



College of
Policing

Digest

September 2013

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

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

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Digest Editor: Telephone +44 (0)1480 334527

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Legal Services
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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.

There are reports of cases on new road policing legislation as well as sexual offences prevention orders.

We look in detail at recently published Government and Parliamentary reports such as a briefing on ending violence against women and girls.

Statistical bulletins are covered which detail local adult reoffending and youth custody population. Other reports covered include a guide to the Criminal Procedure Rules 2013 and a PCC Bulletin.

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

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Bills Before Parliament 2013/2014 - Progress Report

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

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

The Bill is divided into 13 separate parts:

- Part 1 - Injunctions to prevent nuisance and annoyance

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

- Part 2 - Criminal Behaviour Orders

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

- Part 3 - Dispersal Powers

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

- Part 4 - Community Protection Notices

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

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

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

- Part 6 - Local involvement and accountability

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

- Part 7 - Dangerous dogs

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

- Part 8 - Firearms

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

- Part 9 - Forced marriages

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

- Part 10 - Policing

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

- Part 11- Extradition

The measures on extradition proposed in the Bill are designed to improve the efficiency of the operation of the Extradition Act 2003 and follow from a review of the UK's extradition arrangements by Rt. Hon Sir Scott Baker.

- Part 12 - Criminal Justice and Court Fees

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

- Part 13 - General

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

The Committee debate (15th sitting) took place on 16 July 2013 and the report stage in the House of Commons is to take place on a date to be announced.

◆ **Offender Rehabilitation Bill**

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

In particular the Bill:

- Applies arrangements for release under licence to offenders serving fixed-term custodial sentences of more than 1 day but less than 12 months;
- Introduces new supervision arrangements for offenders released from fixed-term custodial sentences of less than 2 years so that all offenders are supervised in the community for at least 12 months;
- Creates a new court process and sanctions for breach of supervision requirements for offenders serving fixed-term custodial sentences of less than 2 years;
- Introduces a requirement that offenders sentenced to an extended determinate sentence must have an extension period of supervision of at least 1 year;
- Introduces for offenders released from custody a new drug appointments condition for the licence or supervision

period, and expands the existing drug testing requirement for licences to include Class B drugs and makes it available during the supervision period;

- Introduces a requirement that any juvenile who reaches his or her 18th birthday before being released from the custodial element of a Detention and Training Order (DTO) should spend at least 12 months under supervision in the community.

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

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

The third reading of this bill in the House of Lords took place on 9 July 2013. The second reading in the House of Commons will take place on a date to be announced.

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

The Queen v Teeside Magistrates Court and Chief Constable of Cleveland [2013] EWHC 2208 QB

A hearing in the High Court of Justice Queens Bench Division Divisional Court Leeds District Registry before Lord Justice McCombe and Mr Justice Stewart.

Summary

This case concerns an application for judicial review by the claimant who was subject to a sexual offences prevention order (SOPO) which was varied by the first defendant, Teeside Magistrates Court in October 2012. The variation was made based on an application by the second defendant, the Chief Constable of Cleveland. The original SOPO contained a prohibition from:

'approaching enticing or otherwise seeking to communicate with, or communicating with any female he knows or suspects to be involved in prostitution without reasonable cause.'

The order was varied to include the claimant being required to wear a tag, and this variation of the order is now under challenge and is subject to an application for judicial review.

Facts

This case concerns a 47 year old man, the claimant, who has a long history of offending including offences of violence, kidnapping and twelve sexual offences. His last sentence was imposed on 26 April 2012 for theft, for which he received a community order with a residence requirement. When the claimant was assessed in August 2012 it was stated that he presented 'a very high risk of causing serious harm to the public and known adults.' The claimant has been registered as a 'critical public protection case' by the Ministry of Justice on the basis that he poses a serious risk of harm caused by potential reoffending. A variation application took place due to the prospect of the expiry of the community order, an earlier supervision requirement that had been imposed and the lapse of residence requirements. In addition the claimant is the subject of restraining orders for the protection of three individual women who had been subject to harassment or violence by the claimant. The claimant is also a drug user.

