NPIA
National Policing Improvement Agency

Digest

July 2010

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 Case law is produced in association with

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July 2010

Digest

Legal Services

Chief Executive Officer Directorate

www.npia.police.uk/digest

In this month's edition of the NPIA Digest……

This edition contains a summary of issues relating to police law, operational policing practice and criminal justice. New legislation, statutory instruments and case law are covered. The *NPIA Digest* includes articles outlining recently published Government and Parliamentary reports and initiatives. As usual, the *NPIA Digest* also covers the latest Home Office Circulars, research papers, Codes of Practice and guidance.

Included in this edition is a summary of the Identity Documents Bill, which repeals the Identity Cards Act 2006, although re-enacting some offences, and cancels the ID card scheme. The North Report, which recommends changes to drink and drug driving law, including a recommendation to lower the prescribed blood alcohol level, is also included.

Summaries of the following guidance documents are in this month's edition; the revised ACPO 'Guidance on the Management of Police Information', new ACPO 'Guidance on Responding to People with Mental Ill Health or Learning Disabilities'; MIND's good practice guide 'Police and Mental Health: How to Get it Right Locally'; and the Department for Communities and Local Government's 'Guidance on Managing Anti-social Behaviour Related to Gypsies and Travellers'.

The latest 'Learning the Lessons' bulletin is summarised and covers a number of investigations where learning opportunities have been identified, covering threats to kill, road traffic, custody, investigating sexual offences and helping vulnerable people. Also covered is the latest survey on confidence in the police complaints system, undertaken by the Independent Police Complaints Commission.

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Bills Before Parliament 2010/11 - Progress Report

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

Public Bills

- Police Reform and Social Responsibility Bill - this Bill was announced in the Queen's Speech but is not yet before Parliament;
- Freedom (Great Repeal) Bill - this Bill was announced in the Queen's Speech but is not yet before Parliament;
- Identity Documents Bill - this Bill started in the House of Commons and has completed its First and Second Readings. The date for the Committee Stage of this Bill has yet to be announced;
- Dog Control Bill - this Private Members Bill, which makes provision about the control of dogs including a new 'dog control notice' and offences for breaching provisions of the Bill, started in the House of Lords and has completed its First Reading. The Second Reading will take place on 9 July.

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

Identity Documents Bill

The Identity Documents Bill is currently before Parliament, and makes provision for the repeal of the Identity Cards Act 2006 (the 2006 Act). The Bill in clause 1 repeals the 2006 Act in its entirety, re-enacting sections 25, 26 and 38 of the Act with consequential amendments. Clause 2 of the Bill cancels the ID Cards Scheme, providing that no more ID cards are to be issued once the Act is in force, and that all ID cards valid immediately before that day are to be treated as cancelled one month later. Clause 3 requires all information recorded in the National Identity Register must be destroyed within two months of the Bill becoming law.

Clause 4 of the Bill re-enacts the provisions of section 25(1) and (2) of the 2006 Act. This makes it an offence for a person with an improper intention to have in their possession or under their control a false identity document or an improperly obtained identity document, where the person knows or believes the document to be either false or improperly obtained, or another person's identity document. An improper intention is an intention of using the document to establish personal information about him or herself, or an intention of allowing or inducing another to use it for establishing, ascertaining or verifying personal information about him or herself. The offence is triable on indictment and punishable by a term of imprisonment not exceeding 10 years or a fine, or both.

Clause 5 of the Bill re-enacts the provisions of section 25(3) and (4) of the 2006 Act. This makes it an offence for a person to have in their possession or under their control any apparatus, article or material which, to their

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knowledge, is specially designed or adapted for making false identity documents. The offence is only committed if the person has an improper intention - either that they or another will make a false identity document, and that the document will be used by somebody to establish, ascertain or verify personal information about a person. This offence is triable on indictment and punishable by a term of imprisonment not exceeding 10 years or a fine, or both.

Clause 6 re-enacts the offence in section 25(5) of the 2006 Act, making it an offence for a person, without reasonable excuse, to have in their possession or under their control, a false or improperly obtained identity document, another person's identity document, or apparatus, an article or material which to their knowledge is specially designed or adapted to make false identity documents. The offence is triable either way, and punishable on conviction on indictment by imprisonment for a term not exceeding two years, a fine or both, or on summary conviction by imprisonment for a term not exceeding the statutory minimum, a fine not exceeding the statutory maximum, or both.

Clause 7 of the Bill re-enacts section 26 of the 2006 Act, to define 'identity document' as including immigration documents, UK passports and UK driving licences. Clause 8 defines 'personal information' for the purposes of the earlier clauses, and includes information about a person's full name, gender, name, date of birth, place of residence and residential status. The definition may be amended by order, by the Secretary of State.

The remaining clauses of the Bill provide for further definitions, for verifying information provided with passport applications, and designate how orders under the Bill are to be made. Consequential and transitional provision is also made.

Details on the Bill and its progress through Parliament can be found at http://services.parliament.uk/bills/2010-11/identitydocuments/documents.html

North Report Recommends Lowering Drink Driving Limit

Sir Peter North CBE QC has published his report, commissioned by the Department for Transport, 'Report of the Review of Drink and Drug Driving Law' (the North Report). The North Report reviews the legal framework in Great Britain governing drink and drug driving and makes twenty-eight recommendations for action in relation to drink driving and twenty-three in relation to drug driving.

Drink driving

The main recommendation for drink driving is that the prescribed blood alcohol level in section 11(2) of the Road Traffic Act 1988 (RTA 1988) should be reduced to:

- 50 mg of alcohol in 100ml of blood;
- The equivalent level in breath, of 25 mcg of alcohol per 100ml of breath; and
- The equivalent level in urine, of 3 mg of alcohol per 100ml of urine.

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In relation to the new level, when sentencing offenders it should continue to be an aggravating factor where the offence was committed by driving an HGV, PSV or private hire vehicle. The North Report also advises that after five years a Government review should consider whether the anticipated casualty reductions of the new limit have materialised in relation to young and novice drivers, and if not, whether a lower limit of 20 mg of alcohol in 100 ml of blood should be imposed for these drivers.

The North Report recommends further changes to the RTA 1988:

- The statutory option in section 8(2) should be removed;
- Section 6 should be changed to include a general power to require anyone driving a motor vehicle to comply with a preliminary test (it is not recommended that this apply to those who had been driving, had been attempting to drive or who were in charge of a vehicle); and
- Section 7(1)(c) should be amended to remove the requirement for police to administer a preliminary breath test before an evidential breath test.

It is also recommended that the offences in the RTA 1988 under sections 4(1), 5(1)(a), 7(6) and 7A(6) be added to the list of 'Offences Brought to Justice', which would require the police in England and Wales to report on them.

In relation to prosecuting offences, the North Report recommends that there should be no charging threshold applied to the new limit of 25 mcg of alcohol per 100 ml of breath - a person who commits the offence should be charged. It is recommended that the penalty for the excess alcohol offence in section 5(1)(a) of the RTA 1988 should carry a period of disqualification of not less than 12 months and a band C fine. It is recommended that a power of seizure and forfeiture of vehicles used by repeat offenders in mandatory disqualification offences like that available in Scotland be created for England and Wales.

The High Risk Offenders Scheme should continue to operate, with the threshold of two-and-a-half times the prescribed limit applying to the new lower limit and the Scheme applying in relation to repeat offenders and those failing to provide specimens. The North Report recommends that the provisions of the Road Safety Act 2006 requiring High Risk Offenders to be assessed by a doctor before regaining their licence to drive should be implemented.

Drug driving

Recommendations are made regarding the Field Impairment Test (FIT). The North Report recommends that every police force invest in training constables to conduct FITs, with forces to make it policy that FITs are conducted in whenever impaired driving is suspected, regardless of whether there is a negative breath test. It is recommended that the Government collect data from police forces on how many constables are trained to conduct FITs and how many FITs are carried out, and that statistics distinguish clearly between offences where driving impairment is due to drugs, alcohol, or both alcohol and drugs. The North Report recommends that evidence of impairment should be taken into greater account by bodies such as the Crown Prosecution Service and those determining cases.

