30 March 2012** as is the transitional provision in section 141(2) of the Police Reform and Social Responsibility Act.

SI 2835/2011 The Terrorist Asset-Freezing etc. Act 2010 (Commencement) Order 2011

This Order brings into force on **31 March 2012** those provisions of the Terrorist Asset-Freezing etc. Act 2010 which are not already in force to effect the transfer to the Financial Services Authority of the supervisory responsibilities of the Department of Enterprise, Trade and Investment in Northern Ireland for Northern Ireland credit unions contained in Schedule 7 to the Counter-Terrorism Act 2008.

SI 192/2012 The Police (Amendment) Regulations 2012

These Regulations, which came into force on **23 February 2012**, amend the Police Regulations 2003. Regulation 4 increases the periods of maternity and adoption leave to be taken into account in reckoning the length of service of a member of a police force, for the purposes of determining the member's pay. Regulation 6 adds provision for the reckoning of service of a person who served in the National Crime Squad or National Criminal Intelligence Service and from there joined the Serious Organised Crime Agency on its creation, before joining or rejoining a police force. Regulation 7 adds provision in relation to the entitlement of such a person, and of a person who rejoins a police force following medical retirement, to a replacement allowance under the 2003 Regulations.

SI 384/2012 The Misuse of Drugs (Designation) (Amendment) (England, Wales and Scotland) (Revocation) Order 2012

This Order, which comes into force on **12 March 2012**, revokes the Misuse of Drugs (Designation) (Amendment) (England, Wales and Scotland) Order 2012. The Misuse of Drugs (Designation) (Amendment) (England, Wales and Scotland) Order 2012, which was made on 4 February 2012 and if not revoked by this Order would have come into force on 28 March 2012, would have amended the Misuse of Drugs (Designation) Order 2001 by inserting into Part 1 of the Schedule to the Misuse of Drugs (Designation) Order 2001 desoxypipradrol and other pipradrol related compounds. Section 7(3) of the Misuse of Drugs Act 1971 requires regulations to be made to allow the use for medical purposes of the drugs which are subject to control under that Act; but section 7(3) does not apply to any drug designated by order under section 7(4) as a drug to which section 7(4) is to apply.

SI 385/2012 The Misuse of Drugs (Amendment) (England, Wales and Scotland) (Revocation) Regulations 2012

These Regulations, which come into force on **12 March 2012**, revoke the Misuse of Drugs (Amendment) (England, Wales and Scotland) Regulations 2012. The Misuse of Drugs (Amendment) (England, Wales and Scotland) Regulations 2012, which were made on 4 February 2012 and if not revoked by these Regulations would have come into force on 28 March 2012, would have amended the Misuse of Drugs Regulations 2001 (the "2001 Regulations") by adding: desoxypipradrol and other pipradrol related compounds to Schedule 1 to the 2001 Regulations; 7 bromo 5 (2 chlorophenyl)-1,3-dihydro-2H-1,4-benzodiazepin-2-one (commonly known as phenazepam), and any ester or ether of pipradrol, or any stereoisomeric form or salt or preparation or other product of such an ester or ether, to Schedule 3 to the 2001 Regulations; and 7-Hydroxy-dehydroepiandrosterone and 7 Keto dehydroepiandrosterone to Schedule 4 to the 2001 Regulations.

SI 334/2012 The Equality Act 2010 (Amendment) Order 2012

This Order amends section 147 of the Equality Act 2010 ('the Act'). Section 147 makes provision as to what is a "qualifying compromise contract" ("QCC"), which is a contract that may be used to settle a complaint within section 120, where it meets the requirements of section 147. Section 120 of the Act grants jurisdiction to an employment tribunal to determine a complaint relating to an unlawful act under Part 5 (Work), namely an act of discrimination, harassment or victimisation. One requirement of section 147 is that the complainant must have received advice from an independent adviser before entering into a QCC (section 147(3)(c)). Section 147(4) and (5) sets out who may act as an independent adviser for these purposes.

The interpretation of section 147 has given rise to uncertainty as to whether a complainant's lawyer is precluded from being an "independent adviser" to the complainant for the purposes of a QCC. This Order seeks to clarify that the "person" referred to in section 147(5)(a) could not include the "complainant" and that, accordingly, a complainant's legal adviser is not precluded from being an "independent adviser" to the complainant.

