NPIA
National Policing Improvement Agency

Digest

June 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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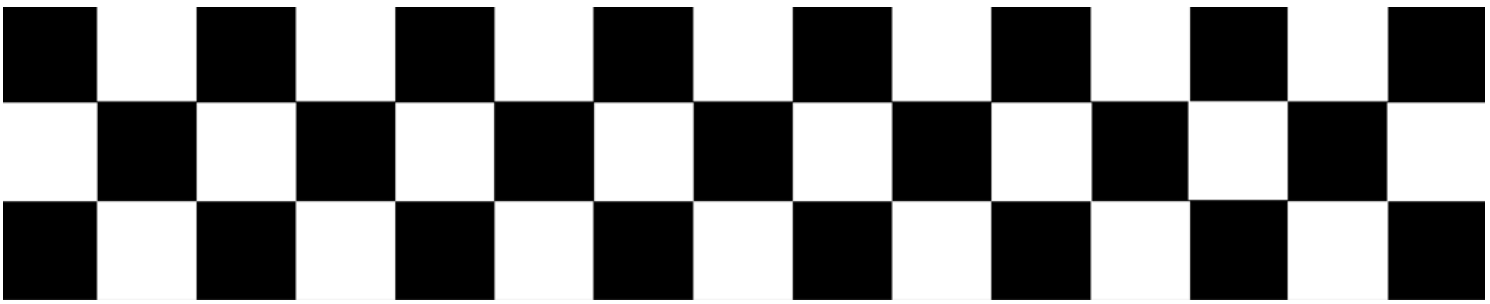

In this month's edition of the NPIA Digest……

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.

In legislation, details of a consultation on proposed amendments to the Anti-Terrorism, Crime and Security Act 2001 are outlined. Articles are included on a number of guidance documents, including guidance on the Management of Police Information, on policing new psychoactive substances, on charging for police services and mutual aid cost recovery and on the pilot of National Driver Alertness Scheme.

Also outlined in this month's *NPIA Digest* are the latest statistics on criminal justice. These include provisional information on the performance of the criminal justice system, quarterly data on conditional cautions and statistics on local adult reoffending.

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Bills Before Parliament 2010/11 - Progress Report

The 2010/11 session of Parliament has begun, with the State Opening of Parliament and the Queen's Speech having taken place on 25 May. The Queen's Speech outlined the Government's legislative programme for the 2010/11 session. The Bills announced in the Queen's Speech, include:

- Police Reform and Social Responsibility Bill - a Bill "to make the police service more accountable to local people and to tackle alcohol-related violence and anti-social behaviour";
- Freedom (Great Repeal) Bill and Identity Documents Bill - Bills "to restore freedoms and civil liberties through the abolition of identity cards and repeal of unnecessary laws".

The Bills are not yet before Parliament. When they are presented before Parliament details of their progress will be available at http://services.parliament.uk/bills/

Consultation on Amendments to the Anti-Terrorism, Crime and Security Act 2001

The Home Office has released a consultation, aimed at laboratories and the law enforcement community, to seek views on the proposed amendments to the Anti-Terrorism, Crime and Security Act 2001 (the Act). The consultation runs until 15 July 2010.

The proposed amendments relate to the list of dangerous pathogens and toxins listed in Schedule 5 to the Act (Schedule 5 pathogens). Part 7 of the Act sets out measures to improve the security of Schedule 5 pathogens, and gives police powers in relation to premises holding them. Police have the power to enter premises holding Schedule 5 pathogens, to seek information about their security and access to them and to require occupiers to improve the security arrangements. Failure to comply with any requirements or duties is an offence.

Views are sought on proposed changes to the Schedule 5 pathogens, which include the addition of one substance, the removal of four others, and a change to the way in which pandemic flu strains are defined. The proposals originated from recommendations made by the Lightfoot review. Questions are asked about each recommendation, and overall the consultation asks whether the changes are a proportionate measure to take against the security risk that Schedule 5 pathogens pose. In addition, views are sought on whether consultees can estimate the costs for counter-terrorism protective security measures for laboratories, and whether the measures will have a greater impact on any particular community or group compared to the public at large.

The consultation documents can be found at http://www.homeoffice.gov.uk/publications/consultations/cons-2010-amendements-atcsa/

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.

