NPIA
National Policing Improvement Agency

Digest

September 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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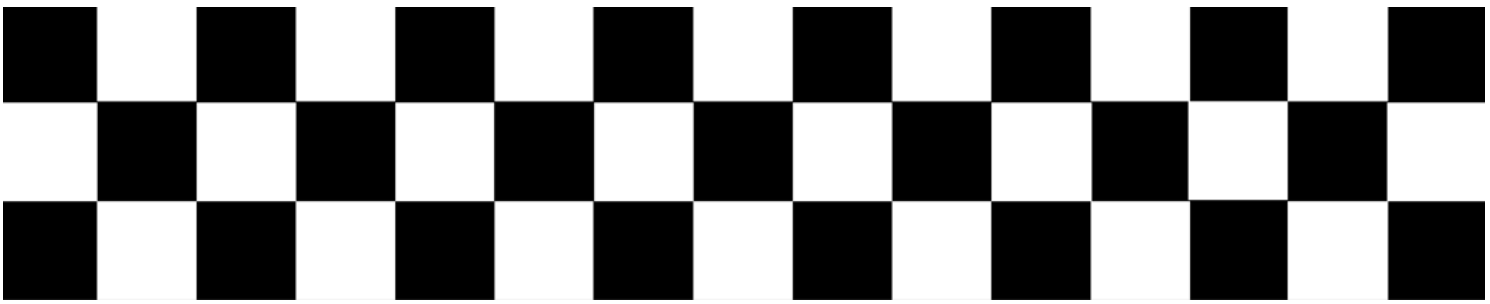

In this month's edition of the NPIA Digest……

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.

The latest statistics are available on police service strength in England and Wales, on drug misuse from the British Crime Survey, on antisocial behaviour orders and on public confidence in the criminal justice system. The annual report on the operation of the Terrorism Acts 2000 and 2006 has also been published.

ACPO has published guidance on policing new psychoactive substances which gives advice on a framework for a national approach to policing these substances. It has also released guidance on police, Prevent and schools.

The IPCC has published it's annual report and accounts, detailing the work it has been involved in throughout the previous year. Consultations are taking place on the Licensing Act and on prosecuting cases of human trafficking.

The EHRC has issued a call for evidence in relation to its inquiry into disability-related harassment, and new guidance is available from the Government Equalities Office on the Equality Act 2010.

Contents

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;
- Credit Regulation (Child Pornography) Bill - this Private Members Bill provides powers to impose penalties on credit and debit card providers that facilitate the downloading of child pornography on the internet. It started in the House of Commons and received the First Reading on 21 July. Second Reading is to take place on 19 November;
- 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 and Second Readings. The date of the Committee Stage is yet to be announced;
- Drugs (Roadside Testing) Bill - this Private Members Bill makes provision for roadside testing for illegal drugs. The Bill was started in the House of Commons and received its First Reading on 5 July. The Bill's Second Reading will take place on 10 June 2011;
- 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 progressed through the Committee Stage. The Report Stage is to take place on 15 September;
- Police Reform and Social Responsibility Bill - this Bill was announced in the Queen's Speech but is not yet before Parliament;
- Terrorist Asset-Freezing etc. Bill - This Bill, which makes provision for imposing financial restrictions on, and in relation to, certain persons suspected of involvement in terrorist activities, has reached the second reading stage in the House of Lords. During the reading on 27 July 2010 a wide-ranging discussion took place on the way international terrorism is funded and the constitutional issues involved in the Bill. The Committee stage is due to begin in the House of Lords on 6 October 2010;
- Young Offenders (Parental Responsibility) Bill - this Private Members Bill provides for individuals with parental responsibility for a young offender to be held to account for criminal sanctions imposed on the offender. The Bill received its First Reading on 5 July and is due to receive its Second Reading on 17 June 2011.

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

Criminal Justice and Licensing (Scotland) Act 2010

The Criminal Justice and Licensing (Scotland) Bill received Royal Assent on 6 August. The Act is wide ranging, making provision for: sentencing, offenders and defaulters; criminal law, procedure and evidence; criminal justice and the investigation of crime (including police functions); and licensing and the sale of alcohol.

Provision is made for creating offences of agreeing to involvement in serious organised crime, of directing serious organised crime and failing to report serious organised crime. A new offence of possession of extreme pornography is created, and amendment is made to the offence of people trafficking. Amendment is also made to the provisions on the retention and use of DNA samples in the Criminal Procedure (Scotland) Act 1995.

Details of the Bill and the text of the Act can be found at http://www.scottish.parliament.uk/s3/bills/24-CrimJustLc/index.htm

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.

No Offence of Procuring a Miscarriage Where 'Thing' to be Procured Was a Surgical Procedure

R v A (2010)

CA (Crim Div) (Hughes LJ (V-P), Rafferty J, Maddison J) 29/7/2010

Criminal Law - Criminal Procedure

Abortion: Drafting: Indictments: Miscarriage: Particulars: Procuring: Husband Charged With Procuring Wife's Miscarriage: Offence Not Known To Law: S.59 Offences Against The Person Act 1861: S.58 Offences Against The Person Act 1861

A conviction for procuring a miscarriage contrary to the Offences against the Person Act 1861 s.59 was unsafe as the offence was not one created under s.59 and the particulars of the offence also did not reflect the terms of the section.

The appellant husband (H) appealed against his conviction for a purported offence of procuring a miscarriage, contrary to the Offences against the Person Act 1861 s.59. H had taken his pregnant wife (W) to an abortion clinic. W did not speak English so H acted as interpreter. Concerns were raised by the clinic that W was having an abortion at a late stage in her pregnancy. A nurse was also able to act as interpreter and spoke to W. It transpired that W had understood that she was attending the clinic for some minor operation and did not want an abortion. The Crown's case was that H had unlawfully intended to bring about an abortion by lying to W and by misrepresenting her wishes to the medical professionals concerned. The judge directed the jury that they had to be satisfied that H intended there to be an abortion and had deceived W and the medical professionals. H appealed on the ground that he had been convicted of an offence not known to law. The Crown argued that H's actions fell within s.59 as (1) he had unlawfully procured a "thing", namely a surgical procedure, knowing that that procedure was intended to be used unlawfully to procure W's miscarriage; (2) if "thing" was apt only to describe an object or article rather than a procedure, then H had procured the surgical instruments to be used to carry out the procedure.

HELD

(1) H's conviction could not stand. Procuring a miscarriage was not an offence created by s.59. The offence created by that section was concerned with the procuring or supply of something intended for use in procuring an unlawful miscarriage. That defect might not have been significant had the particulars of the offence in the indictment reflected the terms of s.59 but they did not. The particulars did not allege that H had unlawfully supplied or procured anything at all, and did not therefore set out the actus reus of an offence contrary to s.59 or indeed of any offence. They alleged only that H intended unlawfully to bring about the use of procedures on W to procure a miscarriage. The judge's directions to the jury regarding what the Crown had to prove also did not coincide with the particulars of the offence, and an offence contrary to s.59 was never left to the jury to consider. Even if the indictment had been correctly drafted, no offence contrary to s.59 would have been made out on the facts. H clearly did not supply or procure any poison, any other noxious thing or any instrument. The juxtaposition of "thing" with "instrument" in s.59 indicated that the "thing" had to be some sort of article or object rather than a medical procedure which had no physical existence. Comparison with s.58 of the Act fortified that conclusion. Section 58 made it an offence for any person with intent to procure a miscarriage unlawfully to "use any instrument or other means whatsoever". The use of "means" almost immediately after "instrument" was to be compared and contrasted with the use of "thing" almost immediately after "instrument" in s.59. The word "means" might well have been apt to encompass a surgical procedure or efforts made to procure one, though it did not follow that s.58 would have been apt to meet the circumstances of the instant case.