IPCC Publishes Guidelines on Communicating with the Media and the Public

The Independent Police Complaints Commission (IPCC) has published guidance on communicating with the media and the public during IPCC independent and managed investigations. It has been issued in response to criticism in the aftermath of the shooting of Mark Duggan in August 2011 and the subsequent disorder. In drafting the guidance, the IPCC has worked with ACPO communications leads and looked at lessons from August last year. It draws upon previous guidance, but separates the specific issue of what the police can say in the aftermath of an incident.

The guidance states that while silence is not an option, it is important to remember that, in the early stages of an investigation, the information that is available is likely to be incomplete and/or unverified. It also states that, except in specified circumstances, only the IPCC and not the police will comment or provide information which relates directly to an IPCC investigation. Referral to the IPCC does not however stop the police commenting or responding to the media or public, nor should it be presented by the police as a reason for lack of response to questions. The guidance also states that the IPCC is not responsible for all communications in relation to a case, with the police also being responsible for ensuring that it is clear to the public and the media exactly what is being investigated by the IPCC.

The IPCC will aim to ensure that so far as practicable in the circumstances, it will notify interested parties of any intention to put information about an investigation into the public domain. The police service will take the lead in communicating with the media and the public on community impact, tension or potential disorder arising from an incident; parallel criminal investigations or ongoing police operations; and the employment status of an officer. Where, as a result of concerns about community impact, tension or potential disorder the police wish to comment or brief the media or the public about matters connected to an IPCC investigation, the following will apply:

- They should provide a copy of the proposed lines/comment to the IPCC in advance.
- Any briefing or comment should be attributed to a named police spokesperson. Unattributed comment or off-the record briefings should be avoided.
- The IPCC will not 'approve' proposed lines but will object to any comment or speculation about events or individuals which may prove detrimental to a future criminal or misconduct case or put its investigative strategy at risk.

Ultimately however the timing and content of any statement issued by the police is a matter for the police, for which a named senior officer should be responsible.

IPCC 'Guidance on communicating with the media and the public in IPCC independent and managed investigations' can be accessed in full at:
http://www.ipcc.gov.uk/news/Pages/160212_ipccguidance.aspx

Consultation on Code of Practice for Counter-terrorism Stop and Search

The Home Office has launched a consultation, seeking comments on a draft code of practice governing counter-terrorism stop and search powers. The draft code, which is currently being considered by parliament in the Protection of Freedoms bill, issues guidance on:

- The scope of the powers;
- Requirements for making an authorisation for the powers;
- Briefing and tasking of officers;
- Avoiding discrimination;
- Specific issues relating to stop and search and photographs;
- Conduct of stop and searches;
- Recording and monitoring of use of the powers;
- Community engagement.

The provisions of the Protection of Freedoms Bill will:

- Permanently replace the stop and search powers under sections 44-47 of the Terrorism Act 2000 with powers under new sections 47A and Schedule 6B to the 2000 Act;
- Extend counter-terrorism stop and search powers with reasonable suspicion, to include searches of vehicles.

Before these powers come into force, the Bill requires a code of practice to be issued which will provide guidance to the police on the exercise of these stop and search powers, and on the authorisation of the powers under section 47A and Schedule 6B.

The consultation closes on 1 April 2012 and can be accessed in full at:
http://www.homeoffice.gov.uk/publications/about-us/consultations/consultation-ct-code/

Police Service Strength: Mid Year Update

The Home Office has published the latest National Statistics on police service strength in England and Wales. The mid-year update contains statistics on the number of police officers and staff in post across the 43 police forces of England and Wales as at 30 September 2011.

- There were 135,838 full-time equivalent (FTE) Police Officers; a decrease of 6,012 or 4.2 percent compared to the year before;
- Police Officer strength, including officers seconded to Central Services (such as the National Policing Improvement Agency and Her Majesty's Inspectorate of Constabulary) was 136,261, 6,102 fewer than the previous year;
- There were 69,407 FTE police staff in post on 30 September 2011, a decrease of 8,820 or 11.3 per cent;
- There were 15,469 FTE Police Community Support Officers in post; a decrease of 5.5 per cent;
- There were 3,746 FTE Designated Officers in post; an increase of 6.3 per cent;
- There were 19,366 (head count) special constables; an increase of 2,594 (15 percent).