Defence of Reasonable Excuse to Possession For Terrorist Purpose Extends to Intended Use For Lawful Defence of Others

R v AY (2010)

CA (Crim Div) (Hughes LJ (V-P), McCombe J, Sharpe J) 27/4/2010

Criminal Law

Possession For Terrorist Purposes: Reasonable Excuse: Ambit Of Defence Of Reasonable Excuse To Offences Of Possession For Terrorist Purposes: S.58(1) Terrorism Act 2000: S.58(3) Terrorism Act 2000: S.57 Terrorism Act 2000

Where an individual had been charged with the offence of possessing a document or record containing information likely to be useful to a person committing or preparing an act of terrorism, contrary to the Terrorism Act 2000 s.58(1), the ambit of the defence of reasonable excuse provided by s.58(3) could extend to an alleged intended use for the lawful defence of others, or to assist them to employ lawful self defence. A defence of reasonable excuse advanced under s.58(3) had to be left to the jury unless it was quite plain that it was incapable of being held by any jury to be reasonable.

The Crown appealed against a ruling of law made by the trial judge at a preparatory hearing relating to the ambit of the defence of reasonable excuse in respect of terrorist offences. The respondent (Y) faced a re-trial on four counts of the offence of possessing a document or record containing information likely to be useful to a person committing or preparing an act of terrorism, contrary to the Terrorism Act 2000 s.58(1). The documents in Y's possession were a "terrorist handbook", a "terrorist explosives handbook", and videos of instructions on the making of a ball-bearing suicide vest and improvised explosive devices. It was common ground that Y was guilty of the offences unless he could avail himself of the statutory defence of reasonable excuse provided by s.58(3). The core facts relied on by Y relating to that defence were that (i) he had downloaded the material when in Sweden where possession of it was not unlawful; (ii) he had downloaded it en masse from internet websites without distinguishing between files and documents; (iii) he had downloaded it at a time when he believed on reasonable grounds that the Somali people had been the victims of unlawful and disproportionate force and were in need of assistance by way of the use of armed force; (iv) at the time of his arrest in the United Kingdom, he no longer had any intention to put the information he had collected to use. In advance of the re-trial, the judge was

invited by the Crown to rule that a part of that defence, namely that Y's reason for possessing the documents was, at least in part, that the information contained in them should be deployed by Somali muslims in self defence against opposing forces, could not in law give rise to the defence of reasonable excuse, even if not disproved. The judge declined to do so, and the Crown challenged that ruling. The Crown contended that, whilst self defence could be a relevant issue in a trial on terrorist charges, it could not arise in a s.58 case. It submitted that it was an error of principle to permit the purpose for which a defendant held the material to be relevant to the issue of reasonable excuse, as purpose was relevant for an offence under s.57, but not to the s.58 offence. Alternatively, it argued that a defendant could not rely under s.58(3) upon any proposed deployment in combat or, as it was put, "in the field", of the information contained in the material which was in his possession; the concept of reasonable excuse was limited to the circumstances in which he was in possession of the material and did not extend to active use in the field which he intended to make of the information contained in it.

HELD

What s.58(3) did was to furnish a defendant with the opportunity to say that he had an explanation for possessing the material which he asked the jury to say was objectively a reasonable one. It necessarily focused upon his reason for possessing the material. His reason for possessing it would in most, if not all, cases involve saying what he had it for, and thus what his purpose was in possessing it. A defendant had, therefore, to be allowed to say what his purpose was in possessing the documents in order to submit for the jury's consideration his assertion that that purpose was an objectively reasonable one. The only exception was where his purpose, and therefore his excuse, was one which no jury could find reasonable, R v G (2009) UKHL 13, (2010) 1 AC 43 followed. Whilst the more alarming or dangerous the information in a document or record, the more difficult it was likely to be to advance a reasonable excuse for its use, it did not follow that there could never be a reasonable excuse for its use. There was no basis in the 2000 Act for limiting the scope of the defence of reasonable excuse in that way. The proposition that the defence of reasonable excuse should be confined narrowly to cases such as possession with a view to handing over to the police or accidental possession had previously been rejected, R v G followed. A defence of reasonable excuse advanced under s.58(3) had to be left to the jury unless it was quite plain that it was incapable of being held by any jury to be reasonable. There were indeed cases where the defence could not be left to the jury, but such a case had to be a clear one, R v G followed. The concept of "reasonable excuse" was par excellence a concept for decision by the jury on the individual facts of each case, and a judge could only withdraw the defence if as a matter of law no jury could accept it. In the instant case, therefore, the third element of Y's proposed defence could be removed from the consideration of the jury only if it was incapable of being held to be a reasonable excuse, and the trial judge had been right to have given the ruling he had.

