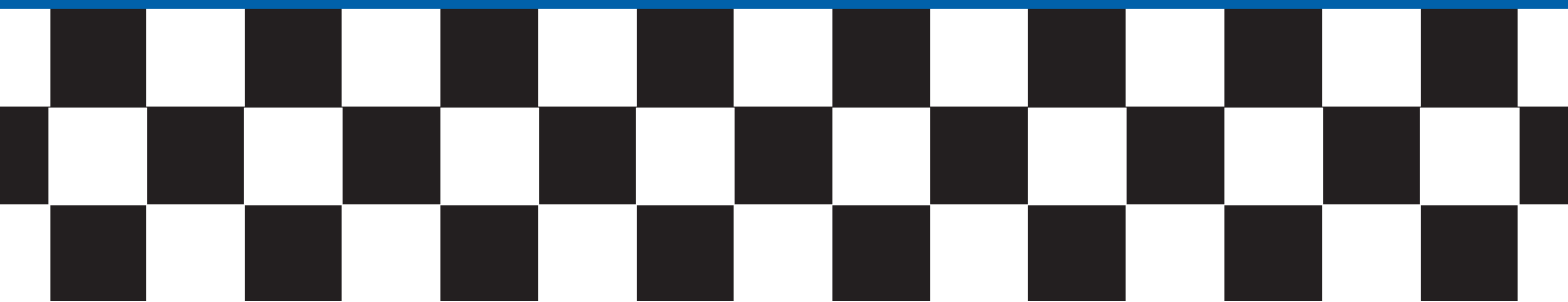


# Digest

September 2012

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



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

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

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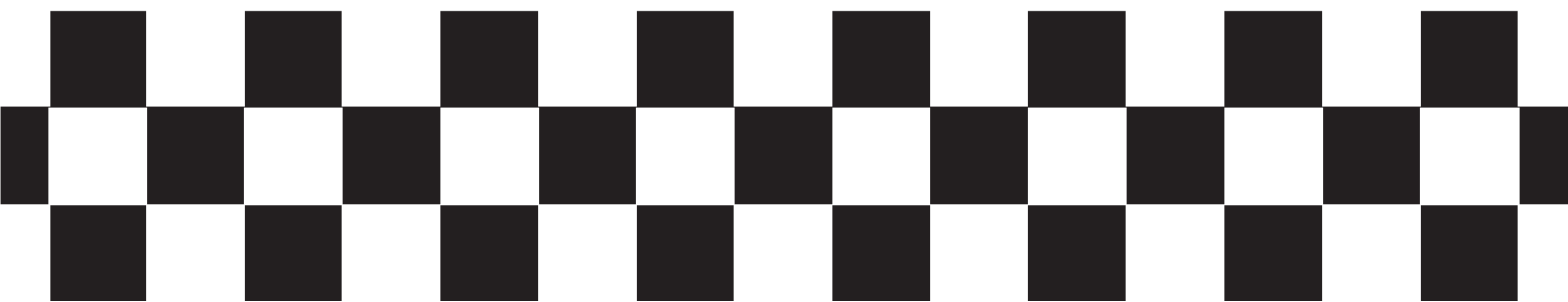
**September 2012**

# **Digest**

**Legal Services**

**Chief Executive Officer Directorate**

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



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## NPIA Digest September 2012

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

We look at the new Home Office guidance on false ID, the operation of police triage schemes, the Home Affairs Select Committee's inquiry into leadership and standards in the police service and a recent judgment on the use of stop and search powers under the Criminal Justice and Public Order Act 1994.

There are articles on the new strategic policing requirement, the police use of pre-charge bail, public attitudes to youth crime, recent changes to the Sexual Offences Act 2003, the 'Learning the Lessons' bulletin and ACPO guidance on police interaction with Police and Crime Commissioner candidates.

Statistical bulletins are covered including the latest statistics on police service strength for England and Wales, Drug Misuse findings from the 2011/2012 Crime Survey for England and Wales and Firearm and Shotgun Certificates in England and Wales 2011/12.

There are also articles on the Government Equalities Office's examination into changing attitudes to equality, the Ministry of Justice's white paper on government reform of criminal justice, the new best practice guide to confiscation order enforcement, the latest NPIA Circular on fast tracking of former police officers into the special constabulary, and the government's response to the disability related harassment inquiry.

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

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## Bills Before Parliament 2012/13 - Progress Report

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

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

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

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

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

The Crime and Courts Bill was introduced in the House of Lords at its first reading stage on 10 May 2012. Committee stage, the detailed line by line examination of each clause in the Bill, commenced on 18 June 2012. The sixth day of Committee stage took place on 4 July 2012. Amendments discussed covered Clauses 24 - 27 of the Bill. The House of Lords rose for the summer recess on 25 July 2012 and returns on 8 October 2012. The seventh day of Committee stage is scheduled for 9 October 2012.

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

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



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## Random Stop and Search: Compatibility with European Convention on Human Rights

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### **R (On the Application of Ann Juliette Roberts) v The Commissioner of Metropolitan Police [2012] EWHC 1977 (Admin)**

This was a case in which Mrs Roberts sought a declaration pursuant to Section 4 of the Human Rights Act 1988 that Section 60 of the Criminal Justice and Public Order Act 1994 Act ("The 1994 Act") was incompatible with Articles 5 and/or 8 of the European Convention on Human Rights. Mrs Roberts also sought a declaration that the decision to search her under the Act was unlawful.

#### **Basis of the Challenge**

Mrs Roberts contended that:

- (1) Section 60 of the 1994 Act was incompatible with Article 5 because a stop and search under section 60 amounted to a deprivation of liberty which was not "in accordance with the procedure prescribed by law" because of the arbitrary nature of the power conferred;
- (2) The power conferred by section 60 amounted to an interference with her right to respect for her private life under Article 8 which was not "in accordance with the law" because, in the absence of a requirement of reasonable suspicion, the power to search under section 60 was insufficiently circumscribed and lacked sufficient safeguards against its arbitrary exercise and abuse; and
- (3) The exercise of the power under section 60 gave rise to a risk of racial discrimination.

#### **The Facts**

Mrs Roberts was on a 149 bus on 9 September 2010 when a ticket inspector discovered that her Oyster card had insufficient funds to pay her fare. She was asked to leave the bus. She then gave a false name and address to the ticket inspector, dishonestly stating she did not have any identification with her. Police Constable Reid arrived at the scene at the request of a police community support officer, and again asked her for a form of identification, to which she repeated that she did not have any.

The place where she had been asked to leave the bus and was being questioned was within the borough of Haringey. About two hours before, Superintendent Barclay had granted an authority under section 60 of the Criminal Justice and Public Order Act 1994 for the period from 1.00 pm until 6.00 am the

following day in respect of the borough of Haringey, with the exception of six wards. This authorised a constable in uniform to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments.

There had in that area been a significant problem with gang-related violence, particularly between two rival gangs known as the Wood Green Mob and the Grey Gang. Twenty separate intelligence reports had been received relating to violent crime and the use of firearms, knives and other offensive weapons. Five days before, there had been an attempted murder and a stabbing, followed by a serious assault the day after. The day before, five more intelligence reports had been received, mostly relating to the use and storage of firearms. Superintendent Barclay feared that further incidents of serious violence were likely to take place in that area in the afternoon, evening and night, and in particular, that individuals would travel within the area in possession of weapons to be used in serious, violent incidents. PC Reid, aware of the section 60 authority, decided to deploy it to search Mrs Roberts.

Mrs Roberts appeared to PC Reid to be nervous, and kept a tight hold of her handbag, as if trying to conceal something. Accordingly, PC Reid explained her powers to Mrs Roberts and provided Mrs Roberts with the details required under section 2 of the Police and Criminal Evidence Act 1984. Mrs Roberts would not co-operate, resisted the search, and walked away. PC Reid explained that she would be detained for the purpose of a search but Mrs Roberts again walked off. Mrs Roberts was then handcuffed, other officers came to PC Reid's assistance, and Mrs Roberts was taken to the ground, still holding on to her handbag. The handbag was searched, and Mrs Roberts finally gave her correct name and address. Bank cards in Mrs Roberts' name, her maiden name and her son's name were discovered, although it was not suggested they were held unlawfully or for unlawful purposes; she was arrested on suspicion of handling stolen goods and taken to Tottenham Police Station.

Mrs Roberts was 38 years old, was of good character and was married with a grown up son. She was a special needs assistant working with children and young adults with learning disabilities. Mrs Roberts asserted this explained her reluctance to be searched in public; she preferred to be searched at a police station and did not wish to be searched in the street since she was concerned that other people in the area might witness the search.

### **The Law**

Section 60 of the 1994 Act provides:

- (1) If a police officer of or above the rank of inspector reasonably believes:

(a) that incidents involving serious violence may take place in any locality in his police area and that it is expedient to give an authorisation under this section to prevent their occurrence:

(aa) that:

- (i) an incident involving serious violence has taken place in England and Wales in his police area;
  - (ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and
  - (iii) it is expedient to give an authorisation under this section to find the instrument or weapon; or
- (b) that persons are carrying dangerous instruments or offensive weapons in any locality in his police area without good reason,

he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding 24 hours.

(3) If it appears to an officer of or above the rank of superintendent that it is expedient to do so, having regard to offences which have, or are reasonably suspected to have, been committed in connection with any activity falling within the authorisation, he may direct that the authorisation shall continue in being for a further 24 hours.

(4) This section confers on any constable in uniform power:

- (a) to stop any pedestrian and search him or anything carried by him for offensive weapons or dangerous instruments;
  - (b) to stop any vehicle and search the vehicle, its driver and any passenger for offensive weapons or dangerous instruments.
- (5) A constable may, in the exercise of the powers conferred by subsection (4) above, stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind.

(8) A person who fails

- (a) to stop, or to stop a vehicle; or
- (b) to remove an item worn by him,

when required to do so by a constable in the exercise of his powers under this section shall be liable on summary conviction to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale or both.

## The Issues

The court took the view that the feature of those provisions in section 60 of the 1994 Act which was particularly significant in this case, is that a constable, exercising his powers under section 60(4), may conduct a random search within the limits of the time and place specified in the authorisation under section 60(1) and provided that the search is for an offensive weapon or dangerous instrument. The power of random search, uninhibited by the requirement of any reasonable suspicion, was at the heart of the case.