Statistical News Release: Police Service Strength, England and Wales, 30 September 2011, can be accessed in full at: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/hosb0312/hosb0312?view=Binary

Home Office Circular 006/2012: Police Officer Remuneration and Conditions

The Home Office has published a circular, detailing the changes that the Home Secretary is minded to introduce to police officer remuneration and conditions. It follows the findings of the Police Arbitration Tribunal (PAT), the recommendations of the Police Negotiation Board (PNB) and the advice of the Police Advisory Board for England and Wales (PABEW) in relation to the Part 1 Report of the Independent Review of Police Officer and Staff Remuneration and Conditions, led by Tom Winsor.

The changes include:

- Officers from the rank of constable to chief inspector will receive an additional 10 per cent of their basic pay for hours worked between 8pm and 6am. To allow forces sufficient time to implement this change, the interim arrangements set out in the Winsor Part 1 Report will be implemented initially;

- Changes to variable shift arrangements have been introduced to the federated ranks;
- The premium rate of time and one third for 'casual overtime' should be retained, with payment of travelling time for recalls between tours of duty. The minimum 4 hours pay for recall between tours of duty will be abolished;
- The rate of pay for working on a rostered rest day will now be at time and a half if fewer than 15 days notice is given;
- Officers will be able to choose seven days in addition to 25 December, to treat as public holidays;
- Changes have been made to the arrangements for officers serving away from their normal place of duty, including when on mutual aid in another force area. These changes include a new 'away from home overnight' allowance of £50 and payment of a new hardship allowance of £30 per night if 'proper accommodation' is not provided;
- Two year suspension of chief officer bonuses;
- Officer's maternity entitlement should increase from 13 weeks at full pay to 18 weeks at full pay, with the option, with the agreement of their chief officer;
- Officers who have been working on a part-time basis and wish to return to working full-time will now, on giving written notice of their return to work full-time, be appointed by the Police Authority within two months if there is a suitable vacancy. In any case, the officer will be appointed to a full-time post within four months of the written notice being received.

The process to amend the relevant sections of the Police Regulations 2003 and determinations to take forward the recommendations will begin immediately. The PA recommended the changes be implemented as soon as is practical and suggested that an implementation date of 1 April 2012 should be taken forward if possible. The Home Office intends to work to this timetable where possible.

Home Office Circular 005/2012 sets out amendments to annexes C, F, I, J, L, R, S and UU of the determinations made under the Police Regulations 2003, and the effective dates of the amendments.

Home Office Circular 006/2012: Police officer remuneration and conditions can be accessed in full at:
http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2012/006-2012/

Home Office Circular 005/2012: Amendments to determinations made under the Police Regulations 2003 can be accessed in full at:
http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2012/005-2012/

Guide for Victims of Digital Stalking Launched

A practical guide for victims of stalking has been launched by the national domestic violence charity 'Women's Aid' and the national stalking charity 'Network for Surviving Stalking'. 'Digital Stalking: a guide to technology risks for victims' explains the wide range of technological risks for those being stalked. These include the use of Spyware on personal computers, tracking devices on mobile phones and the tracking of information through social networking sites. Over 18 percent of women and 9 percent of men have experienced stalking since the age of 16, with stalking by ex-partners accounting for the largest group of victims. Women are most at risk from physical assault and fatal harm.

The guidelines, which have been funded by the Nomine Trust and Avon Cosmetics, contain practical advice on how to reduce the risk of being stalked online. They can also be used for training organisations which deal with stalking and domestic violence cases, including the police and other key agencies.

'Digital Stalking: a guide to technology' can be accessed in full at:
http://www.womensaid.org.uk/core/core_picker/download.asp?id=3492

Consultation on Legislative Changes to Firearms Control

The Home Office has launched a consultation, seeking views on whether a change is needed to the legislation and sentencing powers that relate to firearms offences. The consultation contains proposals on:

- Whether to make changes to the current sentencing framework for the illegal importation of firearms; and
- Whether to introduce new firearms legislation targeted at individuals who supply firearms (or possess them with the intent to supply them) to the criminal market and if so, what would be an appropriate sentence.

In 2010, the Home Affairs Select Committee (HASC) conducted an inquiry into Firearms Controls. Representatives of the Association of Chief Police Officers Criminal Use of Firearms (ACPO CUF) group and the National Ballistics Intelligence Service (NABIS) gave evidence to the inquiry. In their evidence, ACPO and NABIS argued that current legislation and sentencing powers do not adequately punish individuals who import or supply firearms and ammunition to the criminal marketplace. They proposed introducing a new offence of possession of firearms with intent to supply, with a maximum penalty of life;

and increasing the maximum penalty for illegal importation of prohibited firearms to life imprisonment.