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It is also recommended that the main drug driving offence in section 4(1) of the RTA 1988 should be included in the list of 'Offences Brought to Justice', requiring police to monitor and report on this offence.

Legislative change within a year is recommended in the North Report, to allow nurses to take on the role of the Forensic Physician under section 7(3)(c) of the RTA 1988 in determining whether an individual has 'a condition which might be due to a drug'. The North Report also recommends that within two years preliminary drug screening devices should receive type approval and be supplied to police stations, with the first focus to be set on detecting the most prevalent drugs:

- Opiates;
- Amphetamines;
- Methamphetamine;
- Cocaine;
- Benzodiazepines;
- Cannabinoids;
- Methadone; and
- Ecstasy.

Further to this, it is recommended that the Government continue working on type approval for drug screening devices which can be used at the roadside.

It is recommended that the Government research the levels of the most prevalent drugs which can be deemed to be impairing with a view to setting prescribed levels in legislation and creating an offence of driving when levels of those drugs in the body exceed the prescribed levels. If the level of a drug in a driver's body exceeds this level due to taking the drug in accordance with medical advice a defence should be available. The North Report recommends that this defence should not apply to the general offence of driving while unfit due to drugs in section 4 of the RTA 1988.

If the abovementioned research leads to the conclusion that it is beyond scientific research to set a level of deemed impairment for a particular drug, the North Report recommends that the Government consider whether a 'zero tolerance' offence should be introduced. Section 4 of the RTA 1988 should be retained for dealing with prescription or over-the-counter drugs, new drugs and other drugs where a prescribed level has not been set.

In dealing with offenders, the North Report advises including drug driving offences in the High Risk Offenders Scheme, and recommends that the Government consider the introduction of drug driver rehabilitation schemes.

The North Report, along with background into the review and supporting research, can be found at http://northreview.independent.gov.uk/index

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Law Commission Consults on Programme of Law Reform

The Law Commission is seeking suggestions for areas of law in need of reform which could be included as projects in its Eleventh Programme of law reform. Projects in the next programme are likely to focus on issues which are systemic, caused by complex or hard to understand law or policy, have a wide discriminatory impact or cause disproportionate costs, or arise from law or policy which is inconsistent with modern standards.

The consultation runs until 15 October 2010. Responses can be sent online, by email or by post.

Details of the consultation and how to respond can be found at http://www.lawcom.org.uk/questionnaire/

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Case Law

NPIA Digest will be featuring a monthly selection of Lawtel Case Reports to keep readers abreast of relevant developments in the law. Lawtel, part of Sweet & Maxwell, offers instant access to UK and EU case law, legislation and articles coverage, as well as a unique update service. For more information, or a free trial, please visit Lawtel's website at http://www.lawtel.com or call 0800 018 9797.

Guidance on Lawfulness of Using Self Help To Eject a Trespasser From A Vehicle

R v PAUL BURNS (2010)

CA (Crim Div) (Lord Judge LCJ, David Clarke J, Lloyd Jones J) 27/4/2010

Criminal Law

Actual Bodily Harm: Reasonableness: Self-Help: Use Of Force: Right Of Owner Of Vehicle To Use Reasonable Force, As Last Resort, To Eject Trespasser: Criminal Law Act 1967: Criminal Damage Act 1971

Bearing in mind that to be lawful the use of force had always to be reasonable in the circumstances, it might be open to the owner of a vehicle, in the last resort and when all reasonably practicable alternatives had failed, forcibly to remove an individual who had entered his vehicle without permission and who refused to leave it. In the circumstances of the instant case, however, the driver's resort to self help was not justified and his use of force was unlawful.

The appellant (B) appealed against his conviction for assault occasioning actual bodily harm. B had picked up the complainant (C), a prostitute, in a town centre. He had driven her to a secluded area where he had stopped and, after changing his mind about the transaction, asked her to get out of the car. When she refused, he ejected her with force. Though she asked to be driven back to the pick-up point, he pushed her away and drove off without her. The judge rejected B's submission that the force used to eject C from the car was lawful. He directed the jury that even on B's own account, he had not been entitled to use force to eject C from the car and prevent her from getting back into it. He went on to direct them that provided they were satisfied that C had sustained actual bodily harm at B's hands then, as a matter of law, the force used by B was unlawful. B submitted that that direction was not correct. He argued that he had been entitled to use reasonable force to remove C from his car, on the basis that it was settled law that reasonable force could be used to eject an individual from property, and by analogy a car, after he had been asked to leave. Alternatively, he argued that his use of force had not necessarily been unlawful.

HELD

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The question was whether the violence to which C had been subjected was unlawful. B had acted neither in self-defence nor in the defence of anyone else, he had not acted to prevent a crime, and nor had he acted in defence of his property from the threat or risk of damage. Indeed, he had not acted for any of the purposes envisaged either by the Criminal Law Act 1967 or the Criminal Damage Act 1971, or by the well-established common law defences to allegations of violence which would otherwise be criminal, such as participation in sports involving an element of violence. Even as a matter of legal theory, the validity of the analogy between B's seeking to remove C from his car and the rights of a landowner to remove a trespasser from his property was doubtful. If anything, B's activities could be said to amount to self-help, action to recover exclusive possession and occupation of his car, a concept sometimes described as recaption of property. However, the common law had always been reluctant to extend the ambit of self-help to situations which could culminate in violence, Southwark LBC v Williams (1971) Ch 734 CA (Civ Div) and Lloyd v DPP (1992) 1 All ER 982 QBD applied. A request to extend the very limited circumstances in which self-help might be used to justify activity which would otherwise constitute a violent offence had to be subjected to the closest possible scrutiny. Bearing in mind that to be lawful the use of force had always to be reasonable in the circumstances, it might be open to the owner of a vehicle, in the last resort and when all reasonably practicable alternatives had failed, forcibly to remove an individual who had entered his vehicle without permission and who refused to leave it. However, where that individual had entered the car as a passenger, in effect at the invitation of the car owner, on the basis that they mutually understood that when their dealings were completed she would be driven back in the car from whence she had come, the use of force to remove her at the driver's unilateral whim was unlawful. In any event, the resort to self-help was not justified in the circumstances of the instant case because B could readily have regained exclusive possession to his vehicle by means not involving the use of force, that is, by simply driving C back to the starting point. In those circumstances the judge's direction was correct.

APPEAL DISMISSED

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Offence of Entering Into Dishonest Price Fixing Agreement Does Not Require Mutual Dishonesty

R v (1) GEORGE (2) BURNS (3) BURNETT (4) CRAWLEY (2010)

CA (Crim Div) (Maurice Kay LJ, Royce J, Nicol J) 28/5/2010

Criminal Law - Competition Law - Legislation

Cartel Offences: Dishonesty: Price Fixing: Statutory Interpretation: Criminal Liability For Cartel Offence: Entering Into Dishonest Price Fixing Agreement: Requirement Of Dishonesty By Defendant Alone Or Mutual Dishonesty By Defendant And Other Individuals: Mutual Dishonesty: S.188 Enterprise Act 2002: S.188(1) Enterprise Act 2002

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On the proper construction of the Enterprise Act 2002 s.188, concerning cartel offences and agreements to fix prices, to establish criminal liability the prosecution need only prove that the defendant had entered into an agreement dishonestly: there was no requirement for mutual dishonesty on the part of both the defendant and another individual.