The power was contrasted with what Lord Brown described as “our traditional understanding of the limits of police power” (Gillan and Quinton v Commissioner of Police of the Metropolis [2006] 2 AC 307) of which the epitome is the power to search on reasonable grounds for suspicion conferred by section 1 of the Police and Criminal Evidence Act 1984.

The question posed was whether a random search conducted in exercise of powers conferred by authorisation under section 60 offends the requirement that the measure be “in accordance with the law”.

The court held that the words “in accordance with the law” are designed to protect individuals against arbitrary interference by the executive. Section 60 confers power on a police officer of or above the rank of inspector to give an authorisation which itself confers powers on a police constable to conduct a random search within the locality and time specified in the authorisation.

In the present case, PC Reid had every reason to believe that Mrs Roberts was concealing something and believed that she had an offensive weapon in her handbag. PC Reid was also aware of the section 60 authorisation and that gang members were known to travel along the route of the 149 bus. The location was a hotspot for violence where people carried knives. It was in that context that the power to search the claimant under section 60 was exercised. It was plainly not a random search, still less arbitrary.

### Article 5

Article 5 of the Convention provides:

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
2. The lawful...detention of a person...in order to secure the fulfilment of any obligation prescribed by law.

The court endorsed the approach taken by the European Court on Human Rights in *Austin & Others v the United Kingdom*

(39692/09) and concluded that in each case it was necessary to look at a number of factors to determine whether there had been a deprivation of liberty including type, duration, effects and manner of implementation of the measure in question.

In doing so, the court took the view that the question of the arbitrary nature of the power conferred by section 60 ought properly to be considered in the context of Article 8 and not Article 5. In the instant case, Mrs Roberts was not confined, nor required to move to a police station, handcuffed or restrained. She was only restrained when she sought to resist the search. Had she not resisted, the search would probably only have been as short as three minutes and would not have resulted in the deprivation of her liberty. The stop was recorded at 2.07 pm and the arrest at 2.10 pm. It was, accordingly, far shorter than the detention considered in Gillan and in Austin.

The court held that there was no deprivation of Mrs Roberts' liberty within the autonomous meaning of Article 5.1. The search was in accordance with the law and was compatible with Article 5.

### **Article 8**

The second issue was on whether section 60 of the 1994 Act was incompatible with Article 8 of the Convention.

Article 8 provides:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There should be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Mrs Roberts was searched by virtue of powers exercised under section 60 which permitted a random search. The court held that the mere fact that there was good reason to search her in the circumstances did not deprive Mrs Roberts of the status of victim, since the impugned measure, section 60, was applied to her detriment.

The court considered that the reasoning of the ECtHR in Gillan lead to a conclusion that the search in the instant case, which involved an element of humiliation and embarrassment, and included the search of Mrs Roberts' handbag, should be regarded as engaging Article 8.1. However, the key issue was whether the power [of random search] conferred by section 60 was "in accordance with the law".

## The Conclusion

The court acknowledged that account had to be taken of the difficulties involved in policing modern societies and operational choices, but confirmed that measures must comply with the underlying principle of Article 5, to protect the individual from arbitrariness.

The court went on to say that unless the power to give authorisation conferred by section 60 could itself be described as arbitrary, random searches, by virtue of that authorisation, cannot and should not be impugned.

Lord Justice Moses held "there is a stark choice. The alternative to a random search is to impose a requirement of reasonable suspicion. It is not possible to see how that would be effective for the purposes for which the power to give authorisation is conferred."

The court held that the power conferred by section 60 to give authorisation was not unfettered. It was circumscribed by the provisions of section 60 and the Code of Practice (Code A) applying to searches, and subject to the control of the courts. The national authorities were entitled to a margin of appreciation in assessing the need for any interference in the public interest with individuals' rights under Article 8.

Accordingly, it was held that an authorisation given under section 60 of the 1994 Act was in accordance with the law within the meaning of Article 8.2 and was not arbitrary. It was not therefore, incompatible with the provisions of Article 8.

Whilst the remedy which Mrs Roberts sought was confined to references to Articles 5 and 8, the process leading up to the hearing by the court focussed to a substantial extent on a large amount of material relevant to a related but different issue.

It was Mrs Roberts' concern, as a woman from African-Caribbean heritage, that there is a disproportionate use of searches under section 60 involving "black Londoners" (the description used on her behalf in her skeleton argument) in breach of Article 14 of the Convention. Material was provided to the Court attempting to show, by statistics, a disproportionate use of section 60 against black minority ethnic groups.

The court recognised that there was potential in the exercise of a random search power for racial discrimination. However, they concluded that in this case, there was no basis for the assertion that the power was exercised in a racially discriminatory way or on the basis of racial discrimination. They observed that this issue was better addressed through the machinery of the Commission for Equality and Human Rights rather than the courts in the course of judicial review proceedings.

The claimant's application for permission to appeal was refused.

The full decision of the court can be accessed at:

<http://www.bailii.org/ew/cases/EWHC/Admin/2012/1977.html>

## **SI 2012/2087 Police and Crime Commissioner (Disqualification) (Supplementary Provisions) Regulations 2012**

These Regulations come into force on **15 September 2012** and set out the circumstances in which an entity is regarded as being under the control of another for the purposes of sections 65 and 66 of the Police Reform and Social Responsibility Act 2011. Those sections set out certain grounds on which a person is disqualified from being elected to or holding office as a police and crime commissioner. Those grounds include employment in an entity which is under the control of certain persons or bodies connected with policing or local authorities.

Regulation 2 provides that an entity is under the control of a specified policing or other body, or a chief officer of police, when appointments to the entity may be made or confirmed by the body or officer or, in certain cases, by a committee on which they are represented.

Regulation 3 sets out that an entity is under the control of a relevant council when appointments to the entity may be made or confirmed by the council.

## **SI 2012/2085 Police and Crime Commissioner Elections (Designation of Police Area Returning Officers)(No. 2) Order 2012**

This Order came into force on **10 August 2012** and makes provision in relation to elections in England and Wales of police and crime commissioners under Part 1 of the Police Reform and Social Responsibility Act 2011. It includes provision for the police areas of Lancashire, Sussex and Gwent which was omitted from the Order (No. 1) and it makes changes to designations in relation to the police areas of Suffolk and South Wales.

Article 2 revokes the Police and Crime Commissioner Elections (Designation of Police Area Returning Officers) Order 2012 (SI 2012/1965).

Article 3(2) and Schedule 1 designate the persons who, in an election of police and crime commissioners, are to act as the returning officer for each police area in England apart from the metropolitan police district and the City of London police area.

Article 3(3) and Schedule 2 designate the persons who are to act as the returning officer for each police area in Wales.

## **SI 2012/2084 Police and Crime Commissioner Elections (Designation of Local Authorities) (No. 2) Order 2012**

This Order came into force on **10 August 2012** and makes provision in relation to England and Wales in connection with



elections and vacancies affecting the office of police and crime commissioner under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). Section 75(2) of the 2011 Act provides that for each police area, other than the metropolitan police district and the City of London police area, the head of paid service of the designated local authority is to be the “appropriate officer” on whom functions are conferred under Chapter 6 of Part 1.

This Order includes provision for the police areas of Lancashire, Sussex and Gwent which was omitted from the Order (No. 1) and it makes changes to designations in relation to the police areas of Devon and Cornwall, Suffolk and South Wales.

Article 2 revokes the Police and Crime Commissioner Elections (Designation of Local Authorities) Order 2012 (SI 2012/1963).

Article 3(2) and Schedule 1 designate the local authority for each police area in England apart from the metropolitan police district and the City of London police area.

Article 3(3) and Schedule 2 designate appropriate officers for police areas in Wales.

### **SI 2012/2075 Protection of Freedoms Act 2012 (Commencement No. 2) Order 2012**

This Order came into force on **10 August 2012**.

Article 2 of this Order commences various provisions in Schedule 7 to the Act which amend the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (SI 2007/1351) (NI 11) for the purposes of making regulations under those provisions on **10 August 2012**.

Article 3 of this Order commences the new offence of unlawfully immobilising vehicles on land, amendments to the Road Traffic Regulation Act 1984 and provisions to recover unpaid parking charges on **1 October 2012**.

Article 4 of this Order commences amendments to the Regulation of Investigatory Powers Act 2000 (“RIPA”) on **1 November 2012**.

Article 5 of this Order commences two new offences of stalking and associated powers of entry on **25 November 2012**.

Article 6 of this Order provides that the commencement of the amendments to RIPA only has effect in relation to authorisations that are granted or renewed, and notices that are given, under the relevant provisions of RIPA on or after **1 November 2012**.

**SI 2012/2067 Prosecution of Offences Act 1985  
(Specified Proceedings) (Amendment  
No. 2) Order 2012**

This Order comes into force on **3 September 2012** and corrects an error in the Prosecution of Offences Act 1985 (Specified Proceedings) (Amendment) Order 2012.

That Order amends the Prosecution of Offences Act 1985 (Specified Proceedings) Order 1999 (SI 1999/904) in order to extend the circumstances in which proceedings for particular offences are exempt from the general duty of the Director of Public Prosecutions under section 3(2)(a) of the Prosecution of Offences Act 1985 to take over the conduct of criminal proceedings instituted on behalf of a police force.

One of the amendments was intended to achieve the effect that proceedings no longer cease to be specified where a magistrates' court proceeds in the absence of the accused. Due to a drafting error, this provision was only applied to proceedings against a defendant under the age of 18. Proceedings thus still cease to be specified if a court proceeds in the absence of an adult defendant. That was not the intention.

This Order accordingly corrects the error by substituting a reference to section 11(1) of the Magistrates' Courts Act 1980 for the reference to section 11(1)(a) which was inserted in the Prosecution of Offences Act 1985 (Specified Proceedings) Order 1999 by the previous amending Order.

**SI 2012/2018 Magistrates' Courts (Sexual Offences  
Act 2003) (Miscellaneous Amendments)  
Rules 2012**

These Rules come into force on **3 September 2012**, amend the Magistrates' Courts (Foreign Travel Orders) Rules 2004, the Magistrates' Courts (Risk of Sexual Harm Orders) Rules 2004, the Magistrates' Courts (Notification Orders) Rules 2004 and the Magistrates' Courts (Sexual Offences Prevention Orders) Rules 2004.