The claimant has also met the criteria for a diagnosis of antisocial and narcissistic personality disorder and of severe psychopathy with a resultant very high risk of sexual recidivism. After the sentence that was imposed on 14 May 2012 the claimant discussed cooperating with a potential tagging but subsequently changed his mind and therefore a variation to a Sexual Offence Prevention Order (SOPO) was sought. The variation was granted, despite the claimant submitting that the SOPO was not legal and that it would

breach his rights under Article 8 of the European Convention on Human Rights.

On 26 October 2012 the claimant was arrested for a suspected breach of the SOPO when he was suspected of being in an area frequented by prostitutes. The claimant was charged with three offences relating to a breach of the SOPO that was in place. These proceedings were adjourned until the outcome of the application for judicial review.

In relation to this application, the claimant submitted that firstly there was no power conferred by the Sexual Offences Act 2003 to require tagging and secondly, and in any event tagging amounts to a breach of the rights of the claimant provided by Article 8 of the European Convention on Human Rights.

The claimant submitted that other pieces of legislation which authorise tagging make express provision to that effect and therefore where Parliament intends to authorise tagging it does so expressly. The claimant also submitted that section 107(1) of the Sexual Offences Act 2003 only provides that a SOPO "prohibits the defendant from doing anything described in the order" and therefore could not provide for him to carry out positive acts such as to wear a tag, charge the tag and to prevent it for inspection.

With regards to the submission relating to a breach of Article 8 of the European Convention on Human Rights, it was put forward that the tagging order was not 'in accordance with the law' as any authorisation to monitor the claimant by tag was not specifically provided by the legislation.

The police submitted that the power to tag was implicit, and this was the case even if it was not explicit in the legislation. It was put forward that the wording of section 107 of the Sexual Offences Act 2003 was deliberately wide to enable SOPOs to be properly tailored to the circumstances of each case. The police also submitted that the tagging order was prohibitive in form and nature. It was accepted by the defence that Article 8 of the European Convention on Human Rights is engaged by the order, however submitted that the provisions of the Sexual Offences Act 2003 were sufficient to meet the 'in accordance with the law' test.

The police submitted that the courts have consistently upheld detailed orders made under the Sexual Offences Act 2003, containing for example restrictions on computer use, and there has never been any suggestion that such orders have infringed Article 8.

Judgment

The court found that sections 107 and 108 of the Sexual Offences Act 2003 did confer sufficient powers to impose prohibitions such as requiring the claimant to wear a tag, and should be seen as

prohibitions and not as a mandatory requirement of action by the claimant. In response to the submission made by claimant with regards to the legislation failing to expressly authorise tagging, the court stated that there is no permission to impose other restrictions such as imposing a curfew or restricting computer use, but there can be no doubt that these are permissible.

The court stated the essence of the restriction in this case was to prevent the claimant's movements in public places without measures in place to ensure that intervention was possible where the potential for serious criminal offending is likely. The judge stated that this was a negative requirement.

In relation to the alleged breach of Article 8 of the European Convention on Human Rights the judge stated:

'In the case of a SOPO, the subject can be taken to be aware that sexual offending is contrary to law and he can discover that, if he engages in it, he is liable to severe penalties and may be subject to an order regulating his future conduct to prevent further offending. If he does offend and an order is made the law requires the order to be sufficiently clear to define what he may not do. The order may also be limited to what is necessary to protect the public.... The "necessity" test is essentially the same for these purposes as the proportionality requirement in Article 8.2 itself and, in any individual case, the necessity of a restriction such as a tag would have to be examined very carefully. In this case no argument in respect of "necessity" or proportionality arises. We are concerned only with the narrower question of whether the restriction is "in accordance with the law" and I find that it is.'

The application for judicial review was dismissed.

The full case report can be found at
<http://www.bailii.org/ew/cases/EWHC/QB/2013/2208.html>

R v Hughes [2013] UKSC 56

A hearing in the United Kingdom Supreme Court before Lord Neuberger, Lord Mance, Lord Kerr, Lord Hughes and Lord Toulson.