The appellants (G) appealed against a ruling of the judge, in the course of a preparatory hearing, as to the law relating to the ingredients of a cartel offence. G, who were all employees of a certain airline, had been charged with an offence under the Enterprise Act 2002 s.188. It was alleged that they had dishonestly agreed with each other and with three employees of another airline to make or implement arrangements relating to the two airlines which directly or indirectly fixed the price for the supply in the United Kingdom of their passenger air transport services. An issue arose as to the requirement of "dishonesty" in s.188(1) of the Act. The prosecution submitted that it needed only to prove dishonesty on the part of G. The defence case was that that was not enough and that there had to be mutual dishonesty on the part of both G and the other airline's employees. The judge accepted the prosecution's submission, having found that the language of s.188(1), which was simple and straightforward, provided that the offence was committed by an individual who, acting dishonestly, agreed with one or more others to make or implement one of the prescribed arrangements, and that whilst the adverb "dishonestly" might qualify the verb "agrees", the subject of the verb was "an individual". G contended that the purpose of s.188 was to criminalise "dishonest agreements", which supported their mutual dishonesty construction. At the conclusion of the appeal hearing, the Court indicated that it would dismiss the appeal but reserved its reasons. Counsel for G then informed the court that, as nothing should be done to put the commencement of the trial at risk, in the event of conviction and unsuccessful appeals on any other grounds, she would wish to reserve the right to take the point to the Supreme Court on the basis that a direction to the jury that mutual dishonesty was not required was a misdirection. Whilst she anticipated that the Court of Appeal would, if that occasion arose, dismiss the appeal on that ground given the instant decision, she would ask the court to certify and grant permission on that issue. The prosecution confirmed that it would raise no technical point against such a course, but reserved the position to argue that such a point was not suitable for appeal.

HELD

(1) It would be surprising if the legislative intention behind s.188 had been to relieve a dishonest defendant of criminal liability simply because dishonesty was not also established against any individual in the corresponding undertaking. The language and purpose of the statute were clear. Where a statute imposed criminal liability on "an individual... (who) dishonestly agreed with one or more persons..." to do a prohibited act, the intention and purpose was to criminalise that individual, regardless of whether "one or more persons" was or were also dishonest. The judge had, accordingly, been entitled to have ruled as he had.

(2) (Per curiam) The course suggested by counsel for G illustrated a pragmatic way of avoiding interlocutory appeals to the Supreme Court and

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enabling trials to proceed, without prejudicing the contingent right of an appellant to take the matter further if that should become necessary and appropriate. Subsequent appellants (and respondents) might find that a sensible approach.

APPEALS DISMISSED

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In Limited Circumstances Hearsay Evidence Can Be Admitted Where The Criminal Justice Act 2003 Witness Unavailability Provisions Do Not Apply

R v ED (2010)

CA (Crim Div) (Pitchford LJ, Rafferty J, Judge Goldstone QC)
28/5/2010

Criminal Evidence

Admissibility: Hearsay Evidence: Witness Statements: Unavailability Of Witness: Admittance Of Evidence: Requirement To Examine Why Witness Unavailable: S.114(1)(D) Criminal Justice Act 2003: S.116 Criminal Justice Act 2003: S.114(2)(G) Criminal Justice Act 2003: S.114(2) Criminal Justice Act 2003

In limited circumstances, evidence from a live witness that could not be given orally for reasons other than those provided for in the Criminal Justice Act 2003 s.116 could be admitted. Ultimately, it was for the trial judge to determine the admissibility of such evidence having regard to the provisions of s.114(2).

The appellant (D) appealed against his convictions for historic offences of rape, attempted rape and indecent assault. The offences were committed against family members, all of whom were under 16 years of age at the time. The issue on appeal was whether it had been in the interest of justice, within the meaning of the Criminal Justice Act 2003 s.114(1)(d), to admit in evidence the hearsay statement of a witness (M) who had been warned but had failed to attend to give evidence for reasons personal to herself in circumstances where the provisions relating to witness unavailability under s.116 were not engaged. M had been a friend of a particular complainant (L). In her witness statement, M recalled a conversation that she had had with L in which L had told her that D had put his hand up her skirt. The prosecution adduced M's evidence in order to rebut D's allegation that the complaints had been recently fabricated. Although the prosecution had not attempted to produce M to give evidence, the judge admitted her statement under s.114(1)(d), in the interests of justice, on the basis that the circumstances surrounding the conversation and M herself seemed reliable and that D would be able to adequately respond to it. D submitted that M's evidence should not have been admitted and that the judge had failed to given adequate consideration to s.114(2)(g) and why oral evidence could not be given by M.

HELD

(1) Courts should not countenance the use of s.114(1)(d) to circumvent the requirements of admissibility gateways higher up the s.114(1) hierarchy. However, the terms of s.114(2)(g), read in the context of the other paragraphs in s.114(2), seemed to suggest that there were limited occasions when evidence, that could not be given orally for reasons other than those provided for in s.116, might be admitted, R v L (2008) EWCA Crim 973, (2009) 1 WLR 626, R v Adams (Ishmael) (2007) EWCA Crim

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3025, (2008) 1 Cr App R 35 and R v Musone (Ibrahim) (2007) EWCA Crim 1237, (2007) 1 WLR 2467 applied. Ultimately, the trial judge was the gatekeeper responsible for the fairness of the trial and the examination of the s.114(2) factors: any other relevant factors had to be examined with caution when the object was to fill a gap caused by the non attendance of a live witness on grounds that did not fall within s.116. In the instant case, the judge had been right to conclude that M's evidence had significant probative value relating to an issue of some importance to the trial. The judge rightly observed that there was limited prejudice to D since any challenge he mounted had to be circumscribed by his own lack of knowledge about the conversation. Moreover, its admission enabled D to make extensive use of inconsistencies of account between M and L in an attempt to undermine its truthfulness.

(2) However, the judge made the mistake of assuming that M was unavailable through no fault of the prosecution. Although D had been able to cross-examine L, all that was available by way of challenge to M's evidence was comment. Accordingly, M's evidence should not have been admitted under s.114(1)(d). However, the admission did not have such a prejudicial effect upon the nature and conduct of the defence that the safety of the jury's verdicts was affected. M's evidence would not have been admitted if D had not chosen to make an accusation of conspiracy and a consideration of the issue of the truthfulness of the hearsay evidence was largely subsumed in the jury's principal task of judging the truthfulness of the complainants themselves. It was clear from the verdicts of the jury that they believed the complainants. Further, it was most improbable that M's statement had had any material effect upon that provision.

APPEAL DISMISSED

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Unlawful Administration of a Caution for a Sexual Offence Violated Right to Private Life

R (on the application of ASO MOHAMMED) v CHIEF CONSTABLE OF WEST MIDLANDS (2010)

QBD (Admin) (Wyn Williams J) 28/5/2010

Criminal Procedure - Human Rights - Police

Cautions: Damages: Right To Respect For Private And Family Life: Administration Of Unlawful Caution For Sexual Offence: Interference With Individual's Private Life: Appropriateness Of Damages: S.1 Art.8 European Convention On Human Rights: S.8 Human Rights Act 1998

It was appropriate to award an individual, who had been unlawfully administered a caution for making indecent images of a child, £500 damages where it had to have been apparent to the police that the caution would result in an interference with the individual's right to a private life under the European Convention on Human Rights 1950 s.1 art.8.

The court was required to determine whether it was appropriate to award the claimant (M) damages where the defendant chief constable had conceded that he had unlawfully administered a caution to M. M had taken photographs of the naked five-year-old son (X) of his girlfriend (E) whilst M, E, a male friend and X were visiting a public park. All three adults were arrested on suspicion of having been involved in the offence of making indecent photographs of a child. By the time that M was released X had been taken into local authority care. M spent a couple of months on police bail before a caution was administered to him. When the caution was administered M did not have the benefit of a legal representative or an interpreter, which he required. X was later returned to the care of E subject to restrictions that she must have no contact with M whilst X was present; that E was not to allow M into the family house and that E was to seek advice if she wished to continue to have a relationship with M. M commenced judicial review proceedings challenging the lawfulness of the caution but the chief constable conceded that the caution should not have been administered because there was insufficient evidence to justify charging M. An issue arose as to whether, if an interference with his rights under the European Convention on Human Rights 1950 s.1 art.8 had occurred, it was appropriate to award M damages under the Human Rights Act 1998 s.8.

HELD

For an interference with M's rights under art.8 to have occurred the chief constable had to have known that M's private or family life was at risk through the administration of the caution, Anufrijeva v Southwark LBC (2003) EWCA Civ 1406, (2004) QB 1124 followed. It was clear that the chief constable knew that M's private life was at risk when the caution was administered. A caution could be administered lawfully only if the person made an unequivocal admission of guilt. Accordingly, the caution administered to M indicated that he had admitted a sexual offence in relation to a child. The acceptance of the

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caution by M made it mandatory for him to register as a sex offender. Those factors taken together clearly interfered with M's private life and there could be no suggestion that the chief constable was unaware of those consequences. It was also apparent that the caution had played a significant part in persuading the local authority that the restrictions imposed on E with regard to M were necessary. Accordingly, the chief constable's unlawful act in administering the caution to M interfered with M's rights to his private life under art.8 and it was appropriate to award M £500 damages in respect of that interference.