These Rules set out information that needs to be included in a foreign travel order, risk of sexual harm order, notification order and interim notification order (the "orders"). This information was previously set out in prescribed forms. These Rules remove the requirement for a summons in respect of the orders, a sexual offences prevention order or an interim sexual offences prevention order, to be in a prescribed form.

**SI 2012/1966 Counter-Terrorism Act 2008  
(Commencement No. 7) Order 2012**

This Order came into force on **25 July 2012** and provides that section 27 of the Counter-Terrorism Act 2008 (meaning of

“terrorism offence”) shall come into force in relation to England and Wales and Scotland on **26 July 2012**.

### **SI 2012/1961 Special Constables (Amendment) Regulations 2012**

These Regulations came into force on **20 August 2012** and amend the Special Constables Regulations 1965 by inserting provisions about the biometric vetting of candidates for appointment as special constables, the testing of special constables, and candidates for substance misuse. They also amend provisions about the notification and approval of business interests held by special constables, candidates and their relatives. The provisions are effectively identical to those applicable to regular police officers by virtue of the Police Regulations 2003.

### **SI 2012/1960 Police (Amendment No. 3) Regulations 2012**

These Regulations came into force on **20 August 2012** and amend the Police Regulations 2003 by replacing the provisions about business interests held by police officers, candidates for appointment to police forces, and their relatives. The Regulations also insert new provisions about biometric vetting of candidates for appointment to police forces so as to make an offer of appointment to a police force (other than on transfer from another force or the special constabulary) conditional on the candidate consenting to his fingerprints and a sample being taken, in order that a speculative search can be made against databases of other fingerprints, samples or information derived from samples held by law enforcement agencies in connection with or as a result of the investigation of offences.

### **SI 2012/1957 Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2012**

This Order came into force on **25 July 2012** and amends the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (the “Exceptions Order”). The Order creates a new exception for the role of Police and Crime Commissioner (PCC) following the creation of this elected office in the Police Reform and Social Responsibility Act 2011.

The Order ensures the effect of the Exceptions Order is unchanged as a result of changes introduced by the Protection of Freedoms Act 2012 to the Safeguarding Vulnerable Groups Act 2006 for those working with children and vulnerable adults and it consolidates the references to ‘health care professionals’ contained in the Exceptions Order.

### **SI 2012/1956 Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Commencement No. 1) Order 2012**

This Order came into force on **24 July 2012** and is the first Commencement Order made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Article 2 of the Order brings section 144 of that Act into force on **1 September 2012**. Section 144 creates an offence of squatting in a residential building.

### **SI 2012/1918 Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012**

These Regulations came into force on **25 July 2012** and confer functions on police area returning officers and local returning officers at elections for a police and crime commissioner in accordance with Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”).

The Regulations confer general functions that are in addition to specific functions conferred by Order made under section 58 of the 2011 Act. The functions are also subject to any contrary provision in the arrangements under which another returning or counting officer will discharge certain functions in the event that the poll at a PCC election is taken together with the poll at another election or referendum.

### **SI 2012/1917 Police and Crime Commissioner Elections Order 2012**

This Order which came into force on **25 July 2012** makes provision as to the conduct of elections for a police and crime commissioner (“PCC elections”) for police areas in England and Wales.

Part 1 of the Order is general and contains definitions.

Part 2 of the Order makes provision about the franchise for PCC elections and the exercise of that franchise. This includes provision for polling districts and polling places at PCC elections to be aligned with those used for Parliamentary elections.

Part 3 of the Order deals with election campaigns and amends existing provisions to extend to PCC elections the requirements for registration of political parties and the controls on campaign expenditure for election purposes by such parties.

Part 4 of the Order together with Schedule 9, makes provision for legal proceedings for the purposes of PCC elections.

Part 5 of the Order contains miscellaneous and supplementary provisions including the steps that are to be taken in the event that a PCC election fails or is declared void.

Schedules 1-4 of the Order contain provisions on the free supply of the register to police area returning officers and local returning officers for electoral purposes, absent voting, PCC elections rules, and the combination of polls with the poll at another election or referendum.

Schedules 5-10 set out the controls that are to apply to donations made to individual candidates, provisions relating to expenses, publication of candidate details and legal proceedings for the purposes of PCC elections.

### **SI 2012/1833 Criminal Justice Act 1988 (Reviews of Sentencing) (Amendment) Order 2012**

This Order came into force on **6 August 2012** and amends the Criminal Justice Act 1988 (Reviews of Sentencing) Order 2006 (SI 2006/1116) ("the 2006 Order"). The 2006 Order describes cases to which Part 4 of the Criminal Justice Act 1988 is to apply. That Part empowers the Attorney General to refer certain cases to the Court of Appeal, where the Attorney considers that the sentencing in that case has been unduly lenient.

This Order adds cases tried on indictment following the giving of a notice by a designated authority under section 51B of the Crime and Disorder Act 1998 (notices in serious or complex fraud cases) to the 2006 Order. Paragraph 4 of Schedule 1 to the 2006 Order is substituted to include the offences of encouraging or assisting under section 44 or 45 of the Serious Crime Act 2007. The Order adds offences involving trafficking people for exploitation under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 to the 2006 Order.

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## Home Secretary Issues Strategic Policing Requirement

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On 31 July 2012, the Home Secretary issued the Strategic Policing Requirement (SPR), in accordance with Section 77 of the Police Reform and Social Responsibility Act 2011. The SPR supports chief constables and police and crime commissioners (PCCs) to ensure they fulfil forces' national responsibilities.

The aim of the SPR is to:

- ◆ Help PCCs, in consultation with their chief constable, to plan effectively for policing challenges that go beyond their force boundaries;
- ◆ Guide chief constables in the exercise of these functions; and
- ◆ Enable and empower PCCs to hold their chief constable to account for the delivery of these functions.

The SPR is structured in two parts; considering what are, in the Home Secretary's view, the national threats and the required responses to deal with those threats respectively. It is focused on what, in strategic terms, the police need to achieve rather than how they should achieve it.

Current identified threats and harms requiring a cross boundary policing response, for which planning and preparation is expected to take place between Force areas, or in support of national arrangements, as specified in Part A of the SPR are:

- ◆ Terrorism;
- ◆ Other civil emergencies;
- ◆ Organised crime;
- ◆ A large-scale cyber incident; and
- ◆ Threats to public order or public safety that cannot be managed by a single police force acting alone.

Part B of the SPR outlines the policing response that is required nationally to counter these threats in terms of:

- ◆ The combined national capacity of all police forces to respond to these threats;
- ◆ The capabilities that police forces, often working collaboratively, need to maintain in order to achieve these outcomes;
- ◆ The requirement for consistency among forces for certain key specialist capabilities where the resources from more than one police force need to be integrated with, or work effectively alongside, each other; and

- ◆ The connectivity arrangements by which resources from several police forces may effectively be co-ordinated or mobilised, together and with those of other agencies.

The implementation of the SPR will be the responsibility of the chief constables in England and Wales and PCCs who must consider the areas set out in the SPR and satisfy themselves that they:

- ◆ Understand their respective roles in preparing for and tackling shared threats, risks and harm;
- ◆ Agree, where appropriate in agreement and collaboration with other forces or partners, the contribution that is expected of them; and
- ◆ Have the capacity and capability to meet that expectation, taking properly into account the remit and contribution of other bodies with responsibilities in the areas set out in the SPR.

Further details on the Strategic Policing Requirement are available at:

<http://www.homeoffice.gov.uk/publications/police/pcc/strategic-policing-requirement>

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### **Home Office Circular 015/2012 on the Testing of Substances Suspected to be Drugs Controlled under the Misuse of Drugs Act 1971**

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Home Office Circular 015/2012 was published on **31 July 2012**. It replaces Home Office Circular 40/1998 and provides advice to law enforcement personnel on:

- ◆ The need for forensic analysis of substances suspected to be controlled drugs;
- ◆ The circumstances in which drug testing may be undertaken locally by the police;
- ◆ The use of drug testing devices for this purpose; and
- ◆ The use of results from drug testing devices in prosecutions.

#### **Forensic analysis of drugs**

All substances suspected to be controlled drugs must be sent to a forensic science laboratory for analysis unless:

- ◆ They are seizures of cannabis, including cannabis resin but excluding cannabis (hash) oil; or
- ◆ They are seizures of suspected controlled drugs (as listed in Annex A) which have given a positive result when tested with a Home Office approved drug-testing device.

Cannabis (including cannabis resin, but excluding hash oil: a concentrated form of cannabis/cannabis resin) is the only controlled substance for which forensic analysis or a positive result from a drug testing device is not required if the identification of the drug is not in dispute. A substance is deemed to be 'not in dispute' if both the person and the law enforcement officer agree on the identification of the substance.

### **Drug-testing devices**

Drug testing devices can be used in order to facilitate a remand, either in custody or on conditional bail. A number of kits have been approved by the Home Office for use in testing for the following drugs only:

- ◆ Heroin;
- ◆ Morphine;
- ◆ Amphetamine; and
- ◆ Cocaine.

In deciding whether to submit substances suspected to be controlled drugs to a forensic science laboratory for analysis rather than using drug testing devices, the circular suggests that consideration must be given to the fact that:

- ◆ The devices can only indicate the presence of the drug and such devices cannot categorically identify controlled substances;
- ◆ Some drug testing devices may give positive results from common materials which are not controlled drugs; and
- ◆ Results from such devices should not be used as the only evidence to support a charge.

The circular also suggests that consideration should be given to:

- ◆ The full costs (taking into account law enforcement personnel's time, including training, the production of statements and giving evidence in courts) in comparison to the charges made for analysis by a forensic science laboratory;
- ◆ Compliance with the Criminal Procedure Rules, in particular Part 3 and Rule 3.2(2)(a) which requires 'the early identification of the real issues'; and
- ◆ The use of these devices should not be seen as a replacement for laboratory tests where investigation into the weight, purity, adulterants, batch and manufacturing methods are needed.



## Types of drug-testing devices

- ◆ The device must be approved by the Home Office and only be used for testing those drugs for which they are approved for use;
- ◆ Law enforcement personnel only need to use a Home Office approved device where it is suspected the substance is a controlled drug and where it is intended that the result may be used in evidence;
- ◆ Chief officers have the discretion to approve the use of non-approved drug testing kits in their use within their own force area for screening and intelligence purposes only;
- ◆ Non-approved drug testing kits cannot be used either to provide evidence of, or to support an admission of, the identity of the drug in court, as their reliability has not been independently verified by the Home Office; and
- ◆ Alternative devices may be used without the need for Home Office approval, but officers need to be aware of their potential unreliability, the inability to use any results in evidence and the need to comply with disclosure obligations.