APPEAL DISMISSED

Offender Had Not Been Trapped into Committing Offence Where Undercover Police Officers Persistent Conduct Was Consistent With That of a Person Prepared to Break the Law

R v JONES (2010)

CA (Crim Div) (Leveson LJ, Davis J, Tugendhat J) 29/4/2010

Criminal Law

Cannabis: Entrapment: Incitement: No Case To Answer: Production Of Drugs: Incitement To Produce Cannabis: Obtaining Of Evidence By Undercover Police Officer: Appropriateness Of Officer's Approach: Regulation Of Investigatory Powers Act 2000

A defendant had not been trapped into committing an offence of incitement to produce cannabis where an undercover police officer was persistent in his approach to obtaining the necessary evidence and the context of the officer's behaviour was that his enquiries would only have been made by a lay person who was prepared to break the law.

The appellant shopkeeper (J) appealed against his conviction on four counts of incitement to produce cannabis and his sentence of 10 months' imprisonment. J's shop sold smoking paraphernalia and hydroponics equipment. The prosecution case was that the shop was openly selling equipment intended for growing cannabis. An undercover police officer (P) went to the shop to make test purchases and, posing as a would-be cannabis grower, asked J for advice. After what was alleged to be a pretence that they were discussing tomatoes, that advice was freely given. It was contended that the advice and sale of equipment amounted to incitement. J's case was that he was selling items which were not illegal and that he had taken steps to ensure he stayed within the law. He did not mention cannabis, told P it was illegal to grow cannabis and would only discuss tomatoes, and pointed out notices in his shop advising that it was illegal to produce cannabis. P accepted that his questioning had been persistent but denied inciting or pushing J to commit an offence. The trial judge refused J's request for disclosure of all documents relevant to the authorisation of the undercover operation pursuant to the Code of Practice produced pursuant to the Regulation of Investigatory Powers Act 2000, and dismissed his submission of no case to answer. J submitted that (1) the Crown should have disclosed the documents relevant to the authorisation of the undercover operation; (2) his prosecution was an abuse of process on the basis that, if the offence of incitement had been committed, P had trapped him into committing it; (3) the judge should have acceded to the submission of no case to answer; (4) his sentence was the highest of all those imposed in the eight prosecutions which followed the undercover operation and there was disparity in relation to criminality.

HELD

(1) The lack of disclosure of the documents relating to authorisation of the undercover operation neither weakened the prosecution case nor assisted

the defence case and thus the documents did not fall to be disclosed. Further, the question to which the disclosure was addressed concerned the extent to which the police officer's activity could be justified in law. He could not be authorised to go beyond what the law permitted, and whether he did so fell to be determined by reference to what he did, which was recorded on tape, rather than what he was authorised to do.

(2) For the purpose of considering whether J had been trapped into committing the offence it was appropriate to consider whether P's conduct preceding the commission of the offence was "no more than might have been expected from others in the circumstances", Attorney General's Reference (No3 of 2000), Re (2001) UKHL 53, (2001) 1 WLR 2060 applied. Given the make-up and obvious specialisation of the shop, applying that test to the instant circumstances would involve considering someone interested in growing cannabis; someone prepared to break the law. It was necessary to have in mind that a drug dealer would not voluntarily offer drugs to a stranger unless first approached, and that approach might need to be and could be persistent without crossing the line, Attorney General's Reference (No.3 of 2000) applied. The prosecution was not an abuse of process but properly engaged it in a task for which the jury was uniquely qualified to judge.