Following their inquiry, the HASC recommended that the government should 'introduce new offences for supply and importation of firearms to ensure that those guilty of such offences face appropriate penalties'. In response, the Government agreed to 'undertake further scoping work with the Ministry of Justice' and in its report 'Ending Gang and Youth Violence' published in November 2011, committed to consult 'on the need for a new offence of possession of illegal firearms with intent to supply, and the penalty level for illegal firearm importation'. This consultation comes as a result of that commitment.

The Home Office 'Consultation on legislative changes to firearms control' closes on 8 May 2012 and can be accessed in full at: http://www.homeoffice.gov.uk/publications/about-us/consultations/firearms-legislation/consultation-doc?view=Binary

Money Laundering Recommendations Revised

The Financial Action Task Force (FATF) has revised its recommendations on anti-money laundering and combating the financing of terrorism (AML/CFT). It follows a review which was undertaken, in part, to address emerging threats that have been identified and to reflect on the experiences of members in implementing the Recommendations since they were last revised in 2003. FATF is an inter-governmental body, with 36 members, whose purpose is the development and promotion of national and international policies to combat money laundering, the financing of terrorism and proliferation of weapons of mass destruction. The FATF Recommendations are the basis on which all countries should meet the shared objective of tackling money laundering, terrorist financing and the financing of proliferation.

The main changes in the revised recommendations are:

- Combating the financing of the proliferation of weapons of mass destruction through the consistent implementation of targeted financial sanctions when these are called for by the UN Security Council;
- Improved transparency to make it harder for criminals and terrorists to conceal their identities or hide their assets behind legal persons and arrangements;
- Stronger requirements when dealing with politically exposed persons (PEPs);
- Expanding the scope of money laundering predicate offences by including tax crimes;

- An enhanced risk-based approach which enables countries and the private sector to apply their resources more efficiently by focusing on higher risk areas;
- More effective international cooperation including exchange of information between relevant authorities, conduct of joint investigations and tracing, freezing and confiscation of illegal assets;
- Better operational tools and a wider range of techniques and powers, both for the financial intelligence units, and for law enforcement to investigate and prosecute money laundering and terrorist financing.

The revised 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation - The FATF Recommendations' can be accessed in full at: http://www.fatf-gafi.org/dataoecd/49/29/49684543.pdf

CPS Hate Crime Report Published

The Crown Prosecution Service has published its annual report into hate crime and crimes against old people for the period 2010-2011. It is the fourth hate crime annual report, and brings together information on CPS performance in prosecuting:

- Racist and religious hate crime;
- Homophobic and transphobic crime;
- Disability incidents; and
- Crimes against older people.

Hate Crime

- Since 2006/7 the number of hate crimes referred to the CPS has increased from 14,133 to 15,519; with an increase in the proportion of these charged from 59.4 percent to 72 percent;
- Over the same period the proportion of decisions not to prosecute for evidential or public interest reasons has fallen from 20.7 percent to 16.8 percent;
- Between 2006/07 and 2010/11, the proportion of successful convictions across all types of hate crime, has increased from 76.8 percent to 82.8 percent;
- The majority of defendants across all hate crime strands were men. 73.7 percent of defendants were identified as belonging to the White British category, and 50.9 percent of defendants were aged 25-59.

Racially and religiously aggravated hate crime

- The number of convictions for racist and religious hate crime rose from 10,398 of concluded cases in 2007.08 to 11,038 last year;
- Unsuccessful prosecutions represent a smaller proportion of concluded cases; 16.9 percent in 2010/11 compared to 20.1 percent in 2007/08;
- The proportion of racist and religious hate crimes failing due to victim issues has fallen to 19.7 percent from 22.5 percent in 2007/08. Those failing due to victim issues overall has declined to 17 percent from 25.7 percent in 2007/08;
- In 2010/11 the CPS was successful in 83.4 percent of cases prosecuted for religious hostility.

Homophobic and transphobic hate crime

- The number of convictions for homophobic and transphobic hate crime rose from 78.2 percent of concluded cases in 2007/08 to 80.7 percent in 2010/11. This represents a 33 percent increase in successful prosecutions over the past four years;
- Over the same period, the number and rate of guilty pleas has remained fairly constant at around 67 percent of all outcomes;
- Unsuccessful prosecutions fell from 21.8 percent in 2007/8 to 19.3 percent in 2010/11;
- The proportion of cases failing due to victim issues overall has increased from 17.1 percent in 2007/08 to 24.3 percent in 2010/11.