Summary

This case concerns the true scope of the new offence created by section 3ZB of the Road Traffic Act 1988, namely a person is guilty of an offence under this section if he causes the death of another person by driving a motor vehicle on a road and, at the time when he is driving, the circumstances are such that he is committing an offence under:

- ◆ Section 87(1) of this Act (driving otherwise than in accordance with a licence);
- ◆ Section 103(1)(b) of this Act (driving while disqualified), or;
- ◆ Section 143 of this Act (using a motor vehicle while uninsured or unsecured against third party risks).

Facts

In October 2009, the defendant was driving his family in a camper van, on the way home from a motor sports event. He was travelling on a single-carriageway trunk road and the national speed limit of 60mph applied. His driving was faultless and his speed was a steady 45-55mph. As he turned around a bend, he was confronted by a vehicle which was veering all over the road which twice crossed to the wrong side of the road and smashed into the defendant's camper van. The vehicle was being driven by a Mr Dickinson who was killed by the injuries he sustained from the crash. The defendant's camper van tipped over, and trapped some of the occupants inside. Despite this, all the occupants in the camper van, including the defendant survived.

The collision was entirely Mr Dickinson's fault. He was under the influence of heroin and was also overtired and his driving had been erratic before the collision. He had almost caused an earlier collision whereby another car had to swerve to avoid being hit by Mr Dickinson's vehicle. It was accepted by both parties that the defendant could do nothing to avoid the collision.

The issue in this case was that the defendant did not have insurance or a full driving licence, and he had, and advanced, no excuse for being uninsured. His driving licence had been revoked some years earlier on medical grounds, but subsequently passed a medical test and was reissued with a licence but this was only a provisional one. He was undoubtedly guilty of two offences, namely driving uninsured and driving without a full licence. These offences, contrary retrospectively to sections 143 and 87 of the 1988 Act

rendered the defendant liable to prosecution, to fine, to penalty points and to disqualification. Neither of the offences carries a prison sentence. The defendant was not prosecuted for these offences, but rather two offences under a new section of the 1988 Act, namely Section 3ZB for causing the death of Mr Dickinson when he was uninsured and without a full driving licence.

The defence submitted that he had not committed either offence as he had not caused the death of Mr Dickinson. The Recorder of Newcastle agreed with this submission, however the Crown Court appealed that ruling to the Court of Appeal. The Court of Appeal ruled that, in law, the defendant caused Mr Dickinson's death because it was not an element of the offence that the defendant's driving had to exhibit any fault contributing to the accident. The Court of Appeal stated that it was enough that the defendant was uninsured, or without full licence and that his car was involved in the fatal collision.

The defendant appealed against this conviction and the case proceeded to the Supreme Court.

Judgment

The Supreme Court highlighted the importance of having motor vehicle insurance, but highlighted that it is committed by not only people that deliberately do not obtain it, but also people who overlook a renewal notice, or where an office mistake has taken place by a broker. The Supreme Court questioned whether the language in the new section of the 1988 Act unambiguously had far reaching effects. The Supreme Court stated that prior to this new piece of legislation, it was plain that there was a substantial gap between the offence of dangerous driving, and offences relating to manslaughter and the offences under sections 1 and 3A relating to causing death of the 1988 Act. The Supreme Court stated that the penalty for uninsured driving could readily be seen likewise to fail to cope adequately with bad cases, especially for serial offenders. Section 3ZB had been introduced to no doubt fill that gap, however the Supreme Court sought to examine what the ambit of the offence was.

The Supreme Court stated that what needed to be decided in this case was what was meant by the expression in section 3ZB 'causes the death of another person by driving...'.

The Prosecution submitted the position that the wording of section 3ZB was sufficiently clear to establish that the parliamentary intention was to create not only an aggravated form of the offences of using a motor vehicle uninsured, or driving unlicensed or disqualified, but to impose criminal liability for a death if it involved the presence of the defendant at the wheel of a car on the road where he had no business to be. The prosecution also accepted that the section would not apply if the "victim" was attempting to

commit suicide by running into the front of a vehicle, or if another motorist crashed into the defendant's car in an attempt to kill or seriously injure someone inside the car. The Supreme Court stated that once this is accepted, it is difficult to see where a line is to be drawn than by following the normal approach to causation taken by the common law.