JUDGMENT FOR CLAIMANT

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Second Edition of MoPI Guidance Published

The NPIA, on behalf of ACPO, has published the second edition of 'Guidance on the Management of Police Information' (the MoPI guidance). The MoPI guidance takes account of the experience of the Management of Police Information (MoPI) national implementation project, aimed at improving how forces collect, record, evaluate, review and take decisions on information. It also provides information on how to maximise the opportunities which introduction of the Police National Database will bring.

The MoPI guidance continues to describe the principles supporting the statutory Code of Practice on the Management of Police Information (2005), which remains unchanged.

The MoPI guidance can be found at
http://www.acpo.police.uk/asp/policies/Data/MoPI%202nd%20Ed%20Published%20Version.pdf

ACPO Guidance on Responding to People with Mental Ill Health or Learning Disabilities Published

The NPIA, on behalf of the Association of Chief Police Officers (ACPO), has published 'Guidance on Responding to People with Mental Ill Health or Learning Disabilities'. The Guidance, which is not protectively marked, notes that it is essential that people with mental ill health or learning disabilities are recognised and assisted by police officers and staff from the first point of contact. The benefits of a multi-agency approach and the critical relationships needed to provide an appropriate response are highlighted in the guidance, which aims to provide a mechanism for the improvement of police responses and the continuation of discussion and decision making in the area.

Advice is provided by the guidance on police responses to those who:

- Are experiencing mental ill health;
- Have a learning disability;
- Have both mental ill health and a learning disability;
- Have developmental conditions such as Autism; or
- Have multiple needs relating to mental health.

The guidance also sets out the needs of these individuals in both a criminal justice capacity and a healthcare capacity. Definitions, general operational guidance, mental health principles, operational police responses to victims, witnesses, suspects and offenders and the use of police powers under the Mental Health Act 1983 and the Mental Capacity Act 2005, along with guidance on managing police responses are detailed in the document.

The guidance can be found via the Genesis extranet.

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MIND Publishes Good Practice Guide on Policing and Mental Health

MIND, a mental health charity for England and Wales, has published a good practice guide 'Police and Mental Health: How to Get it Right Locally'. The guide highlights good policing practice in engaging with those with mental health issues. Examples of good practice initiatives and the outcomes available from them are given, including schemes such as voluntary sector placements, third-party reporting schemes, antisocial behaviour services and surgeries and drop-ins.

The guide can be found at
http://www.mind.org.uk/assets/0000/8587/Police_Guide.pdf

Latest 'Learning the Lessons' Bulletin Published

The Learning the Lessons Committee has published the latest 'Learning the Lessons' Bulletin, which summarises investigations conducted either by police forces or the Independent Police Complaints Commission, where learning opportunities have been identified. This bulletin summarises eleven cases and identifies a number of recurring issues.

Threats to kill

Two cases are summarised in relation to acting on threats to kill. In one case a man reported to police that he had received anonymous phone calls threatening his life. He was not visited by police that day and two appointments to meet him the next day were missed due to scheduling problems and information not being included in the duty officer's handover. The man visited the police to report the threats but as there was not much information the reception officer did not pass information onto the duty officer. The man was found by police the following day, having been abducted, seriously assaulted and left for dead.

The Bulletin asks officers and staff to consider what response dispatchers would make to a threat to kill, whether duty officer's handovers would have been detailed enough to include the phone calls and whether station reception officers know about their forces' threat to life policy and have enough support and supervision to cope with the role.

In a second case a psychiatrist reported to police that a patient had threatened to kill a man. The call was graded normal and the log passed onto a supervisor, who identified the threat as being a past incident and did not conduct a risk assessment. The log was passed on again and closed as it was considered that the threat was not imminent and that the patient was unable to find the man he'd threatened. The log was emailed on for evaluation but the email could not be accessed due to a software change. The patient stabbed the man he'd threatened a week later.

The Bulletin sets out action taken by the force, whereby all logs regarding threats to life are dated and sent for risk assessment to a duty inspector, communications centre staff received training on responding to such threats

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and the software was updated to ensure mailboxes could be accessed by relevant staff.

Road Traffic

Two cases are summarised about road traffic. In one case a teenage girl was killed after being hit by a single crewed marked police car which had been following a vehicle which had triggered the ANPR system. The police car had been travelling at speeds of up to 94mph in a 30mph zone without sirens or lights as the officer mistakenly believed they should not have been used in this situation. An officer following in a second car also did not use sirens or lights, and felt that he had not had adequate first aid training. Neither car's Incident Data Recorder (IDR) was recording at the time and the officers did not know how to tell it was working.

The Bulletin asks officers to consider whether they can operate their IDR and whether they know their force policy on the use of blue lights and sirens. Policy makers and managers are asked to consider whether their officers have training in, and are confident in using, first aid, whether their officers are aware of the risks of responding to ANPR activations and the risks when responding and driving alone, and whether there are enough radio communication channels to cope with demand.

In the second case, a police transit van being driven over the 30mph speed limit with no lights or sirens hit a man, leading to the loss of his sight. The officer driving was not authorised to use the van for patrol and was not authorised to exceed the speed limit. There were defects to the van's tyres and a grimy windscreen. Officers in the van said they had checked the vehicle before use, and in breach of force policy no records existed of the required checks. The officers involved in the incident conferred and their written statements were identical. They should have written their accounts separately.

Policy makers and managers are asked in the Bulletin whether officers know the circumstances in which they are entitled to drive and to consider what audit processes are in place to ensure the vehicle fleet is maintained and inspected.

Custody

In one case a man in custody was drunk and reported that he was depressed and had previously harmed himself. The custody officer decided he did not need an anti-suicide cell or medical attention, so put him into a cell with CCTV. The CCTV monitors were difficult to view and the custody officer decided the man should be checked on every hour, although this should have been every 30 minutes. The man was not searched as the custody officer, who was alone and unable to take regular breaks, mistakenly assumed the arresting officer would do this. The man was checked upon and found choking himself with a shoelace. He later recovered.

Policy makers and managers are asked to consider whether their electronic custody record has a mechanism to ensure searches are conducted, whether there is a dip sample of custody records to ensure correct recording, whether the CCTV can be easily viewed and whether staffing levels comply with ACPO guidance.

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In another case a female prisoner in custody who was a heroin and methadone user was not reassessed in police custody as recommended before being transferred to court. In addition, the 'violent' marker against the woman on the PNC and the original assessment by the Forensic Medical Expert were not included on the Person Escort Record (PER). The woman later hanged herself in prison.

Custody officers are asked to check whether they always check PERs and custody and detention officers are asked in the bulletin to consider whether they always add medical records to PERs.

In a final case on custody, a custody suite operated at the time by Her Majesty's Revenue and Customs (HMRC) had an antiquated CCTV system, no system for booking in visitors and no clear procedures governing responsibilities for observing detainees who had swallowed drugs during their arrest. A male detainee in the suite for five days complained that he was too cold but no action was taken, he pressed his buzzer on numerous occasions but this was deactivated without anyone visiting him, and he head-butted the wall 40 times without anyone checking on his welfare.

The bulletin asks policy makers and managers to consider whether they have policies in place about the roles and responsibilities when using alternative custody facilities, and whether the CCTV system is capable of downloading large amounts of footage in a timely manner. HMRC and UK Border Agency policy makers are asked to consider whether their custody suites have procedures for booking in visitors.

Investigating sexual offences

Two cases are detailed on investigating sexual offences. In the first, a male with Asperger's Syndrome and Attention Deficit Hyperactivity Disorder (ADHD) reported to police that he had been raped. An inexperienced officer was assigned the case, and there were delays in obtaining evidence. No crime number was given to the case. The man later received threatening text messages and calls and sent these onto police, an officer reviewed these but deemed them unintelligible although others could understand them and the phone was not sent for forensic examination. The force made limited contact with other interested agencies such as social services. Five months later the man was found dead, and the man who he reported had raped him was later found guilty of his manslaughter.