Disability hate crime

- The volume of cases referred to the CPS by the police for charging fell in 2010/11 by over 4 percent, when compared with the previous year. Since 2007/08 the number of referred cases has increased by 147 percent;
- The number of convictions rose from 77 percent of concluded cases in 2007/08 to 79.8 percent in 2010/11. This represents an increase in the number of successful prosecutions of 311 percent of the four year period;
- Over the same period, the proportion of guilty please decreased to 65.4 percent of total prosecutions;
- Unsuccessful prosecutions made up 20.2 percent of concluded cases in 2010/11 compared with 23 percent in 2007/08;
- The proportion of cases failing due to key reasons has steadily increased from 59.5 percent to 74.1 percent over the period.

Crimes against older people

- The volume of cases referred to the CPS by the police rose year on year, with the volume of defendants charged increasing by 44 percent to 2,213;
- Since 2008/09 the number and rate of guilty please has increased to 73.2 percent of all outcomes;
- Unsuccessful prosecutions fell from 21.3 percent in 2008/09 to 20 percent in 2010/11;
- The proportion of cases failing due to key reasons has fallen slightly from 68.2 percent to 65.7 percent over the period.

CPS 'Hate crime and crimes against older people report 2010-11' can be accessed in full at:
http://www.cps.gov.uk/publications/docs/cps_hate_crime_report_2011.pdf

Report Published on the Experiences of Young Victims and Witnesses in the Criminal Justice System

HM Crown Prosecution Service Inspectorate (HMCPSI) and HM Inspectorate of Constabulary (HMIC) have published a report on the 'Experience of Young Victims and Witnesses in the Criminal Justice System'. The report explores the progress made against recommendations given in the 2009 report 'A Joint Thematic Review of Victim and Witness Experiences in the CJS'. It also aimed to identify the most valuable services that need to be provided and retained to support young people, particularly as agencies takes steps to reduce their expenditure.

The Joint Inspection found that progress made against recommendations in the original review was limited. Initial needs analyses are still not undertaken regularly by the police and needs are not identified as regularly as they should be by the Crown Prosecution Service (CPS) at the charging stage.

The report sets out the key factors that should be improved upon or retained to best benefit and support young witnesses in the future:

- **Early identification of needs**: the needs of young victims and witnesses and the appropriate special measures they need to enable them to give their best evidence are not always identified.
- **Special measures and what they mean**: special measures should be sought after full consultation with young witnesses and their parents or carers and exactly what the measures mean for the young person should be explained.
- **The timeliness of applications for special measures has improved.**
- **Video recorded evidence (the achieving best evidence (ABE) interview)**: video recorded evidence is not used as often as would be appropriate, is of variable quality and rarely quality assured.
- **Early investigative advice by the CPS to the police**: early consultation or early investigative advice is often not sought from the CPS by the police in appropriate cases and hardly ever before the ABE video interview is conducted.
- **The quality of initial needs assessments**: the poor quality of initial needs assessments has a detrimental effect in cases which progress to trial.
- **Using intermediaries better**: there was a low level of awareness about the benefits of intermediaries and very little use of them to assist the witness during ABE interviews.

- **Young Witness Packs and facilitated discussions**: enabling young witnesses to understand and prepare for going to court is vital. The Young Witness Information Packs were seen as invaluable. The pack's value was enhanced by the facilitated reading and discussions offered at the young witnesses' home by the Young Witness Service.
- **Access to therapy and counselling**: there are mixed and conflicting attitudes to the access of young victims to therapy and counselling.
- **Viewing recorded evidence at the right time**: young witnesses are not routinely given the opportunity to view their recorded evidence before the day of the trial and close to the trial date.
- **Visiting the court before the trial date**: not all young victims and witnesses are able to visit the court before the trial date.
- **Waiting times for trial dates and on the day**: the waiting time for trials involving young victims and witnesses and waiting times on the day needs to be reduced.
- **The Young Witness Service (YWS)**: the work of the Young Witness Service is extremely valuable. It meets essential needs that otherwise would not be met, in a way that is sensitive to the particular needs of young people.