(3) It was important that there was specific evidence of incitement to commit the offence. Although the make-up of the shop provided the context, the language used by J was also critical. It was eminently open to the jury to conclude that using the word "tomatoes" was no more than a device to avoid using the word "cannabis" in an attempt to provide a pretence at observing the law. Once J, as a shopkeeper, advertising and promoting the sale of his wares, descended to positive advice and marketing in the context of it being open to the jury to conclude that he was clearly involved in a teaching conversation about the safest and most productive way to grow cannabis rather than tomatoes, there was clearly a case to answer. There was evidence both of spurring on and an intention to incite the production of cannabis.

(4) The trial judge, having dealt with a number of similar cases, was in a unique position to determine the appropriate sentence. Further, the others prosecuted as a result of the operation had pleaded guilty. The sentence was not manifestly excessive.

APPEAL DISMISSED

A Shared Laundry in a Block of Flats Was Not Part of an Individual's Dwelling For the Purposes of the Public Order Act 1986

IAN NORMAN LE VINE v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Elias LJ, Keith J) 6/5/2010

Criminal Law

Causing Harassment Alarm Or Distress: Houses: Shared Accommodation: Washing Facilities: Extent Of Dwelling Under S.8 Public Order Act 1988: Laundry Used By Residents: S.4a Public Order Act 1986: S.8 Public Order Act 1986: S.4a(2) Public Order Act 1986

A laundry that could be used by the residents of a block of flats was not part of the dwelling of an individual resident and so an offence of causing harassment, alarm or distress under the Public Order Act 1986 s.4A could be committed in that place.

The appellant (V) appealed by way of case stated against a decision of a district judge sitting in a magistrates' court that he was guilty of an offence of causing harassment, alarm or distress. V was a resident in sheltered accommodation. Each resident had their own flat and the use of shared communal areas and a laundry. V used abusive language towards another resident within the laundry and was convicted under the Public Order Act 1986 s.4A of causing harassment, alarm or distress. The question for consideration was whether the judge had been correct in finding that the laundry had not been part of V's dwelling, within the definition in s.8. V argued that the laundry was part of his dwelling because it had a domestic function, and so under s.4A(2) no offence had occurred.

HELD

The intention in the Act was to exclude disputes in people's homes and not otherwise. Although not as clear-cut as a case where the communal area was a landing, the laundry could not properly be described as part of the structure of an individual home within the definition in s.8, Rukwira, Rukwira, Mosoke and Johnson v DPP (1994) 158 JP 65 DC considered.

APPEAL DISMISSED

Failure to Inform Suspect That She Was Free to Leave Did Not Justify Exclusion of Evidence From Questions Asked

SKRZYPIEC v CPS ESSEX-SOUTHWEST TEAM (2010)

DC (Elias LJ, Akenhead J) 20/5/2010

Police - Criminal Procedure

Pace Codes Of Practice: Police Interviews: Police Questioning: Failure To Inform Suspect That She Could Leave At Any Point: Absence Of Bad Faith: Police And Criminal Evidence Act 1984: S.5(1)(A) Road Traffic Act 1988

A police officer's failure to inform a suspect that she was free to leave at any point having cautioned her at her house for an offence of driving over the limit, did not justify the exclusion of her answers to questions put to her at her door or her police interview tape at trial, where it was clear that there had been no bad faith on the part of the police nor any deliberate disregard by them of the Police and Criminal Evidence Act 1984 Codes of Practice.

The appellant (S) appealed by way of case stated against her conviction in a magistrates' court for driving a motor vehicle after consuming so much alcohol that the proportion of alcohol in her breath exceeded the legally prescribed limit contrary to the Road Traffic Act 1988 s.5(1)(a). S had been seen by the cashier of a petrol station driving away from the forecourt in a state of drunkenness. Thereafter, a police officer went to her house to question her. Although the officer cautioned her when she opened the door, he did not inform her that she was free to leave at any point. Having admitted to owning the vehicle seen leaving the petrol station and to drinking, she submitted to a breathalyser test which revealed that she was well over the lawful limit. She was arrested and deemed fit for interview. From the questions at her doorstep to her recorded interview at the police station, S maintained a consistent story that she owned the car in question and had been drinking. The magistrates determined that technical breaches of the Police and Criminal Evidence Act 1984 Code C, including the officer's failure to warn S that she could just walk away, did not justify excluding the evidence relating to the police questioning and interview. The question for the instant court was whether, inter alia, that was correct.

