NPIA
National Policing Improvement Agency

Digest

April 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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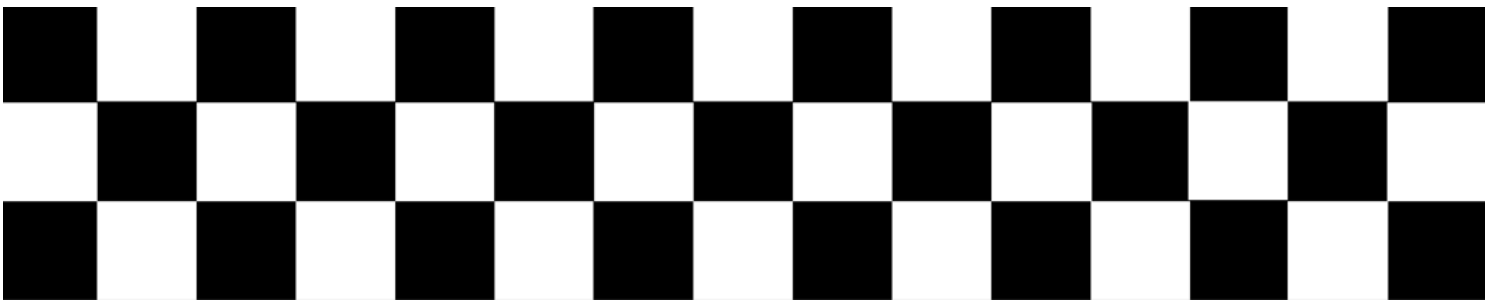

In this month's edition of the NPIA Digest……

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

A number of articles are included in this month's edition with a particular focus on police practice:

Two reports on police value for money have been released. The High Level Working Group report makes a number of wide recommendations on how police forces and authorities, supported by the tripartite, the NPIA and HMIC can improve value for money given the challenging financial situation and rising public expectations. HMIC have published a report following the consultation on value for money profiles to be used as a diagnostic tool for police forces and authorities, which highlights that value for money underpins policing.

The Government response following the 18 month consultation on amending the Police and Criminal Evidence Act 1984 has been published and sets out the proposals which will be taken forward.

The Equality and Human Rights Commission have published the 'Stop and Think' report, a critical review of the police use of stop and search powers which makes recommendations on how the police can develop good practice.

Contents

Bills Before Parliament 2009/10 - Progress Report

The following Bills from the 2009/10 session have progressed as follows through the parliamentary process:

Public Bills

- **Bribery Bill** - this Bill had the Committee stage reading in the House of Commons on 23 March 2010. The date for the Report Stage is yet to be confirmed;
- **Crime and Security Bill** - this Bill had the First Reading in the House of Lords on 9 March 2010 and a Second Reading debate is set for 29 March 2010;
- **Equality Bill** - this Bill had the Third reading in the House of Lords on 23 March 2010 where final amendments were discussed. The Bill is now due to go back to the House of Commons to consider these amendments on 6 April 2010;
- **Human Rights Act 1998 (Meaning of Public Authority) Bill** - this Bill had the First Reading in the House of Commons on 6 January 2010 and is due to have the Second Reading on 23 April 2010;
- **Powers of Entry etc. Bill** - this Bill had the Report Stage Reading in the House of Lords on 22 March 2010 and is due to go for the Third Reading on 30 March 2010.

The progress of Bills in the 2009/10 parliamentary session can be found at http://services.parliament.uk/bills/

House of Commons Library Research Paper 10/19 on the Bribery Bill

On 1 March 2010, the House of Commons Library published research paper 10/19 on the Bribery Bill.

The paper outlines the background to the Bribery Bill which was presented to the House of Commons on 9 February 2010. The paper examines the existing law and the clauses of the Bill in detail including the proceedings in the House of Lords.

The Bill derives from continued pressure on the Government to reform current bribery laws and create greater transparency. The primary aim of the Bill is to improve the legal options open to prosecutors by simplifying and extending the current law.

Key findings of the research paper include:

- The current regime is antiquated and in need of a total overhaul;
- Current UK legislation makes it very difficult to bring a prosecution for alleged bribery offences;

- Until 2009, there had only been one successful prosecution for bribery in the United Kingdom;
- Unlike other countries, there is no distinction between bribes and 'facilitation payment' in the United Kingdom;
- The need to reform the UK's corruption law is part driven by its obligations with international agreements;
- The financial effects of the Bill are estimated at £2.18m;
- The Bill would replace the common law offences and those under the Public Bodies Corrupt Practices Act 1889 and Prevention of Corruption Acts 1906 and 1916;
- The Bill would introduce 2 general offences of the 'offer, promise and giving of an advantage', and 'the request, agreeing to receive or acceptance of an advantage';
- The Bill would create further offences of bribery of a foreign public official and a strict liability offence of negligent failure of commercial organisations to prevent bribery;
- The Bill would create a maximum penalty of 10 years imprisonment for all new offences except for organisations who would receive an unlimited fine;
- The Bill would create a defence where bribery was 'necessary for the prevention, detection or investigation of serious crime by or on behalf of a law enforcement agency' or 'for the proper exercise of the intelligence services'; and
- There would be provision of extra-territorial jurisdiction to prosecute bribery offences committed aboard by UK nationals.

The paper also examines the substantive clauses of the Bill and potential issues that may arise. These are largely concerned with interpretation, and application.

The full research paper can be found at
http://www.parliament.uk/commons/lib/research/rp2010/rp10-019.pdf

Final Guidance on Assisted Suicide Published

The Director of Public Prosecutions (DPP), Keir Starmer QC, has published his final guidance on the prosecution of cases of assisted suicide. The 'Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide' was published on 25 February, and places more focus on the motivation of the suspect rather than the characteristics of the victim. The policy comes as a result of the House of Lords decision in the case of R (On the application of Purdy) v Director of Public Prosecutions in 2009, in which the DPP was requested to clarify his position as to the factors that he regards as relevant for and against prosecution in cases of encouraging and assisting suicide. An interim policy was published in September 2009, alongside a public consultation which attracted nearly 5000 responses.

Under Section 2 of the Suicide Act 1961, a person commits an offence if he or she does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and that act was intended to encourage or assist suicide or an attempt at suicide. Neither the case of Purdy nor the DPP's guidance in the policy amends the offence or changes the law. The policy instead lists a number of factors to be taken into account, alongside those set out in the Code for Crown Prosecutors, to establish whether a prosecution is required in the public interest.

Under the policy, a prosecution is more likely to be required if:

- The victim was under 18 years of age;
- The victim did not have the capacity (as defined by the Mental Capacity Act 2005) to reach an informed decision to commit suicide;
- The victim had not reached a voluntary, clear, settled and informed decision to commit suicide;
- The victim had not clearly and unequivocally communicated his or her decision to commit suicide to the suspect;
- The victim did not seek the encouragement or assistance of the suspect personally or on his or her own initiative;
- The suspect was not wholly motivated by compassion; for example, the suspect was motivated by the prospect that he or she or a person closely connected to him or her stood to gain in some way from the death of the victim;
- The suspect pressured the victim to commit suicide;
- The suspect did not take reasonable steps to ensure that any other person had not pressured the victim to commit suicide;
- The suspect had a history of violence or abuse against the victim;
- The victim was physically able to undertake the act that constituted the assistance him or herself;
- The suspect was unknown to the victim and encouraged or assisted the victim to commit or attempt to commit suicide by providing specific information via, for example, a website or publication;
- The suspect gave encouragement or assistance to more than one victim who were not known to each other;
- The suspect was paid by the victim or those close to the victim for his or her encouragement or assistance;
- The suspect was acting in his or her capacity as a medical doctor, nurse, other healthcare professional, a professional carer [whether for payment or not], or as a person in authority, such as a prison officer, and the victim was in his or her care;
- The suspect was aware that the victim intended to commit suicide in a public place where it was reasonable to think that members of the public may be present;

- The suspect was acting in his or her capacity as a person involved in the management or as an employee (whether for payment or not) of an organisation or group, a purpose of which is to provide a physical environment (whether for payment of not) in which to allow another to commit suicide.

Under the policy, a prosecution is less likely to be required if:

- The victim had reached a voluntary, clear, settled and informed decision to commit suicide;
- The suspect was wholly motivated by compassion;
- That actions of the suspect, although sufficient to come within the definition of the offence, were of only minor encouragement or assistance;
- The suspect had sought to dissuade the victim from taking the course of action which resulted in his or her suicide;
- The actions of the suspect may be characterised as reluctant encouragement or assistance in the face of a determined wish on the part of the victim to commit suicide;
- The suspect reported the victim's suicide to the police and fully assisted them in their enquiries into the circumstances of the suicide or the attempt and his or her part in providing the encouragement or assistance.

The consent of the DPP is required before a person can be prosecuted for an offence under section 2 of the Suicide Act 1961, and whether a prosecution is deemed to be in the public interest will be decided on the individual circumstances of the case. As the police are responsible for investigating all cases of encouraging or assisting suicide, the Association of Chief Police Officers intends to publish guidance to assist police officers when dealing with such cases.

The Policy for Prosecutors in Respect of Cases of Encouraging or Assisting Suicide can be accessed on the Crown Prosecution Service website at http://www.cps.gov.uk/publications/prosecution/assisted_suicide_policy.html

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.

A Narrow Interpretation Was Rejected When Considering Information Likely to be Useful In Committing or Preparing an Act of Terrorism

R v SULTAN MUHAMMED (2010)

CA (Crim Div) (Hooper LJ, Wyn Williams J, Judge Warwick McKinnon (Recorder of Croydon)) 19/2/2010

Criminal Law - Sentencing

Collecting Terrorist Information: Discretion: Information: Preparation Of Terrorist Acts: Sentence Length: Document Suggesting Ways To Avoid Detection: Interpretation Of S.58(1)(A) Terrorism Act 2000: S.57(1) Terrorism Act 2000: S.58(1) Terrorism Act 2000: S.58(1)(A) Terrorism Act 2000

A narrow interpretation of the Terrorism Act 2000 s.58(1)(a), excluding suggestions on how to avoid detection, was rejected. Trying to draw distinctions between the various stages of planning terrorist acts would bring an unjustified complication into cases under s.58.

The appellant (M) appealed against his conviction for making a record of information likely to be useful in terrorism, contrary to the Terrorism Act 2000 s.58(1), and against the sentence imposed of four years' imprisonment. M had written a document which described ideas on avoiding detection and concealing information from others, for example by using mobile telephone sim cards registered with other people's details, using coded words in emails, and avoiding using words such as "jihad" on the telephone. He was also convicted of three offences contrary to s.57(1). M argued that (1) a narrow interpretation should be given to the phrase "information of a kind likely to be useful to a person committing or preparing an act of terrorism" in s.58(1). The section was aimed at the perpetration of a terrorist act, not at how to avoid detection; (2) a wider interpretation of s.58(1)(a) would leave prosecutors with too wide a discretion in deciding whether to take action; (3) his sentence was manifestly excessive.

HELD

(1) The submission that there should be a narrow interpretation of s.58(1)(a) should be rejected. Trying to draw distinctions between the various stages of preparation would bring an unnecessary and unjustified

complication into cases under s.58. Nor did the fact that the document might be useful to persons other than terrorists mean that it fell outside s.58. The relevant information had to be such as to call for an explanation pursuant to s.58(3). Documents of everyday use to ordinary members of the public would not be documents that called for an explanation. It could not sensibly be said that M's document contained such information. Provided that the document containing the relevant information was not one in everyday use by ordinary members of the public, such as published timetables and maps, and provided that a reasonable jury could properly conclude that the document contained information of a kind likely to be useful to a person committing or preparing an act of terrorism, it would be a matter for the jury whether they were sure that it contained such information. If so, and provided that the defendant had the necessary mens rea, the only issue would be whether the defendant had a reasonable excuse, R v G (2009) UKHL 13, (2010) 1 AC 43 applied.