The HMCPSI and the HMIC make the following recommendations in the report:

- Police forces should put into place a system that provides feedback to continuously improve the quality of achieving best evidence video interviews.
- Police forces should raise awareness of the benefits of intermediaries and ensure this is considered at the pre-interview stage.
- The CPS should ensure that all prosecutors are familiar with the guidance regarding the Provision of therapy for child witnesses prior to a criminal trial.
- Crown Prosecution Service, police, witness care unit, HM Courts and Tribunals Service and Witness Service should have a clear local agreement setting out processes for witnesses to refresh their memories by watching their video recorded achieving best evidence interview before the day of trial.
- Sufficient time should be given to advocates to enable the achieving best evidence recorded interviews to be watched in preparation for trial.

- HM Courts and Tribunals Service should ensure that facilities to show electronic evidence consistently enable trials to proceed effectively.
- Police forces should ensure that all relevant witness details are provided to witness care units.
- The Ministry of Justice should consider changing targets for providing updates on the outcome of court hearings to victims and witnesses to ensure they are provided with accurate information on the day of the hearing.
- The Ministry of Justice should ensure that age appropriate communication and media options are used for conveying information to young people about giving evidence at court.
- Criminal justice agencies should adopt a joint approach to case progression and performance management based on evidence of what works, and should resource the agreed approach adequately.

The HMCPSI and HMIC 'Joint Inspection Report on the Experience of Young Victims and Witnesses in the Criminal Justice System' can be accessed in full at:
http://www.hmcpsi.gov.uk/cjji/inspections/inspection_no/69/

National Roll Out of New Interpreter Service

A new interpreter service has come into effect, allowing interpreting assignments across several agencies, including the police and Her Majesty's Courts and Tribunals Service, to be allocated to interpreters more effectively. As a result of the change, all courts and justice agencies are now being provided with skilled interpreters and translators through a single agency, Applied Language Solutions. The changes have been introduced for criminal, civil and family courts, tribunals and prisons. Other justice organisations, such as police forces, probation trusts and the Crown Prosecution Service can also sign contracts under the framework agreement.

Further details on the roll out can be accessed at:
http://www.justice.gov.uk/news/press-releases/moj/newsrelease010212a.htm

HMIC Review of Police Units Providing Intelligence on Criminality Associated with Protests

Her Majesty's Inspectorate of Constabulary (HMIC) has published its findings and recommendations, following a review into the systems used by the National Public Order Intelligence Unit (NPOIU) to authorise and control the development of

intelligence. The review came after the activities of Mark Kennedy, a police officer working undercover for the NPOUI, led to the collapse of a trial involving six people accused of planning to shut down a large power station. HMIC has reviewed:

- The supervision of undercover officers deployed by the NPOIU;
- The activities and supervision of Mark Kennedy specifically;
- The issues of management and supervision that arose from the case of Mark Kennedy, and how these might be strengthened;
- The ACPO definition of 'domestic extremism';
- The history, remit and governance of the NPOIU; and
- Links between the NPOIU and the MPS Special Demonstration Squad (SDS).

The report considers undercover police tactics when used to develop intelligence, rather than to obtain material specifically for a criminal prosecution. The Consultations and recommendations contained within the report are made with regard to the level of intrusion into people's lives, the use of these tactics to tackle domestic extremism as well as inform public order policing, and the extent to which the risks inherent to undercover deployments are justified and controlled. While the review focused on Mark Kennedy and the NPOIU, the findings are applicable to any police unit that has, is, or may be considering deployment of undercover officers for intelligence development operations. The NPOIU has since subsumed with other units under the National Domestic Extremism Unit (NDEU) within the MPS, and recommendations relating to the NPOIU are for the NDEU and the MPS to take forward.

The report recommends that the arrangements for authorising police undercover operations that present the most significant risks of intrusion within domestic extremism and public order policing should be improved. ACPO should give serious consideration to establishing a system of prior approval for pre-planned, long-term intelligence development operations subject to the agreement of the Office of Surveillance Commissioners (OSC). The report also states that the level of authorisation for long-term deployments of undercover police officers should be aligned with other highly intrusive tactics such as Property Interference.

The ACPO definition of domestic extremism is:

"Domestic extremism and extremists are the terms used for activity, individuals or campaign groups that carry out criminal acts of direct action in furtherance of what is typically a single

issue campaign. They usually seek to prevent something from happening or to change legislation or domestic policy, but attempt to do so outside of the normal democratic process."