## Training in the use of drug-testing devices

Training in the use of drug testing devices is essential to ensure that they are used properly. Training must be both theoretical and practical and must include the following topics:

- ◆ The circumstances in which it is appropriate to use the kits;
- ◆ The requirements of the Criminal Procedure and Investigations Act 1996 and Criminal Procedure Rules (particularly parts 1,3, Rule 3.2(2)(a) and (e) and 33);
- ◆ The limitations of the devices;
- ◆ Avoidance of contamination;
- ◆ Correct procedures and practical sampling;
- ◆ False positive/negative results; and
- ◆ Health and safety.

Practical sessions must include testing of illicit drug preparations and emphasis should be placed on the chain of evidence, property storage procedures, exhibiting and statement provision and content.

The circular makes it clear that training of personnel by other personnel who are not qualified to carry out such training is not acceptable and attendance upon a course aimed at training people in the use of drug testing kits does not confer qualification to train others.

## Use of results from drug-testing devices in prosecutions

Evidence of the result from an approved drug-testing device may be accepted by the Crown Prosecution Service in:

- ◆ Cases dealt with in a Magistrates' Court provided that the criteria set out in paragraph 7 apply; or
- ◆ Cases where a guilty plea is entered in a Magistrates' Court, but where the defendant is committed for sentence to the Crown Court, provided that the criteria set out in paragraph 7 apply; or
- ◆ Cases dealt with in the Crown Court where the identity of the substance is not in dispute; and there is further corroborative evidence to support the identity of the substance; and the criteria set out in paragraph 7 applies; or
- ◆ Any case in order to facilitate a remand either in custody or on conditional bail, while awaiting the results of laboratory analysis.

The criteria (contained in paragraph 7 of the circular) are that:

- ◆ The person admits both possession of the drug, its identity and indicates that the drug is for personal use only; **and**
- ◆ The case involves a small quantity of the drug, consistent with personal use; **or**
- ◆ Where the Evidential Drug Identification Testing (EDIT) process applies.

In addition, the circular makes it clear that where such results are to be used as prosecution material:

- ◆ The chain of evidence must be preserved and supported by proper documentation; and
- ◆ It must be accompanied by a signed witness statement stating that the test was an indicative test and that it was carried out by a member of law enforcement personnel who had been trained to carry out such tests in a manner approved by the Home Office.

### Exceptions

Use of drug-testing devices must not be used if any of the following circumstances apply:

- ◆ The substance is not suspected to be a controlled drug;
- ◆ The result of the indicative test is disputed by the person or does not support the admission of the person; or
- ◆ The admission of the drug identification or possession by the person is withdrawn.

In such circumstances, any seized substances must be referred to a forensic science laboratory for analysis.

The Home Office Circular 015/2012 is available at:

<http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2012/015-2012/>

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## **Sexual Offences Act 2003 (Notification Requirements) (England and Wales) Regulations 2012 and Revised Guidance**

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The Sexual Offences Act 2003 (Notification Requirements) (England and Wales) Regulations 2012 (SI 2012/1876) came into force on **13 August 2012**.

These Regulations amend the Sexual Offences Act 2003 (Travel Notification Requirements) Regulations 2004 ("the 2004 Regulations") and introduce new notification requirements under the Sexual Offences Act 2003 ("the 2003 Act") as to the information which offenders, who are subject to the requirements of Part 2 of the 2003 Act, must notify to the police.

The Regulations amend the notification requirements in two ways:

- ◆ They require offenders to notify additional information when they intend to travel outside the United Kingdom (for example, by replacing the existing requirement to notify foreign travel of three or more days with a requirement to notify all foreign travel); and
- ◆ They introduce a new requirement that offenders notify information in relation to their residence, banking arrangements and passports or other forms of identification (for example, to notify information on a weekly basis where the offender does not regularly reside at one place, or to notify where the offender resides with a child).

The Regulations introduce a new requirement for the offender to notify:

- ◆ Weekly, if the relevant offender does not regularly reside or stay at one place;
- ◆ If the relevant offender has resided, or stayed for the period of at least 12 hours, at a household or other private place where a child resides or stays;
- ◆ Information in relation to any bank accounts, credit and debit cards held by the relevant offender (whether alone or with another person, and whether in the name of an unincorporated business run by the relevant offender); and

- ◆ Information contained in any passport or other form of identification held by the relevant offender.

The Regulations also amend the existing requirements to notify foreign travel whereby:

- ◆ All foreign travel must be notified;
- ◆ Notification may be given 12 hours before intended departure (in place of the existing minimum period of 24 hours); and
- ◆ Information about intended additional destination countries, accommodation in such countries and carriers used to reach them must also be notified.

The new requirement to notify all foreign travel will enable the police to:

- ◆ Engage more pro-actively with international enforcement agencies; and
- ◆ Utilise existing tools such as foreign travel orders to manage any risk identified from the additional information notified.

Weekly notification by relevant offenders who are recorded as not residing regularly at the same place will enable the police to:

- ◆ Build a more comprehensive picture of the whereabouts of such individuals in order to manage the risk they pose; and
- ◆ Aid the safeguarding of children and help the police to identify situations where intervention may be appropriate to protect children from harm.

The new requirement to notify bank account and credit card details will assist the police:

- ◆ In tracing a relevant offender who has failed to comply with the notification requirements; and
- ◆ Tighten the rules to ensure that offenders cannot seek to avoid the system by changing their name on their passport or other forms of identification.

The Home Office has issued revised non-statutory guidance on Part 2 of the 2003 Act. As well as detailed guidance on the notification requirements, the guidance covers civil orders such as Foreign Travel Orders; miscellaneous provisions such as the verification powers available to help police verify offender's notified information; and other issues including Multi-Agency Public Protection Arrangements and disqualification orders. The guidance requests that police communicate the notification requirement changes to relevant offenders living in their police areas; a letter to use for this purpose is provided at Annex L of the guidance.

The Sexual Offences Act 2003 (Notification Requirements) (England and Wales) Regulations 2012 and explanatory note is available at:

<http://www.legislation.gov.uk/ukdsi/2012/9780111521410/introduction>

The revised guidance on Part 2 of the Sexual Offences Act 2003 is available at:

<http://www.homeoffice.gov.uk/publications/police/operational-policing/sexual-offences-act-2003?view=Binary>

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## **National Best Practice Guide to Confiscation Order Enforcement Issued**

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The latest national best practice guide to confiscation order enforcement has been issued by the Home Office.

The revised guide takes account of the experience gained since the last publication in March 2005 and incorporates the Joint Asset Recovery Database (JARD) into the general guidance and detailed processes. It also contains a significantly updated supplementary guidance section.

The guide is divided into two main sections and aims to set minimum acceptable standards for the effective enforcement of confiscation orders.

- ◆ Section 1 deals with pre-enforcement and covers the process stages up to the point where the enforcement authority receives the order, together with appeals and variations; and
- ◆ Section 2 deals with enforcement and covers the stages which are the primary responsibility of the enforcement authority.

Areas of most significant change are:

- ◆ Updated section on JARD;
- ◆ New pre-enforcement processes sections covering:
  - Investigative powers;
  - Cash Seizure;
  - Criminal Prosecution;
  - Restraint Orders; and
  - Instructions to Advocates
- ◆ New section on Agency Roles;
- ◆ Inclusion of revised 50/50 and 50/50A forms; and
- ◆ Reference to new Guidance Documents and Protocols.

The guide is deliberately detailed to provide staff involved in the confiscation process with information on:

- ◆ What needs to be done;
- ◆ By whom it needs to be done;
- ◆ When it needs to be done; and
- ◆ How it needs to be done.

The guidance applies to confiscation orders made in the Crown Court in England and Wales only.

The 'National Best Practice Guide to Confiscation Order Enforcement' is available at:

<http://www.homeoffice.gov.uk/publications/crime/confiscation-order-enforcement?view=Standard&pubID=1060699>

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### Home Office Issues False ID Guidance

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The Home Office has issued guidance on false ID. The guidance is aimed at door staff, all other staff who work at licensed premises and the police. It is intended to provide a better understanding of the issues surrounding the use of false ID, and to offer tools that can be used to deal with those issues. Examples of good practice are included to assist forces with devising processes that best suit their local area.

Guidance is provided on:

- ◆ What types of ID are acceptable;
- ◆ Ways to determine whether ID is real or false; and
- ◆ Methods that can be used to determine whether a person using the ID is the person to whom it belongs.

Specific guidance is included for licensed premises on:

- ◆ How to record a false ID that has been handed in;
- ◆ How false IDs can be stored on the premises;
- ◆ When police should be informed of its existence;
- ◆ How long a false ID may reasonably be held before being passed to police; and
- ◆ What to do if a person complains that their ID has been confiscated.

Specific guidance for the police is provided on:

- ◆ How false ID can be recorded and stored;
- ◆ How long it can be held before it must be returned to the issuing authority;

- ◆ Possible offences that may be committed; and
- ◆ A suggested false ID process for the police.

The full guidance is available at:  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/false-id-guidance>

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## ACPO Guidelines on Police Interaction with PCC Candidates

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The Association of Chief Police Officers has published 'Guidelines for interaction with Police and Crime Commissioner Candidates'. The guidelines define guiding principles to help decide how to respond to requests from political parties or prospective or actual Police and Crime Commissioner (PCC) candidates. The guidance should be applied from now until the conclusion of the election.

The guidelines note that forces are under no duty to brief candidates or provide candidates with information, but any interaction with candidates must provide sufficient information without bringing force or staff impartiality into question. Three essential principles are set out as the test for contact with candidates. General principles to be applied are given, including guidelines for force personnel and police staff and specific guidelines for police officers.

The guidelines can be found at:  
<http://www.acpo.police.uk/documents/futures/2012/201207FBA GfIwPCCs.pdf>

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## NPIA Circular 02/2012 on Fast Tracking Former Police Officers into the Special Constabulary Published

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The circular was published on **8 August 2012** and contains a number of protocols for forces on the fast tracking of former police officers into the Special Constabulary.