(2) The discretion argument could not succeed in the light of the comments in R. v G that prosecutors were familiar with the need to exercise a discretion in deciding whether to take proceedings would be in the public interest and that proceedings under s.58 could not be initiated without the consent of the Director of Public Prosecutions.

(3) The four-year sentence for a document containing, in large measure, well-known information was manifestly excessive. Bearing in mind that the document had been created with terrorism in mind, and not for other purposes, the appropriate sentence was two years' imprisonment.

APPEALS ALLOWED IN PART

Term 'Present Together' Requirement For Violent Disorder Does Not Require A Common Purpose

R v NW (2010)

CA (Crim Div) (Moore-Bick LJ, Silber J, Kenneth Parker J) 3/3/2010

Criminal Law

Police Officers: Public Order Offences: Putting People In Fear Of Violence: Resisting Arrest: Threats: Violent Disorder: Meaning Of "Present Together" In S.2 Of The Public Order Act 1986: S.2 Public Order Act 1986

The term "present together" in the Public Order Act 1986 s.2 meant no more than being in the same place at the same time; there was no requirement that there was a common purpose among those using or threatening violence. As such a school girl's conviction for violent disorder, where she resisted arrest and members of the public became involved and issued threats of violence, was safe.

The appellant (W) appealed against a conviction of violent disorder. W, a 15-year-old school girl, had been sitting in a town centre with her friend who dropped a piece of litter. Two police officers told her to pick it up, she did so but then dropped it again as they walked on. She refused to pick it up and one of the officers took hold of her arm and started to lift her up. W tried to pull her friend down and an officer seized her hand and bent her thumb back. The incident escalated and members of the public became involved acting in a hostile manner making threats of violence to the police officers. W bit the officer on his shoulder. CS spray was eventually used to subdue W. At trial it was W's case that the confrontation with the officers had concerned her alone, she had not been acting in concert with the crowd and was therefore "not present" with others who had used or threatened violence for the purpose of the Public Order Act 1986 s.2. W's submission that there was no case to answer was rejected. The issue for determination was whether, in order to be guilty of the offence of violent disorder, a person must deliberately act in combination with at least two other people present at the scene, or whether it was sufficient that at least three people were present, each separately using or threatening unlawful violence. W contended that the requirement in s.2, of being present together, was not satisfied as she had been engaged in a purely personal struggle with the police officer and had played no part in inciting or encouraging the actions of those who gathered to watch.

HELD

(1) The absence of any requirement in s.2 that there be a common purpose among those using or threatening the use of violence made it clear that the offence which it created was not confined to situations in which the individual members of the crowd were acting together to achieve a common aim or even with a common motive. The expression present together meant no more than being in the same place at the same time. Three or more people using or threatening violence in the same place at the same time, whether for the same purpose or different purposes, were capable of creating a daunting prospect for those who may encounter them, simply by reason of the fact that they represented a breakdown of law and order. The phrase did not require any degree of co-operation between those using or threatening violence.

(2) Whilst W was struggling with the officer a crowd gathered and various members of that crowd used or threatened violence. It was undoubtedly open to the jury, on the evidence, to find that there was a time when W and at least two members of the crowd were in the same place using or threatening violence. Accordingly, the judge was right to reject the submission of no case to answer and his directions to the jury could not be faulted.

APPEAL DISMISSED

Whether Work Was Casual Is Not Relevant When Considering Reasonable Excuse For Possessing a Bladed Article In Public

HARJUNDER SINGH CHALAL v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Laws LJ, McCombe J) 24/2/2010

Criminal Law

Defences: Having Bladed Articles: Knives: Knife Required For Work: Relevance Of Casual Nature Of Work: S.139(1) Criminal Justice Act 1988: S.139(4) Criminal Justice Act 1988

In considering whether an individual had a good reason under the Criminal Justice Act 1988 s.139(4) for being in possession of a bladed article in a public place, the fact that the work for which he needed the knife was casual work was not a relevant consideration.

The appellant (C) appealed by way of case stated against a decision of a youth court to convict him of possession of a bladed article in a public place. C had been searched by police officers and was found to have in his possession a lock knife. C maintained that he used the knife at work but a police check found that he was unemployed. He was charged with being in possession of a bladed article in a public place contrary to the Criminal Justice Act 1988 s.139(1). At trial C maintained that he had a defence under s.139(4) of the Act as he used the knife for cutting straps off boxes at a business run by his uncle; that he had worn a jacket at work owing to cold temperatures; that he had left the knife in a pocket of the jacket and forgotten about it; that he had left the jacket in a wardrobe and grabbed it when going out for the evening; and that he had later discovered the knife and had been returning home with the knife when stopped. The youth court found that after leaving his uncle's work premises C had gone home and forgotten the knife as he claimed. However, it further found that the work in question was casual that C did not need to use the knife on a regular basis for work. It held that, having regard to the circumstances, he did not have a defence under s.139(4). The question posed for the opinion of the High Court was whether the youth court had erred in law in not finding that C had a good reason for having the bladed article with him in a public place.

HELD

The answer to the question posed was yes. On the evidence, accepted by the magistrates, C had used the knife at work, casual or not. He put it in his pocket in case he needed it again for that purpose and had then forgotten about it. It was not kept in his pocket for any other intervening purpose. The lapse of time since he used the knife had been short. The fact that the work was casual was irrelevant. There was nothing sinister about the fact that he still had the knife in his possession some while after discovering it in his pocket, R v Jolie (Leroy) (2003) EWCA Crim 1543, (2004) 1 Cr App R 3 applied.

APPEAL ALLOWED

Conduct Must Be 'Executory' to Constitute An Attempt

MOORE v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Toulson LJ, Owen J) 2/3/2010

Criminal Law - Road Traffic

Attempts: Conduct: Driving While Over The Limit: Road Traffic Offences: Conduct Capable Of Constituting Attempt To Commit Offence: Appropriate Manner To Determine Characterisation Of Conduct: S.1(1) Criminal Attempts Act 1981: Criminal Attempts Act 1981: S.5(1)(A) Road Traffic Act 1988

For conduct by an individual to constitute an attempt to commit an offence under the Criminal Attempts Act 1981, and not an act that was merely preparatory to the commission of an offence, the conduct by the individual had to be sufficiently close to the final act that it could, on the application of common sense, be properly regarded as part of the execution of the individual's plan to commit the intended offence.

The appellant motorist (M) appealed by way of case stated against a decision of a district judge that he had a case to answer to a charge of attempting to drive a motor vehicle in a public place contrary to the Road Traffic Act 1988 s.5(1)(a). The prosecution had adduced evidence that an armed police officer, who was manning a gate in the perimeter fence of an atomic weapons establishment, had been approached by M with a request that he be allowed to collect his car from a recreational facility within the fence. The police officer drove M to where his car was parked some 100m from the gate. The police officer smelled alcohol on M's breath as he was leaving the car. The police officer returned to the gate. On seeing M approach the gate the officer signalled for M to stop around 10m from the gate and 15m from a public road. The road was the only place that M could have driven to. M provided a positive breath test and was arrested and cautioned. M replied on being cautioned that "I need to drive my friend home now". The district judge rejected a submission by M that he had no case to answer to a charge of attempting to drive a motor vehicle in a public place. As a consequence M pleaded to that charge and a charge of driving in a public place against M was dropped. The questions posed for the opinion of the High Court were whether the district judge was correct in (i) concluding that an offence of attempting to drive a motor vehicle on a road after consuming alcohol in excess of the prescribed limit could be committed when the vehicle was not on a road; (ii) rejecting M's submission of no case to answer. M contended that (1) as he had been stopped within the establishment he had not been attempting to drive on a public road; (2) as he was actually driving when stopped it could not be said that he was attempting to drive; (3) on the facts found his conduct could not be said to constitute an attempt to drive as it was properly only a step that was "merely preliminary" pursuant to the Criminal Attempts Act 1981 s.1(1) and not an attempt.

HELD

(1) Simply because the establishment was not a public place did not mean that M was not attempting to drive a motor vehicle in a public place.

(2) It could not be said that the difference between driving and attempting to drive was the achievement of motion, R v Farrance (Gordon Arthur) (1978) 67 Cr App R 136 CA (Crim Div), Hoy (Sean) v McFadyen 2000 JC 313 HCJ and DPP v Alderton (2003) EWHC 2917 (Admin), (2004) RTR 23 followed.

(3) Whether acts by an individual amounted to an attempt to drive was highly fact sensitive, Shaw v Knill (1974) RTR 142 DC followed and Mason v DPP (2009) EWHC 2198 (Admin), (2010) RTR 11 considered. The instant case was analogous to Knill as on the facts found it was clear that had the police officer not intervened M would have driven on to a public road, Knill followed. It was difficult if not impossible to reconcile all the authorities as to what constituted an attempt to commit an offence and what was merely preparatory to the commission of an offence. The interpretation reached by the Law Commission in Law Commission Consultation Paper No.183 on Conspiracy and Attempt at para.4.5, which had yet to be approved, stated that "Further preparatory conduct by D which is sufficiently close to the final act to be properly regarded as part of the execution of D's plan can be an attempt. Such conduct is not merely preparatory but more than merely preparatory. It is, for want of a better expression, 'executory'. It is the preparatory conduct associated with the actual execution of D's plan, when, as a matter of common sense, D can properly be said to be 'on the job'. In other words, it covers the steps immediately preceding the final act necessary to effect D's plan and bring about the commission of the intended offence." There was difficulty with the phrase "on the job" as that phrase raised the question where "on the job" began. If it was meant to suggest that the actus reus had commenced it was doubtful that it was correct as some preparatory acts might amount to the actus reus depending on the construction of the relevant statute. Further, it had to be left to common sense to determine whether conduct had gone beyond mere preparation. In the instant case, M's conduct had gone beyond mere preparation. (4) It was appropriate to answer the questions posed in the affirmative.

APPEAL DISMISSED

Type-Approved Breathalysers Cannot Be Challenged in Criminal Courts

DAVID ROSE v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Waller LJ, Swift J) 11/3/2010

Road Traffic - Criminal Evidence - Criminal Law

Breath Samples: Breath Tests: Delay: Driving While Over The Limit: Type Approval: Challenge To Approval Of Type-Approved Device: Breathalysers: S.5(1) Road Traffic Act 1988: S.15(2) Road Traffic Offenders Act 1988: S.5(1)(A) Road Traffic Act 1988

The judgment in Zafar v DPP (2004) EWHC 2468 (Admin), (2005) 169 JP 208 did not alter the position that a type-approved breathalyser could not be challenged in a criminal court, and the Crown Court had correctly dismissed an individual's appeal against conviction for an offence under the Road Traffic Act 1988 s.5(1)(a).