It was stated that it may be readily accepted that the intention was to create an aggravated form of the offence of having no insurance, but that only begs the question whether the intention was to attach criminal responsibility for a death to those who were driving but had nothing to do with that death beyond being available on the road to be struck. The Supreme Court went on to state that to assert that the defendant is responsible because he ought not to have been on the road is to confuse criminal responsibility for the serious offence of being uninsured with criminal responsibility for the infinitely more serious offence of killing another person. The Supreme Court stated that the case depended not on the narrow concept of independent intervening deliberate action but on the broader question of whether the driving of the defendant was in law a cause of the death of Mr Dickinson. The Supreme Court asserted that in the present case, there is no suggestion that there was anything which the defendant either did or omitted to do in the driving of his vehicle which contributed to the least extent to the fatality. It went on to highlight the effect of labelling a person a criminal killer of another and stated that the defendant would be left with a lifelong conviction for homicide which would require disclosure in the multiple situations in which one's history must be volunteered, and the personal burden of the public obloquy must not be underestimated.

The Supreme Court stated that it was driven to the view that there is no logical or satisfactory intermediate position between holding:

- ◆ That the law imposes guilt of homicide whenever the unlicensed motorist is involved in a fatal accident; and
- ◆ That he is guilty of causing death only when there is some additional feature of his driving which is causative on a common sense view.

In conclusion, it stated that the statutory expression of section 3ZB can not be given effect unless there is something properly to be criticised in the driving of the defendant, which contributed in some more than minimal way to the death. Juries should therefore be directed that it is not necessary for the Crown to prove careless or inconsiderate driving, but there must be something open to proper criticism in the driving of the defendant, beyond the mere presence of the vehicle on the road, and which contributed in some more than minimal way to the death.

In this case the agreed facts are that there was nothing which the defendant did in the manner of his driving which contributed in any way to Mr Dickinson's death and the Supreme Court stated that it follows that the Recorder of Newcastle was correct to rule that the defendant had not in law caused death by his driving and the appeal should be allowed, restoring the ruling.

The full case report can be found at
<http://www.bailii.org/uk/cases/UKSC/2013/56.html>

**SI 2013/1906 The Protection of Freedoms Act 2012
(Commencement No. 8) Order 2013**

This Order commences the provisions of the Protection of Freedoms Act 2012 listed in article 2 and article 3.

Article 2 provides for the commencement of section 102 of the 2012 Act on **31 July 2013** for the purpose of inserting new section 11B into the Freedom of Information Act 2000. Section 11B relates to the power to charge fees in relation to release of datasets for re-use.

Article 3 provides for the commencement of section 102, 103, 106, 107 and 108 of the 2012 Act on **1 September 2013**. These provisions relate to the release and publication of datasets held by public authorities, the meaning of “publicly owned company” in the 2000 Act and the powers of the Information Commissioner.

SI 2013/1961 The Protection of Freedoms Act 2012 (Code of Practice for Surveillance Camera Systems and Specification of Relevant Authorities) Order 2013

In force **12 August 2013**. This Order brings into force a Code of Practice for surveillance camera systems, which the Secretary of State is required to prepare, pursuant to section 29(1) of the Protection of Freedoms Act 2012. The purpose of this Code is to set out guidance about the use of surveillance camera systems, and the use of images or information obtained by virtue of such systems.

Relevant authorities, as defined in section 33(5) of the 2012 Act, will be under a statutory duty to have regard to this Code when exercising any functions to which this Code relates. Article 3 of this Order adds various specified persons to the list of relevant authorities that will be obliged to have regard to the Code.

Pursuant to section 32(1) of the Protection of Freedoms Act 2012, the Secretary of State will arrange for this Code to be published. The Code of Practice will also be available on the Home Office website.

**SI 2013/1963 The Offender Management Act 2007
(Commencement No. 6) Order 2013**

In force **6 January 2014**. This Order is the sixth commencement order made under the Offender Management Act 2007. It brings provisions concerning the application and effect of polygraph conditions (contained in sections 28 and 29 of the Offender Management Act 2007) into force. These provisions enable the Secretary of State to include polygraph conditions for certain offenders released on licence.