The protocols were developed in consultation with the Special Constabulary National Consultative Group (SCNCG) and are intended to serve as guidance to police forces who are free to decide whether to adopt the protocols within their force area.

Implementing the protocols contained within the circular could have several benefits for front line policing in terms of the experience, skills and training of former officers and, potentially, could bring new ideas or ways of working to the Special Constabulary.

It is anticipated that the application of these protocols could mean a significant increase in the number of Specials holding independent patrol status, without the need for further significant investment.

NPIA Circular 02/2012 is available at:  
<http://www.npia.police.uk/en/10040.htm>

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## Learning the Lessons: Bulletin 17

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The Learning the Lessons multi-agency group has released a bulletin to help the police service learn lessons from investigations into police complaints and conduct matters. The group's members include the Association of Chief Police Officers, the Association of Police Authorities, Her Majesty's Inspectorate of Constabulary, the Home Office, the Independent Police Complaints Commission, the NPIA, the Police Superintendents' Association of England and Wales and the Police Federation.

Each bulletin includes short anonymised case summaries, along with a link to the full learning report. The case summaries ask policy makers and managers as well as police officers and staff to consider 'could this happen here?' This is supplemented with more detailed questions about how their force would deal with the issues raised, to enable forces to use the experiences of other forces to improve policies and practices.

Bulletin 17, published in August 2012, covers a variety of issues including managing or accessing intelligence; using police vehicles; bringing an offender to justice; and working with other agencies. The case summaries relate to:

- ◆ Acting on Crimestoppers information;
- ◆ Ignoring a call to abandon a pursuit;
- ◆ Transporting detainees;
- ◆ Cancellation of speeding ticket;
- ◆ Bringing an offender to justice;
- ◆ Setting bail conditions to safeguard welfare;
- ◆ Locating an offender;
- ◆ Missing case papers;
- ◆ Performing disclosure; and
- ◆ Acting on intelligence.

The bulletin, along with background documents, learning reports and a poster is available for download at:  
<http://www.learningthelessons.org.uk/Pages/Bulletin17.aspx>



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## HMIC Report on Preparing for Police and Crime Commissioners

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Her Majesty's Inspectorate of Constabulary (HMIC) has published an inspection report on its interim assessment of whether police authorities are making prudent preparations for the transition to police and crime commissioners (PCCs) and whether transition planning is having a detrimental effect on normal police authority work.

Between April and June 2012 HMIC looked at police authority transition plans and risk registers, conducted 'support and challenge' meetings with police authority members and staff, and spoke to every chief constable. The work of five police authorities was looked at in more detail.

HMIC found that police authorities' workload has increased, and most are taking steps to bring in additional support during transition and mitigate the risks of authority teams being under strength at the time of the elections. There is a clear commitment to run transition planning in parallel with normal business.

All police authorities were found to have plans to manage the transition to PCCs, though plans were at different stages of advancement. All police authorities are preparing draft plans to help PCCs make decisions about the police and crime plan and the 2013/14 police budget.

HMIC will look in more detail at the budget development process and the proposals for governance, accountability and decision-making models in September 2012.

The inspection report 'Preparing for Police and Crime Commissioners: An interim report on the progress made by police authorities in preparing for the introduction of PCCs' can be found at:

<http://www.hmic.gov.uk/publication/preparing-for-police-and-crime-commissioners/>

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## Latest National Statistics on Police Service Strength in England and Wales Published

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Home Office Statistical Bulletin 09/12 contains the police service strength statistics for the 43 police forces of England and Wales and for British Transport Police, as at 31 March 2012.

### The key points from the latest release are

- ◆ There were 134,101 full-time equivalent (FTE) police officers in the 43 police forces of England and Wales. This is a decrease of 3.6 per cent or 5,009 officers compared to a

year earlier, and follows a decrease of 4,625 officers in the twelve months prior to that;

- ◆ The British Transport Police (BTP) employed 2,557 officers across England and Wales, and a further 481 were seconded to Central Services such as the National Policing Improvement Agency (NPIA) or Her Majesty's Inspectorate of Constabulary (HMIC);
- ◆ Police officer strength, including officers from the BTP and those seconded to Central Services (such as the NPIA or HMIC), was 137,139 FTE, a decrease of 3.6 per cent or 5,078 on the previous year;
- ◆ There were 6,664 FTE minority ethnic officers in the 43 English and Welsh police forces, representing 5.0 per cent of the total strength, compared with 4.8 per cent a year earlier;
- ◆ There were 67,474 FTE police staff (excluding PCSOs, traffic wardens and designated officers) for the 43 police forces of England and Wales, a decrease of 8.8 per cent compared to a year earlier;
- ◆ Women accounted for 68.5 per cent of police staff, a much higher proportion than in the police officer ranks;
- ◆ There were 14,393 FTE police community support officers in the 43 forces of England and Wales, a decrease of 9.0 per cent on the previous year with women representing 46.7 per cent of all PCSOs;
- ◆ There were 20,343 special constables, 10.4 per cent more than the previous year with women representing 31.0 per cent of all special constables;
- ◆ Overall, there were 220,067 FTE workers (officers and staff) in the 43 police forces of England and Wales; and
- ◆ 2,394 FTE officers were recruited in the 12 months to 31 March 2012 with women representing 28.3 per cent of all joiners.

'Police Service Strength, England and Wales, 31 March 2012' is available at:

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/hosb0912/>

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### **Police Use of Pre-charge Bail: An Exploratory Study**

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An exploratory study on the police use of pre-charge bail has been released by the National Policing Improvement Agency (NPIA).

The study, which was commissioned by the Association of Chief Police Officers (ACPO) Reducing Bureaucracy Programme Board and ACPO Criminal Justice Business Area, was undertaken by the Research, Analysis and Information (RAI) unit of the NPIA with support from ACPO and the Crown Prosecution Service (CPS).

The purpose of the research was to:

- ◆ Help identify and explain sources of variation in processes relating to the use of pre-charge bail, in particular those leading to unnecessary work; and
- ◆ Inform the development of force initiatives intended to improve the process.

The findings of the exploratory study are based on opinions of officers and staff involved in the bail management process, including the CPS.

### **Key findings**

The research identified four aspects of the bail process that were perceived to be driving the use of pre-charge bail and which were potentially sources of unnecessary use:

- ◆ Unplanned arrests;
- ◆ Insufficient quality in initial investigations;
- ◆ Demands on limited custody space; and
- ◆ Differing perceptions on levels of evidence required for charge leading to delays in the process.

Four broad themes help to explain variations in use of pre-charge bail.

### **Force policies and processes**

- ◆ Officers reported what they felt were overly high levels of unplanned arrests, driven in part by policies which required mandatory arrest for certain crime types;
- ◆ Unplanned arrests represented an unpredictable workload which could lead to the use of pre-charge bail to manage resource bottlenecks; and
- ◆ Policies that required 'named suspects' (individuals wanted in connection with an offence) to be arrested within 14 days, whether investigative work had been completed or not was seen as a potential factor in over use of pre-charge bail.

## Risk aversion

- ◆ There was a perception from some response officers that they were often required to arrest individuals due to risk aversion from senior management;
- ◆ Alternatives to arrest, such as voluntary attendance, were felt by some officers to be a complicated process on which they had little instruction; and
- ◆ Some police officers felt that there may be risk aversion from some CPS representatives that this could lead to inconsistencies in the levels of evidence required to charge.

## Performance pressures

- ◆ Some officers felt that reasons for variation in the use of bail was driven by differing reactions to standards and performance targets;
- ◆ Response officers felt under pressure to arrest and respond to incidents quickly which was felt to have a negative effect on the quality of their primary investigations; and
- ◆ Performance measures were thought sometimes to work against each other with, for example, response officers being driven to make arrests, deliver to custody and return to the streets with custody sergeants needing to free up cells by encouraging prisoners to be processed by those same officers.

## Resources

- ◆ Perceived limited resources were felt to fracture efficient relationships between the various teams involved in the arrest to charge process;
- ◆ The use of specialist investigation teams, although seen to improve the quality of case files, were felt to have contributed to a loss of investigative skills in response officers;
- ◆ Resource availability in the custody unit and the time and resources required to process forensic analysis and collect evidence was felt to contribute to the use of pre-charge bail; and
- ◆ Bail return dates were often set based on dates available for appointments for answering bail in a bail management diary rather than an assessment of the investigative work required.

The study identifies various options for introducing changes to the pre-charge bail process. These options include relatively straightforward changes to policies and processes or refocusing

of resources around bottlenecks, to more fundamental changes in supervision and management structures and in organisational culture.

The study also identifies a number of areas for police forces to consider when reviewing bail management in order to make processes more efficient and effective.

'Police use of pre-charge bail: An exploratory study' is available at:

<http://www.npia.police.uk/en/19292.htm>

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## **Assessing Young People in Police Custody: An Examination of the Operation of Triage Schemes**

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On 30 July 2012, the Home Office published Occasional Paper 106 which examines the operation of triage schemes.

Triage schemes are based in police stations and aim to identify the needs of young people as they enter the youth justice system. A key worker, usually from the youth offending team, will work in partnership with police officers from the custody suite to identify and engage young people who have been arrested.

Triage is only offered if the young people involved admit the offence and show remorse. The restorative justice element gives victims a voice during the justice process creating a balance between the victim's need for reparation and the needs of often vulnerable young people.

Triage schemes operate at three levels, dependent on the previous offending of the young arrestee and/or the seriousness of the alleged offence:

- ◆ Level 1 (the least serious) is likely to result in diversion from the youth justice system;
- ◆ Level 2 involves a referral to supportive interventions; and
- ◆ Level 3 involves fast-tracked progression through the system.

The broad aims of the triage schemes are:

- ◆ To ensure that the needs of young offenders are assessed and identified quickly and that appropriate interventions are put in place to address those needs;
- ◆ To extend and improve collaborative decision-making between the police, the Crown Prosecution Service (CPS) and the Youth Offending Service;
- ◆ To divert cases of low-level offending away from the formal youth justice system, in order to avoid the unnecessary

criminalisation of young people on the fringes of criminal activity;

- ◆ To ensure that formal justice processes are focused on relatively serious offences, and can resolve these cases more quickly and effectively; and
- ◆ To increase the use of restorative processes to make young offenders take responsibility for their actions and to promote confidence in justice among victims, witnesses and the wider community.