The appellant (R) appealed by way of case stated against a decision of the Crown Court to dismiss his appeal against conviction for an offence under the Road Traffic Act 1988 s.5(1)(a). R had been stopped whilst driving a car. His roadside breath test proved positive and he was taken to the police station where he provided further samples of breath that showed him to be nearly three times over the prescribed limit. The breathalyser machine used at the police station was a type-approved device that was designed and approved to detect the presence of mouth alcohol and if detected it would abort the analysis. The breathalyser was operating reliably on the night in question. R was convicted in the magistrates' court of the offence under s.5(1). During the hearing it became apparent for the first time that the device used for measuring breath at the roadside stored in its memory the figures for the roadside test, although no such figures were put in evidence. The Crown Court dismissed the appeal. There was a gap of over seven years between the date of the offence and the dismissing of the appeal. R submitted that (1) the breathalyser used at the police station was not type-approved. He argued that the type approval required the machine to detect mouth alcohol and abort where such was detected, but because the effect of Zafar v DPP (2004) EWHC 2468 (Admin), (2005) 169 JP 208 meant that evidence of the presence of mouth alcohol no longer provided a defence, as Zafar defined breath to include air that might have been mixed with mouth alcohol, it was unfair for a breath test to be carried out by a machine that might be failing to detect mouth alcohol and on that basis the machine was not approved; (2) by virtue of the Road Traffic Offenders Act 1988 s.15(2) the respondent DPP had been bound to put in evidence the reading of the roadside breath test; (3) the proceedings should be stayed on the grounds of delay.

HELD

(1) The approval granted by the secretary of state to any particular device was not subject to a challenge in a criminal court, although the reliability of a particular device could be challenged, DPP v Memery (2002) EWHC 1720 (Admin), (2003) 167 JP 238 and DPP v Brown (Andrew Earle) (2001) EWHC Admin 931, (2002) 166 JP 1 applied. There was nothing to suggest that Zafar altered that position or that the same evidence could not be given post- Zafar as pre- Zafar, Zafar considered. The fact that giving evidence of the possible presence of mouth alcohol did not provide a defence since breath included all that was exhaled did not in any way limit the giving of that evidence to support a case that the device was unreliable if there was other evidence that would support that case.

(2) Section 15(2) did not compel the DPP to adduce the result of the roadside breath test, Murphy v DPP (2006) EWHC 1753 (Admin), Smith v DPP (2007) EWHC 100 (Admin), (2007) 4 All ER 1135 and Breckon v DPP (2007) EWHC 2013 (Admin), (2008) RTR 8 applied. In addition, at no stage was there any duty on the DPP to disclose the figures. At the time

of the original trial it was unknown that the figures were available, and by the time of the appeal the figures were unavailable through any means.

(3) Although the delay was extremely lengthy, it was not appropriate to stay the proceedings, Murphy applied. It was relevant to look at the whole picture, including the merits of R's case, but in the end it was clear that R had a fair hearing.

APPEAL DISMISSED

SI 214/2010 The Criminal Procedure and Investigations Act 1996 (Notification of Intention to Call Defence Witnesses) (Time Limits) Regulations 2010

In force **1 May**. These Regulations prescribe the relevant period for the purposes of section 6C of the Criminal Procedure and Investigations Act 1996 within which the accused in criminal proceedings must give notice of intention to call any person as a witness at trial.

SI 312/2010 The Road Vehicles (Construction and Use) (Amendment) Regulations 2010

In force **23 March**. These Regulations amend the Road Vehicles (Construction and Use) Regulations 1986 by inserting regulation 25A which requires that tyres fitted to certain vehicles are marked with an S mark to show that they comply with noise emission requirements.

SI 360/2010 The Police and Criminal Evidence Act 1984 (Application to Revenue and Customs) Order 2007 (Amendment) Order 2010

In force **19 March**. This Order applies certain provisions of the Police and Criminal Evidence Act 1984 (PACE) to relevant investigations conducted by officers of Revenue and Customs and to persons detained by such officers.

SI 414/2010 The Police and Justice Act 2006 (Commencement No. 13) Order 2010

This Order brings into force the following provisions of the Police and Justice Act 2006 on **15 March** 2010:

- Section 2 (amendments to the Police Act 1996) in so far as it relates to paragraph 30 of Schedule 2 (amendments to the Police Act 1996); and
- Paragraph 30 of Schedule 2 (arrangements for obtaining the views of the community on policing).

SI 418/2010 The Police Authorities (Particular Functions and Transitional Provisions) (Amendment) Order 2010

In force **17 March**. This Order amends the Police Authorities (Particular Functions and Transitional Provisions) Order 2008, which confers particular functions on police authorities under section 6ZA of the Police Act 1996. It adds a new function to that Order, requiring police authorities to monitor complaints by members of the public to the police force in question, and to intervene where the response of the force to such a complaint appears to be unsatisfactory.

SI 421/2010 The Police Authority (Community Engagement and Membership) Regulations 2010

In force **17 March**. These Regulations make provision supplementing that in section 96 of the Police Act 1996 (arrangements for obtaining the views of the community on policing) and also make provision as to the membership of police authorities.

SI 422/2010 The Policing Plan (Amendment) Regulations 2010

In force **7 March**. These Regulations amend the Policing Plan Regulations 2008. In particular they provide that a policing plan shall contain a Value for Money Statement, setting out certain information about the measures a police authority proposes to take to increase the efficiency and productivity of the police force for its area.

SI 431/2010 The Police Pensions (Amendment) Regulations 2010

In force **1 April**. These Regulations make various amendments to the Police Pensions Regulations 1987 and amend the Police Pensions Regulations 2006 and the Police (Injury Benefit) Regulations 2006.

The 1987 Regulations are amended as follows:

- To give senior police officers the right to retire on or after reaching the age of 50 years, if they give 6 months notice to the police authority and are not subject to any disciplinary proceedings. This amendment has effect from 1 April 2004 until 30 September 2006 only.
- To allow a police authority to disapply the regulation which limits the size of lump sum for which a police officer with less than 30 years' service can commute his or her pension, in the limited circumstance where the officer retires one day before reaching 30 years' service, and below the age of 50.

SI 461/2010 The Regulation of Investigatory Powers (Extension of Authorisation Provisions: Legal Consultations) Order 2010

In force **26 February**. This Order provides that any description of directed surveillance is to be treated for the purposes of Part II of the Regulation of Investigatory Powers Act 2000 as intrusive surveillance where it is carried out in relation to specified premises used for the purpose of legal consultations.

SI 462/2010 The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Code of Practice) Order 2010

In force **6 April**. This Order brings into force the revised code of practice under section 71 of the Regulation of Investigatory Powers Act 2000 and laid before parliament on 21 January 2010.

The document can be found at
http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/covert-human-intel-source-COP.html

SI 463/2010 The Regulation of Investigatory Powers (Covert Surveillance and Property Interference: Code of Practice) Order 2010

In force **6 April**. This Order brings into force the revised code of practice under section 71 of the Regulation of Investigatory Powers Act 2000 and laid

before parliament on 5 January 2010. The document can be found at http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/covert-surveil-prop-inter-COP.html

SI 469/2010 The Violent Crime Reduction Act 2006 (Commencement No. 8) Order 2010

This Order brings into force a number of provisions of the Violent Crime Reduction Act 2006 on **1 April**:

- Section 6 (orders on conviction in criminal proceedings);
- Section 7 (supplementary provision about orders on conviction);
- Section 8 (variation or discharge of orders under s.6);
- Section 9 (interim orders);
- Section 10 (appeals);
- Section 11 (breach of drinking banning orders);
- Section 12 (approved courses);
- Section 13 (certificates of completion of approved courses);
- Section 14 (interpretation of Chapter 1).

SI 480/2010 The Regulation of Investigatory Powers (Communications Data) Order 2010

In force **6 April**. This Order consolidates the Orders revoked by article 9 of this Order.

The following Orders are revoked:

- The Regulation of Investigatory Powers (Communications Data) Order 2003;
- The Regulation of Investigatory Powers (Communications Data) (Amendment) Order 2005;
- The Regulation of Investigatory Powers (Communications Data) (Additional Functions and Amendment) Order 2006.

SI 507/2010 The Policing and Crime Act 2009 (Commencement No. 4) Order 2010

In force **various dates**. This order brings into force various provisions of the Policing and Crime Act 2009.

Provisions coming into force on **2 March**:

- Section 27(11) and Schedule 3 of the 2009 Act (for purposes of making orders relating to lap dancing and other sexual entertainment venues);
- Section 108(4) and (5) of the 2009 Act for the purpose of making regulations under section 6 of the Crime and Disorder Act 1998.

Provisions coming into force on **12 March**:

- Section 5 (police collaboration);
- Section 112(1) (minor and consequential amendments and repeals and revocations) relating to the provisions of Part 1 of Schedule 7;
- Part 1 of Schedule 7.

Provisions coming into force on **1 April**:

- Section 14 (paying for sexual services of a prostitute subjected to force etc: England and Wales);
- Section 15 (paying for sexual services of a prostitute subjected to force etc: Northern Ireland);
- Section 16 (amendment to offence of loitering etc. for purposes of prostitution);
- Section 17 (orders requiring attendance at meetings);
- Section 18 (rehabilitation of offenders: orders under section 1(2A) of the Street Offences Act 1959);
- Section 19 (soliciting: England and Wales);
- Section 20 (soliciting: Northern Ireland);
- Section 21 (closure orders) in relation to England and Wales only;
- Section 22 (time limits);
- Section 23 (foreign travel orders: grounds);
- Section 24 (foreign travel orders: duration);
- Section 25 (foreign travel orders: surrender of passports);
- Section 79 (security planning for airports) in relation to Northern Ireland only;
- Section 80 (policing at airports) in relation to Northern Ireland only;
- Sections 103 to 107 (football spectators);
- Section 108 (strategies for crime reduction etc: probation authorities) insofar as not already in force;
- Section 112(1) (minor and consequential amendments and repeals and revocations) relating to the provisions of Part 3 of Schedule 7 specified in sub-paragraph (v) and Part 12 of Schedule 7;
- Section 112(2) (minor and consequential amendments and repeals and revocations) relating to Parts 2 and 11 of Schedule 8;
- Schedule 1 (Schedule to the Street Offences Act 1959);
- Schedule 2 (closure orders) in relation to England and Wales only;

- Schedule 6 (amendment of Part 3 of the Aviation Security Act 1982) in relation to Northern Ireland only;
- Paragraphs 18 to 22, 24 and 26 of Schedule 7;
- Part 12 of Schedule 7;
- Parts 2 and 11 of Schedule 8.

Transitional and savings provision:

Section 17 and 18 of the 2009 Act, which creates a new penalty for a person who commits an offence contrary to section 1 (loitering or soliciting for purposes of prostitution) of the Street Offences Act 1959, will not apply to a person who commits such an offence during a period which falls wholly or partly before 1 April 2010.

SI 606/2010 UK Borders Act 2007 (Commencement No. 6) Order 2010

In force **1 April 2010.** This Order brings into force Section 24 of the UK Borders Act 2007, which applies Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (recovery of cash) to an immigration officer as it applies in relation to a constable.

SI 611/2010 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2010

In force **5 March 2010**. This Order adds "Al Shabaab" to the list of Proscribed Organisations in Schedule 2 to the Terrorism Act 2000.

SI 645/2010 The Prevention of Terrorism Act 2005 (Continuance in Force of Sections 1 to 9) Order 2010

In force **11 March 2010**. This Order states that Sections 1 to 9 of the Prevention of Terrorism Act 2005 shall not expire in accordance with article 2 of the Prevention of Terrorism Act 2005 (Continuance in Force of Sections 1 to 9) Order 2009but shall continue in force for a period of one year beginning with 11 March 2010.

SI 712/2010 The Criminal Justice and Immigration Act 2008 (Commencement No.14) Order 2010

In force **various dates**. This Order brings into force a number of provisions of the Criminal Justice and Immigration Act 2008.