SI 2013/1966 The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

This Order brings into force the Scrap Metal Dealers Act 2013, which repeals the Scrap Metal Dealers Act 1964 and the system of registration contained therein, and replaces it with a new system of licensing, to be administered by local authorities. The 2013 Act also replaces the system of registration for motor salvage operators under the Vehicles (Crime) Act 2001, in that motor salvage operators will now be treated as scrap metal dealers who fall to be licensed under the new regime.

Article 2 of the Order brings into force paragraph 6 of Schedule 1 of the 2013 Act on **1 September 2013**, since this will enable local authorities to set a fee that will be payable on an application for a licence, and requires local authorities to have regard to guidance issued by the Secretary of State in setting the fee.

Article 3 of the Order brings into force the majority of the provisions in the 2013 Act on **1 October 2013**, in compliance with the policy on common commencement dates.

Article 4 of the Order brings into force the majority of the criminal offences in the 2013 Act from **1 December 2013**.

Article 5 of the Order sets out transitional provisions. These will enable scrap metal dealers who were previously registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 to benefit from a deemed licence, provided that they have applied for a licence on or before **15 October 2013**. The intention behind these provisions is to minimize disruption to business during the transition from the old regime to the new regime.

Surveillance Camera Code of Practice Comes Into Force

The new Code of Practice relating to Camera Surveillance has come into force on 12 August 2013. The Code of Practice sets out guidelines for CCTV and Automatic Number Plate Recognition (ANPR) systems and is part of the Protection of Freedoms Act 2012. The new Code of Practice is discussed further in the July edition of the *Digest* and can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

Home Office Publishes Domestic Violence and Abuse Chapter to the Guidance on Firearms Licensing Law

The Home Office has published a Domestic Violence Chapter to add to the Guide on Firearms Licensing Law. It follows the introduction of the new non-statutory definition of domestic violence and abuse which was introduced on 31 March 2013.

The chapter states the importance of considering domestic incidents, specifically violence and patterns of behaviour by the applicant which give cause for concern. It outlines that general evidence of domestic violence and abuse will indicate that an individual should not be permitted to possess a firearm or shotgun, and all cases must be assessed by the police on its own merits.

The chapter addresses how domestic violence and abuse should be considered when somebody applies for a firearms licence, and states that Chief Officers need not rely only on convictions when considering the suitability of applicants to possess firearms without danger to public safety or the peace. Conduct which has not resulted in a conviction can be considered.

The chapter also touches upon when firearms or shotguns are removed, and how important it is that partners and spouses are safeguarded against potential retribution if firearms, ammunition and licences are removed and revoked.

It concludes by stating that a review on the continued suitability of a firearm or shotgun certificate holder should take place following an incident of domestic violence or abuse, and provides the new definition of domestic violence and abuse.

The full chapter, along with the remainder of the document can be found at <https://www.gov.uk/government/publications/firearms-law-guidance-to-the-police-2012>

HMIC Releases Report on Stop and Search

Her Majesty's Inspectorate of Constabulary (HMIC) has released a report titled 'Stop and Search Powers: Are the police using them effectively and fairly?'

The objectives of the inspection HMIC conducted on this occasion were:

- ◆ To determine how effectively and fairly the police service is using the powers of stop and search in the fight against crime;
- ◆ To establish whether operational police officers know how to use stop and search powers tactically as part of evidence-based practice to fight crime; and
- ◆ To identify how the powers can be used in a way that builds the public's trust in the police, supporting the legitimacy of the service rather than eroding it.

The report outlines what is required for stop and search to be effective and lawful, and discusses the methodology of the HMIC inspection that was conducted. Approximately 500 senior managers were interviewed and focus groups involving over 550 operational constables and frontline supervisors took place as well as unannounced visits to at least two police stations in each force area. In addition HMIC reviewed stop and search procedures, policies and guidance documents which were available to police officers and checked at least 200 completed stop and search records from each force. In addition surveys were carried out on the general public and video footage of stop and search encounters were also analysed as part of the HMIC investigation.