The paper examined the design, implementation and delivery of triage schemes including:

- ◆ Different models and how they evolved;
- ◆ The extent and nature of partnership working during implementation;
- ◆ Links between triage and other services and schemes;
- ◆ The identification and referral processes; and
- ◆ Barriers and factors supporting implementation and delivery.

The paper also examined the throughput of triage schemes looking at the number of young people going through the schemes, their characteristics and offending profiles and the outcomes for those young people engaging with the schemes and a review of the extent and nature of the data available locally on offending and re-offending.

### **Key findings include**

- ◆ Triage was highly valued for its early intervention and diversionary approach;
- ◆ Restorative justice is central to triage as it is the minimum intervention that all young people will undergo as part of the process;
- ◆ Triage came in a variety of shapes and sizes, having been implemented locally to meet the particular needs and circumstances of each area visited;
- ◆ Triage appears to work best in areas where there is an existing working relationship between police and the Youth Offending Service;
- ◆ The support of the custody officers was crucial. Without their full co-operation, in terms of selecting and referring young people to the schemes, triage will not work;
- ◆ Triage schemes are not intrinsically incompatible with community resolution and can fit well;

- ◆ Triage schemes can operate as a stand-alone process or as part of a raft of interventions targeting young people at risk of offending or young people coming into contact with the police in custody;
- ◆ Local co-ordination of youth justice system initiatives is key to their successful operation;
- ◆ Areas should assess police training needs in order to promote how triage will fit into current custody arrangements, its operation and potential benefits;
- ◆ Police secondment to triage schemes can assist in raising its profile and credibility with operational officers;
- ◆ Providing the police with regular feedback about the progress of young people engaged with triage may increase police co-operation;
- ◆ Publicising data, such as low re-offending rates among young people who have been through the triage schemes, will help police officers to see its value; and
- ◆ Developing good links with a range of local supporting services is vital to providing positive and constructive interventions to young people;
- ◆ A clear strategy for monitoring the triage schemes is required both locally and nationally; and
- ◆ A critical part of triage is the quality and range of services and support that are available for young people who engage with the schemes.

'Assessing young people in police custody: An examination of the operation of triage schemes' is available at:  
<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/occ106>

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## CEOP Threat Assessment Published

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The Child Exploitation and Online Protection Centre (CEOP) has published its 2012/13 'Threat Assessment of Child Sexual Exploitation and Abuse'. The assessment aims to provide a picture of the nature and scale of current offending, setting out the general picture and emerging threats. The document also identifies and analyses five priority themes for 2012/13 which represent key threats for child sexual exploitation and abuse; these themes are:

- ◆ The targeting of children online based on their heightened vulnerability;
- ◆ Those who sexually offend against children using the anonymity provided by the hidden internet;
- ◆ The production, possession and distribution of indecent images of children;
- ◆ Those who travel overseas to sexually offend against children; and
- ◆ Group and gang associated child sexual exploitation (GGACSE).

The role of the police is highlighted in tackling GGACSE; the threat assessment states the need for multi-agency intervention and CEOP's commitment to work with partners including police to fill in gaps in knowledge and understanding.

The threat assessment can be found at:  
[https://www.ceop.police.uk/Documents/ceopdocs/CEOPThreatA\\_2012\\_190612\\_web.pdf](https://www.ceop.police.uk/Documents/ceopdocs/CEOPThreatA_2012_190612_web.pdf)

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## Drug Misuse Declared: Findings from the 2011/12 Crime Survey for England and Wales

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The latest National Statistics on drug use in England and Wales have been released by the Home Office. The release examines the extent and trends in illicit drug use among a nationally representative sample of 16 to 59 year olds resident in households in England and Wales and is based on results from the 2011/12 Crime Survey for England and Wales (CSEW, formerly the British Crime Survey). The survey provides estimates of illicit drug use among adults over three time periods: ever in their lifetime, in the last year and in the last month.

### Key findings include

- ◆ An estimated one in three adults (around 12 million) had taken an illicit drug in their lifetime;



- ◆ An estimated 8.9 per cent of adults (around three million) had used an illicit drug in the last year;
- ◆ 5.2 per cent (an estimated 1.7 million people) has used illicit drugs in the last month;
- ◆ Around 3.0 per cent of 16 to 59 year olds (around one million people) had used a Class A drug in the last year;
- ◆ Cannabis was the most commonly used type of drug in the last year (6.9% of adults, around 2.3 million people) followed by powder cocaine (2.2%, around 0.7 million); and
- ◆ Around 1.1 per cent of adults used mephedrone in the last year with men being twice as likely as women to report last year use.

### **Other findings include**

- ◆ 3.3 per cent of adults aged 16 to 59 were defined as frequent drug users (having taken any illicit drug more than once a month on average in the last year);
- ◆ Drug use among young people aged 16 to 24 is more than twice as high (7.0%) as for adults overall;
- ◆ Any drug use was highest among 16 to 24 year olds (19.6% of 16 to 19 year olds and 19.0% of 20 to 24 year olds) with cannabis being the most commonly taken drug;
- ◆ Class A drug use was highest among 20 to 29 year olds (7.2% of 20 to 24 year olds and 5.9% of 25 to 29 year olds);
- ◆ Levels of drug use increased with increasing frequency of alcohol consumption or visits to nightclubs or pubs; and
- ◆ Men continue to report higher levels of drug use than women.

Although not showing a change in recent years (levels of last year usage remained at similar levels for these remaining drug types in the 2010/11 and 2011/12 surveys), long-term trends for usage of other drug types among adults show that:

- ◆ Last year use of ketamine has shown little change over the last four years (0.6% in 2008/09 and in 2011/12);
- ◆ Last year usage of hallucinogens has fallen between the 1996 and 2011/12 surveys due to declines in the use of LSD (from 1.0% to 0.2%) and magic mushrooms (from 0.7% to 0.5%);
- ◆ The level of amyl nitrite usage fell from 1.3 per cent in 1996 to 0.8 per cent in the 2011/12 CSEW with the majority of the decline observed in recent years (falling from 1.1% in 2009/10 to 0.8% in 2011/12);

- ◆ There was no statistically significant change between 1996 and 2011/12 in last year use of tranquillisers (0.4% and 0.5% respectively) or anabolic steroids (0.3% and 0.2% respectively); and
- ◆ Use of opiates in the last year has increased since 1996, driven by an increase in methadone use (from 0.1% to 0.2%) although generally there has been little variation in heroin or methadone use year on year since measurement began.

'Drug Misuse Declared: Findings from the 2011/12 Crime Survey for England and Wales' is available at:

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/drugs-misuse-dec-1112/>

A 'User Guide to Drug Misuse Declared' has also been produced and is a useful reference guide with explanatory notes on the drug misuse statistics. The user guide is available at:

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/user-guide-drugs-misuse-dec>

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## Latest Statistics on Firearm and Shotgun Certificates in England and Wales 2011/12

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The Home Office has released the latest statistics on firearm and shotgun certificates in England and Wales for 2011/2012.

The latest bulletin provides information on firearm and shotgun certificates under the Firearms Acts 1968 to 1997 and covers certificates issued by police forces in the period 1 April 2011 to 31 March 2012. The bulletin contains historical trend data and police force comparisons and provides information on the number of registered firearm dealers, visitors' permits and European Firearm Passes (EFP) issued.

The data for this bulletin was taken from the National Firearms Licensing Management System (NFLMS) which is a register of all persons who have applied for, or have been granted, a certificate to possess or acquire a firearm or shotgun.

### Key findings include

- ◆ There were 141,820 firearm certificates on issue on 31 March 2012, an increase of 0.3 per cent compared with 141,347 on issue at the end of March 2011;
- ◆ The number of firearms covered by such certificates (477,888 firearms) increased in the last year and is the highest number since these figures were first collected in 1995;

- ◆ There were 562,696 shotgun certificates on issue on 31 March 2012, a fall of 0.3 per cent from the 564,269 on issue at the end of March 2011;
- ◆ There were 11,502 new firearm certificates granted in 2011/12, an increase of two per cent from the 11,286 certificates granted during 2010/11. This follows an increase of 19 per cent between 2009/10 and 2010/11 and a six per cent fall between 2008/09 and 2009/10;
- ◆ There were 31,254 new shotgun certificates granted during 2011/12, an eight per cent increase compared with 2010/11 when 29,068 shotgun certificates were granted;
- ◆ Around one per cent of new applications for firearm certificates and two per cent of new applications for shotgun certificates were refused in 2011/12, similar to the level in the previous four years;
- ◆ A total of 349 firearm certificates were revoked in 2011/12, a fall of 14% since 2010/11 and the first decrease since 2005/06. The number of shotgun certificates revoked fell by six per cent, from 1,379 in 2010/11 to 1,301 in 2011/12;
- ◆ There were 3,417 registered firearm dealers on 31 March 2012, an increase of seven per cent compared with the figure of 3,205 last year, and the highest number since these figures were first collected in 1995; and
- ◆ There were 3,399 people covered by firearm visitors' permits and 8,075 people covered by shotgun visitors' permits in 2011/12. Both of these figures are the highest numbers since the series began in 1995.

The latest statistical bulletin on firearm and shotgun certificates in England and Wales for 2011/2012 is available at:  
<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/hosb1012/>

## Changing Attitudes to Equality: Key Findings

The Government Equalities Office (GEO) has released the key findings on Changing Attitudes to Equality.

The research, which examined society's views on equality and the emerging trends, found that whilst attitudes in general are improving, there are still differences between individuals and groups where progress is slower than others. However, the research suggests that a positive attitude change is happening within the context of new equality laws and rights, as well as increased representation and significant events and media stories.

Insight provided by the findings is of significance for the GEO under its strategic objective; 'changing culture and removing barriers'.

### The findings include

- ◆ The UK has similar value strengths on equality to the EU average and the trend over 8 years indicates these values are increasing in homogeneity;
- ◆ There is a broad consensus on equality values, but not attitudes;
- ◆ A significant majority of society prioritise an equal and just society with strong values of equality as a goal;
- ◆ People are likely to feel there is more prejudice than there actually is;
- ◆ Disparity between self reported prejudice and perceived prejudice is increasing;
- ◆ Perceived prejudice is much higher than prejudicial attitudes even considering that people are likely to hide prejudice;
- ◆ Not all groups have the same proportions of prejudiced individuals;
- ◆ Different people hold different levels of prejudice to various groups (Inter-group prejudice);
- ◆ At least two thirds of prejudice is socially controlled, and may not be visible;
- ◆ Most prejudicial attitudes are recorded in a way that enables this prejudice to be hidden;
- ◆ There is still a small but significant proportions of the population that feel prejudice is justifiable; and
- ◆ Prejudice is not permanent and can be changed.