The report recommends that, in the absence of a tighter definition, ACPO and the Home Office should agree a definition of domestic extremism that reflects the severity of crimes that might warrant this title, which includes serious disruption to the life of the community arising from criminal activity. It also recommends that the positioning of both public order intelligence and domestic extremism intelligence within the NDEU needs to be reconsidered. The report acknowledges that undercover operations aimed at developing intelligence around serious criminality associated with domestic extremism and public order are inherently more risky. As a result it recommends additional controls which should be implemented.

HMIC 'A review of national police units which provide intelligence on criminality associated with protest' can be accessed in full at: http://www.hmic.gov.uk/publication/review-of-national-police-units-which-provide-intelligence-on-criminality-associated-with-protest-20120202

Home Affairs Committee Report on the Roots of Violent Radicalisation

The Home Affairs Select Committee has published a report, following an inquiry to test the evidence base for the Prevent Review and explore the issues regarding its implementation. The inquiry came in anticipation of a review of the Prevent Strategy, which was drawn up to tackle violent radicalisation in the UK in the wake of the 7/7 bombings. The outcome of the Prevent Review was published in July last year. As part of the inquiry, the Committee examined the root causes of violent radicalisation in the UK, the individuals and groups particularly vulnerable to radicalisation and the locations where such radicalisation tends to take place, in relation to the primary terrorist threats facing the UK. Specifically, the inquiry intended to:

- Determine the major drivers of, and risk factors for recruitment to, terrorist movements lined to:

  (a) Islamic fundamentalism;

  (b) Irish dissident republicanism; and

  (c) Domestic extremism;

- Examine their relative importance of prisons and criminal networks, religious premises, universities and the internet as fora for violent radicalisation;

- Examine the operation and impact of the current process for proscribing terrorist groups;

- Consider the appropriateness of current preventative approaches to violent radicalisation, in light of these findings, including the roles of different organisations at national and local level; and

- Make recommendations to inform implementation of the Government's forthcoming revised Prevent strategy.

The Government concluded in its Prevent Review that the Strategy should continue to focus on radicalisation linked to the main terrorist threat facing the UK; from groups that are usually collectively referred to as Islamic fundamentalist, Al Qa'ida-related or Islamist terrorists. The Government, however, also stated in the Review that 'Prevent should be flexible enough to address the challenge posed by terrorism of any kind' and cited two further forms of terrorism in the Strategy; Northern Ireland related terrorism and extreme right-wing terrorism. The Committee also recommended that the Strategy should outline more clearly the actions to be taken to tackle far right radicalisation, as well as explicitly acknowledge the potential interplay between different forms of violent extremism.

The Committee stated in the report that it suspects that violent radicalisation within the Muslim community is declining and that it was clear that individuals from many different backgrounds are vulnerable, with no typical profile or pathway to radicalisation. The inquiry found however that there is a lack of objective data, despite a wealth of knowledge held by people working with individuals judged to be vulnerable to violent radicalisation, who could better inform understanding of why some become radicalised and why some do not. The Report recommends the Government publish the methodology whereby such data will be collated and analysed, and to make arrangements for suitably de-sensitised data to be made available to the wider research community.

In terms of where violent radicalisation takes place, the Committee explored universities, prisons, religious institutions and the internet. It concluded that religious institutions were not a major cause for concern but that the internet does play a role in violent radicalisation, with a level of face-to-face interaction also usually required. The Committee expressed concern that too much focus is placed on the role of public institutions such as universities, in the Prevent Strategy, and that it may be more accurate and less inflammatory to describe them as places where radicalisation may best be identified. It considered that the emphasis placed on the role of universities by government departments is disproportionate, however also recommended that clearer guidance be issued to universities by the Government about their expected role in Prevent. The report also found that there may be a particular risk of radicalisation linked to membership of some criminal gangs, and recommended the Government to commission research to explore these issues in more detail.

The report concluded that despite the Government's efforts to remedy this perception, there continued to be a lingering suspicion about the Prevent Strategy amongst Muslim communities, with many believing that it is essentially a tool for intelligence-gathering or spying. As a result, the Committee stated there is a strong case for re-naming the Prevent Strategy to reflect a positive approach to collaboration with the Muslim communities of the UK, for example the 'Engage Strategy'.

'Roots of violent radicalisation' can be accessed in full at: http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/1446/144602.htm

Notes

NPIA

National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate

www.npia.police.uk