With regards to public opinion on stop and search, a survey conducted determined that most respondents were aware of police powers relating to stop and search and over 75% of respondents believed that the use of those powers helped the police catch criminals and prevent or detect crime. Over 50% of respondents said that seeing the police using those powers in their area made them feel safer. 25% of respondents believed that certain groups of people in society were more likely to be stopped and searched, with a third of these respondents stating that this was because of unlawful discrimination.

The report discusses police force priorities and the impact of budget reductions. It also discusses the specific obligation on supervisors to monitor the use of stop and search in order to prevent its misuse, and the findings of the investigation in relation to supervision.

In relation to governance and scrutiny the report states that fewer than half of police forces complied with the requirement in the code

of practice to make arrangements for the public to scrutinise the use of stop and search powers. With regards to training the report states that most officers have not received any training in the use of stop and search powers since they joined the police service and only 21 forces provided any form of refresher training.

In conclusion HMIC states that very few forces could demonstrate that the use of stop and search powers was based on an understanding of what works best to cut crime, and rarely was it targeted at priority crimes in the area. Of the 8,783 stop and search records which were examined by the investigation HMIC state that 27% did not have sufficient grounds to justify the lawful use of the power and that if stop and search powers are used properly, confidence in the police can also be improved.

HMIC made the following recommendations following this investigation:

- ◆ Chief Constables and the College of Policing should establish in the stop and search Authorised Professional Practice document a clear specification of what constitutes the effective and fair exercise of stop and search powers, and guidance in that respect. This should be compliant with the code of practice.
- ◆ Chief Constables should establish or improve monitoring of the way officers stop and search people, so that they can be satisfied their officers are acting in accordance with the law (including equality legislation and the code of practice), and that the power is used effectively to prevent crime, catch criminals and maintain public trust. This monitoring should, in particular, enable police leaders to ensure officers have the reasonable grounds (and, where applicable, authorising officers have the reasonable belief) required by law to justify each stop and search encounter.
- ◆ Chief Constables should ensure that officers carrying out stop and search encounters are supervised so that they can be confident that the law is being complied with and that the power is being used fairly and effectively. Particular attention should be given to compliance with the code of practice and equality legislation.
- ◆ The College of Policing should work with Chief Constables to design national training requirements to improve officers' understanding of the legal basis for their use of stop and search powers; skills in establishing and recording the necessary reasonable grounds for suspicion; knowledge of how best to use the powers to prevent and detect crime; and understanding of the impact that stop and search encounters can have on community confidence and trust in the police. Specific training should also be tailored to the supervisors and leaders of those carrying out stops and searches.

- ◆ Chief Constables should ensure that officers and supervisors who need this training are required to complete it, and that their understanding of what they learn is tested.
- ◆ Chief Constables should ensure that relevant intelligence gleaned from stop and search encounters is gathered, promptly placed on their force intelligence systems, and analysed to assist the broader crime fighting effort.
- ◆ Chief Constables should, in consultation with elected local policing bodies, ensure that they comply with the code of practice by explaining to the public the way stop and search powers are used in their areas and by making arrangements for stop and search records to be scrutinised by community representatives. This should be done in a way that involves those people who are stopped and searched, for example, young people.
- ◆ Chief Constables should ensure that those people who are dissatisfied with the way they are treated during stop and search encounters can report this to the force and have their views considered and, if they wish, make a formal complaint quickly and easily. This should include gathering information about dissatisfaction reported to other agencies.
- ◆ Chief Constables should introduce a nationally agreed form (paper or electronic) for the recording of stop and search encounters, in accordance with the code of practice.
- ◆ Chief Constables should work with their elected local policing bodies to find a way of better using technology to record relevant information about stop and search encounters, which complies with the law and reveals how effectively and fairly the power is being used.

The full report can be found at
<http://www.hmic.gov.uk/media/stop-and-search-powers-20130709.pdf>

Home Office Releases Briefing on Ending Violence Against Women and Girls

The Home Office has released a briefing paper entitled 'Ending Violence Against Women and Girls'. The document outlines key statistics concerning violence against women and girls including:

- ◆ 1.2 million women a year are the victim of domestic abuse;
- ◆ 400,000 women were sexually assaulted or raped in the last year;
- ◆ 2 out of 3 incidents of domestic violence were experienced by repeat victims;
- ◆ 2 women per week are killed by a partner, ex-partner or lover;
- ◆ 66,000 women in England and Wales are living with the consequences of Female Genital Mutilation.