'Changing attitudes to equality: Key findings' is available at: <http://www.homeoffice.gov.uk/publications/equalities/research/changing-attitudes>

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## Swift and Sure Justice: the Government's Plans for Reform of Criminal Justice

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The Ministry of Justice (MoJ) has published the white paper, *Swift and Sure Justice*, outlining the government's programme of reforms to the criminal justice system in England and Wales.

The white paper is in part a response to the commitment given by the Prime Minister to learn the lessons from the highly effective and rapid reaction of the criminal justice agencies to last summer's disturbances.

By focusing on points in the system where work passes between agencies and enabling them to work together more effectively, including through better use of technology and case management, the desired outcome is services which are:

- ◆ Swift - so that low level, straightforward and uncontested cases are dealt with promptly and efficiently; and
- ◆ Sure: so that the system can be relied upon to deliver punishment and redress fairly and in accordance with the law and public expectation. A criminal justice system which fails to command public confidence in this way has fallen at the first hurdle.

The white paper identifies a number of factors preventing swift and sure justice which include:

- ◆ The use of old fashioned and outdated infrastructures and ways of working that suit the system rather than the public it serves;
- ◆ The system tolerating unnecessary work and hearings which do not go ahead on time;
- ◆ A large proportion of money being spent processing offenders, rather than on early, targeted interventions which help to prevent problems escalating; and
- ◆ Professional discretion been replaced with target chasing, diverting practitioners' focus from delivering the best outcomes using their skill and experience.

The white paper focuses on 5 key principles.

### **Swift justice**

- ◆ Justice needs to be swift if it is to be effective;
- ◆ Offenders need to be made to face the consequences of their actions quickly, using effective, locally-based solutions;
- ◆ Straightforward and uncontested matters that represent the large majority of cases prosecuted should be processed through the criminal courts; and

- ◆ Guilty pleas should be secured earlier in the prosecution process, improving efficiency, reducing paperwork and process times and alleviating some of the burden on witnesses and victims of crime.

Plans which will help to deliver justice more swiftly include:

- ◆ Ensuring the criminal justice system responds to local demands and priorities;
- ◆ Increasing the number of magistrates' courts that are sitting on Saturdays and Bank Holidays, to deliver swift, sure, and flexible justice;
- ◆ Continuing to test innovative approaches to court sitting times, assessing the merits of more flexible sittings, including early morning, evening and weekend sittings for different types of hearings; and
- ◆ Exploring opportunities to apply public service reform principles to the delivery of criminal justice services including opening the services to new providers and introducing alternative models of delivery and new forms of partnership with the private sector and mutuals.

### **Sure justice**

- ◆ Justice must be sure and command public confidence if it is to provide an effective punishment and deterrent;
- ◆ The criminal justice services must do more to get a firm grip on offenders, making them face up to the consequences of their crime, taking action which both punishes them and supports them to address their offending behaviour;
- ◆ The establishment of Neighbourhood Justice Panels, involving community representatives and using restorative justice techniques will enable the system to get a firm and early grip on offending, preventing problems escalating unnecessarily; and
- ◆ The development of the Justice Test which will provide a helpful tool to help professionals exercise their discretion in a fair and consistent way and ensure out-of-court sanctions used appropriately.

The MoJ has started to look more fundamentally at the way that summary justice is delivered, so that it commands the confidence of the public.

This includes proposals to:

- ◆ Empower a lay magistrate, sitting alone, to deal with certain low-level uncontested cases, in some cases outside traditional court buildings;

- ◆ Develop a community based approach to justice to see quick and effective action taken; and
- ◆ Promote the Troubled Families initiative which is investing nearly £450 million over three years targeting the 120,000 most troubled families, reducing youth crime and anti-social behaviour and helping adults off benefits and on a path back to work.

### **Efficient justice**

- ◆ The justice system must be efficient and have an infrastructure which is fit for the 21st century; and
- ◆ There has not been a sufficient return on substantial investments in IT with poor integration of systems across agencies, reinforcing 'silo' methods of working and creating waste.

Proposals for reform in this area include:

- ◆ Making the best of what we have, exploiting investments in technology to join up service delivery, and moving away from a slow, paper-based system;
- ◆ Better use of digital technology when preparing non-custody cases;
- ◆ Increased use of tablet devices by Crown Prosecution Service (CPS) prosecutors to prosecute cases in open court;
- ◆ Enabling all magistrates' courts to receive digital case files from the CPS;
- ◆ Investing to upgrade video equipment in the courts with the intention of ensuring that such technology is used wherever it offers a more effective alternative;
- ◆ Establishing an independent Police Information and Communications Technology company (PICTCo) to exploit the potential of information technology in the criminal justice system; and
- ◆ Exploring how social media can improve the transparency of, and public engagement with, the criminal justice system.

### **Transparent justice**

The white paper outlines the MoJ plans to promote transparent justice by:

- ◆ Providing victims of crime with accurate and timely information about the progress of investigations and prosecutions of those who have committed offences against them;

- ◆ Ensuring that witnesses are kept informed about the progress of cases so they can prepare themselves for what can be a daunting and stressful experience;
- ◆ Ensuring that witnesses, particularly those who are vulnerable or intimidated, receive appropriate support so they are able to give their best evidence;
- ◆ Publishing more local information about crime and justice, including crime maps, which link to information about the outcome of criminal proceedings in the courts;
- ◆ Beginning to broadcast parts of proceedings in the Court of Appeal; and
- ◆ Moving towards more widespread naming of offenders, so that communities are easily able to find out who has been convicted in their local court.

### **Accountable justice**

The MoJ proposes to put in place mechanisms to allow communities to hold their local criminal justice services properly to account by:

- ◆ Scrapping the distorting Public Service Agreements and the centralised targets which underpinned them, restoring professional discretion to do what is right and supporting the plans to deliver justice more swiftly;
- ◆ Holding elections in November 2012 for local Police and Crime Commissioners (PCCs), bringing greater accountability to the way communities are policed; and
- ◆ Considering how PCCs might play a wider role in criminal justice reform.

Two programmes of reform are being implemented by the judiciary to strengthen the way that cases are managed through the courts - the Early Guilty Plea scheme for Crown Court cases and Stop Delaying Justice in the magistrates' courts.

These are designed to fast track cases in which a guilty plea is anticipated, reducing the amount of work that has to be undertaken in these cases, so that they can be completed much more quickly and cheaply.

Stop Delaying Justice is intended to simplify and extend police-led prosecutions. Changes are proposed to enable the police to continue to prosecute these cases when there is no plea or the defendant fails to appear, avoiding unnecessary adjournments and the handing of cases over to the Crown Prosecution Service.

'Swift and Sure Justice: The Government's Plans for Reform of the Criminal Justice System' is available at:

<http://www.justice.gov.uk/news/features/creating-a-swift-and-sure-criminal-justice-system>



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## **CPS Launches Public Consultation on a Revision of the Code for Crown Prosecutors**

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The Crown Prosecution Service (CPS) has launched a public consultation on the revision of the Code for Crown Prosecutors. The purpose of this consultation is to seek a range of views on the Code for Crown Prosecutors. The consultation is open until **10 October 2012** and comments are welcomed from a range of stakeholders, organisations and individuals.

Further details on the consultation, including a copy of the draft Code for Crown Prosecutors (2012) and the questions the CPS are asking are available at:

[http://www.cps.gov.uk/consultations/code\\_2012\\_consultation\\_index.html#a04](http://www.cps.gov.uk/consultations/code_2012_consultation_index.html#a04)

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## **Law Commission Scoping Exercise on Insanity and Automatism**

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The Law Commission has launched a scoping exercise, which closes on 18 October 2012, seeking information about how in the criminal law of England and Wales the defences of insanity and automatism are working. It has produced a scoping paper which asks questions aiming to discover whether the current law causes problems in practice and if so, to what extent.

The scoping paper explains the Law Commissions' position that there are significant problems with the law when looked at from a theoretical perspective.

Part 1 of the paper describes both defences and asks how commonly insanity is pleaded. It notes that there is limited evidence about the use of the defences. Questions are asked to establish how the defences are used in practice, including the impact of pre-trial diversion. Part 2 of the paper explains the problems generated by the law on insanity and asks whether the problems create difficulty in practice. Part 3 explains the problems generated by the law on automatism and asks whether the defence leads to difficulties for public protection.

Consultees can respond online, by post or by email, and are encouraged to respond no matter how few questions they can answer. The scoping paper, supplementary material and information on how to respond to the consultation can be found at:

<http://lawcommission.justice.gov.uk/consultations/insanity-and-automatism.htm>

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## Home Office Report on Public Attitudes to Youth Crime

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On 30 July 2012, the Home Office published Occasional Paper 105 which presents findings from focus groups that explored public attitudes to youth crime.

The paper includes the respondents' views of:

- ◆ The extent of crime and anti-social behaviour (ASB) in the local community and the perceived causes of these;
- ◆ Restorative justice; and
- ◆ Volunteering and the role of the community in preventing crime and in supporting youth justice.

One hundred and twenty five participants took part including 57 men and 68 women aged 18-76 years old. Around one-third were parents of secondary school-aged children and just over two-thirds were White.

Focus group participants were presented with four scenarios of youth crime and asked to select a 'disposal' for each from a menu of formal and informal options. Disposals are sanctions applied either by the police or the court to an individual following a guilty plea or verdict. In this instance disposals comprised of:

- ◆ Informal police warning;
- ◆ Informal restorative work with the police;
- ◆ Police warning/reprimand;
- ◆ Fine;
- ◆ Community sentence; or
- ◆ Prison.

There were mixed views from participants about which of these sanctions were most appropriate. However, their responses revealed a substantial degree of support for tackling low-level offending without resort to formal prosecution.