The bulletin points out that those with Asperger's Syndrome can find it difficult to communicate with others, and notes that ACPO have launched a strategy to help police respond more effectively to people with mental ill health. It also notes that NPIA guidance 'Responding to people with mental ill health or learning disabilities' gives advice on recognising potential vulnerability.

In the second case a report was made to police of historical sexual abuse. The force concerned took nine months to investigate this. One witness was not identified as 'significant' so her interview was not tape recorded, and her interview was cut short and not rearranged. Another witnesses' report was tape recorded but the witness was not asked to sign a typed copy until much later so had to relive the events. This interview took place in a police interview room contrary to force policy. Other witnesses were not interviewed

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and some healthcare professional's reports were not followed up. Neither the main complainant nor one significant witness were given information about special measures available to them or signposted to Victim Support. Information on the complaint was recorded badly in a number of locations, and the initial file for the CPS was mislaid, so the complainant had to be contacted again for replacements to be found.

The bulletin asks policy makers and managers to consider whether there is a written procedure on how and where to record decision making. It also asks how policy makers and managers address the risk of files being mislaid and whether they have processes in place to show receipt of files sent to the CPS. The bulletin also asks if policies are in place for investigating complaints of historic sexual abuse and notes that 2009 NPIA guidance on behalf of ACPO and the CPS has replaced the 2005 ACPO guidance on investigating serious sexual offences.

Helping vulnerable people

Two cases are outlined in the bulletin where learning opportunities can be found for helping vulnerable people. In one case police responded to calls of a man threatening to jump into the river while laden with weights. On seeing the police arrive the man waded into the river and drowned. The responding officer did not have a water safety kit and was not trained to enter the water in the conditions it presented - the river was deep, cold and fast flowing.

Officers are asked to consider whether they check what equipment they have at the start of each shift, and if they don't have equipment if they know how to access it quickly. Policy makers and managers are asked if they have enough equipment to cover patrol.

In the second case a woman who was depressed came into contact with police on a number of occasions after threatening to take her own life. On some of these occasions information about the woman and her previous contact with police was not passed on as appropriate. On one occasion she was found lying on a bench. Police were unable to rouse her so called an ambulance. The woman refused to go to hospital and went to stay with a friend. She later went home and was found dead the next day having hanged herself.

Policy makers and managers are asked to consider whether this could happen in their force, whether they know that appropriate information is communicated to those who need it and what multi-agency arrangements are in place to deal with similar situations.

The Bulletin can be found at http://www.learningthelessons.org.uk/index.htm

Report on Police Expenditure 1999-2009 Published

The Centre for Crime and Justice Studies has published the report 'Police Expenditure, 1999-2009' by Helen Mills, Arianna Silvestri and Dr Roger Grimshaw. The report is a study of police authority expenditure over the past decade, which sets out, from official statistics, information on the level of spending on police forces and the sources of the funding, examines spending on revenue and capital expenditure and analyses changes in the number and composition of police staff.

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The report finds that police expenditure rose from £7.72bn in 1998/99 to £14.55bn in 2008/09, an increase in real terms of 48%. Around 95% of this expenditure is on revenue including the cost of operating police forces, with the remainder spend on capital such as land and vehicles. The largest source of income is the Home Office Police Revenue Grant. Council tax and national non-domestic rates each made up 22% of the income in 2008/09. Trends in the source of income are set out in detail in the report.

76% of police service expenditure was spent on employees, with salaries making up the majority of this type of expenditure. Actual overtime expenditure increased by 88.7% over the decade, although remaining fairly static as a proportion of total employee expenditure over that period.

Police service strength is analysed in the report, which notes that total police service strength increased from 183,577 at 31 March 1998 to 239,607 at 31 March 2009. The report states that in 2009 police officers made up 59.3% of total strength, civilian staff 32.4%, PCSOs 6.8%, designated officers 1.3% and traffic wardens 0.2%. The figures for 1998 showed that 69% of the total police service strength was made up of police officers, with civilian staff accounting for 29% of the total and traffic wardens comprising 2%.

The report can be found at
http://www.crimeandjustice.org.uk/policespendingbriefing.html

IPCC Publishes Survey Results on Confidence in the Police Complaints System

The Independent Police Complaints Commission (IPCC) has published its research and statistics paper 'Confidence in the Police Complaints System: A Survey of the General Population in 2009'. The survey measures public confidence in the complaints system and provides baselines of the public's awareness of the system and propensity to use it. The survey involved interviewing a sample of nearly 4000 adults aged 15 or over in England and Wales, who were asked questions covering whether they had had contact with the police, how likely they would be to make a complaint about the police and whether there were any disincentives to complaining about the police.

Satisfaction about contact with the police and likelihood of complaining about police

The survey found that 27% of people had contacted, or been contacted by the police, in the previous 12 months. Of those who had contact with the police, 71% were either happy or very happy with their contact. Contact levels varied however, with 18% of those in ethnic minority communities having had contact with police in the same period, compared to 28% of white respondents. Those in ethnic minority communities also showed lower levels of happiness with their contact than white respondents (61% were happy or very happy with their contact, compared to 71% respectively).

59% of the total respondents (50% of respondents from ethnic minority communities and 61% of white respondents) definitely or probably would complain if they were really unhappy about how a police officer had behaved

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towards them or how a police officer had handled a matter in which the respondent was involved.

Disincentives to complaining

The survey questioned whether people thought that they would not be taken seriously if they made a complaint, 11% of respondents strongly agreed and 26% agreed. Ethnicity affected the percentage of those who thought they wouldn't be taken seriously when complaining, with 46% of ethnic minority respondents identifying this as a disincentive, and 37% of white respondents.

Other disincentives were identified by the survey. 37% of respondents were unsure of how to make a complaint, and 20% were worried about police harassment or other consequences. Respondents were also concerned that complaining would take up too much of their time. Results varied depending on ethnicity, with white respondents more likely to be concerned that nothing would be done as a result of their complaint, and ethnic minority respondents being more concerned about not being taken seriously, about complaining taking up too much of their time and about the risk of police harassment following their complaint. Respondents who had heard of the IPCC and thought it was independent from the police showed lower levels of concern about disincentives than respondents who thought the IPCC was part of the police and respondents who had not heard of the IPCC.

Awareness of the IPCC

67% of respondents had heard of the IPCC. 43% of respondents from ethnic minority communities were aware of the IPCC, compared to 71% of white respondents. Respondents in the age group 15-24 years of age showed the lowest levels of awareness at 29%, and age group was the factor with the most influence on awareness of the IPCC. The majority of the respondents who had heard of the IPCC (53%) had heard of it through the TV, although this was less likely to be the source amongst some of the groups with lower awareness of the IPCC (15% for those aged 15-24 and 38% of ethnic minority respondents).

Perceived impartiality and fairness of the IPCC

67% of all respondents reported that they were very or fairly confident that the IPCC would handle complaints about the police impartially (56% of respondents from ethnic minorities and 69% of white respondents). 86% of respondents who were aware of the IPCC believed they would be treated fairly by it if they complained.

Methods of complaining

47% of respondents would be most likely to contact the police force involved if they were to make a complaint about the police, a decrease from a survey in 2007 in which 61% would be most likely to complain directly to police. 15% would be most likely to contact the IPCC, an increase from 9% in 2007 (note that in 2007 the question referred to 'an independent complaints body' rather than the IPCC). Fewer respondents from ethnic minorities reported that they would complain directly to the police (24% compared to 50% of white respondents). The percentage of those who would be most likely to make a

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complaint to the IPCC was similar for white and ethnic minority respondents. Respondents who thought the IPCC was independent of police were more likely to make a complaint to the IPCC than those who thought it was not independent (23% and 14% respectively).