The following provisions come into force on **23 March 2010**:

- Section 74 (hatred on the grounds of sexual orientation) to the extent that it is not already in force;
- Section 148(1) (consequential etc. amendments and transitional and saving provision), to the extent that it refers to paragraph 70 (Criminal Justice Act 2003) of Schedule 26 (minor and consequential amendments);
- Section 149 (repeals and revocations), to the extent that it refers to the entry relating to section 233 of the Criminal Justice Act 2003, in Part 2 (sentencing) of Schedule 28 (repeals and revocations);

- Schedule 16 (hatred on the grounds of sexual orientation) to the extent that it is not already in force;
- In Schedule 26 (minor and consequential amendments), paragraph 70 (Criminal Justice Act 2003); and
- In Part 2 (sentencing) of Schedule 28 (repeals and revocations), the entry relating to section 233 of the Criminal Justice Act 2003.

The following provisions of the Act will come into force on **1 April 2010**:

- Section 148(1) (consequential etc. amendments and transitional and saving provision), to the extent that it refers to paragraph 83 (Offender Management Act 2007) of Schedule 26 (minor and consequential amendments); and
- In Schedule 26 (minor and consequential amendments), paragraph 83 (Offender Management Act 2007).

Section 144 (power to require data controllers to pay monetary penalty) of the 2008 Act, to the extent that it is not already in force, comes into force on **6 April 2010**.

SI 722/2010 The Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) (England) Order 2010

In force **6 April 2010**. The Order brings into force the following provisions of the Policing and Crime Act 2009 on 6 April 2010:

- Section 27 (regulation of lap dancing and other sexual entertainment venues etc.) so far as not already in force;
- Schedule 3 (lap dancing and other sexual entertainment venues etc: transitional provision) so far as not already in force;
- Paragraph 23 of Schedule 7 (amendment to the 2003 Act) and section 112(1) (minor and consequential amendments and repeals) so far as it relates to that paragraph.

Transitional and saving provisions are also commenced by this Order.

SI 723/2010 The Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010

In force **6 April 2010**. This Order repeals provisions of a number of local Acts as a result of the coming into force of section 27 (lap dancing and other sexual entertainment venues) of the Policing and Crime Act 2009.

SI 816/2010 The Coroners and Justice Act 2009 (Commencement No. 4, Transitional and Saving Provisions) Order 2010

In force **various dates**. This Order brings into force a number of provisions of the Coroners and Justice Act 2009.

The following provisions will come into force on 6 April 2010:

- Sections 74 to 83 and 85 of the 2009 Act (anonymity in investigations).

The following provisions of the 2009 Act shall come into force on 6 April 2010 in the relevant local justice areas:

- Section 178 (repeals), so far as it relates to the provisions specified in sub-paragraph (b); and
- In Part 3 of Schedule 23 (criminal evidence and procedure), the repeals relating to the Police and Criminal Evidence Act 1984 and section 57C of the Crime and Disorder Act 1998.

The relevant local justice areas for these provisions are:

- In London: Barking and Dagenham; Barnet; Bexley; Brent; Bromley; Camden and Islington; City of London; City of Westminster; Croydon; Ealing; Enfield; Greenwich and Lewisham; Hackney and Tower Hamlets; Hammersmith and Fulham and Kensington and Chelsea; Haringey; Harrow Gore; Havering; Hillingdon; Hounslow; Kingston-upon-Thames; Lambeth and Southwark; Merton; Newham; Redbridge; Richmond-upon-Thames; Sutton; Waltham Forest; and Wandsworth; and
- In Kent: Central Kent; East Kent; and North Kent.

The following provisions will come into force on **4 October 2010**:

- Section 52 (persons suffering from diminished responsibility (England and Wales));
- Section 56(2)(a) (repeal relating to abolition of common law defence of provocation);
- Section 57 (infanticide (England and Wales));
- In section 177 (consequential etc. amendments and transitional and saving provisions), subsection (1) so far as it relates to the provision specified in sub-paragraph (f);
- Section 178, so far as it relates to the provisions specified in sub-paragraph (g);
- In Schedule 21 (minor and consequential amendments), paragraph 52;
- In Part 2 of Schedule 23 (criminal offences), the repeals relating to:
  - The Homicide Act 1957; and
  - The Criminal Justice Act 2003.

The following provisions of the 2009 Act shall come into force on **4 October 2010** in England and Wales:

- Sections 54 and 55 (partial defence to murder: loss of control); and
- Section 56(1) (abolition of common law defence of provocation).

Transitional and savings provisions are also brought into force by this Order.

SI 817/2010 The Police Act 1997 (Criminal Records) (Amendment) Regulations 2010

In force **1 April 2010**. These Regulations make amendments to the Police Act 1997 (Criminal Records) Regulations 2002 and the Police Act 1997 (Criminal Records) (No. 2) Regulations 2009 in relation to enhanced criminal record certificates.

SI 860/2010 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

In force **various dates**. Under Sections 19A and 73A of the Licensing Act 2003, the Secretary of State can prescribe up to nine mandatory conditions applicable to relevant premises licenses and club premises certificates. The Schedule to this Order sets out five mandatory conditions.

The Order will come into force on **6 April 2010**, except paragraphs 4 and 5 of the Schedule which will come into force on **1 October 2010**.

SI 861/2010 The Extradition Act 2003 (Amendment to Designations) Order 2010

In force **25 March 2010**. This Order amends the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 and designates Libya as a category 2 territory for the purposes of the Extradition Act 2003. This Order also amends article 4(2) of the 2003 Order by adding Libya to the list of territories designated for the purpose of section 74(11)(b) of the 2003 Act.

High Level Working Group Report on Police Value for Money

The Home Office High Level Working Group has published its 'Report on Police Value for Money', which notes that the service is expected to deliver savings of at least £100million in 2010/2011. The report creates a template for how police forces and authorities can improve value for money and enable improvements in delivery, to meet the challenges of tougher budgets and rising public expectations.

It is expected that incremental changes in delivery should be examined by forces to see if they will deliver the required savings, and it is anticipated that a fundamental examination will be needed of structures and processes. Authorities and forces must increase productivity at the frontline to deliver more for the same. Alongside this authorities must deliver savings in the back office functions, delivering the same for less. The report recommends forces and authorities look at whether Basic Command Units (BCU) enable forces to maximise delivery of services. Police authorities are to publish a Value for Money Statement as part of their local policing plan. Also highlighted by the report are the needs to:

- Adopt business process improvement to increase value for money;
- Do better at deployment, with improved shift patterns and less overtime;
- Improve procurement, with help from the tripartite, the NPIA and HMIC;
- Reduce the costs of support services; and
- Increase partnership working.

The report sets out a number of deliverable actions, aimed at three categories: the frontline, the back office and at enabling value for money. The owner of each action, along with the anticipated date of completion, is set out for each category.

Frontline

The report notes that over 80% of police service revenue is spent on officers and staff. Productivity must be increased to get more from the same, with a rise in the level and quality of service the public receive.

Workforce:

Deployment should be improved by ensuring shift patterns improve availability of officers and staff, with added resilience through use of the Special Constabulary. The number of officers in administrative or back office functions should be lowered, with administrative staff used to reduce the administrative burden on frontline officers.

The overtime bill is expected to be reduced significantly, at a local level forces should approach this with:

- Increased management control through effective training, guidance and clear direction from Senior Leaders, increased accountability by budget holders and improved financial management skills;

- Process improvement to reduce the demand for policing services, shown already by the application of QUEST to operational policing; and
- Effective deployment, matching the use of the workforce to demand.

Authorities and forces must focus on the biggest functions to increase productivity and must reduce bureaucracy. The use of discretion by officers, within a professional framework, must be increased. Continued support is given to voluntary mergers.

The report encourages consideration of whether the BCU structure is effective for delivery. Further to this forces and authorities should consider whether BCU and other functions could be delivered centrally.

Back office

National work will take place to support forces and authorities in delivering back office savings, particularly in procurement and IT. The report notes that forces and authorities are expected to make further savings in functions like HR and finance, and overall should adopt a more frugal approach;

Procurement can be improved, through forces and authorities creating collaborative procurement of goods and services and through developing nationally agreed contracts for vehicles, body armour and e-forensics. A 'champion/challenger' approach will ensure that products or services offering better value for national contracts can be adopted by the whole service. A timetable is in place for nationally agreed contracts in other goods and services, with further key items to be identified.

The Information Systems Improvement Strategy offers significant savings in IT delivery; authorities and forces should continue to support this. It is recommended that authorities and forces should use business process improvement methods to ensure that operational and business support services operate efficiently and economically. Forces and authorities must consider whether back office support services are operating with the optimum level of staff.

Enabling value for money

Emphasis in this area is placed upon what the tripartite, supported by the NPIA and HMIC, can do nationally to enable the improvements outlined above.

Police authorities are to publish a Value for Money Statement within their local policing plan, which is expected to include:

- Improvements in deployment;
- Reductions in overtime;
- A programme of business improvement;
- Reductions in bureaucracy;
- Converging IT nationally;
- Streamlining support services;

- Local approaches and collaboration; and
- Economising.

Value for money inspections will be carried out by HMIC and the Audit Commission. Performance management will be supported at a national level by the Police Performance Steering Group.

Benchmarking data is to be used by the service to identify where to focus on delivering savings. The report expects that forces should create system maps of the root causes of crime and the value for money of different interventions. Improvement in business skills should be made, with the NPIA Strategic Command Course focussing on this and a formal business skills training course for chief officers being developed.

Collaboration is encouraged by the report as a way to develop significant benefits. Authorities and forces should build on existing partnerships with policing partners. Local Criminal Justice Boards and Crime and Disorder Reduction Partnerships should be focussed on to address inefficiencies and drive improvements.

The full report can be found at http://police.homeoffice.gov.uk/publications/human-resources/value-for-money-report2835.pdf?view=Binary

HMIC Response to Consultation on Value for Money Profiles

In March 2010, Her Majesty's Inspectorate of Constabulary (HMIC) released their response on the Consultation on Value for Money Profiles (VfM).

The response follows on from the initial HMIC consultation 'Value for Money Profiles as a Diagnostic Tool for Police Authorities, Police Forces, HMIC and the Audit Commission' which was published on 14 August 2009.

The response sets out the feedback received from this consultation and covers:

- The content of the profiles;
- The data used in the profiles;
- How the profiles will be used; and
- How the profiles fit with similar work done by other organisations.

The HMIC response highlighted that VfM in the police service is about achieving the right local balance between the 3Es:

- Effectiveness - spending on the right things;
- Economy - maintaining an affordable spending level; and
- Efficiency - maximising productivity.

The response also highlighted that VfM was not an 'optional add-on', and that police forces must try and achieve an optimum balance between all three elements to maximise their VfM.

Key points from the consultation response include:

- VfM underpins all aspect of policing;
- Police forces face tighter budgets while maintaining a high quality service;
- The profiles were a tool to help the service and HMIC to consider strengths and weaknesses;
- Collaboration, outsourcing, PFI and workforce modernisation all affect VfM;
- The profiles need to be more user friendly;
- The profile data should be used to provide a baseline to compare force performance over time;
- Monitoring VfM in the future should include a year-on-year comparison, taking account of any efficiency savings made by a force;
- HMIC is to develop a VfM inspection methodology by spring 2010;
- HMIC is to exploring opportunities to work more closely with the Audit Commission on VfM with the help of the Police Performance Steering Group (PPSG); and
- HMIC is to work closely with partner agencies such as the NPIA about how their work can support forces and authorities to develop their analysis and processes for VfM.