(2) The defective indictment referred only to medical or surgical procedures and not to instruments. There was also no evidence that any particular instruments had been selected for use and, even if they had, H could not be said to have procured those instruments. The word "procure" was not apt to describe a case in which the defendant brought about a situation in which a third person would take possession of or use an instrument of some kind, R v Mills (Thomas Leonard Lantey) (1963) 1 QB 522 CCA considered. H had not been charged with an offence known to law and his conviction would be quashed.

APPEAL ALLOWED

Money Laundering Offence Only Applies to Property Which Was Criminal Property At the Time of the Arrangement

R v MICHAEL GEARY (2010)

CA (Crim Div) (Moore-Bick LJ, Rafferty J DBE, Judge Gilbert QC) 30/7/2010

Criminal Law

Acquisition Of Criminal Property: Fraudulent Dealing: Mens Rea: Money Laundering: Natural And Ordinary Meaning: Property Acquired Not Believed To Be Of Criminal Origin: S.328(1) Proceeds Of Crime Act 2002

The natural and ordinary meaning of the Proceeds of Crime Act 2002 s.328(1) was that the arrangement to which it referred must be one which related to property which was criminal property at the time when the arrangement began to operate on it. To say that it extended to property which was originally legitimate but became criminal only as a result of carrying out the arrangement was to stretch the language of the section beyond its proper limits.

The appellant (G) appealed against his sentence of 22 months' imprisonment for offences contrary to the Proceeds of Crime Act 2002 s.328(1). G had pleaded guilty to being involved in an extensive fraud perpetrated by an employee at a bank. The basis of his guilty plea was that he had not knowingly participated in the fraud on the bank. The bank employee had carried out the fraud by diverting a large sum of money from one of the bank's trading accounts to accounts operated by his accomplices. One of the accomplices (H) had passed various sums to others, including G. G had received over £123,000, of which he retained over £5000. In his defence statement G said that H had told him that he was about to become involved in divorce proceedings and that H asked him to help hide money from his wife. G said that he agreed to help H by accepting the money into his account, spending some of it and then returning the balance together with the goods he had purchased, in order to reduce the amount that H would have to pay to his wife. G submitted that on a natural reading s.328(1) was directed at arrangements which made it easier for someone else to acquire, retain, use or control the fruits of crime and that if the facts had been as G believed them to be, the money that H asked him to look after would not have represented the fruits of crime and would not have been criminal property because H would not have obtained it as a result of criminal conduct and G would have had no reason to suspect that he had and that accordingly the mental element necessary for an offence contrary to s.328(1) was not present. The Crown submitted that, on the facts as G understood them to be, the money in question was or became criminal property when it reached his hands, because it was transferred to him pursuant to an agreement whose object was to defraud H's wife and mislead the court, involving a conspiracy to pervert the course of justice and that G obtained an interest in the money, and therefore a benefit, as a result of or in connection with criminal conduct. Alternatively the Crown submitted that G committed the offence when he repaid the money to H.

HELD

(1) The natural and ordinary meaning of s.328(1) was that the arrangement to which it referred must be one which related to property which was criminal property at the time when the arrangement began to operate on it. To say that it extended to property which was originally legitimate but became criminal only as a result of carrying out the arrangement was to stretch the language of the section beyond its proper limits. An arrangement relating to property which had an independent criminal object might, when carried out, render the subject matter criminal property, but it could not properly be said that the arrangement applied to property that was already criminal property at the time it began to operate on it. An arrangement of the instant kind could not be separated into its component parts, each of which was then to be viewed as a separate arrangement. In the instant case there was but one arrangement, namely that G would receive money, hold it for a period and return it. To treat the holding and return as separate arrangements relating to property that had previously been received was artificial.

(2) It was important in the interests of legal certainty that legislation should be interpreted in accordance with its natural and ordinary meaning. The Crown's argument involved interpreting s.328(1) in an artificial way in order to encompass conduct to which it did not naturally refer.

(3) It was accepted that G did not believe that the money he received from H was the result of criminal activity so that it was difficult to see how G could have had the necessary mens rea. However, on the assumption that the purpose for which the money was transferred to G involved perverting the course of justice, so that it became criminal property in his hands, G, who knew the purpose for which it had been transferred to him, did know or suspect that he was then dealing with criminal property. Simply holding and returning the money to H was not sufficient to constitute the actus reus of a s.328 offence, but he could have been charged with an offence of converting or transferring criminal property contrary to s.327(1)(c) or (d). It was unnecessary to give a strained and unduly broad interpretation to s.328(1) in order to bring within it conduct that falls within other sections of this part of the Act. The facts set out in G's basis of plea did not disclose an offence contrary to s.328(1).

APPEAL ALLOWED

No Murder By Joint Enterprise Where Accused's Opponent in a Gunfight Killed a Third Party

R v ARMEL GNANGO (2010)

CA (Crim Div) (Thomas LJ, Hooper LJ, Hughes LJ (V-P), Gross LJ, Hedley J) 26/7/2010

Criminal Law

Affray: Appeals Against Conviction: Foreseeability: Increase Of Sentence: Joint Enterprise: Murder: Possession Of Firearms With Intent: Transferred Malice: Opponents In Public Gunfight: Liability For Murder Under Joint Enterprise When Fatal Shot Fired By Opponent: Requirement For Common Purpose To Commit Offence From Which Killing Was Forseeable: S.3 Public Order Act 1986: S.4 Criminal Appeal Act 1968

Absent a shared purpose to shoot and to be shot at it could not be said that two opponents in a public gunfight shared a common purpose to commit affray, and although it was foreseeable that someone other than the intended target might be killed, one was not guilty, by way of joint enterprise, of murder due to the murder by the other during the gunfight of a third party under the law of transferred malice.

The appellant young offender (G) appealed against his conviction for murder. G had voluntarily engaged in an exchange of gunfire with an opponent (X) in a public place. One of X's shots killed a passerby. By the law of transferred malice there was no doubt that X was guilty of murder. G was convicted of possessing a firearm with intent to endanger life, attempted murder and by way of joint enterprise, the murder of the passerby. The Crown had contended that the gunfight between G and X was a joint enterprise to commit the crime of affray under the Public Order Act 1986 s.3, and that each foresaw that the other might kill someone other than the immediate target. The judge ruled that it was sufficient to amount to joint enterprise that G and X each committed the offence of affray, and it did not matter that they had opposing or antagonistic intentions in shooting at each other. G was sentenced to detention for public protection with respective minimum terms of 5 years, 12 years and 15 years for the firearm offence, attempted murder and murder. G submitted that the Crown's case and the judge's direction involved a significant extension of the principles of joint enterprise. He argued that joint participation in the affray was not enough without more to establish joint enterprise, but that it was essential that there be a shared or common outcome. He also contended that foreseeability of the killing alone was not enough to prove liability and that it had to be foresight of something done in the course of joint enterprise.