Four themes recurred in participants' comments about the scenarios:

- ◆ Participants felt it was important for young perpetrators of crime and ASB to be taught to understand the consequences of their actions and to make amends;
- ◆ Many participants were concerned about the potentially damaging long-term impact of a criminal record on a young person's prospects, and saw this as a reason for adopting informal rather than formal responses;

- ◆ Participants often considered that a first offence merits an informal or lesser formal response by the authorities, but that tougher action is required for repeat misdemeanours; and
- ◆ Some participants wanted young offenders to experience a degree of 'embarrassment' or 'humiliation' as part of the disposal that they receive.

### **Key findings include**

- ◆ Participants' perceptions of youth crime and disorder, and its impact, are in line with public attitudes found by other research such as the Crime Survey for England and Wales;
- ◆ The failure of parents, schools, and society in general to discipline children was seen by most participants as the main cause of youth crime and ASB;
- ◆ Most participants were broadly positive about restorative justice but qualified their support by stating that it is mostly, or only, appropriate for tackling low-level offending;
- ◆ More persistent or serious offenders should face more overtly punitive responses;
- ◆ The value of restorative justice was that offenders have to face their victims, and understand the consequences of their offending;
- ◆ Resistance to community involvement, and to the wider concept of the 'big society', is largely rooted in pragmatic considerations and some scepticism about the politics underlying the policies; and
- ◆ Barriers to volunteering included time constraints, bureaucracy, Criminal Records Bureau (CRB) check, insurance, liability and the feeling that professionals were best placed to work with young offenders or children at risk.

'Public attitudes to youth crime: Report on focus group research' is available at:

<http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/occ105>

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## **Sentencing Council Issues Definitive Guideline on Dangerous Dog Offences**

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Effective from 20 August 2012, the Sentencing Council 'Dangerous Dog Offences: Definitive Guideline' sets out the range of sentences appropriate for each offence. When sentencing offences on or after 20 August 2012 the court must follow this guideline unless it is contrary to the interests of justice to do so.

Within each offence three categories of seriousness are specified, with separate sentence ranges and starting points for each category. Factors indicating greater and lesser harm and culpability, and increasing and reducing seriousness are used in the guideline to enable the court to choose the appropriate sentence range.

Supporting materials for sentencers are available, which set out a selection of scenarios to familiarise sentencers with the guideline and its application. These scenarios demonstrate how some of the factors relevant to sentencing may be discovered by police.

The guideline can be found at:

<http://sentencingcouncil.judiciary.gov.uk/guidelines/guidelines-to-download.htm>

The supporting materials can be found at:

<http://sentencingcouncil.judiciary.gov.uk/guidelines/Supporting-materials.htm>

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## Home Affairs Committee Launches Inquiry into Leadership and Standards in the Police

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The Home Affairs Committee launched an inquiry into leadership and standards in the police service.

This inquiry will look at the current situation in the police service and will investigate how the leadership of police forces must adapt in the new landscape of policing to improve standards, eliminate corruption and deliver a more diverse and effective service, and how new institutions should contribute to that aim.

In December 2011, the Home Secretary announced plans to establish a professional body to further professionalise policing, which will be known as the College of Policing. The College of Policing is intended to create opportunities to open up the leadership of the police service, to harness greater diversity and experience at a senior level and to equip the service with new skills.

The Committee is seeking responses addressing the following:

- ◆ What powers, responsibilities and resources should be given to the College of Policing;
- ◆ What lessons can be learnt from other professional bodies within the UK and from police professional bodies in other countries;
- ◆ Is it possible for one institution to balance responsibilities for: representing the police service; setting and upholding standards; testing and rewarding; training; and guarding public interests;
- ◆ Would it be preferable to create two separate institutions to provide delivery functions and professional representation;
- ◆ How will the professional body interact with HMIC; the IPCC; ACPO; and other institutions in providing leadership and setting standards for police forces;
- ◆ What role should the College of Policing have in recruitment and training;
- ◆ What role could the College of Policing have in recruiting non-police officers to senior roles within the police service;
- ◆ Are police recruitment processes fair and open and how could they be improved;
- ◆ Is the Metropolitan Police Force over-represented in senior positions;
- ◆ Are there specific challenges facing the leaders of the Metropolitan Police Force, which the College of Policing should address;

- ◆ Should the professional body be responsible for civilian police employees; and
- ◆ How should the College of Policing be funded.

The deadline for the submission of written evidence is **Friday 5 October 2012**.

Further details are available at:

<http://www.parliament.uk/business/committees/committees-a-z/commons-select/home-affairs-committee/>

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## **Government Response to Disability Related Harassment Inquiry**

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The government has published their response to 'Hidden in Plain Sight', the Equality and Human Rights Commission (EHRC) report on Disability Related Harassment.

The cross government response to Hidden in Plain Sight was compiled by the Home Office and the Ministry for Justice who are responsible for issues that relate to the criminal justice system and hate crime; and the Office for Disability Issues (ODI) who work collaboratively across government to make sure that the requirements of disabled people are reflected in their work.

The government response builds on the work set out in the "Challenge it, Report it, Stop it - the Government's plan to tackle hate crime", and sets out the breadth of work being undertaken across government to tackle disability-related harassment and hate crime.

The response noted that the majority of the seven core recommendations and 77 targeted recommendations of the report are aimed at Central Government. However, it was suggested ownership for tackling disability-related harassment and hate crime is primarily the responsibility of local public authorities including the police, schools and Local Authorities.

### **Key points include**

- ◆ Organisations which deal with disability-related harassment must take ownership of the issue and must demonstrate strong leadership and a commitment to transparency and accountability;
- ◆ Training on recognising and responding to issues of disability-related harassment is an integral part of ensuring an appropriate response by public authorities and effective safeguarding against further incidents;
- ◆ While government plays a vital role in setting a national direction, the lead for tackling hate crime must come from

the local level, with professionals, the voluntary sector and communities working together to deal with local issues and priorities;

- ◆ Useful data should be collected to give a better picture of the scale, severity and nature of all forms of hate crime to help the police and local areas use their resources more effectively;
- ◆ The government should engage with communities at risk of hate crime to raise awareness of the law on hate crime; and work with voluntary sector organisations to establish, review and disseminate good practice on alternative methods of reporting hate crime;
- ◆ The government should provide appropriate support for all victims of crime, and, to providing specialist support for victims of specific crimes, including hate crime; and
- ◆ Special measures should be identified early, and that prosecutors and Courts are made aware at the earliest opportunity.

The government is in the process of developing a new cross-government disability strategy, 'Fulfilling Potential', to give renewed impetus to the government's commitment to disability equality.

The EHRC will be reviewing the government response, alongside the responses of nearly 50 other national organisations and bodies. The outcome of this will be reported in the EHRC's Manifesto for Change report which will be published this autumn.

The full government response to the inquiry is available at: <http://odi.dwp.gov.uk/odi-projects/hidden-in-plain-sight.php>

The EHRC report 'Hidden in Plain Sight' is available at: [http://www.equalityhumanrights.com/uploaded\\_files/disabilityfi/ehrc\\_hidden\\_in\\_plain\\_sight\\_3.pdf](http://www.equalityhumanrights.com/uploaded_files/disabilityfi/ehrc_hidden_in_plain_sight_3.pdf)

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### **Sexual Offences Act 2003 (Remedial) Order 2012 Now in Force**

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The Sexual Offences Act 2003 (Remedial) Order 2012 (SI 2012/1883) came into force on **30 July 2012**.

In *R (on the application of F (by his litigation friend F)) and Thompson (FC) v Secretary of State for the Home Department* [2010] UKSC 17, the Supreme Court made a declaration under section 4 of the Human Rights Act 1998 ("the 1998 Act") on 21 April 2010 that "the indefinite notification requirements in section 82(1) of the Sexual Offences Act 2003 are incompatible

with article 8 of the European Convention on Human Rights in so far as they do not contain any provision for the review of the justification for continuing the requirements in individual cases.”

This Order amends the Sexual Offences Act 2003 (“the 2003 Act”) to remedy the incompatibility with article 8 of the European Convention on Human Rights in the provision for the indefinite notification requirements in section 82(1) of the 2003 Act and ensures that the government complies with its obligations under section 6 of the Human Rights Act 1998.

This Order introduces a mechanism by which a person subject to indefinite notification requirements under the 2003 Act can apply for a review and determination that those requirements shall cease.

The review process is triggered by an offender who is subject to indefinite notification requirements making an application to the police. In a typical case, the offender would be entitled to make an application 15 years following that offender’s release from custody.

The review will be carried out by the police and will be completed on the basis of a range of factors, including information provided from the Responsible Authority and Duty to Co-operate agencies which operate within the Multi-Agency Public Protection Arrangements (MAPPA) framework (under section 325 of the Criminal Justice Act 2003).

The government has made it clear that public safety will always be the first priority and have worked with the Joint Committee on Human Rights (JCHR) to ensure that the revised process is robust, workable and puts public protection first, while at the same time preventing sex offenders being able to repeatedly challenge the law. Sex offenders who continue to pose a risk, will remain on the register and will do so for life, if necessary.

The provisions of the Order amend the Sexual Offences Act 2003 by inserting sections 91A to 91F into Part 2 of the 2003 Act.

Section 91A makes provision for a qualifying relevant offender to apply to the relevant chief officer of police for a determination that they cease to remain subject to the indefinite notification requirements;

Section 91B enables an offender to apply for a review on or after the qualifying date or further qualifying date, and prescribes the initial steps which the police must take on receipt of the application for review;

Section 91C prescribes the steps which the police must take following receipt of an application and the basis on which the application is determined;



Section 91D prescribes the facts and matters which the police must consider in determining an application for review under section 91C including any information received from a responsible body, the risk of sexual harm posed by the offender and the effect on him of a continuation of the notification requirements;

Section 91E sets out a right of appeal in respect of the determination by the police that an offender must remain subject to the indefinite notification requirements or that the offender may not make a further application for review for a period specified in section 91B(5); and

Section 91F requires the Secretary of State to issue guidance to the police in relation to their determination of applications for review.

The Sexual Offences Act 2003 (Remedial) Order 2012 and explanatory note is available at:  
<http://www.legislation.gov.uk/ukdsi/2012/9780111521403/article/1>

Guidance on the review of indefinite notification requirements issued under section 91F of the Sexual Offences Act 2003 is available at:  
<http://www.homeoffice.gov.uk/publications/about-us/legislation/sexual-offences-remedial-order/review-notification-requirements?view=Binary>



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