The full response to the consultation can be found at http://www.hmic.gov.uk/SiteCollectionDocuments/Consultations/CTN_VFM_20100307.pdf

Review of the Police and Criminal Evidence Act

On 4 March 2010, the Home Office announced its plans following the review of the Police and Criminal Evidence Act (PACE) 1984 to streamline police powers and increase the time officers can spend on the frontline.

The measures follow an 18 month public consultation and compliment those outlined in the Crime and Security Bill. They are aimed at reducing bureaucracy within the police while raising operational effectiveness and accountability.

Key Recommendations of the review include:

- Increasing the flexibility of chief constables to use back-office staff for appropriate routine tasks;
- Rationalising existing police bail provisions to provide a single statutory approach to police bail;

- This received a positive response and it was felt that provision would send out a strong preventative message and would help raise public confidence in the use of bail. Under the proposals there would also be the creation of two new offences of failing to comply with conditions attached to bail issued on the street or issued pre-charge at the police station.

- Reducing time spent dealing with detainees by issuing guidance to chief constables on making best use of short-term detention facilities;
  - This received positive support from the police and Liberty and would allow the best use or resources and keep officers on the frontline.
- The development of a single code separate from but aligned to the principles of PACE on powers of entry for non-police agencies;
  - Although this proposal received support, there was resistance to extending PACE specifically to non-police agencies. It was recognised by some respondents that allowing 'non-police' agencies to exercise 'police-type' powers may create unnecessary confusion and complication.
- Making the Codes available electronically with appropriate search engines and navigational aids;
  - Early discussions on electronic format and public-use have been carried out and it is anticipated, subject to resources that publication will commence from mid 2010.
- Amending PACE to allow the power to enter premises to arrest for any offence subject to necessity;
  - It was suggested that an Inspector should be given the power to authorise entry and search of a suspect's premises where no arrest takes place but grounds for arrest exist.
- Removing the requirement for officers to be in uniform when entering premises for the purpose of an arrest;
  - This received wide support but with the use of caveats, for example, in circumstances involving children or vulnerable people, and in urgent cases.
- Combining police powers under sections 18 and 32 of PACE to enter premises after arrest to search for evidence of an offence;
  - This received wide support although it was felt that the 'merging' of both powers into a single power based on necessity would require sufficient safeguards to be put in place.
- Reducing the amount of information required following and limiting the recording requirements to ethnicity only;
  - This would reduce recording and encounter time by a matter of a couple of minutes. If rolled out nationally, the potential saving in officer time would be around 600,000 hours per annum on stop and account alone.

- Extension of designated staff powers beyond the home force;
  - It was suggested that legislation be introduced to allow designated powers to apply across contiguous force boundaries, in the same way that the powers of Special Constables were previously applied. This would maximise force utilisation and remove the previous difficulties when operating close to force boundaries.
- Engagement with the National Policing Improvement Agency on Doctrine Development to complement the Codes;
  - This would provide the opportunity to work in partnership on the future development of the Codes, to include integrated guidance and would be produced under the Doctrine Development provisions of the Police Reform Act 2002.
- Improvement of the effectiveness of cross border powers;
  - It was identified that the mobility of criminals can mean that offences can be committed in one country and the offender move over the border very quickly, hindering police ability to arrest them;
  - This provision was welcomed since it would improve the efficiency and effectiveness of cross border powers; and
  - The proposed new powers would focus on the ability to arrest, detain and grant bail, specifically.

Crime and policing Minster David Hanson MP said, “The public wants to see officers spending more of their time on the frontline and we are determined to see this. Through these changes to PACE we will help reduce bureaucracy and ensure the police can carry out their key duties on the frontline.”

The full Home Office Press release can be found at http://press.homeoffice.gov.uk/press-releases/PACE-review-cut-bureaucracy.html

Code of Practice on the Police National Database Released

The Code of Practice (the Code) for the new Police National Database (PND) was laid before Parliament on 17 March 2010 following public consultation and approval by the Association of Chief Police Officers (ACPO).

The Code takes effect from 31 March 2010 and will form the statutory framework for the lawful use of the PND across police forces and introduce safeguards to prevent misuse.

The PND was introduced following the recommendations of the Bichard Inquiry and allows police forces across the United Kingdom to share information and intelligence instantly on a national level.

Managed by the NPIA, it is envisaged that the PND will be an invaluable tool in preventing serious organised crime and will enable the police to better protect children and vulnerable people and reduce the risk of terrorist activities.

The Code covers the purpose of the PND, general principles and guides on using the PND. It is to be supplemented by guidance by the NPIA which will cover Standard Operating Procedures, a Code of Connection and Business and System Rules.

The purpose of the Code is to promote lawful and consistent use of the PND and the information on it: to ensure that practices are in place to ensure it is effective for policing purposes; that its use is compliant with the Data Protection Act 1998 (DPA) and the Human Rights Act 1998 (HRA) and that it is not used in a way which is discriminatory or unfair. Chief Officers are responsible under the Code for developing and implementing procedures and systems to achieve this. Her Majesty's Inspectorate of Constabulary will monitor compliance with the Code and associated guidance.

Home Office Minister for Identity, Meg Hillier MP, said: "When the PND is delivered later this year it will provide forces with a powerful new tool to fight crime and protect the most vulnerable in society. But it is vital that forces use this new information-sharing capability in a consistent and lawful way and for policing purposes only. The Code of Practice will enshrine these principles across the Police Service."

Forces will start to load data onto the PND in May 2010 and will start to use the new system in the autumn.

The full code can be found at
http://www.npia.police.uk/en/docs/PND_Code_of_Practice_-_FINAL_PDF.pdf

Independent Review of Retention and Disclosure of Records on the Police National Computer Published

On 18 March 2010, the Home Office published the report of the Independent Advisor for Criminality Information Management, Mrs Sunita Mason, into the arrangements for retaining and disclosing records on the Police National Computer.

Mrs Mason was appointed on 1 September 2009 to provide independent advice to Government on how best to use criminality information to serve and protect the public while respecting the rights of the individual. Her remit included considering the increasing public debate on the use and sharing of personal information held by government agencies.

In making recommendations as to retention of records, the independent advisor had regard to the Court of Appeal judgment in the case of Chief Constable of Humberside Police and Others v Information Commissioner [2009] EWCA Civ 1079 (see the January 2010 edition of the *Digest*). The independent advisor recommended that the current retention arrangements should continue. Specific recommendations in the review included:

- There should be no requirement to delete criminal records from the PNC, other than deletion of records at the age of 100 years;
- Adequate provision should be made to ensure records are automatically deleted at age of 100 years;

- All non-police users of the PNC to be subject to external audit by a relevant body (such as Her Majesty's Inspectorate of Constabularies), similarly to the police;
- The case for establishing a national database as an addition to the PNC or the Police National Database to support enhanced public protection is not yet established.

The review also considered whether access to PNC record information should be limited for the purposes of employment vetting. The report made a number of recommendations as to disclosure of PNC records for employment vetting including:

- Information provided from the PNC in relation to employment checks should be filtered, using specific business rules, so that employers are not given, for example, information about old or minor convictions;
- An expert panel should be established to advise Government on the filtering rules;
- Part V of the Police Act 1997 should be amended and section 4(4) of the Rehabilitation of Offenders Act 1974 should be reviewed to ensure that they remain an effective part of the recommended new disclosure process;
- Government should further consider the issue of soft intelligence disclosure so that a more balanced approach is taken on this complex issue;
- Government should review the dual operation of the Criminal Records Bureau and the Independent Safeguarding Authority, the two separate agencies that operate within the employment vetting landscape. Process integration could be considered at some stage in the future to reduce bureaucracy and to make cost savings.

The review also considered how disclosure arrangements can be made more accessible to employers and individuals and recommended that:

- Guidance for employers on how to interpret disclosure material should be developed and made more accessible;
- Clear guidance for individuals, to foster greater public understanding, should be issued.

The Home Secretary, Alan Johnson, welcomed the report and he accepted the principles behind all the recommendations. In particular he agreed that the current retention arrangements should continue, that the Rehabilitation of Offenders Act 1974 would need to be reviewed, and that further work should be done around disclosure of soft intelligence as part of enhanced criminal record checks.

The full report of the review 'A Balanced Approach: Safeguarding the public through the fair and proportionate use of accurate criminal record information' can be accessed at http://police.homeoffice.gov.uk/publications/about-us/ind-review-crim/A%20Balanced%20Approach.pdf?view=Binary

Home Office Release Statistics on Operation of Police Powers under Terrorism Act 2000 and Subsequent Legislation: Arrests, Outcomes and Stops and Searches

On 25 February 2010 the Home Office published its latest statistical bulletin 'Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes and stops and searches - Quarterly update to September 2009, Great Britain'.

The key points in the bulletin include:

Terrorism arrests and outcomes

- The number of terrorism arrests in the year ending 30 September 2009 increased slightly on the previous year from 178 to 201;
- 33% of terrorism arrests in the year ending 30 September 2009 resulted in a charge, a similar figure to the annual rate for the preceding year (36%). This is higher than the figure of 29% of those arrested and prosecuted for indictable offences in 2007/8;
- 36% of charges resulting from terrorism arrests in the year up to 30 September 2009 were terrorism related as compared with 67% the previous year;
- 70% of those held in pre-charge detention were dealt with within 48 hours, with no suspects held for more than 14 days;
- Of the 24 persons charged in the year up to 30 September 2009 and the 42 charged in the previous year, 11 were convicted of terrorism related offences. 24 persons are awaiting prosecution;
- 86% of defendants were convicted of terrorism related offences in the year up to 30 September 2009, a slight increase from 79% the previous year. Of those 25 persons convicted, 15 persons received determinate prison sentences, 9 persons received indeterminate sentences and 1 received a non-custodial sentence. Just under 50% pleaded guilty;
- There were 132 persons in prison, either on remand or following conviction, for terrorism or related offences as of 30 September 2009. 19 of these were classified as domestic extremists/separatists and 3 were historic cases.

Stops and searches under the Terrorism Act 2000 (TA)

This data should be considered as provisional. Fully verified data will be published by the Home Office in the annual statistical report 'Police Powers and Procedures'.

- In the year up to 30 September 2009 a total of 200,444 stops and searches were made under Section 44 of the TA 2000 in Great Britain. This was 12% lower than the previous year (227,431);
- 97% of all stops and searches in Great Britain under Section 44 between July and September 2009 were attributable to the Metropolitan Police Service and the British Transport Police.

- The proportion of those stopped under Section 44 who classed themselves as White has remained at roughly 60% in each quarter over the last 12 months. The proportion of those stopped who classed themselves as Black or Black British has remained at roughly 10% in each quarter of the same period with the proportion of those stopped who classed themselves at Asian or Asian British remaining at roughly 15%;
- 965 arrests resulted from Section 44 stops and searches in Great Britain in the year ending 30 September 2009, an arrest rate of 0.5%.

The full Home Office Statistical Bulletin is available at http://www.homeoffice.gov.uk/rds/pdfs10/hosb0410.pdf

Home Office Circular 001/2010: Police Survivors Support Scheme

On 8 February 2010, the Home Office released Home Office Circular 001/2010 on the Police Survivors Support Scheme (PSSS).

The PSSS is a special discretionary grant which provides financial assistance to eligible police adult survivors in England & Wales who have lost benefits under a special or augmented award that was originally given under the injury benefit regulations.