The survey can be found at
http://www.ipcc.gov.uk/confidence_report_2009.pdf

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British Crime Survey: Findings in Relation to Acquisitive Crime and Plastic Card Fraud

Home Office Statistical Bulletin 08/10 'Acquisitive Crime and Plastic Card Fraud: Findings from the 2008/09 British Crime Survey' (the bulletin) has been published, and is the third in a series of supplementary bulletins to the annual British Crime Survey (BCS). It presents findings from further analysis of the experiences of respondents to the survey.

Acquisitive Crime

The level of acquisitive crime has fallen by half since 1995, with acquisitive crime accounting for around three-fifths of all BCS crime. Around half of the acquisitive crime was defined as 'serious acquisitive crime': theft of or from vehicles, burglary with entry and robbery, a proportion which has remained fairly stable since 1981.

Of serious acquisitive crime:

- About three-fifths is made up of vehicle-related thefts;
- Around a third is domestic burglary;
- Burglary with entry makes up 18%;
- Attempted burglary makes up 12%; and
- 11% of offences were robbery.

Of other BCS crime 33% was other thefts from the household, 31% was other thefts of personal property, theft from the person constitutes 20% and 15% was bicycle theft.

The bulletin notes that there has been an increase in the use of security devices, along with a fall in burglary and vehicle-related theft since 1995. It notes that households with 'less than basic' security were over five times more likely to be burgled than those with 'basic' security.

In relation to security in vehicles, 40% of adults said that they had changed their day-to-day behaviour in relation to vehicle security in the last five years. 24% of adults now avoided leaving property on show in vehicles, 17% now avoided parking in certain areas or types of places and 14% were more likely to lock doors when their vehicle was unattended. The bulletin notes that only 8% of adults had made a change to the security of a vehicle they owned in the last five years, but attributes this figure to the increased level of security features available as standard on vehicles. The level of acquisitive crime in relation to vehicles has decreased from 1995 to 2008/09, with thefts of vehicles reducing from 65% to 32% and thefts from vehicles reducing from 33% to 20%. Over this period the proportion of types of thefts changed:

- Thefts of vehicles where offenders used a key to gain entry increased from 9% to 23%; and
- Thefts from vehicles where a door was left unlocked increased from 9% to 22%.

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In relation to incidents of burglary with entry, other theft of personal property, theft from the person and bicycle theft, around three-quarters of victims responded that they had taken some action since to try and prevent a repeat incident. The majority of the actions reported related to the specific type of incident, with 55% of adults who were victims of a burglary taking action to improve home security and action taken following 34% of bicycle thefts consisting of ensuring valuables were always secured or locked away.

Figures are also given in the bulletin of the percentage of respondents who thought that the offender was solely responsible for the offence or whether they thought that anyone else bore any responsibility. Adults were more likely to feel some responsibility for being victims of crime in relation to:

- Bicycle theft: 26% felt they or another householder, along with the offender, were responsible; and
- Other theft of personal property: 26% of adults believed that both they and the offender had responsibility.

Where adults believed that someone other than the offender bore some responsibility for the occurrence of the offence, the main reasons given for this related to property not being secure.

Plastic card fraud

There has been an increase in the proportion of plastic card owners who have been victims of plastic card fraud, from 4.7% being aware that their cards had been used fraudulently in the last twelve months in 2007/08 to 6.4% in 2008/09. The age group with the highest percentage of plastic card fraud victims was 45 to 54 year old card owners. Card owners who had used the internet in the last year had higher levels of victimisation than those who didn't, with those who used the internet daily having the highest rate of victimisation, at 8.9% of victims. Victimisation increased with the level of household income, with 11.7% of card holders with a household income of £50,000 or more being victims of plastic card fraud. For those whose household income was under £10,000 2.7% were victims.

Of the victims who discovered themselves that they had had money taken out of their accounts (by, for example, seeing a transaction on their statement), 14% reported the fraud to the police, and 91% reported it to their bank, building society or credit card company. Of these groups:

- 80% of those that reported the fraud to their financial institution were satisfied with the way it was handled, and
- 59% of those who reported the fraud to the police were satisfied with how it was handled.

The full report can be found at
http://rds.homeoffice.gov.uk/rds/pdfs10/hosb0810.pdf

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MoJ Circular 2010/10: Implementation of Sections 34 and 51 of the Criminal Justice Act 2003 and Associated Provisions

Ministry of Justice (MoJ) Circular 2010/10 gives information on provisions of the Criminal Justice Act 2003 which were brought into force by the Criminal Justice Act 2003 (Commencement No.24 and Transitional Provisions) Order 2010, namely:

- Section 34 (Notification of intention to call defence witnesses), which came into force in England and Wales on 1 May 2010; and
- Section 51 (Live links in Criminal Proceedings) which came fully into force in England and Wales on 26 April 2010.

Section 34 inserts a new section 6C into the Criminal Procedure and Investigations Act 1996, requiring an accused in criminal proceedings to give notice to the prosecutor and court if they intend to call a witness at the trial. The disclosure requirement is mandatory in the Crown and Magistrates' Courts, and applies to all cases where the disclosure provisions of the 1996 Act apply on or after 1 May 2010. The time limits which an accused must comply with are set out in Regulations, a link to which is given in the Circular. The Circular notes that a Code of Practice has been brought into force which governs the arranging and conduct of police interviews of any witnesses disclosed by the accused.

Section 51 allows a live link to be used by a witness (other than the defendant) when giving evidence, where there are suitable facilities to use and it is in the interests of the efficient and effective administration of justice to do so. The links can be used for all witnesses other than the defendant, in all criminal offences in all courts. The Circular constitutes the necessary notice from the Secretary of State that facilities are available for the receiving of evidence via live link in all courts, where such facilities exist.

The Circular can be found at
http://www.justice.gov.uk/publications/docs/circular10-2010-criminal-justice-act-2003.pdf

The Code of Practice for Arranging and Conducting Interviews of Witnesses Notified by the Accused can be found at
http://www.opsi.gov.uk/acts/acts1996/related/ukpgacop_19960025_en.pdf

Guidance on Managing Anti-social Behaviour Related to Gypsies and Travellers Published

The Department for Communities and Local Government have published 'Guidance on Managing Anti-social Behaviour Related to Gypsies and Travellers'. The guidance is intended to support local authorities, the police and other agencies and to encourage a consistent approach in how these agencies approach tackling anti-social behaviour in relation to Gypsies and Travellers, whether as victims or perpetrators. The guidance may be read in

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conjunction with the ACPO Guidance on Unauthorised Encampments, particularly where the use of powers to move people on from a location are being considered.

A co-ordinated strategy for approaching Gypsy and Traveller issues is recommended by the guidance, including in particular that there should be good co-operation between local authorities, police and other agencies, supported by protocols for joint working. This would enable the appropriate action to be taken in respect of anti-social behaviour and criminal behaviour. The guidance advises that agencies should commit to apply the same principles to Gypsy and Traveller communities as they would to the settled population, and recommends that Gypsies and Travellers should also receive the benefit of measures which protect the wider community, for example Anti-social Behaviour Orders used against those behaving anti-socially.

A section on policing in tackling anti-social behaviour is included in the guidance, and encourages incorporation of the following recommendations for police services:

- Gypsies and Travellers should be included in mainstream neighbourhood policing strategies to promote equality and good race relations;
- Gypsies and Travellers suspected of anti-social behaviour or crime should be targeted individually, without targeting whole communities, and police should work with the communities to develop preventative measures;
- Gypsies and Travellers, both when victims and suspects, should be treated as members of the local community;
- Training should be provided for relevant officers on the service needs of Gypsies and Travellers, to enable officers to do their jobs more effectively and promote good relations;
- A review should be undertaken of formal and informal procedures for policing unauthorised encampments to identify and eliminate potentially discriminatory practices and ensure the procedures promote race equality and good race relations.

The powers available to tackle anti-social behaviour are outlined in the guidance, which also includes sections on fly tipping, noise and other statutory nuisance and straying livestock.

The guidance can be found at
http://www.communities.gov.uk/documents/housing/pdf/1512778.pdf

MoJ Publish Statistics on Knife Possession Sentencing

The Ministry of Justice (MoJ) has published a statistical bulletin 'Knife Possession Sentencing Quarterly Brief: January to March 2010 England and Wales' (the Bulletin). The Bulletin details provisional statistics which describe trends in cautioning and sentencing, probation supervision and prison population for offences of knife or offensive weapon possession in England and Wales.