HELD

(1) The existence of a joint enterprise was essential to liability, and simple participation in the affray with foresight but without joint enterprise did not found liability. Although foresight of the act was the determining factor, on its own it was not enough and there had to be foresight of the

further offence as a possible incident of the common enterprise and participation with that foresight in the common enterprise, Chan Wing Siu v R (1985) AC 168 PC (HK), Hui Chi-Ming v Queen, The (1992) 1 AC 34 PC (HK) and McAuliffe v the Queen [1995] HCA 37 considered. However, G and X were not in a joint enterprise. Although it was accepted that they were both guilty of affray, it was necessary to show that they agreed to that offence and shared a common purpose in committing it, R v NW (2010) EWCA Crim 404, (2010) 1 WLR 1426 applied. However, by ruling that it made no difference whether G's and X's interests were antagonistic or not meant that the jury was left free to conclude that the affray was enough to constitute a common purpose that both men intended to fight one another. It followed that the judge had failed to ask what was the agreement or common purpose when they were shooting at and plainly antagonistic to each other. Two people who voluntarily engaged in fighting each other could be acting together or in concert but ordinarily they were not, and the usual purpose of each antagonist was to strike the other but to avoid being struck himself. Therefore, absent a shared purpose to shoot and be shot at, it could not be said that G and X shared a common purpose. However, the jury was never asked to confront the question whether the shared common purpose was not only to shoot but to be shot at. Accordingly, the conviction for murder was to be quashed.

(2) However, under the Criminal Appeal Act 1968 s.4, it was appropriate to replace G's sentence for attempted murder with a sentence of detention for public protection with a minimum term of 15 years. G's moral culpability was exactly the same whether he had committed attempted murder or murder, and likewise the harm that was the actual and foreseen consequence of his crime was the same, whichever his offence. In those circumstances, the sentence for attempted murder ought to have been in the same range as would have been a sentence for murder.

APPEAL DISMISSED

No Abuse of Process To Prosecute for Driving Offences Where A Caution Had Been Issued For False Imprisonment Arising From the Same Set of Circumstances

DPP v CHRISTOPHER ALEXANDER (2010)

DC (Stanley Burnton LJ, Treacy J, Nicol J) 27/7/2010

Criminal Procedure - Criminal Law

Abuse Of Process: Autrefois Convict: Careless Driving: Cautions: False Imprisonment: Prosecution For Driving Offence Following Caution For False Imprisonment Arising From Same Incident

Magistrates had erred in law in dismissing as an abuse of process an information laid against a defendant for the offence of driving without due care and attention on the basis of the principle of autrefois convict in that he had accepted a caution for the offence of false imprisonment arising from the same incident. The principle of autrefois convict had no application where a caution had been administered.

The appellant DPP appealed by way of case stated against a decision of the magistrates to dismiss an information laid against the respondent (X) for the offence of driving without due care and attention. X had taken a woman (B) in his car and driven two miles refusing to stop or let her out of the vehicle. B's boyfriend pursued X in his car and a collision occurred. X was administered and accepted a caution in respect of the offence of false imprisonment. Three months later, the police laid an information against X specifying the offence of driving without due care and attention, arising from his driving at the time of the collision. At trial, X submitted that having accepted the caution, it was unfair and constituted an abuse of process to proceed to prosecute him for the driving offence. The DPP contended that, whilst they had broadly arisen from the same facts, the facts constituting the two offences were of a totally different kind and there was no unfairness in proceeding with the driving offence. The magistrates, having accepted X's submissions and finding that the principle of autrefois convict applied, held that it would be an abuse of process to continue the proceedings, and they dismissed the case. The questions for the consideration of the High Court were whether the magistrates were wrong in law in finding that (i) the principle of autrefois convict applied to the driving offence on the basis that it arose from the same set of circumstances as the offence of false imprisonment; (ii) the principle of autrefois convict applied on the basis that X had received a police caution for the offence of false imprisonment; (iii) the prosecution for driving without due care and attention was inappropriate and amounted to an abuse of process sufficient to dismiss the information.

HELD

(1) The principle of autrefois convict and autrefois acquit had no application where a caution had been administered, only where there was a finding by the court of guilt or innocence. It did not apply to an extra-judicial procedure in respect of the process of issuing a caution. Accordingly, the answer to the first and second questions posed was in the affirmative.

(2) (Nicol J dissenting) The doctrine of abuse of process was to be narrowly confined and only in very specific circumstances could a defendant avoid trial by showing an abuse of process of the court had arisen, Connelly v DPP (1964) AC 1254 HL followed. In the instant case, there were a number of differences between the offences of false imprisonment and careless driving: (a) the facts necessary to establish each offence were different in that for one, the target was B, and in the second, it was X's driving; (b) the modes of trial were different, trial on indictment for false imprisonment and summary trial for the driving offence; (c) the victims were different, for false imprisonment it was B, for the driving offence, B's boyfriend and members of the public endangered by X's driving; (d) the sanctions were different. The plea of autrefois convict could not, therefore, have been maintained even if X had been convicted, rather than just cautioned, in respect of the false imprisonment offence as the offences were so different, R v Phipps (James Michael) (2005) EWCA Crim 33 distinguished. The magistrates had, therefore, erred as a matter of law in upholding the plea of abuse of process and the third question had also to be answered in the affirmative. The magistrates' decision was, accordingly, quashed and the offence of careless driving remitted to them for trial.

(3) (Per Nicol J) The critical fact in the instant case was that the facts giving rise to the allegation of careless driving were known to the police when the caution was administered to X. The police and prosecution had to decide at the outset the totality of charges they were to bring and decide whether to proceed by way of issuing a caution or going to court. In those circumstances, the answer to the third question had to be in the negative and the appeal dismissed.

APPEAL ALLOWED

Section 19 PACE Could Not Be Used To Re-Seize Property At a Police Station Where the Original Seizure Was Unlawful

R (on the application of (1) SAM ANTHONY COOK (2) ROBERT DONALD COOK) v SERIOUS ORGANISED CRIME AGENCY (2010)

DC (Leveson LJ, Ouseley J) 27/7/2010

Criminal Procedure - Police

Powers Of Seizure: Search And Seizure Warrants: Seized Property: Serious Organised Crime Agency: Re-Seizure Of Documents At Police Station: Legitimacy Of Re-Seizure: S.19(3) Police And Criminal Evidence Act 1984: S.19 Police And Criminal Evidence Act 1984: S.78 Police And Criminal Evidence Act 1984

The Serious Organised Crime Agency was not entitled to use the Police and Criminal Evidence Act 1984 s.19(3) to re-seize property at a police station and

commute what had been an unlawful seizure into a lawful seizure. The fact that the police were lawfully on their own premises at the time of the re-seizure and that the subject property was also on those premises was not what was envisaged by that provision or the relevant statutory framework.