The briefing paper details the Government's strategic approach to ending Violence against Women and Girls (VAWG) and also the national support available for victims as well as discussing the Multi-Agency Risk Assessment Conference (MARAC). It also addresses pilots and initiatives and Specialist Domestic Violence Courts (SDVC) as well as commissioning services.

Further information can be found at <https://www.gov.uk/government/publications/briefing-on-ending-violence-against-women-and-girls>

Youth Justice Board Releases June Statistics Relating to Youth Custody Population

The Youth Justice Board has released statistics relating to the number of children and young people within secure children's homes, secure training centres and young offender institutions in the month of June this year.

It states that in the month of June 2013, 1,237 under 18s were in custody in comparison to the previous month where there were 1,290 in custody.

2,491 beds were commissioned, and of those 1,952 were available in June. The occupancy rate was 69%.

For the full statistical report please see <https://www.gov.uk/government/publications/youth-custody-data>

HMRC Launch Consultation on Alcohol Fraud

Her Majesty's Revenue and Customs (HMRC) has launched a consultation on alcohol fraud. The consultation seeks to:

- ◆ Provide further detail on the policy and enforcement steps HMRC intends to take to increase its impact on alcohol fraud;
- ◆ Provide further detail on how an effective scheme to register alcohol wholesalers might operate;
- ◆ Collect further information and data to assess the costs, feasibility and effectiveness of a wholesaler registration scheme, including from large and small/medium sized enterprises (SMEs) and any other interested parties;
- ◆ Understand the implications of new obligations on registered excise traders to undertake effective due diligence on their supply chains;
- ◆ Seek views to refine the proposed policy design of both options and inform any subsequent implementation.

The consultation expands on these points, and seeks responses to 49 questions divided within these categories.

Further information can be found at <https://www.gov.uk/government/consultations/alcohol-fraud-next-steps>

Responses to the consultation should be received by **28 October 2013** and sent to:

John Waller
HM Revenue and Customs
Excise Strategy Team
3W Ralli Quays
3 Stanley Street
Salford
M60 9LA

john.c.waller@hmrc.gsi.gov.uk

Ministry of Justice Release Local Adult Reoffending Statistics for 1 April 2012- 31 March 2013

The Ministry of Justice has released a statistical bulletin on local adult reoffending for 1 April 2012 to 31 March 2013. Key statistics indicate that five regions had a statistically significant reduction in re-offending, seven probation trusts had a statistically significant increase in re-offending, whilst 14 Probation Trusts showed a statistically significant reduction in re-offending.

The bulletin states that ten local authorities had a statistically significant increase in re-offending, whilst 48 local authorities showed a statistically significant reduction in re-offending.

In relation to regions, London, the North East, the West Midlands and Yorkshire and Humberside all had re-offending rates which were consistently lower than predicted over the four most recent periods, whilst Hertfordshire, Norfolk and Suffolk, and Surrey and Sussex Probation Trusts had re-offending rates which were consistently higher than predicted.

The full Statistical Bulletin can be found at <https://www.gov.uk/government/publications/reoffending-of-adults-ns>

The Ministry of Justice has also released a Statistical Bulletin on the reoffending of juveniles which can be found at <https://www.gov.uk/government/publications/reoffending-of-juveniles-ns>

PCC Bulletin Released by Home Office

Police and Crime Commissioners have released a 20th bulletin providing an update of issues of interest in the police reform landscape. The bulletin includes discussion on Community Action Against Crime and Commissioning from voluntary, community and social enterprise providers in relation to strengthening community safety and reducing crime.

The bulletin also discusses the Rehabilitation Social Action Fund, which has been developed in partnership with the Ministry of Justice and the National Offender Management Service drawing on consultation with 37 organisations throughout May 2013. The fund will be run through the Cabinet Office's Centre for Social Action and will promote social action by supporting innovation, scaling up social action models, developing infrastructure to facilitate social action, and building an evidence base. The Rehabilitation Social Action Fund will give organisations the resource to explore approaches to deliver social action programmes on a greater scale, and the Cabinet Office will be looking for applications from organisations with a strong business case for scaling up a well tested social action programme, as well as providing an opportunity to invest in demonstrating the impact of social action as an effective tool to reduce reoffending.