The PSSS will be administered on a not-for-profit basis by a trustee of the Police Dependants' Trust ('the PDT'), a leading UK Police charity.

Size of grant

The PDT Trustees shall determine if an individual is eligible as well as what assistance (if any) may be provided. Grants may be awarded up to a maximum of £20,000.00 per police adult survivor, depending upon the personal circumstances of the individual concerned.

Eligibility for a PSSS grant

The PSSS grant applies exclusively for police adult survivors who:

- Qualified for a special or augmented award on the death of their spouse or civil partner as a result of an injury received in the line of duty;
- Their special or augmented award was terminated as a result of remarriage etc; and
- As a result of which, at the discretion of the PDT, the adult survivor in question is:
  - Either assessed as being in need of financial assistance as a result of the loss of their special or augmented award; or
  - The PDT is satisfied that providing financial assistance to the adult survivor in question would, in the particular circumstances have the effect of promoting the efficiency of the police service in England and Wales.

Eligibility for a PSSS grant will not apply where an adult survivor benefits from a police pension under the new Police Pension Scheme 2006.

Administration

The Trustees of the PDT will assess the eligibility of each applicant in accordance with rules prepared by the PDT. The decision of the PDT whether or not to make an award shall be final.

Action required of force contacts on behalf of police authority

Each force has a designated contact point for the PSSS who will be contacted by or on behalf of the PDT to individual cases.

Police Authority contacts should normally respond in each case within 5 working days.

The full Home Office Circular can be found at http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2010/001-2010/index.html

Home Office Circular 002/2010: 30 + PLUS - Arrangements for the Re-Employment of Certain Police Officers Following Retirement

In February 2010, the Home Office published HO Circular 002/2010 on the new arrangements for the 30 + PLUS Scheme which take effect from 1 April 2010.

The 30 + PLUS Scheme is aimed at officers who have retired or who are about to retire from the service with maximum pension benefits and offers the opportunity to become re-employed outside the service or as a member of police staff within the force.

Entrance onto the scheme is not automatic and is through application only. The 30 + PLUS Scheme is open to officers in the federated ranks, where the officer is eligible for a maximum police pension and where a justifiable case for re-employment can be made.

The officer must be eligible to retire with an immediate maximum police pension and have a satisfactory performance and attendance record. There is no age limit other than the compulsory retirement age which applies to the officer's rank.

The Scheme has several key benefits to Police Force which include:

- Retaining certain valuable skills and experienced officers;
- Ensuring appropriate succession planning; and
- Retaining essential experience and skills to complete specific projects which retiring officers may have been involved with.

The benefits under the Scheme for police officers include:

- Tax-free retirement lump sum under the police pension commutation provisions;
- Re-engagement at former rank and pay level;
- Salary paid without the 11% Police Pension Scheme reduction;
- Option to build up additional pension benefits by contributing to a personal pension;
- Continued eligibility to apply for promotion; and
- Continued eligibility for an injury award (and other injury benefits) taking into account previous service.

Joining the Scheme has several implications that affect the officers' conditions of service and should be considered before joining the Scheme, namely that:

- Selection for the Scheme is at the discretion of the Force HR Director or equivalent;
- Officers are unable to re-join the Police Pension Scheme;
- Officers re-engagement is subject to annual review;
- The maximum appointment is four years in total;
- There must be a gap of at least one month but no more than one year between retirement as a police officer and re-engagement;
- Officers will not receive any pension in payment until after their 30 + PLUS appointment has finished;
- There will be no lump sum death grant payable in the event of death in service.

The administration of 30 + PLUS will be provided by the NPIA who will continue to offer assistance and advice on best practice for forces.

Home Office Circular 002/2010 can be found at http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2010/002-2010/index.html

HAC Report on the National DNA Database

On 8 March 2010, the Home Affairs Committee (HAC) published its inquiry into the National DNA Database.

The inquiry was commissioned due to increased public concern regarding the over-representation of certain ethnic and age groups on the database and concerns over the retention of data relating to individuals who were never charged or convicted of a crime.

It was acknowledged that while DNA is involved in solving only a small proportion of overall crimes, DNA profiling and matching was a vital tool in the fight against crime.

The inquiry builds upon the judgment of the European Court of Human Rights in S and Marper v United Kingdom [2008] ECHR 1581 which ruled that the blanket retention of DNA samples on the database was an infringement of the Convention under Article 8.

The key findings of the inquiry include:

- Legally, DNA profiles are owned by whichever police force entered them on the database, with the Chief Constable acting as the data controller;
- Over 5 million people have their personal profiles on the National DNA Database;
- As of 24 April 2009, just under 1 million people with profiles on the database had no record of a conviction, caution, reprimand or final warning on the Police National Computer;
- A significant number of people never convicted of a crime are unhappy about their profiles being kept indefinitely on the database;
- There is no evidence to show how many crimes are solved with the help of the stored personal profiles of those not previously convicted of a crime;
- An agreement to allow police forces across Europe to search one another's DNA databases for matches to serious crimes would reduce the possible of a mismatch of samples;
- The indefinite retention of the DNA profiles of those arrested but not convicted is impossible to defend and unacceptable in principle;
- There is inconsistency in the approach to requests for removal of profiles;
- The lack of a central point to which the public could send their requests for removal was a flaw in the system; and
- Decisions on retention periods must balance public safety against individual privacy.

Recommendations included:

- Retaining samples for a minimum of three years;
- Destroying personal samples as soon as practicable regardless of whether the suspect went on to be convicted;
- Profiles provided voluntarily would not be stored on the database;
- It should be easier for those wrongly arrested or who have volunteered their DNA to get their records removed from the database;
- No profiles of those aged under ten would be retained (note that this is now already the case);
- The National DNA Database Strategy Board should be given a statutory footing and become the central clearing point for DNA enquiries.

The Crime and Security Bill has addresses the retention of DNA. Under Clause 22 of the Crime and Security Bill, the Secretary of State would make a statutory instrument prescribing the manner, timing and other procedures in respect of destroying relevant biometric material already in existence.

The Bill would also make provision into the period of retention which will be dependent on the age of the offender and seriousness of the offence.

The full inquiry results can be found at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/222/222i.pdf

Home Office Publish Survey on Understanding of Overtime in the Police Service

In February 2010, the Home Office published the findings of a national survey on overtime in the police service.

The survey was designed to establish a national picture of overtime use and management in police forces across England and Wales.

The findings highlighted that there were differences in the use and management of overtime between forces ranging from whether forces had a formal overtime policy in place, to the proportion of overtime that was planned in advance.

The key themes from the survey results include:

Causes of overtime

- The most common causes of overtime reported by forces were major operations (92%), sickness (76%) and staff shortages (71%); and
- Just over two-thirds of forces (74%) noted that the Criminal Investigation Department (CID) teams incurred the most overtime.

Planned and Unplanned Overtime

- In 44% of forces, between one-quarter and one-half of overtime was planned in advance;
- 32% of forces stated that more than three-quarters of overtime was planned in advance;
- 12% of forces stated that less than one-quarter was planned;
- In all forces, authorisation from an Inspector or Sergeant was required for unplanned overtime; and
- In 37 forces (97%) unplanned overtime is meant to be authorised before the end of previous duty, however, in 17 forces (45%) authorisation could also take place during the overtime or after it had been completed.

Overtime Records

- All of the forces that responded to the survey reported that they have an allocated budget for overtime; and
- Thirty-one forces (82%) had a formal overtime policy for officers to adhere to and seven (18%) did not; and
- In forces which lack of a formal policy, spending may be greater than it needs to be.

Monitoring Overtime

- In half of forces, Area Commanders and Inspectors were responsible for monitoring overtime;
- Overtime is generally monitored either monthly and/or weekly;
- In 35 forces (92%), overtime can be monitored on an individual officer level;
- In just over two-thirds of forces (68%), training on overtime monitoring is provided to supervisors;
- In most forces, Inspectors (89%) and Sergeants (61%) were responsible for approaching an officer if they were considered to be working too many hours; and
- One-third of forces do not provide training for their supervisors on the use and management of overtime.

Conclusions and recommendations for change

- There is considerable variation between forces in the use and management of overtime;
- Clarifying when overtime is acceptable could lead to reductions in its use;
- The use of a formal overtime policy will ensure that officers are operating the same arrangements to manage overtime effectively;
- Police forces can reduce their overtime spend enabling financial gains to be reallocated to other areas of policing;
- Better workforce planning may be the key to reducing overtime use in some forces;
- Increased monitoring of planned overtime will identify whether current shift arrangements adequately match the demands for resources;
- Increased workforce planning could minimise the use of overtime;
- Investing in improved IT systems to collect and analyse overtime data;
- Improving communication between all ranks and departments to raise awareness of how overtime should be managed;
- Changing the culture from one where overtime is 'the norm', to one where the use of overtime is largely aimed at meeting unplanned resource pressures; and
- Reinforce the notion of value for money which is more than ever necessary to sustain the efficiency and productivity.

The full survey results can be found at http://police.homeoffice.gov.uk/publications/human-resources/police-overtime2835.pdf?view=Binary

Public Attitudes Towards Police Use of Tasers

In March 2010, the Home Office released the results of a poll on the use of tasers by the police.

The poll conducted a total of1,727 face-to-face interviews with people aged 16 and over in England and Wales between 20 November and 26 November 2009. The poll explored public awareness of tasers and examined the support for their use and trust in the police to use tasers in acceptable circumstances.

The key findings of the poll include:

Awareness of tasers

- 76% of respondents had heard of tasers;
- Of those who had heard of tasers, 50% felt that they knew either a great deal or fair amount about them;
- 41% of Black and Minority Ethnic (BME) respondents had heard of tasers compared to 80% of White respondents;
- 71% of female respondents had heard of tasers compared to 82% of males; and
- 20% did not know tasers were used by police.

Public Support for the use of tasers

- 71% of respondents supported the use of tasers by the police;
- 12% of respondents opposed the use of tasers by the police;
- 73% of respondents had either a great deal or a fair amount of trust that their local police force used tasers responsibly; and
- 23% did not feel that they would be used responsibly.

Appropriate use of tasers

- 50%of respondents thought that it would always be justified to fire a taser at a person behaving violently towards another; and
- 25% of respondents thought the use of a taser on a person threatening to harm themselves would always be justified.

Safety and confidence

- 50% of respondents said they would feel safer if more police were equipped with tasers; and
- 49% of respondents said they would feel more confident in their local police if more were equipped with tasers.

The full poll results can be found at http://www.homeoffice.gov.uk/documents/mori-polls-08-09/public-attitude-to-tasers2835.pdf?view=Binary

Ministry of Justice Release the Latest Annual Criminal Statistics in England and Wales

The Ministry of Justice (MoJ) have released the latest annual criminal statistics for England and Wales for 2008. The statistics highlight some of the key statistics for the Criminal Justice System in England and Wales.

Key findings include:

Crime in England and Wales

- There were a total of 10.69 million crimes against adults living in a private household;
- The number of crimes recorded by the police fell by five per cent;
- The number of crimes detected by the police fell by three per cent;
- Total violence against the person fell by six per cent;
- Sexual offences recorded by the police fell by four per cent;
- The number of recorded rapes against females increased by four per cent;
- Fraud, forgery and drug offences recorded by the police increased by five per cent and six per cent respectively;
- Vandalism increased by three per cent; and
- Criminal damage offences recorded by the police fell by 10 per cent.

Offenders

- 1.69 million Offenders were found guilty or cautioned, representing a five per cent decrease compared with 2007;
- The number found guilty or cautioned for indictable (including triable-either-way) offences fell by four per cent.