The claimant (C) applied for judicial review of a decision of the defendant Serious Organised Crime Agency (SOCA) to seize documents which had been the subject of the unlawful execution of a search warrant. SOCA had executed three search warrants in connection with its investigation and prosecution of C and others in respect of allegations that they had defrauded the Ministry of Justice. The warrants only provided details of the addresses to which they related in schedules that were not left at the relevant premises. Nevertheless, SOCA seized computers, laptops and documents and C was arrested. SOCA conceded that the execution of the warrants, without details of the relevant addresses, was unlawful and agreed to pay C damages and certain legal costs. C attended a police station in order to reclaim the seized property and was asked to sign receipts. Once signed, he was informed that SOCA was re-seizing the documents pursuant to its powers under the Police and Criminal Evidence Act 1984 s.19(3). C submitted that (1) the purported re-seizure of the documents was unlawful since s.19 did not operate so as to validate a prior warrant that had been invalidly executed; (2) any copies of the original documents should be destroyed and no derivative use of the knowledge gained made.

HELD

(1) On its face s.19 was sufficient to justify the further seizure of property; however the unlawful seizure of property could not be commuted to a lawful seizure on the basis that a claimant simply attend a police station and sign a receipt. The fact that the police were lawfully on their own premises at the time and that the seized property was also on those premises was not what was envisaged by the provision or the relevant statutory framework. SOCA and those drafting warrants should be alert to the need to draft such instruments with care. Accordingly, C was entitled to the return of the original documents, Bates v Chief Constable of Avon and Somerset (2009) EWHC 942 (Admin), (2009) 173 JP 313, Bhatti v Croydon Magistrates' Court (2010) EWHC 522 (Admin), (2010) 3 All ER 671 and Chief Constable of Merseyside v Hickman (2006) EWHC 451 (Admin), (2006) Po LR 14 considered.

(2) There was a difference between an interest in the original documents themselves and an interest in the information the documents contained. However, the court was not prepared to engage in a balancing exercise which would otherwise require it to assess complex issues such as confidentiality. It was suffice to say that C was, in the event, adequately protected by the admissibility rules in s.78 of the Act, R v Sang (Leonard Anthony) (1980) AC 402 HL applied.

APPLICATION GRANTED

Information Notices Made By SOCA While Recipient Was Out of the Country Were Valid

SERIOUS ORGANISED CRIME AGENCY v PERRY & ORS (2010)

CA (Civ Div) (Ward LJ, Carnwath LJ, Richards LJ) 29/7/2010

Civil Procedure - Criminal Procedure - Soca

Disclosure: Extraterritoriality: Information Notices: Jurisdiction: Proceeds Of Crime: Recovery Orders: Soca: Service Of Information Notices: Absence From Country When Notices Served: S.357 Proceeds Of Crime Act 2002: Proceeds Of Crime Act 2002: Civil Procedure Rules 1998

Information notices made by the Serious Organised Crime Agency following the making of a disclosure order under the Proceeds of Crime Act 2002 s.357 were validly made. The fact the recipient of the notices was not in the country at the time the notices were sent was irrelevant.

The appellant (P) appealed against a decision dismissing his application to set aside a disclosure order and notices under it made by the respondent (SOCA). P had been convicted in Israel of a number of criminal offences. SOCA became aware of funds held in two bank accounts in London in P's name and obtained a disclosure order under the Proceeds of Crime Act 2002 s.357. Subsequently, information notices were sent asking for certain information and documents relating to the funds. P issued proceedings to set aside the order and notices. The application was dismissed and the judge held that provided there were grounds for believing that property obtained through unlawful conduct had been brought into the jurisdiction and that was sufficient foundation for the disclosure order and the notices under it. The issue for determination was whether SOCA had power to issue and give information notices on persons who were outside the jurisdiction. P submitted that notices could only be given to a person physically within the jurisdiction and he was not within the jurisdiction at the relevant time. SOCA submitted that Part 5 of the Act was intended to have extra-territorial effect. SOCA contended that where foreign residents had chosen to bring assets, apparently derived from unlawful conduct abroad, into England it would be absurd if they could not be questioned merely because they happened to be out of the country at the time the notices were given.

HELD

(1) (Richards L.J. dissenting) Some limitation on the extra-territorial scope of a disclosure order had to be implied, Masri v Consolidated Contractors International Co SAL (2009) UKHL 43, (2010) 1 AC 90 considered. There was a strong public interest in the statutory regime. However, s.357 was very wide in its scope. The fact that non-compliance was a criminal offence and the practicality of enforcement, were factors pointing against general extra-territoriality. Although the court had power to discharge or vary the order under the ordinary jurisdiction of the court under the CPR, there was nothing in the Act to suggest that the court had power, whether in the original order or by variation, to impose restrictions on the

categories of person to whom notices were given. If Parliament had intended the extra-territorial effect of the order to be controlled by restrictions in the order itself it would have so provided. Section 357 gave the court no control over the persons on whom notices were to be served nor of the directions of inquiry which SOCA might decide to pursue under the notices. There was no basis for reading into s.357 a requirement for SOCA to return to court as soon as its inquiries led it to a foreign source of information.

(2) The notices sought information that was relevant to the investigation of assets properly the subject of the disclosure order. It was clear that the notices had been given to P and accepted by him. As a matter of common sense, it was difficult to see why mere presence or absence from the country at the time of the sending or delivery of the notice was the critical factor. Accordingly, the judge reached the correct decision, the information notices were validly made and validly given to P.

APPEAL DISMISSED

SI 1909/2010 The Terrorism Act 2006 (Disapplication of Section 25) Order 2010

In force **25 July**. This Order disapplies section 25 of the Terrorism Act 2006 for a period of 6 months beginning on 25 July. Section 25, unless disapplied, has the effect of changing the maximum detention period under Schedule 8 to the Terrorism Act 2000 from 28 days to 14 days.

SI 1921/2010 The Criminal Procedure (Amendment) Rules 2010

In force **4 October**. These Rules make substantial amendments to the Criminal Procedure Rules 2010, including making rules to govern the use of live links in criminal proceedings. Part 18 (warrants) is replaced by these Rules with a new Part 18 covering warrants for arrest, detention or imprisonment.

ACPO Publish Children and Young People Strategy

The Association of Chief Police Officers (ACPO) has published 'Children & Young People Strategy: 2010 - 2013' which sets out ACPO's vision to deliver professional policing services, working with partners, to children and young people. The strategy sets out the action required to ensure the police service plays a part in enhancing the life opportunity of children and young people. A key principle runs through the objectives outlined in the strategy, of using a joint agency problem solving approach to tailor responses to the needs of children, young people and the community in a way which is proportionate to the threats involved. The objectives are:

- To prevent and reduce crime and antisocial behaviour (and the perception of these) involving children and young people. This should be achieved through an intelligence led problem solving approach, to enable early identification of and intervention in problems;
- To improve children and young people's satisfaction and confidence in the police service by increasing quality of contact, earning trust and understanding the impact police intervention can have;
- To improve the safety of children and young people through positive early interaction and intervention; and
- To work with other agencies to improve the effectiveness of police responses to children and young people, using improved working practices to also achieve cost reductions.