HELD

This was not a case of bad faith on the part of the police or deliberate disregard by them of the Codes of Practice. Moreover, despite not being told she could walk away at any point, S consistently maintained her story that what she had said to the police officer at her door was the truth. It could not follow that the technical breach justified the exclusion of the disputed evidence. In the circumstances, there was no misapplication of principle or wrongful exercise of discretion, Attorney General's Reference (No2 of 2002), Re (2002) EWCA Crim 2373, (2003) 1 Cr App R 21 applied.

APPEAL DISMISSED

Police Officers Not Obliged to Provide Additional Information When Informing Driver About Right to Request a Blood or Urine Sample

CROWN PROSECUTION SERVICE v PATRICK ANDERTON JOLLY (2010)

DC (Elias LJ, Keith J) 5/5/2010

Police - Criminal Law - Road Traffic

Breath Samples: Driving While Over The Limit: Information: Police Powers And Duties: Specimen Tests: Right To Replace Breath Sample With Blood Or Urine Sample: Extent Of Information To Be Given To Breathalysed Driver: S.8(2) Road Traffic Act 1988

When informing a breathalysed driver about his right to request a blood or urine test to replace a breath sample, a police officer was not obliged to provide additional information or ensure that the driver understood the implications or advantages of choosing a blood or urine test instead of a breath test.

The appellant CPS appealed by way of case stated against a decision of a magistrates' court to acquit the respondent (J) of driving while over the limit. J had been stopped by a police officer and breathalysed. As the lowest reading was under 50 micrograms of alcohol in 100 millilitres of breath the officer, in accordance with national procedure, read out to J a statement explaining his right under the Road Traffic Act 1988 s.8(2) to request that it be replaced with a specimen of blood or urine. J told the officer that he did not understand and asked him to clarify. The officer offered to repeat the statement but did not give J any advice. At trial, the magistrates' court found that the officer had complied with the national procedure, but that J had been in a state of panic and anxiety and had not been able to absorb fully what the officer had said. The magistrates concluded that the officer had failed sufficiently to explain to J the procedure and the implications of the choice being offered, so that he had not been able to make an informed decision. The CPS argued that, if the procedure had been complied with, there was no obligation to give any further information or explanation. J submitted that he should have been told that a blood or urine sample would be more accurate.

HELD

There was no reason in principle why an officer should not tell a driver that a blood or urine test was more reliable, and it might be desirable to do so, although in most cases it would be obvious to the driver. However, an officer was not obliged to provide any more information than that contained in the national procedure statement and identified in DPP v Warren (1993) AC 319 HL as modified by DPP v Jackson (Failure to Provide Specimen) (1999) 1 AC 406 HL, Warren and Jackson followed. It was not necessary for the officer to ensure that the driver understood the implications or advantages of choosing a blood or urine test instead of a breath test.

APPEAL ALLOWED

SI 1117/2010 The Motor Vehicles (Electronic Communication of Certificates of Insurance) Order 2010

In force **30 April**. This Order makes changes to road traffic legislation and regulations to reflect that using electronic communications to produce documents is no less satisfactory than using other methods to produce documents. In particular, it amends the Road Traffic Act 1988 to allow insurers to deliver certificates of insurance electronically, for example by email or via a continually accessible website.

As a consequence of this change, the Order also amends section 165 of the Road Traffic Act 1988, to treat a person as having produced their insurance documents if they provide electronic access to the certificate or produce a legible printed copy of it on request by a constable or vehicle examiner.

NPIA Launches Implementation of Police National Database

The Police National Database (PND) implementation process has begun, with Release Zero, the stage where police forces can begin loading historical data onto the PND, going live on 7 May 2010. During this stage of implementation PND screens will not be available to end users. Forces should be ready for business use of the PND Release One, where forces will be able to share information and undertake certain searches, by December 2010. Further functions will be enabled on Release Two.

The PND will hold records on intelligence, crime, custody, domestic abuse and child abuse, and will allow users to search the data records of all UK forces in relation to people, objects, locations and events. The PND will also replace the IMPACT Nominal Index.