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Statistics for the period January to March 2010 (Q1 2010) are compared in the bulletin to the same period in 2009 (Q1 2009). The statistics show that the total number of disposals for offences of knife or offensive weapon possession fell by 22% from Q1 2009 to Q1 2010. Over the same period the proportion of offences resulting in a caution being administered decreased slightly (21% of offences in 2010 compared to 25% in Q1 2009) although the proportion of offences resulting in a suspended sentence or community sentence remained similar.

Where offences resulted in an immediate custodial sentence the sentences tended to be longer - 36% of sentences in Q1 2010 were over six months compared to 27% in Q1 2009, with the average length of sentence increasing from 180 days (Q1 2009) to 219 days (Q1 2010). In Q1 2010 30% of juvenile offenders received a reprimand or final warning for knife or offensive weapon possession offences, a decrease of 7% from Q1 2009. The decrease was balanced by a 7% increase in the proportion of juvenile offenders receiving a community sentence (50% in Q1 2009 compared to 57% in Q1 2010). The proportion of adult offenders receiving cautions decreased from 21% in Q1 2009 to 19% in Q1 2010. The proportion receiving immediate custodial sentences decreased from 26% to 22% over the same period.

The Bulletin also compares the statistics from Q1 2010 to Q1 2008, and gives detail on probation supervision statistics and on the percentage of the prison population serving sentences for possession of an offensive weapon.

The Bulletin can be found at
http://www.justice.gov.uk/knife-possession-sentencing-bulletin-jan-march-10.pdf

Consultation on Draft National Guidance for Child Protection in Scotland

The Scottish Government has published a consultation on revised guidance on child protection. The consultation includes a draft of the revised guidance and seeks views on whether the guidance is fit for purpose and useful for all services, agencies and individuals that work with and for children and young people, including police. The consultation runs until 17 September.

The draft guidance outlines the context for child protection, sets out roles and responsibilities for child protection including that of Chief Officer Groups and police and gives guidance on identifying and responding to concerns about children.

Details of the consultation and how to respond to it, along with the draft guidance, can be found at
http://www.scotland.gov.uk/Publications/2010/05/27095252/0

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Joint Thematic Review of Asset Recovery Examines Restraint and Confiscation Casework

The Chief Inspectors of Her Majesty's Crown Prosecution Inspectorate, Her Majesty's Inspectorate of Constabulary and Her Majesty's Inspectorate of Court Administration have published 'Joint Thematic Review of Asset Recovery: Restraint and Confiscation Casework'. The joint review undertakes analysis of the handling of asset recovery cases from investigation to enforcement and looks critically at the work of criminal justice agencies including the police.

The review identifies that the targets set for asset recovery do not correlate with what is achievable or what the system is resourced to deliver. The review notes two particular reasons why assets may not be recovered at the optimum rate: not all cases with restraint and confiscation potential are addressed as such; and recoverable assets are not always identified or frozen in time or at all.

Future activity and issues to address are set out in the review. It is suggested in the report that agencies give further consideration to the policy and strategic issues which affect the recovery of criminal assets, in particular considering how to ensure asset recovery represents value for money, whether adjustments to the incentivisation scheme are necessary, whether mainstreaming asset recovery into frontline work is achievable and cost effective and whether targets are realistic. Issues to address are set out, including that:

- The NPIA should continue to explore potential electronic capture of relevant data and encourage higher standards in the completion of form MG17;
- There should be further investigation by police forces into the consideration and use of Financial Investigators and possible reasons for their lack of use, with the involvement of the NPIA where this is appropriate;
- Police forces should, in discussion with their Crown Prosecution Service area, review policies on restraint to ensure they are not unnecessarily cautious;
- The delay in obtaining a confiscation order merits further investigation by the police and other criminal justice orders, along with action to progress orders more effectively;
- Processes need to be in place within police forces to ensure that the review of nominal orders is systematic and that applications to amend orders are made whenever appropriate; and
- Consideration should be made to ring-fencing funds to ensure that funds are ploughed back into the same work.

The joint review also identifies a number of examples of good practice already in existence.

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The executive summary of the joint review can be found at
http://www.hmic.gov.uk/SiteCollectionDocuments/Joint%20Inspections/CJI_EXS_20100325.pdf

The full report can be found at
http://www.hmcpsi.gov.uk/documents/services/reports/THM/CJJI_AssetRec_Mar10_rpt.pdf?PHPSESSID=c4e9592fbc5d8185f29b8332b8f072e9

Anti-Trafficking Monitoring Group Reports on UK Approach To Tackling Trafficking

The Anti-Trafficking Monitoring Group (ATMG) has published it's report 'Wrong Kind of Victim? One Year On: An Analysis of UK Measures to Protect Trafficked Persons' (the Report). The ATMG is a group of nine UK organisations, including Anti-Slavery UK, set up to monitor the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) which came into force in the UK in April 2009. The Report presents the ATMGs findings on research into how the UK and its devolved administrations are meeting their obligations under the Convention.

The Report identifies that in some areas of the UK the implementation of the Convention has led to increased awareness about trafficking, with pockets of good practice developing. However the Report also states that the UK is not yet meeting its obligations under the Convention and makes recommendations to address this.

The Report recommends that the Government change the National Referral Mechanism to make it act as a multi-agency identification and referral mechanism with a right of appeal, and recommends that the Government review the definition of trafficking used to ensure it complies with the Convention definition.

The Report also recommends that the Government ensures that no victims of trafficking, particularly child victims, are prosecuted for crimes they committed while under coercion. It also recommends that the referral mechanism for children be embedded into the existing child protection system and recommends that the best interests of child victims be upheld in all decisions, including through the introduction of a system of guardianship for children.

The creation of an independent anti-trafficking watchdog is recommended in the Report, which could report to Parliament and would have statutory powers to request information from police, immigration authorities, social services and NGOs.

The Report can be found at
http://www.antislavery.org/english/what_we_do/programme_and_advocacy_work/anti_trafficking_monitoring_group.aspx

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Countering International Terrorism: CONTEST Annual Report

In March 2010 Her Majesty's Government published 'Pursue Prevent Protect Prepare: The United Kingdom's Strategy for Countering International Terrorism Annual Report'. The aim of this annual report is to make public the work that departments and agencies have undertaken over the last 12 months.

The aim of CONTEST is 'to reduce the risk to the United Kingdom and its interest overseas from international terrorism, so that people can go about their lives freely and with confidence'. The report breaks down the four principal workstreams of CONTEST into priorities, and discusses some of the key developments in the past 12 months.

Pursue: to stop terrorist attacks

The six main priorities in the past 12 months for Pursue related work have been:

- Increasing covert detection and investigation capability and capacity;
- Improving the effectiveness of the UK prosecution process;
- Developing more effective non-prosecution actions;
- Improving capability to disrupt terrorist activities overseas;
- Strengthening the coherence between our counter-terrorism work and counter-insurgency and capacity building overseas; and
- Enhancing interagency coordination on this workstream.

Prevent: to stop people becoming terrorists or supporting violent extremism

The report states that it is a vital part of counterterrorism strategy to dissuade people from turning to or supporting terrorism and violent extremism and has made clear that Prevent must enable and support communities to continue to actively challenge the small minority who espouse violent extremism and must not be the only or the main context in which Government and Muslim communities work and talk together.

Protect: to strengthen our protection against terrorist attack

The aim of protect over the past 12 months has been to reduce the vulnerability of the UK and its interests overseas to terrorist attacks. The strategy outlined that the objectives for Protect are to further reduce the vulnerability of critical national infrastructure ('CNI'), crowded places, the transport system and UK borders.

Prepare: where an attack cannot be stopped, to mitigate its impact

The Prepare workstream seeks to minimise the impact of a terrorist attack where it cannot be stopped. This includes work to manage an ongoing attack as well as recovery from its aftermath. The four principal objectives identified in the report for this area are:

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- Capabilities should be in place to enable the emergency services to respond to most kinds of terrorist attack, both during and after any incident;
- The UK CNI should continue to deliver essential services following a terrorist incident (or, where services are disrupted, should be able to recover as quickly as possible);
- Plans should be developed and capabilities should be in place to deal with the consequences of the highest impact terrorist threats; and
- Central, regional and local crisis management structures should be appropriately equipped and trained.