The strategy sets out the roles to be played by the ACPO Children and Young People Business Area, ACPO regional leads, chief constables and BCU/ operational commanders. A strategic development framework is included, giving an overview of the activity and actions needed to meet the four objectives. This is supported by a self assessment framework which can be used by forces to measure their implementation of the strategy.

The strategy can be found at
http://www.acpo.police.uk/asp/policies/Data/ACPO_CYP_National_Strategy_2010-2013_1_3.pdf

ACPO Guidance on Policing New Psychoactive Substances

The Association of Chief Police Officers (ACPO) has published 'Guidance on Policing New Psychoactive Substances (Formerly Legal Highs)'. The guidance provides a national approach to policing these substances, along with information about the appearance and effects of the drugs. The substances to which the guidance applies are the 'New Psychoactive Substances' which have been classified as Class B and C drugs, often through the use of generic classification to allow inclusion of new variants, and include:

- Synthetic cannabinoids such as 'Spice';
- BZP and other substituted piperazines;
- GBL and 1,4-BD;

- Mephedrone and other cathinone derivatives; and
- Naphyrone and other cathinone derivatives.

The appearance, method of use, effects and side effects, handling risks and street names for each of these drugs is outlined in the first section of the guidance. Section 2 of the guidance advises on a framework for a consistent national approach to enforcing offences relating to the substances. The guidance notes that the substances are not physically or visually identifiable to the naked eye and forensic analysis will be required to identify substances; the extent of forensic analysis necessary on seizing substances is left to the discretion of forces. It is recommended that enforcement be mainly focussed towards organised crime groups and individuals seeking to supply and distribute the substances. The guidance recognises that simple possession cannot be ignored, however, advising that local police commanders determine the nature and extent of local enforcement in this regard to reflect the needs of the local community. Action taken against those found in possession of the substances for personal use should be proportionate and appropriate; the guidance recommends the use of inter-agency approaches to divert users away from drugs. Advice is also given in relation to possession with intent to supply, possession of small quantities and on driving offences. The guidance notes that fixed penalty notices for disorder and cannabis warnings cannot be given for offences relating to the substances.

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

Police Service Strength in England and Wales

Home Office Statistical Bulletin 14/10 'Police Service Strength: England and Wales, 31 March 2010' has been published. The figures detail the number of police officers in the 43 police forces in England and Wales at 31 March 2010.

The statistics show that:

- There were 143,374 full-time equivalent (FTE) officers as at 31 March 2010, a decrease of 35 officers compared with 31 March 2009;
- 6,642 (4.6%) of FTE officers were minority ethnic officers compared with 4.4% of FTE officers in 2009;
- Using the method of counting used in the last year's statistics, which excluded those on career breaks or maternity/paternity leave, there were 141,631 FTE officers, a decrease of 16 officers compared with the previous year;
- There 79,596 FTE police staff as at 31 March 2010, an increase of 0.4% from the previous year;
- There were 16,918 FTE Police Community Support Officers as at 31 March 2010, an increase of 2.5% from the previous years; and
- There were 15,505 Special Constables.

The total police service strength (excluding special constables) was 244,497 FTE staff. Of this total, 58.8% of this total are police officers, 6.9% are PCSOs, 0.2% are traffic wardens, 1.6% are designated officers and 32.6% are other police staff.

The statistical bulletin can be found at
http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1410.pdf

IPCC Annual Report Published

The Independent Police Complaints Commission (IPCC) has published its 'Annual Report and Statement of Accounts 2009/10'. The report details the work the IPCC has undertaken towards achieving its purpose and aims through the year.

In 2009/10, the IPCC:

- Had 2,746 cases referred to it by police forces (199 from Welsh forces), 12% more than in 2008/09;
- Referred 2,208 of those referrals back to forces to be resolved locally or investigated;
- Began independent investigations using its own investigators in 106 cases;
- Directed 151 investigations for force professional standards departments (PSDs) as managed investigations; and
- Supervised 207 PSDs investigations as supervised investigations.

Examples of the cases the IPCC has worked on are given in the report, including news on complaints and referrals dealt with by the IPCC in relation to the G20 protests in April 2009.

The report details the two key themes identified from the IPCC's investigations: violence and vulnerability; and failure to protect. The work carried out by the IPCC to aid learning from their investigations is also explained. The report also sets out the IPCC's position on stop and search.

The IPCC's work on increasing public confidence in the police complaints system is also detailed in the report. The new Statutory Guidance for the complaints system, which came into effect in April 2010, is cited as a major part of the IPCC's work for the year. Results from the public confidence survey and feedback from people affected by IPCC investigations is detailed. The document notes that figures on police complaints are being compiled, to be published in autumn 2010. Also highlighted is the phased implementation of a new performance framework, to measure and report on the performance of the IPCC and police forces. The report notes that the IPCC intends to send an improved report format to forces shortly, for feedback. The report sets out the plan to publish the first national annual performance report of the complaints system under the new framework in autumn 2010.

Independent and managed investigations were completed in just over 200 days on average, with the time taken to complete independent investigations increasing and the time taken to complete managed investigations decreasing, compared with the previous year. 5,584 appeals were made to the IPCC in 2009/10, an increase of 21% from 2008/09. The IPCC was able to inform police forces that an appeal has been lodged within 1 working day in 81% of cases. The report notes that the amount of appeals significantly exceeds the IPCC's ability to deal with them. 29% of the appeals completed in 2009/10 were upheld, a similar level to that seen in previous years.

The full report and accounts can be found at
http://www.ipcc.gov.uk/ipcc_annual_report_0910_-_web.pdf

Statistics on Drug Misuse from the British Crime Survey

Home Office Statistical Bulletin 13/10 'Drug Misuse Declared: Findings from the British Crime Survey: England and Wales' has been published which examines the extent and trends in drug misuse from a nationally representative sample of 16 to 59 year olds living in England and Wales. The drug misuse information is obtained through the British Crime Survey by way of a confidential self-completion module undertaken after a face-to-face interview. The figures are based on the surveys undertaken between April 2009 and March 2010. 'Last year' drug misuse refers to use of an illicit drug by the individual in the 12 months immediately prior to the individual's completion of the survey. At the time of the survey, a number of drugs were asked about, including cocaine, heroin, amphetamines and cannabis; recently classified drugs such as 'Spice' are presented separately from the findings on these drugs.

The findings estimate that:

- 8.6% of adults had used an illicit drug in the last year;
- 3.1% had used a Class A drug in the last year;
- 3.3% were defined as frequent drug users (using a drug more than once a month in the last year);
- Cannabis was the most frequently used drug, with 6.6% of adults using it in the last year;
- Powder cocaine was the next most frequently used, with 2.4% having used it in the last year;
- Overall use of illicit drugs by adults in the last year declined from 10.1% in 2008/09 to 8.6% in 2009/10;
- Use of Class A drugs fell from 3.7% in 2008/09 to 3.1%;
- Of young people aged 16 to 24, 20% had used illicit drugs in the last year compared with 22.6% in 2008/09.