The bulletin provides an update in relation to the late night levy and early morning restriction orders, the government's alcohol strategy, and delivering savings through procurement and collaboration and the creation of the Strategic Police Procurement Board.

The bulletin also considers the impact foreign national offenders place on the police and legal system, through the cost of interpreters and lengthy processes. Conditional cautioning is discussed as a solution.

Finally the bulletin discusses steps taken to prevent violence against women and girls, mental health and policing, the Independent Police Complaints Commission's transition programme and the Police Innovation Fund.

The full bulletin can be found at <https://www.gov.uk/government/publications/police-and-crime-commissioners-update-bulletin>

Justice Releases Guide to Criminal Procedure Rules 2013

Justice has released a guide written by the Criminal Procedure Rule Committee secretariat on the Criminal Procedure Rules 2013, which are due to come into force on 7 October 2013. The Guide outlines that the new rules:

- ◆ Include rules about applications for search warrants, in part 6 of the Criminal Procedure Rules;
- ◆ Include rules about applications and appeals under new legislation governing the retention of fingerprints and DNA samples and profiles also in Part 6;
- ◆ Replace the existing rules about the dismissal of charges sent for trial with a new rule in Part 9;
- ◆ Revoke the old rules in Parts 10,11 and 13 which dealt with committal and transfer for trial and with the dismissal of charges sent or transferred for trial;
- ◆ Move the rules about initial details of the prosecution case from Part 21 to Part 10;
- ◆ Replace the existing rules in Part 17 about procedure in extradition cases;
- ◆ Make changes to the rules about:
 - Preparation for Crown Court trial
 - Access to information held by the court
 - Bail
 - Sentence Review
 - Sexual offences prevention orders
- ◆ Clarify the type of obligations imposed by various rules, by substituting the word 'must' for the word 'will';
- ◆ Include up to date references to other legislation, and make some amendments in consequence of the changes listed above.

Key changes created by the Criminal Procedure Rules include a requirement for the defendant, if appearing in Crown Court, to give notice of the identity of the intended defence trial advocate, and to give notice of any change of advocate (Part 3).

In addition the new Rules also address investigation orders (Part 6), following a recommendation made by the High Court that the Criminal Procedure Rule Committee should review the procedures followed on such applications following various case law highlighting the issue. The Rule Committee has added rules 6.29 to 6.33 to supply a procedure which is intended to ensure that applications fully meet all the statutory requirements as interpreted by the courts.

The Lord Chief Justice has authorised new forms for application for search warrants for use in connection with the new rules 6.30-6.32 which can be found at

<http://www.justice.gov.uk/courts/procedure-rules/criminal/formspage>

The committee has amended rule 5.7 which concerns the supply to a party of information or documents from records or case materials to assist the courts to strike the right balance between the confidentiality of a case and a person's right to know why a search warrant has been issued against him or her. Procedures relating to the retention of fingerprints are addressed by Rules 6.34 to 6.36.

The new rules also address procedures relating to the committal, transfer and sending of cases for trial as well as substituting the old rules in Part 17 concerning extradition with rules that are up to date.

The Criminal Procedure Rules also insert into part 19 which concerns bail and custody time limits, the requirement that magistrates' court officers need to provide the defendant, where bail is withheld, a certificate stating that the court heard full argument where this is the case. The new rules also amend further rules in this section such as the removal of the requirement for the Crown Court officer to send information to the High Court on a prosecutor's appeal to that court against a grant of bail by the Crown Court.

Further amendments made by the Criminal Procedure Rules 2013 include sentencing procedures in special cases and the service of sexual offences prevention orders.

The full guide to the Criminal Procedure Rules 2013 by the Criminal Procedure Rule Committee secretariat can be found at <http://www.justice.gov.uk/courts/procedure-rules/criminal/docs/cpr-guide-2013.pdf>

Notes



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