Further information about the implementation of the PND can be found at http://www.npia.police.uk/en/15091.htm

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 the 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 Publishes Guidance on Policing New Psychoactive Substances

The Association of Chief Police Officers (ACPO) has published 'Guidance On Policing New Psychoactive Substances (Formerly Legal Highs)', which replaces the interim guidance from December 2009. The guidance gives information on the 'New Psychoactive Substances' which were classified as Class B and C substances under the Misuse of Drugs Act 1971 in December 2009 (including synthetic cannabinoids and drugs such as GBL) and, from April 2010, mephedrone and other cathinone derivatives.

Guidance is given on the appearance, method of use, effects and side effects, risks posed by handling and street names of each of the substances.

The guidance also intends to provide a framework for a consistent national approach to enforcing the new offences which arise from the classification of these substances under the Misuse of Drugs Act 1971. The guidance notes that there are no new operational tactics or learning requirements for policing these substances, but notes that:

- Forensic analysis will be required to identify seized substances, however the extent of this analysis is at the discretion of local forces;
- Enforcement should be mainly focussed towards the organised crime groups and individuals who seek to supply and distribute the substances;
- Positive action against simple possession cannot be ignored, with the nature and extent of local enforcement activity to be determined by local Police Commanders to reflect the needs of the community;
- Fixed penalty notices and cannabis warnings cannot be issued for any offences involving these substances.

The guidance can be found at http://www.acpo.police.uk/asp/policies/data/New%20Psychoactive%20Substances%20Guidance%20Website.pdf

ACPO Publishes Guidance on Charging for Police Services and Mutual Aid Cost Recovery

The Association of Chief Police Officers (ACPO) has issued guidance on Mutual Aid Cost Recovery. The guidance, which is not protectively marked, replaces the guidance given in Home Office Circular 38/1989. The guidance aims to redefine mutual aid and its categories to be fit for purpose for the challenges ahead, such as the Olympics.

The guidance outlines four types of mutual aid, in which the circumstances in which it is provided as well as the actual service provided differ:

- Emergency or spontaneous deployment;
- Serious or major incidents;
- Major planned deployment or major planned events;
- Specialist staff deployment.

The types of deployment are placed into three grades to reflect the characteristics of the actual deployment which are likely to affect the payment to individuals, and therefore the subsequent recovery of costs. Grade 1 reflects characteristics such as spontaneous deployment or deployment requiring sleeping away from home or being available for 16 hours per day. Grade 2 includes characteristics such as spontaneous or serious incidents or a tour of duty, with Grade 3 including aid which is planned or prolonged. The guidance includes a decision making matrix which can be used to help forces have clarity on the deployment and cost recovery.

A typical list of services is provided in the guidance, which are set into bands depending on the level of skill level commensurate to the service required.

The guidance can be found at
http://www.acpo.police.uk/asp/policies/Data/Mutual%20Aid%20update%20for%202010-11%20rates%20Website.pdf

ACPO Guidance on Pilot National Driver Alertness Scheme

The Association of Chief Police Officers (ACPO) has published guidance notes on the pilot of the National Driver Alertness Scheme (the NDAS). The document, which is not protectively marked, gives further detail on the operation of the NDAS, which will replace the National Driver Improvement Course and is to be run as a pilot from 1 September 2010 in eleven police forces. The NDAS makes provision for a National Driver Awareness Course to be offered, which aims to improve the education of drivers.

The NDAS is intended to take those who have committed an offence under section 3 of the Road Traffic Act 1998 by a driving error out of the criminal justice system. The scheme should not be used where the person's driving amounts to more than an error of judgement. In such cases a referral for prosecution should be made.

Guidance is given in the document about the criteria to apply when deciding whether to offer a Driver Awareness Course. They are as follows:

- There is a reasonable chance of a successful prosecution;
- There must not be any other offences to deal with by prosecution;
- The course cannot be offered within 3 years of a previous offence which was dealt with by a National Driver Awareness or National Driver Improvement Course;
- The driver holds a full current driving licence or certificate of competence to drive;
- The driver is prepared to pay the course fee.

The decision to offer a course should be based on a subjective test regarding the individual's driving. The consequences and aftermath of the offence should not usually justify placing the offender before a court, although there are exceptions where the offence led to serious or fatal injury to another.