The overall extent of drug use among 16 to 59 year olds is examined, with 15% having used an illicit drug at least once in their lifetime, 3.1% having used an illicit drug in the last year, and 1.4% having used a Class A drug in the last month. The most commonly reported age for the first use of cannabis was 16 years old, with the onset of use of ecstasy and powder cocaine being commonly recorded at 18 years old.

Personal, lifestyle and household factors are examined, and the findings estimate that:

- Among adults, last year illicit drug use was highest in the 16 to 19 age group;
- Last year Class A drug use was higher for 20 to 24 year olds than all older age groups;

- Men reported higher levels of illicit drug use in the last year than women, around twice as high;
- Adults not visiting a nightclub in the last month were less likely to have taken Class A drugs than those who visited a nightclub four or more times in the last month;
- Single adults showed higher levels of overall and Class A drug use than for all other marital groups.

In 2009/10, findings show 3.3% of adults reporting polydrug use in the last year, having used two or more illicit drugs in the last year. Polysubstance use (use of two or more drugs or at least one illicit drug and alcohol in the last year) in the last year is estimated at 8.1% of adults. 61% of adults who reported using an illicit drug in the last year had only used one drug. Cannabis was the drug most frequently used drug amongst polydrug users, with those polydrug users who had used cannabis also being more likely to be 'frequent' users of cannabis.

The statistical bulletin can be found at
http://rds.homeoffice.gov.uk/rds/pdfs10/hosb1310.pdf

Guidance Available on the Equality Act 2010

The Government Equalities Office has published a set of 'Equality Act 2010: What Do I Need To Know?' guides, in anticipation of the implementation of the majority of the Equality Act 2010 on 1 October 2010. Guidance is available for the public, employers, voluntary and community organisations, businesses who provide goods and services and the public sector.

The summary guide for the public sector gives an overview of the types of discrimination in relation to the protected characteristics (such as gender, race and disability). A table details whether the law is to stay the same or be amended, where new protections are to come into force and where areas which are not currently protected are to remain as such. Clear advice on what is to change in relation to who is protected and what the law prohibits is given.

The summary guides can be found at http://www.equalities.gov.uk/equality_act_2010/equality_act_2010_what_do_i_n.aspx

EHRC Call for Evidence in Disability-Related Harassment Inquiry

The Equality and Human Rights Commission (EHRC) has launched an inquiry into disability-related harassment, and has issued a call for evidence. It wants to hear from anyone who has been bullied or harassed and from those working with or for disabled people including public authorities such as police. The EHRC is seeking to find what organisations such as the police can do to prevent disability-related harassment, and is looking for information about:

- Effective approaches to preventing and eliminating harassment;
- Addressing the causes of disability-related harassment such as prejudice;
- Involving disabled people in preventing and eliminating harassment and addressing the causes of harassment;
- Enabling effective reporting of disability-related harassment; and
- The diverse needs and experiences of disabled people.

Questionnaires detailing the call for evidence can be obtained and evidence can be provided in a number of ways. The deadline for responding to the call for evidence is 10 September.

More information can be found at http://www.equalityhumanrights.com/legal-and-policy/formal-inquiries/inquiry-into-disability-related-harassment/call-for-evidence/

Home Office Publishes Draft Structural Reform Plan

The Home Office has set out its draft structural reform plan, which sets out the department's top priorities and timelines for reforms. The structural reform plan is to be finalised after the spending review in the autumn, and will then form part of the Home Office business plan, to be reviewed annually.

The top five departmental priorities set out in the plan are to:

- Enable the police and local communities to tackle crime and antisocial behaviour;
- Increase the accountability of the police to the communities they serve;
- Secure borders and control immigration;
- Protect people's freedoms and civil liberties; and
- Protect people from terrorism.

Actions to be undertaken under the tackling crime and antisocial behaviour priority include a review of antisocial behaviour powers, an overhaul of alcohol licensing, plans to reduce police bureaucracy and central interference, development of methods to enable police and local communities to tackle crime, development of a comprehensive approach to drug misuse and support for the Ministry of Justice in developing a rehabilitation Green Paper.

Actions to increase police accountability include consulting on and legislating for proposals to replace police authorities with directly elected representatives, and support for the police in making their actions more transparent through publishing crime data and holding beat meetings. Towards securing borders and controlling immigration, actions include establishing a border police force, using legislation if required, and support for the e-Borders system and the re-introduction of exit checks.

To protect people's freedoms and civil liberties, actions to be taken include scrapping ID cards, reviewing counter-terrorism legislation, publishing proposals for the storage of internet and e-mail records and reviewing extradition. A Freedom Bill is to be implemented which will outlaw fingerprinting of children at school without parental permission, regulate CCTV, adopt the Scottish model for the DNA database and restore rights to non-violent protest.

A number of actions are outlined under the departmental priority of protecting citizens from terrorism. Changes to security and counter-terrorism policies and systems are to be considered, the CONTEST strategy is to be revised and a review undertaken of the 'Prevent' strand of the strategy. Further actions include plans to prevent public funding going to groups which incite or espouse violence and hatred and to proscribe such groups, subject to the advice of the police and security intelligence services. National resilience is to be enhanced, and action taken to strengthen protection against and ability to respond to a terrorist attack.

Further information on the draft structural reform plan can be found at http://www.homeoffice.gov.uk/publications/about-us/corporate-publications/structural-reform-plan/

Statistics on Antisocial Behaviour Orders Published

The Ministry of Justice has published statistics on antisocial behaviour orders (ASBOs) administered in England and Wales in the period 1 April 1999 to 31 December 2008. The statistics include ASBOs issued in magistrates' and county courts in a civil capacity and those issued on conviction for a criminal offence by magistrates' courts and the Crown Court. Between 1 April 1999 and 31 December 2008 16,999 ASBOs were issued, 86% of these were issued to males. 2005 showed the highest number of ASBOs issued in a calendar year, with 4,122 ASBOs issued. Numbers issued have decreased each year since 2005.

Since 2004 more ASBOs were issued on conviction for a criminal conviction than were issued on application. 6,783 of the 16,999 ASBOs were made on application. 95% of the applications were made by police or local authorities.

In the period 1 June 2000 to 31 December 2008, of the 16,895 ASBOs issued 9,247 (55%) were breached at least once; 6,804 (40%) were breached more than once. 49% of people aged 18 or over breached their ASBOs at least once, with 65% of those aged between 10 and 17 breaching theirs at least once.

The statistics can be found in full at
http://rds.homeoffice.gov.uk/rds/pdfs10/asbo2008snr.pdf

ACPO Guidance on Prevent, Police and Schools

The Association of Chief Police Officers (ACPO) has published a guidance document 'Prevent, Police and Schools: Guidance for police officers and police staff to help schools contribute to the prevention of violent extremism'. The document, which is not protectively marked, provides an overview of CONTEST and its Prevent strand, an explanation of the schools context and gives suggested activities for police and schools to create in partnership. It is intended for police officers and staff, from Police Community Support Officers (PCSOs) to BCU Command Team level, who have responsibility for working in partnership with schools.