The report visits and expands on each of the priorities in the four workstreams and details what the Government departments and agencies have done and how they are seeking to deliver the CONTEST strategy.

The full text of the report is available at
http://www.official-documents.gov.uk/document/cm78/7833/7833.pdf

Reducing Bureaucracy in Policing Report on Criminal Justice Units in Policing

Jan Berry, the Reducing Bureaucracy in Policing Advocate and chair of the Reducing Bureaucracy Practitioners Group, has published the report 'Criminal Justice Units and Case Building', which sets out the research and recommendations into Criminal Justice Units (CJUS) and the process of case building which have previously been labelled as overly bureaucratic. The report highlights the need to ensure the wheels of justice run more smoothly, effectively and efficiently, and provide better value for money.

It is recommended in the report that Local Criminal Justice Boards (LCJBs) prepare and publish implementation plans for the integration of administration functions. These plans should include challenging, achievable timetables. To address concerns that experience and good practice is not being shared as effectively as it might, it is recommended that the Office for Criminal Justice Reform (OCJR) should arrange a seminar and support an appropriate networking platform to include identifying overlapping objectives and sharing good practice.

The opportunity to streamline administrative processes using technology, by adopting a single file across the criminal justice system (CJS), is noted. The report recommends that the OCJR consider appointing a national lead with the mandate and authority to develop a national solution to implement a paperless file. This is to include a timetable for delivery by 2015.

Research outlined in the report advises that more work is needed to maintain and improve the quality of case files submitted to the Crown Prosecution Service (CPS). Areas of work include the need to avoid unnecessary delays caused by re-working case files, and the need for officers to be held responsible for the quality of their case files. Two recommendations are made to address these issues. Firstly, forces should enable officers to better

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understand the CJS through short attachments to Criminal Justice Units, with CPS lawyers being involved in training programmes. Secondly, the NPIA should assist forces to develop a system allowing officers to earn autonomy from close supervision when they consistently show they are able to submit case files to the required standard.

The report comments on the introduction of streamlined process (based on the principle of proportionate file preparation), stating that streamlined process has not yet been fully embedded. To address this it is recommended that LCJBs pro-actively monitor and challenge streamlined process.

Disclosure is considered in the report, which notes that greater proportionality in disclosure would reduce waste and inefficiency, and suggests that current disclosure rules should be reviewed to see if they are appropriate and proportionate for less serious offences. It is recommended that for less serious offences forces remove any requirement to complete disclosure schedules before the first hearing in the Magistrates' Courts. For more serious offences in the Crown Court, the report recommends that consideration be given to moving the trigger point for disclosure schedules to the point when a not guilty plea is first entered or can be reasonably anticipated.

The full report can be found at
http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/publications/police-reform/criminal-justice-units-and-case-building.pdf

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Preventing Violent Extremism Report Considers 'Prevent' Strategy

The House of Commons Communities and Local Government Committee has published its report 'Preventing Violent Extremism'. The Committee inquired into the Prevent part of the Government's counter-terrorism CONTEST strategy. The Prevent strand aims to challenge the ideology behind violent extremism; to disrupt promotion of violent extremism; to support those vulnerable to recruitment; and to increase the resilience of communities to violent extremism.

The Committee supports the CONTEST strategy and its four strands, including Prevent. It also recognises the need for a national strategy to deal with the specific threat from al-Qaeda-inspired terrorism. The report however states that the single focus of the Prevent strategy on Muslims has been unhelpful, by stigmatising the Muslim community and failing to address that communities do not exist in isolation.

The inquiry report notes the positive work done by the Department for Communities and Local Government (the DCLG) towards cross-cultural work on cohesion and capacity building. However the report states that there is a negative association of this work with counter-terrorism strategy which risks undermining this positive work. The Committee questions the appropriateness of the DCLG taking a lead in counter-terrorism initiatives and suggests that the DCLGs work can only be successful if untainted by the negative association with the counter-terrorism strategy.

Also recommended in the report is an independent investigation into allegations that the Prevent strategy has been used to spy on Muslim communities. The Committee suggests that the misuse of terms such as 'spying' and 'intelligence gathering' may be leading to confusion between work such as project mentoring and the work of the police and security services undertaken to combat crime. It recommends that the Government take urgent steps to clarify that information gathered under Prevent is not 'intelligence gathering' of the type undertaken by the police. In addition the Committee recommends that an independent investigation address the allegations of spying to improve confidence in Prevent and address the continuing lack of trust in the strategy.

The Committee suggests that there has been too much emphasis on the theological basis of radicalisation, whereas the evidence indicates that politics, policy and socio-economic factors are more important. Opportunities to provide greater empowerment and civic engagement with democratic institutions are therefore encouraged in the report, to strengthen interaction and engagement among both Muslim communities and other excluded groups. Further, the report recommends that the Government updates CONTEST and its accompanying guidance to take account of the latest research and analysis into risk factors for radicalisation.

Noted in the report is a need to handle with care the role of religion as a risk factor in radicalisation, acknowledging that holding extreme views is not illegal and that religious extremism and violent extremism are not always linked. It

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recommends that the Government clarify understanding of the terms 'violent extremism', 'extremism' and 'radicalisation', to ensure Prevent focuses on violent extremism only.

A local approach to Prevent is recommended in the report, although evidence given to the Committee suggests that there is still heavy control by Government. The report recommends that the Government prioritise work on facilitating local control of the Prevent strategy, including a rapid roll out of Counter Terrorism Local Profiles (profiling intended to identify where violent extremism has the greatest potential of occurring and recommend action to address any risk). It also recommends greater training and support for front-line workers including council staff and police.

The report outlines that there is some overlap between the Prevent and Pursue strands of CONTEST, which has led to the impression amongst some groups that all community work by police with Muslims is counter-terrorism work. It appreciates that the police have a role within both Prevent and Pursue, which involves relationship building. As such the report does not recommend that police be excluded from preventative work.

The report does advise that Prevent interventions aimed at crime prevention should not be part of the community cohesion actions, and recommends that the project Channel should be removed from the CONTEST strategy entirely, and that it should be made clear that Channel is concerned with all forms of extremism. Channel provides a mechanism to identify those vulnerable to becoming violently extreme and a process to support and divert them from violent extremism, and has been met with some controversy.

The Committee's full report can be found at
http://www.publications.parliament.uk/pa/cm200910/cmselect/cmcomloc/65/65.pdf

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National Stalking Helpline Launched

The Network for Surviving Stalking, Protection Against Stalking and the Suzy Lamplugh Trust have set up a dedicated information and advice service for those affected by stalking or harassment. The helpline offers practical advice on personal safety, guidance on how to record stalking and information on the legal routes which can be pursued under the Protection from Harassment Act 1997. The helpline also gives advice on contacting the police, and advises that in cases where a victim of stalking is in immediate danger they should call 999.

The National Stalking Helpline website is http://www.stalkinghelpline.org/ and the Helpline telephone number is 0300 636 0300.

Voluntary Registration with the Vetting and Barring Scheme Halted

Voluntary registration with the Vetting and Barring Scheme for new employees and job-movers working or volunteering with children or vulnerable adults, which was due to start on 26 July, has been halted pending remodelling of the scheme. The Independent Safeguarding Authority which makes independent barring decisions will continue to maintain the lists of individuals barred from working with children or working with vulnerable adults and existing requirements for Criminal Records Bureau and Access Northern Ireland checks remain in place.

The obligation on employers, local authorities, professional regulators and inspections bodies continue to be legally obliged to refer information about an individual working with the vulnerable to the Independent Safeguarding Authority if they have harmed or pose a risk of harm. The criminal offences under the Safeguarding Vulnerable Groups Act 2006 still apply.

Further information can be found at
http://www.homeoffice.gov.uk/media-centre/press-releases/Vetting-barring-scheme

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