Detections

- There was approximately 1.34 million crimes detected using sanction detections in 2008/09;
- There was approximately 3,000 offences detected through non-sanction detections;
- The overall detection rate in 2008/09 (i.e. including sanction and non-sanction detections) was 28.5 per cent; and
- The overall number of recorded detections in 2008/09 dropped by three per cent compared with 2007/08 figures, while the number of offences recorded fell by five per cent.

Arrests

- There were 1.475 million arrests for recorded crime made in England and Wales in 2008;

- 21 per cent of persons arrested were aged under 18;
- 83 per cent all arrests were male;
- Theft and handling was the most prevalent offence group for arrestees aged 10 to 17; and
- Violence against the person was the most prevalent for the 18 to 20 and 21 and over age groups.

Penalty Notices for Disorder (PNDs)

- There were 176,200 Penalty Notices for Disorder (PNDs) issued in 2008;
- 84 per cent of all PNDs issued were for the offences of behaviour likely to cause harassment, alarm or distress, theft, and drunk and disorderly;
- 76 per cent of all PNDs issued were to males;
- There were 41,800 PNDs issued to females in 2008;
- Of all PNDs issued, 92 per cent were issued to persons aged 18 and over;
- Eight per cent were issued to persons aged 16 to 17.

Cautions

- The number of cautions (including reprimands and warnings) issued for all offences fell by 10 per cent;
- 75 per cent of all offenders cautioned were male;
- 25 per cent of all offenders cautioned were female;
- Summary non-motoring offences accounted for 45 per cent of all cautions issued;
- The highest number of cautions issued in 2008 was for 'common assault';
- The cautioning rate for indictable offences fell by three percent compared to 2007;
- 97,900 reprimands were issued to juveniles; and
- There were 105,700 Cannabis Warnings issued in 2008.

Court Proceedings

- The number of defendants dealt with by the magistrates' courts during 2008 fell by five per cent in comparison to 2007;
- 70 per cent of offenders sentenced at magistrates' courts received a fine;
- 14 per cent were given a community sentence;
- Four per cent were given an immediate custodial sentence;
- 13 per cent were otherwise dealt with;
- The number of defendants tried at the Crown Court increased by six per cent compared with 2007;

- 55 per cent of offenders sentenced at the Crown Court were given an immediate custodial sentence;
- 20 per cent were given a suspended sentence;
- 17 per cent were given a community sentence;
- Three per cent were fined;
- Five per cent were otherwise dealt with;
- In 2008, there were 890,300 offenders fined compared with 941,500 in 2007;
- The number of community sentences decreased by three per cent; and
- Across all courts, a total of 99,500 offenders received some kind of immediate custodial sentence.

The full statistical bulletin can be found at
http://www.justice.gov.uk/publications/docs/criminal-stats-2008.pdf

EHRC Publish 'Stop and Think' Review

In March 2010, the Equality and Human Rights Commission (EHRC) published its 'Stop and Think' Review.

The report was a critical review of the use of stop and search powers in England and Wales by the police and used data from the Ministry of Justice, the Home Office, the Metropolitan Police and the Office for National Statistics.

The report examines the legal frame work for stop and search under legislation such as the Police and Criminal Evidence Act 1984 (PACE) and the Terrorism Act 2000 (TACT) and suggests that a number of forces are using these powers in a way that is 'discriminatory, inefficient, and a waste of public money.'

The EHRC submits that the police must work on respecting basic human rights and only then can they be said to be 'good enough'.

Key findings of the report include:

- While stop and search plays some role in preventing and detecting crime, the impact is small;
- It is estimated that searches only reduced the number of 'disruptable crimes' by 0.2 per cent;
- Neighbouring police areas often have very different results which cannot easily be explained;
- Both black/white and Asian/white disproportionality ratios have remained constant over the last five years;
- Stop and search powers are being used in a discriminatory and unlawful way;
- Black people are at least six times as likely to be stopped and searched as a white person;
- Asian people are around twice as likely to be stopped and searched as a white person;
- Racial discrimination is a significant reason why black and Asian people are more likely to be stopped and searched than white people;
- In 2008/2009, there were 1 Million searches conducted under PACE compared to 256,000 under section 44 of the Terrorism Act;
- The number of searches under section 44 of the Terrorism Act had risen by 322 per cent for black people and 277 per cent for Asian people compared with just 185 per cent for white people;
- Out of all searches conducted under section 44 of the Terrorism Act, only 0.6 per cent lead to an arrest being made;
- In 2007/2008 London had the highest 'excess' stop and search rate at 60 per 1,000 and where a high percentage of the black and Asian population live;
- Some of the highest black/white disproportionally ratios were seen in Dorset, Hampshire and Leicestershire;

- Some of the highest Asian/white disproportionally ratios were seen in the West Midlands, Thames Valley, West Mercia and South Yorkshire;
- The West Midlands, Greater Manchester, West Yorkshire, Thames Valley, Leicestershire and Hampshire had some of the highest excess stop and search records for black people;
- The West Midlands, West Yorkshire and Thames Valley had some of the highest excess stops and search records of Asian people; and
- In some areas, such as Durham, white people are more likely to be stopped and searched than either black or Asian people.

Recommendations - Emerging good practice

The EHRC has made several recommendations to attempt to resolve the issues identified. These include:

- Monitoring how the police are using their stop and search powers;
- Encouraging forces to work fairly and effectively while respecting human rights;
- Promoting the core values of fairness, equality, protection of human rights and effectiveness in providing community safety;
- Identifying forces in which numbers of excess searches are rising;
- Contacting forces who have demonstrated the most significant and persistent excesses with a view to taking enforcement action under the Race Equality Duty, if necessary;
- Promoting the full implementation of the 'Next Steps' initiative devised by the National Policing Improvement Agency (NPIA);
- Encouraging police forces to think constructively about ways that police officers can communicate with young people and people from black and Asian communities;
- Promoting the continued use of 'PLAN B' when carrying out stop and search:
  - **Proportionality**: it must be fair and achieve a balance between the needs of society and the rights of the individual;
  - **Legality**: it must be conducted correctly according to the relevant legislation;
  - **Accountability**: it must be recorded;
  - **Necessity**: any infringement of rights must be justifiable 'in a democratic society'; and
  - **Best**: the decision to stop and search must be made against the best information reasonably available at the time.

The full report can be found at
http://equalityhumanrights.com/uploaded_files/raceinbritain/ehrc_stop_and_search_report.pdf

UKBA 5 Year Strategy - 'Protecting our Border, Protecting the Public'

The UK Border Agency has published a strategy, setting out how the Agency will develop its capability and work with partners to protect the public from the harm caused by immigration and border crime. The five year strategy, entitled 'Protecting our border, protecting the public' is divided into four objectives, which together form the basis of the Agency's renewed approach to criminal activity:

- Deter - Strengthening UK resilience against immigration and cross border crime;
- Disrupt - Breaking up criminal activities and organised criminal groups;
- Detect - Identifying and locating those responsible for criminal activity and the smuggling of illicit goods;
- Deal - Taking action against those engaged in all levels of criminal or non-compliant activity.

In support of the government's priority to tackle serious and organised crime, the Border Agency will focus primarily on three areas; the detection of Class A drugs, illegal entry and stay in the UK and non-compliance with UK immigration rules. The Agency will also support a number of wider reaching public protection principles, including counter-terrorism, control of human trafficking and the import and export of firearms and other prohibited and restricted goods.

In addition to setting out future plans and objectives, the document also clarifies the role of the Agency in the Criminal Justice System and describes the work that has already been done and the initiatives that are currently ongoing. These include strengthening control at Calais, by investing £15million to pilot extra security and detection technology, and screening traffic moving to or from the UK through their National Border Targeting Centre, due to be launched this year.

'Protecting our border, protecting the public' can be accessed in full at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/crime-strategy/

Ministry of Justice Report: Statistics on Women and the Criminal Justice System

Under Section 95 of the Criminal Justice Act 1991, the Government is required to publish statistical data in order to assess whether any discrimination exists within the criminal justice system as to how men and women are treated.

In order to fulfil this statutory requirement, this publication, published in January 2010, reports on the experience of women within the criminal justice system mainly from January to December 2008 (the most recently available data).

Victims and witnesses

- The report confirms the previous trend that women were more likely to be victims of intimate violence and men victims of all violent crime;
- Women were more likely to know the accused in cases of intimate violence and homicide than men; men were more likely to be victims of stranger violence;
- 90 per cent of both women and men were satisfied with the way that they were treated by staff in the CJS.

Defendants and offenders

- 17% of those arrested were women, 25.7% of which were aged between 10 and 17 in comparison to 20.5% of men arrested in that age bracket;
- 35% of all women were arrested for offences of violence against the person, as opposed to 31.8% of men;
- 49% of Penalty Notices for Disorder issued to women were issued for offences of theft (retail under £200);
- The most common offence for which women were cautioned was theft and handling stolen goods (55%);
- Of all women sentenced, 11% were given community sentences, in contrast to 15% of all men sentenced;
- 3% of all women sentenced received sentences of immediate custody in contrast to 9% of all men sentenced;
- The average annual prison population for women in 2008 was 4,414. There has been a decrease in the percentage of women amongst the annual average prison population from 6% in 2004 to 5.3% in 2008;
- 22% of women prisoners and 13% of men are foreign nationals;
- 64% of all women sentenced received a sentence of imprisonment of less than 6 months, in contrast to 54% of men; 4% of women sentenced received sentences of imprisonment of over 4 years as opposed to 8% of men;
- 11% of offenders who commit a proven reoffence were women; women in this group were more prolific in reoffending than men.

Practitioners

- In general, where data was available to compare two periods, there has been an increase in the number of women entering criminal justice agencies, however, whether and by how much women have progressed in each agency varies;
- The general year-on-year comparisons show that women were progressing to more senior roles within these agencies but their proportions in these more senior roles were yet to reflect their overall presence within the various agencies.

The Ministry of Justice report Statistics on Women and the Criminal Justice System is available at http://www.justice.gov.uk/publications/docs/women-criminal-justice-system-2008-09.pdf

Protecting Children: Child Sex Offender Register Disclosure Scheme Nationwide Roll Out

On 3 March 2010, the Child Sex Offender Disclosure Scheme began its nationwide roll out following a 12 month pilot by four police forces.

The pioneering scheme has been extended to a further 18 forces and is due to be rolled out nationally by 2011. The scheme was launched to improve protection for children and under the terms of the scheme, a parent, guardian or carer may request that any individual who has access to children is checked.

The scheme is to work closely with the Child Exploitation and Online Protection Centre (CEOP), MAPPA, and the Criminal Records Bureau in order to ensure that children and vulnerable people are safeguarded.

During the pilot, there were 585 enquiries and 315 applications made. From these applications, twenty one disclosures were made concerning Registered Child Sex Offenders with a further 11 'non-pilot' disclosures being made on issues such as violent offending. 43 'other disclosures' were made which led to other safeguarding actions such as contacting Children's Social Care.

Key findings of the pilot include:

- The average time to complete an application was 18 days;
- In general, applicants understood issues regarding confidentiality of information but many found it difficult to keep the information to themselves;
- The disclosure process formalised good practice in child protection;
- 17% of applications were about an ex-partners new partner;
- 16% of applications were about neighbours;
- 16% of applications were about family members or friends of family members; and
- 51% of applications were made after hearing third party information about an individual.