The guidance details the Prevent strand of CONTEST, noting that school engagement with police on Prevent can raise awareness amongst school staff about the Prevent objectives and can assist in assessing and developing activities in schools at the universal, targeted and specialist levels. It sets out the schools context and gives information on how police can work with schools, which will be following the 'Learning Together to be Safe' toolkit published in 2008 by the Department for Children, Schools and Families. Thirty-nine actions which police can take are set out in a table, these actions are consistent with the toolkit and support the Prevent agenda. Next steps to take are detailed for BCU or sector commanders, Safer Schools Partnership officers, Safer Neighbourhood sergeants, constables and PCSOs, and response officers.

The guidance can be found at
http://www.acpo.police.uk/asp/policies/Data/Prevent_for_Schools_July_2010.pdf

Guidance for the Management of Intimate Images

The Royal College of Paediatrics and Child Health has jointly published guidance with the Association of Chief Police Officers on the handling of intimate images obtained during the medical examination of complainants of sexual violence or abuse.

The guidance, 'Guidance for best practice for the management of intimate images that may become evidence in court', is intended to create an agreed best practice and disclosure framework to reassure practitioners and complainants who may worry about possible disclosure of the images. It aims to ensure respect for the privacy of those captured in the images and to eliminate the risk of the improper distribution of the images.

An 'intimate image' is defined in the guidance as a photographic, digital or video/DVD image of the genitalia or anus obtained using a colposcope or similar technology. Before an intimate image may be taken the appropriate consent must be obtained and recorded. When an image is taken it must be retained and stored securely.

The guidance states that doctors are under no obligation to disclose intimate images to non-medical professionals and should not do so unless they have the appropriate informed consent, they are ordered to do so by a judge, or there is a public interest. When giving evidence, line drawings should be used wherever possible instead of the images.

The guidance is available at
http://www.rcpch.ac.uk/doc.aspx?id_Resource=7208

Paper Considers Approach to Preventing Terrorism

Demos, an independent think tank and research institute, has published a paper 'From Suspects to Citizens: Preventing Violent Extremism in a Big Society'. The paper examines 'home-grown' terrorism and the future of one response to it, prevention. It states that preventing terrorism, as part of the 'Prevent' strand of the United Kingdom's CONTEST II strategy, poses ethical and practical questions and notes that recent reports have been critical of approaches taken to prevent terrorism. Recommendations are made in the paper for an approach consistent with the coalition government's goal of creating a 'Big Society', to create a cohesive society and address some of the causes of terrorism.

The paper recommends that police led prevention work should be limited to those believed to intend to commit or directly facilitate violence or those targeted by recruiters. This prevention should be supported by local authorities and specialist organisations. It is suggested that this would send out a clear message that the primary concern is of stopping terrorism, not stopping extremism or dissent.

Also recommended is the dismantling of the 'Preventing Violent Extremism' programme, delivered by the Department for Communities and Local Government. The paper recognises that the programme aims at valuable

social objectives but questions how far it prevents terrorism, suggesting that it has blurred the differences between social cohesion and counter-terrorism, alienating some of those it was intended to support.

Challenging extreme and radical views should take place through openness and argument rather than bans and legislation, the paper argues. Government intervention should be limited, tackling non-violent extremism only where groups and individuals are preventing others from exercising their democratic rights. The paper argues that if the 'Big Society' aim of active citizens from different communities working together without government intervention is realised, this could make communities more cohesive and resilient to violent ideologies. It calls for this aim to be kept independent of a counter-terrorism strategy, to avoid discrediting it.

The paper can be found at
http://www.demos.co.uk/files/From_Suspects_to_Citizens_-_web.pdf?1279732377

Public Confidence in the Criminal Justice System

The Ministry of Justice has published a report which draws together findings from the British Crime Survey (BCS) and provides an overview of public confidence in the Criminal Justice System during the period 2002/03 to 2007/08.

The main findings:

- In 2007/08 the BCS found that 44% of adults in England and Wales were confident that the criminal justice system was effective in bringing people who commit crimes to justice, compared with 39% in 2002/03;
- Confidence in 9 of the 42 Local Criminal Justice Boards (LCJB) increased between 2002/03 and 2007/08. It decreased in one LCJB;
- Victim and witness satisfaction with the police and other criminal justice system agencies remained stable from 2002/03 to 2007/08 at the national level;
- In 2007/08 the police were the highest rated part of the criminal justice system by the public. This is in line with results from previous years of the survey.

The full report is available at
http://www.justice.gov.uk/publications/docs/confidence-cjs-british-crime-survey.pdf

Magistrates' Time Statistics Published

Statistics from the March 2010 Time Intervals Survey have been published. This survey collects data on the estimated average times taken between different stages of the proceedings in completed criminal cases in the magistrates' courts.

The key findings include:

- In indictable and triable-either-way cases the estimated average time from the commission of the offence to the completion of the case was 117 days. This compares to 115 days from a survey conducted in March 2009;
- In cases involving youth defendants the estimated average time from the offence being committed to the completion of the case was 89 days, an increase from 83 days in 2009;
- In adult defendant cases the average time taken from the person being charged to the completion of the case was 49 days, an increase from 48 days in 2009; and
- In cases involving youth defendants the average time from charge to completion of the case was 47 days, an increase from 39 days in 2009.

The full report can be found at
http://www.justice.gov.uk/publications/docs/time-intervals-0310.pdf

Effective Bail Scheme

A report on the operation of the Effective Bail Scheme (EBS) pilot has been published. The EBS provides bail support and accommodation to adult defendants; aims to divert defendants from custodial remands; increase court attendance rates and compliance with bail conditions; and reduce alleged offending on bail. It has been trialed in a number of court areas since 2006.

The aim of the research, conducted by the Centre for Criminal Justice Studies at the University of Leeds, on behalf of the Ministry of Justice, was to extract lessons from the pilot.

The key lesson learned was the need to improve the operation, implementation, and governance of the scheme. It is suggested that this could be done by establishing a more centralised system of monitoring. Such a system will allow for consistency of monitoring and should ensure that the support offered to defendants is more targeted, structured, and deals with specific needs.

The summary of the report is available at
http://www.justice.gov.uk/effective-bail-scheme.pdf

Consultation on the Licensing Act

The Government has begun a consultation process on overhauling the current alcohol licensing system.

The consultation paper details a number of the government's proposals for overhauling the licensing regime to give more power to local authorities and the police to respond to local concerns about the night-time economy.

Specific measures the government is proposing include:

- Giving licensing authorities stronger powers to remove licences from, or refuse to grant licences to, premises;
- Increasing the opportunities for local residents or their representative groups to be involved in licensing decisions;
- Allowing licensing authorities to charge more for late-night licences, which will help pay for additional policing;
- Introducing tougher sentences for persistent sales of alcohol to underage persons including the power to shut down shops or bars and fines of £20,000;
- Banning the sale of alcohol below cost price.