Any victims of the offence should be informed of the intention to offer the offender a course, to allow them the opportunity to understand the rationale behind the offer and to give them a chance to give their views or object to the offer. The police decision maker will retain the final decision of whether to offer the course, but the decision must be reconsidered if the victim makes representations.

Guidance is given on steps to take where a driver refuses an offer of a course, by disputing their liability for the offence or due to medical conditions, fails to attend the course within six months or attends the course but is mischievous, non-compliant or does not show improvement in their driving ability.

The guidance can be found at
http://www.acpo.police.uk/asp/policies/Data/Nat_Driver_Alertness_Website_Version.pdf

Provisional Information on Criminal Justice System Performance

The Ministry of Justice has published a statistical bulletin 'Provisional Quarterly Criminal Justice System Performance Information - December 2009'. The bulletin contains information for the year ending December 2009, on:

- The number of Offences Brought to Justice (OBJs);
- Public confidence in the fairness and effectiveness of the Criminal Justice System (CJS);
- Victim and Witness Satisfaction;
- Asset Recovery;
- Confiscation Orders; and
- Enforcement.

The data is produced quarterly, with the figures being compared to the previous year where possible. The data shows that:

- The number of recorded crimes in England and Wales was 4.39 million, a fall of 7% from the previous year;
- The number of OBJs in England and Wales was 1.29 million, a fall of 8% from the previous year; of which:
  - The number of serious sexual OBJs was 12,218, an increase of 4%;
  - The number of serious acquisitive OBJs was 104,176, a fall of 11%; and
  - The number of serious violent OBJs was 9,554, an increase of 4%;
- 59% of adults think that the CJS as a whole is fair, an increase from 58% in the previous year ending December 2008;
- 41% of adults think that the CJS as a whole is effective, an increase from 37% in the previous year;
- 84% of victims and witnesses were satisfied with their overall contact with the CJS, compared to 82% in the year ending December 2008.

The value of assets recovered in the twelve months ending December 2009 was £152 million, an increase from the previous year's total of £147 million. For April to December 2009, the value of assets recovered in England, Wales and Northern Ireland was £110 million.

Confiscation data shows that in the period between April and December 2009:

- £46 million was collected from the enforcement of compensation orders (this includes compensation);
- 3,504 compensation orders were obtained, the total value of which was £74 million;
- 964 restraint orders were obtained.

Enforcement data shows that the payment rate for financial impositions in England and Wales was 82% in the period between April and December 2009. For the same period in 2008 the rate was 85%. The number of outstanding Failure to Appear warrants at the end of December 2009 was 21,496, compared to 24,629 outstanding at the end of December 2008.

The statistical bulletin can be found at
http://www.justice.gov.uk/quarterly-cjs-performance-stats-q3-09-10c.pdf

Quarterly Data on Conditional Cautioning Published

The Crown Prosecution Service has published data on conditional cautioning for quarter 4 of 2009/10, January to March 2010 in the document 'Conditional Cautioning Data - Crown Prosecution Service: Quarter 4 2009/010 January - March 2010'.

The number of conditional cautions issued in that period was 1939, 3019 fewer than the number issued in the previous quarter. Of these conditional cautions, 256 (13.2%) were administered to women and 1683 (86.8%) were issued to men. Conditional cautions were most commonly administered for offences of destroying or damaging property (1096 issued).

The data shows the number of conditional cautions issued with different condition types, either rehabilitative, reparative or restrictive. A caution may appear in the data for more than one condition type, as conditional cautions may include more than one condition. The data shows that:

- Of the rehabilitative condition types, 185 contained Drugs Intervention Programme conditions, 146 contained alcohol related conditions and 99 contained other rehabilitative conditions;
- Of the reparative condition types, 75 included restorative justice conditions, 1646 contained compensation conditions, 492 contained letter of apology conditions and 34 contained other reparative conditions; and
- 99 conditional cautions contained restrictive conditions, such as conditions not to enter a particular area.

The number of conditional cautions where the offender failed to comply with the conditions in that quarter was 270, an increase of 32 on the previous quarter. In 199 cases the CPS proceeded to prosecution, 41 of the cases were not prosecuted and in 30 cases the conditions were varied.

The full data for this period can be found at
http://www.cps.gov.uk/publications/performance/conditional_cautioning/conditional_cautioning_data_Q4_09_10.pdf

Statistics on Local Adult Reoffending in England and Wales

The Ministry of Justice has published the statistical bulletin 'Local Adult Reoffending: 1 January 2009 - 31 December 2009 England and Wales'. The data is produced to give timely information on trends in reoffending, to help local practitioners understand progress in reducing reoffending. The statistics are compared to those available for the period between 1 April 2007 to 31 March 2008 (the 2007/08 data). Results are reported where they show statistically significant changes - where it is 95% certain that the change shown by the data is a real change, rather than a random volatility.

The three month reoffending rate for the period was 9.82%, a decrease of 2.03% from the 2007/08 data. Two Government Office Regions showed a statistically significant increase in reoffending compared to the 2007/08 data, with four regions showing a statistically significant decrease in reoffending. Six Probation Areas showed a statistically significant increase in reoffending, with eight showing a statistically significant decrease in reoffending compared to the 2007/08 data. Statistically significant changes in local authority rates of reoffending were seen in thirty-four local authorities, with ten showing an increase and twenty-four showing a decrease.

Reoffending by offenders on licence showed an increase of 4.6% compared to the 2007/08, with reoffending by offenders serving a court order showing a decrease of 3.14% over the same period. Both of these results were statistically significant.

The statistical bulletin can be found at
http://www.justice.gov.uk/local-adult-reoffending-jan09-dec09.pdf

NPIA Missing Persons Bureau Relaunches Child Rescue Alert

The NPIA Missing Persons Bureau has relaunched Child Rescue Alert (CRA) as a nationally co-ordinated partnership of the police, media and the public. The Missing Persons Bureau will now provide co-ordinated support to forces, offering free advice and operational support to help investigate and publicise cases.

CRAs are an operational tool to help locate abducted children and bring them to safety. They are a partnership between police, media and the public whereby the police issue a CRA and the media publish details about the disappearance of the abducted child, asking the public to call a dedicated phone number if they have information that may help. CRAs can be activated where:

- The child is under the age of 18;
- There is reasonable belief that the child has been kidnapped or abducted (which includes being taken under the influence of a third party);
- There is reasonable belief that the child is in imminent danger of serious harm or death;
- There is sufficient information available to enable the public to assist the police in locating the child.

Further information on Child Rescue Alert can be found at http://www.npia.police.uk/cra/

NSPCC Research Briefing Reviews How Children and Young People Disclose Sexual Abuse

The NSPCC research briefing 'Children and Young People Disclosing Sexual Abuse: An Introduction to the Research' reviews the research on how, why and to who children and young people disclose sexual abuse.

The report finds that many incidents of sexual abuse are not reported, and delayed disclosure is common. Disclosure is a process which occurs over a period of time rather than a single event, with children sometimes disclosing directly and sometimes disclosing indirectly over a period of time, for example through indirect non-verbal cues.

Factors that influence the decision by children and young people to disclose, or not to disclose, are varied as outlined in the report. Individual and contextual factors influence disclosure and non-disclosure, however not enough is known about the factors. The report notes that factors such as the relationship of the victim to the perpetrator, the age of the victim at the first incident of abuse, the use of physical force, severity of abuse and gender and ethnicity impact upon a child's willingness to disclose. Research has shown that the most harmful abuse, such as long term abuse by a parent or other relative, is least likely to be disclosed.

Children are most likely to disclose abuse to a friend or sibling and less likely to disclose in childhood to authorities or professionals; across all of the studies examined in the report less than 10% of people disclosed to a professional. There is a lack of evidence that children report false accounts of abuse, and recantations are uncommon.

The research summarised in the report shows that disclosing abuse is difficult for children, for example with some children and young people feeling that they will not be believed. It notes that children do not seek help from formal agencies or professionals for a variety of reasons such as not knowing they exist, being unsure of what help they can get and worrying about losing control of the information they share when disclosing.

The report can be found at
http://www.nspcc.org.uk/Inform/research/briefings/children_disclosing_sexual_abuse_pdf_wdf75964.pdf

NPIA

National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate

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