The consultation will close on 8 September 2010.

The consultation paper is available at http://www.homeoffice.gov.uk/publications/consultations/cons-2010-licensing-act/

Report on the Operation of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006

Lord Carlile of Berriew QC, as the independent reviewer of terrorism legislation, has published his review 'Report on the Operation in 2009 of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006'. The report has been laid before Parliament pursuant to section 36 of the Terrorism Act 2006, which requires an annual review of the operation of the provisions of the Terrorism Act 2000 (TA 2000) and Part 1 of the Terrorism Act 2006 (Part 1 TA 2006). The review is not intended to assess whether the legislation considered is required, however Lord Carlile does make recommendations where it appears the law is counter-productive, redundant or unnecessary.

The review considers proscription under Part II of the TA 2000, recognising that its value is limited in terms of protecting the public from terrorists. However there is value in informing the public of what organisations should not be joined and there is public acceptance that proscription is proportionate and necessary. The review urges the Government to undertake an evidence-based examination of currently proscribed organisations and concludes that the retention of proscription is necessary and proportionate as a response to terrorism.

Terrorist property provisions under Part III of the TA 2000, which include offences relating to raising money for terrorism, money laundering and provide powers for seizure and forfeiture of terrorist cash are reviewed. The report notes that the offences in Part III impose considerable responsibilities on members of the public due to the low threshold of suspicion required. It notes that there have been very few prosecutions for these offences, perhaps due to the relative difficulty in proving and investigating the cases. The powers of seizure and forfeiture remain useful, the review states, although disappointment is expressed in the statistics available, as not all seizures are collected centrally.

Terrorist investigation powers, including cordoning powers, under Part IV of the TA 2000 are considered in the review. Lord Carlile states that is it unacceptable for record keeping of cordons to be as casual as reported and says that from now, forces should provide full details of cordoning under section 33 of the TA 2000 to the Secretary of State and the independent reviewer of terrorism legislation. It states that cordoning powers, and powers to require production of persons or material and to search properties are proportionate and necessary. Section 39, the offence of disclosing information which could prejudice a terrorism investigation, is reasonable and proportionate.

Arrest and detention, stop and search, parking and port powers under Part V of the TA 2000 are considered in detail. Section 41, the power of arrest where a person is reasonably suspected of being a terrorist, is stated to work satisfactorily. In 2009 106 people were arrested under section 41 and 101 were arrested under other powers on suspicion of terrorism offences, an increase of roughly 15% from 2008. 27% of terrorism arrests in 2009 resulted in a charge, about 13% below the rate for general crime. Only 11% of terrorism arrests resulting in a terrorism charge. The review states that the level of arrests is proportionate to the perceived risk.

The report expresses the opinion that, in relation to extended detention, judges should be permitted further powers of scrutiny, to request explanations and material from the prosecution and possibly from the suspect. Of those arrested under section 41, none were detained for more than 14 days. The review notes that in some cases under Operation Pathway, first reviews of detainees were undertaken by officers of lower rank than required and states that this should not happen again. Lord Carlile expresses the opinion that the limit of time for detention should not be returned to 14 days and does not recommend an alternative option whereby parliamentary debate is required to detain beyond 14 days.

Section 44 of the TA 2000, the stop and search power which does not require suspicion, is considered and a number of examples found where there has been poor or unnecessary use of the power. The report states that there is little or no evidence that the power has potential to prevent an act of terrorism as compared with other stop and search powers, Lord Carlile states that this should be replaced with a much more limited provision.

The review states that powers under Part VI of the TA 2000, including the offences of instructing or training and recruiting for terrorist purposes, are

useful and effective for dealing with aspects of international terrorism. Section 58A is considered in relation to complaints that police have used it to threaten photographers taking pictures of the police on duty, noting that it is inexcusable to use this to interfere with the rights of people to take photographs.

Part 1 TA 2006 provides offences of encouragement of terrorism and of disseminating terrorist publications. Three people were charged with these offences in 2008/09, with two convictions. The report states the desirability of linking prosecutions to specific terrorism acts or conspiracies. Concern is raised about the offence in section 8, of attending any place used for terrorism training, and the review recommends that a defence be provided to protect journalists legitimately investigating training.

The full report can be found at
http://www.homeoffice.gov.uk/publications/counter-terrorism/independent-reviews/ind-rev-terrorism-annual-rep-09?view=Binary

Child Sex Offender Disclosure Scheme to Be Rolled Out Nationally

The Child Sex Offender Disclosure Scheme is to be rolled out nationally. The scheme, which enables members of the public to ask police to tell them if a person has been convicted of child sexual offences and poses a risk to children, originally began as a pilot with four forces taking part. A further eight forces have now joined the scheme, with twelve more due to join in autumn 2010 and remaining forces to join by spring 2011.

More information can be found at
http://www.homeoffice.gov.uk/media-centre/news/child-protection-scheme

CPS Consultation on Prosecuting Cases of Human Trafficking

The Crown Prosecution Service (CPS) has drafted a public policy statement explaining how it handles cases of human trafficking crimes, and has published a consultation seeking views on the draft statement. The statement explains the CPS role in prosecuting human trafficking crimes, what prosecutors will do when such a case is referred to the CPS and how it can help victims and witnesses. Responses to the consultation must reach the CPS by 31 October 2010.

The draft public policy statement, the questions asked as part of the consultation and details of how to respond can be found at
http://www.cps.gov.uk/consultations/ht_consultation.html

Code of Practice on the Handling of Mobile Phones

The 'Code Of Practice (For The Handling And Processing Of Mobile Phones And Other Mobile Devices So As To Ensure That Those Devices Identified As Stolen Are Handled In Accordance With The Agreed Guidelines)' has been prepared and published on behalf of the Home Office and other groups.

It is intended to guide organisations that handle and process mobile phones and other mobile devices for recycling, to control the trade in second-hand phones and to make it more difficult for criminals to dispose of stolen property through recycling schemes. It identifies minimum criteria necessary for the identification, handling and disposal of phones and devices which are offered for recycling by someone other than their rightful owner. The Code of Practice is voluntary and provides a basis for self-regulation by organisations that offer recycling services and an accreditation scheme to demonstrate that organisations follow the guidelines.

The Code of Practice can be found at
http://www.stoprecycledstolenphones.com/documents/cop.pdf

Consultation on 2010 Drug Strategy

The Home Office plans to launch a new drug strategy in December 2010 and has launched a consultation providing an opportunity to contribute to the development of it. The consultation runs until 30 September 2010.

The strategy will aim to prevent drug taking, disrupt drug supply, strengthen enforcement and promote drug treatment. Strategies to prevent drug taking include a system of temporary bans on 'legal highs' to curb the use of potentially harmful substances pending health advice. Enforcement plans include tackling all points in the drug supply chain and ensuring a swift response to changes in the drug misuse landscape such as the emergence of new drugs.

The consultation paper can be found at http://www.homeoffice.gov.uk/publications/consultations/cons-drug-strategy-2010/

NPIA

National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate

www.npia.police.uk