Following the pilot, a number of recommendations were made in preparation for the full national roll out of the scheme and include:

- Providing adequate preparation time for prior to roll out;
- Developing guidance on the use of the scheme;
- Strengthening the relationship with existing public protection arrangements;

- Development of marketing and publicity of the scheme;
- Providing training on the disclosure process;
- Implementing a system for recording management information to ensure accountability;
- Effectively communicating disclosure and non-disclosure outcomes; and
- Providing Registered Sex Offenders with ongoing advice and information on the scheme.

The full report into the pilot can be found at
http://www.homeoffice.gov.uk/rds/pdfs10/horr32c.pdf

Safe and Confident Neighbourhoods Strategy: Next Steps in Neighbourhood Policing

The 'Safe and Confident Neighbourhoods Strategy: Next steps in Neighbourhood' policing report has been released.

The report outlines the long term strategy for the neighbourhood policing programme and the proposals to tackle crime and anti-social behaviour in neighbourhoods, while boosting confidence in the police service.

The Strategy is focused on three key areas:

- Building on the success of Neighbourhood Policing Teams;
- Neighbourhood Partnerships; and
- Engaging Communities.

The strategy sets out a clear vision of what all members of the public can expect in line with the Policing Pledge and makes a commitment to:

- Providing a dedicated Neighbourhood Policing Team including Police Community Support Officers (PCSOs);
- Taking the public's anti-social behaviour (ASB) and crime concerns seriously;
- Improving the process to report non-emergency crime and ASB;
- Ensuring victims receive a joined up response from the police, local council and criminal justice service;
- Ensuring offenders and those at risk of offending are to be identified and managed;
- Ensuring the public know their entitlements, are reassured, and kept informed of the action that police, criminal justice and local council services are taking;
- Providing the public with a say in how services keep them safe and confident and how they challenge agencies if expectations are not met; and

- Encouraging the public to be confident and able to engage in playing their full role in their own neighbourhood's safety.

The report finds that neighbourhood policing has improved safety and can prevent crime and ASB and tackle other crime issues. Neighbourhood policing has been combined with wider changes in the police service which have made it more responsive to the public. No two neighbourhoods are the same so there can be no 'one size fits all' approach to how services are delivered; and the police need to work with other partners if they are to effectively address and prevent the crime and ASB issues that matter most. The report highlights that communities are also vital to keeping neighbourhoods safe and confident.

Recommendations include:

- To provide support and advice to forces and authorities about how to secure non-police funding;
- To develop a professional career pathway for those working in neighbourhood policing teams;
- To undertake a national stock take of progress made to-date and update the role of neighbourhood policing;
- To integrate neighbourhood profiling and community intelligence into intelligence led processes;
- To develop new and updated doctrine and policies including on protests;
- To ensure there is a framework that allows for a qualitative and quantitative assessment of ASB issues;
- To put in place clearly defined minimum standards on tackling ASB for all partner agencies;
- To raise awareness of PCSO powers;
- To maximise visibility including encouraging single patrolling;
- To introduce a national non emergency number '101' to allow the public to contact the police regarding anti-social behaviour;
- To develop a public facing justice portal;
- To strengthen the Neighbourhood Watch scheme and other forms of citizen involvement;
- To set out a minimum set of local crime and justice information that is proactively communicated to the public on a regular basis;
- To provide the public with a vote on how a further £4 million of criminals' assets is spent;
- To extending the Engaging Communities Pathfinder initiative; and
- To assign each Community Justice Team with a designated co-ordinator.

Home Secretary Alan Johnson said:

"This new strategy means that all communities can be more confident than ever that we are delivering on our top priority of keeping the streets safe."

The full report can be found at
http://police.homeoffice.gov.uk/publications/community-policing/safe-confident-neighbourhoods/strategy-document/safe-and-confident.pdf

Ministry of Justice Release Consultation Paper on the Upper Age Limit for Jury Service in England and Wales

In March 2010, the Ministry of Justice (MoJ) released their consultation paper on the upper age limit for jury service in England and Wales.

The consultation is to run from 16 March 2010 to 8 June 2010, and examines whether there is an argument for increasing or abolishing the upper age limit for serving jurors.

The consultation paper follows on from the paper '*Building a Society for All Ages* (2009)' in which the Government agreed to undertake a consultation on whether to change or abolish the upper age limit for jury service.

The Government has accepted that the current upper age limit for jury service can prevent some people from performing this 'crucial duty' when those individuals are fully capable of doing so.

Currently, in England and Wales, there is a statutory upper age limit for jury service of 70. This was introduced by the Criminal Justice Act 1988 but allows persons over 65 to be excused as a matter of right.

The MoJ has suggested that this potential option of self-excusal could be carried forward, but expressed concern that this is arguably inconsistent with the concept of jury service and may be unfair to younger jurors.

The Criminal Justice Act 2003 has since removed almost all the grounds for exclusion from jury service. Anyone registered on the electoral role, aged 18-69 who has been ordinarily resident in the UK, the Channel Islands or the Isle of Man for any period of at least five years since the age of 13 can be required to serve as a juror. There are however, disqualifications in place for mentally disordered persons and persons on bail or who have received certain criminal sentences.

The MoJ has identified three broad basic considerations which they believe should govern policy on the upper age limit for jury service:

- **Inclusiveness**: Public confidence in the fairness of the jury system relies on its being seen as representative of the population as a whole;
- **Competence**: Inclusiveness should not be paramount if the result would be to cast doubt on the competence of juries; and
- **Practicality**: Inclusiveness should not be paramount if the result would be a disproportionate administrative burden on the courts service.

The full consultation can be found at
http://consultations.cjsonline.gov.uk/downloads/Jury_service_age_limit_consultation.pdf

Stern Review Findings Published

In March 2010, the Government Equalities Office released the findings of the Stern Review. The review by Baroness Vivien Stern was an independent review into how rape complaints are handled by public authorities in England and Wales.

The report had the objectives to:

- Explore ways in which the attrition rate in criminal cases can be reduced, and how to fairly increase the conviction rate;
- Identify how to increase victim and witness satisfaction, and confidence in the criminal justice system in addressing rape;
- Explore public and professional attitudes to rape and how they impact on outcomes;
- Utilise findings and information available from other relevant work, particularly the work on victims' experience; and
- Make recommendations, with particular reference to improving the implementation of current policies and procedures.

Compiled over a 5 month period, the review consulted with over 200 individuals including victims, representatives from victims' organisations, judges, police officers, prosecutors, doctors and others.

The review made wide-ranging recommendations for ongoing improvement.

Key findings of the report include:

Rape - misunderstandings, myths and reality

The reality of rape is different from widely held beliefs. Rape can occur in a range of circumstances and is more widespread than people think; and having been a victim of rape in childhood makes it more likely that the person will be a victim again. Much rape occurs in families and rape happens across cultures. In England and Wales in 2008/9, 12,129 rapes of women and 964 rapes of men were recorded by the police. Most rapes are committed by someone known to the victim and false allegations of rape are rare. Victims do not always fight back. Men can also be victims of rape and account for around seven per cent of all recorded rape cases. The law is clear on the issue of consent - sex without consent is rape; and if a victim was too drunk or intoxicated to consent that also is rape.

Role of the police

The police are influenced by the common myths surrounding rape and greater understanding is needed by frontline officers, as lack of awareness can impact on the effectiveness of an investigation. There is a lack of good practice in

place to assist the police when dealing with rape allegations. The police must improve their response to and handling of rape complaints and greater use should be made of Sexual Assault Referral Centres and Independent Sexual Violence Advisors (ISVAs). There is a need to review the training on conducting Best Evidence interviews; and there should be greater focus on collaborative working.

Taking the case to court

The overall jury conviction rate for rape is 55 per cent and juries actually convict more often than they acquit in rape cases. Rape cases often involve complex and difficult issues; and good communication is essential in supporting victims adequately and explaining the criminal justice process. Good practice policies should be in place to streamline the process and there should be greater use of the CPS Policy for Prosecuting Cases of Rape booklet. Victims should have a designated person to deal with their case throughout. Where evidence is strong the focus should be on securing a conviction, and where a prosecution is not possible, victims must be treated with respect and sensitivity.

Victim Services

Victims are not kept fully informed of their case progress. There is a need for improved victim support and victims should be advised of the access to compensation. There needs to be a long term source of funding for victim support initiatives and forensic services should be more widely available to victims. There should also be better co-ordination of rape prevention work.

Following the findings, the report makes recommendations to the police and prosecution services in order to streamline existing policies and make the processes more effective.

Recommendations include:

- The Government should report annually to Parliament on progress;
- The basic elements of the Sexual Offences Act 2003 should be given more publicity, in simple language and made available to young people and those who work with young people;
- Education and awareness-raising campaigns and programmes on rape and sexual assault should be developed, that aid the understanding of the current law on rape;
- The Ministry of Justice should commission and publish an independent research report to study the frequency of false allegations of rape;
- The funding and commissioning of forensic medical services should be transferred from the police to the NHS;
- There should be a Sexual Assault Referral Centre (SARCs) in every police force area by 2011;
- The funding of SARCs should be shared equally by the police, the NHS and local government;

- There should be greater use of ISVA Service with adequate funding in place for the role;
- The Criminal Injuries Compensation Authority policy that applicants 'who suffer a sexual assault while under the influence of drugs or alcohol will be eligible for a full award', should be made clearer to the public;
- The CPS Policy for Prosecuting Cases of Rape should be made widely available to all victims and witnesses and regularly updated;
- 'Achieving best evidence' interviews are an issue of considerable concern and should be looked at again with input from The National Policing Improvement Agency (NPIA);
- The Association of Chief Police Officers (ACPO) should continue the work of seeing that the Guidance on Investigating and Prosecuting Rape is implemented in every police force;
- The NPIA should take steps to ensure that all police forces are aware of ways of capturing intelligence on rape and sexual offences; and
- ACPO, the Crown Prosecution Service and the Local Government Association should initiate discussions to resolve difficulties about disclosure of local authority third-party material, and adopt a protocol between the Crown Prosecution Service, the police and local authorities on the exchange of information.

The review can be found at http://www.equalities.gov.uk/stern_review.aspx

Ministry of Justice Publish Provisional Quarterly Criminal Justice System Performance Information

In February 2010, the Ministry of Justice (MoJ) published their Provisional Quarterly Criminal Justice System Performance Information.

The quarterly bulletin presents an overview on the performance between September 2008 and September 2009 of the Criminal Justice System in line with Public Service Agreement 24 (PSA 24).

PSA 24 was created under the 2007 Comprehensive Spending Review and is concerned with the creation and delivery of 'a more effective, transparent and responsive Criminal Justice System for victims and for the public.'

Key findings include:

Effectiveness and efficiency of the Criminal Justice System in bringing offences to justice

- The number of recorded serious violent crimes was 43,790;
- The number of Offences Brought to Justice in England and Wales was 1.32 million representing a fall of 7 per cent;
- The number of recorded crimes fell from 4.77 million to 4.49 million;
- The number of serious sexual Offences Brought to Justice increased by 1 per cent;

- The number of serious acquisitive Offences Brought to Justice fell by 7 per cent; and
- The number of serious violent Offences Brought to Justice has risen by 7 per cent.

Public confidence in the fairness and effectiveness of the Criminal Justice System

- 59% of people thought that the CJS was fair as a whole, representing a rise of 2 per cent; and
- 40% of people thought that the CJS was effective as a whole, in comparison with 37% for the twelve months to September 2008.

Experience of the Criminal Justice System for victims and witnesses

- 83% of victims and witnesses were satisfied with their overall contact with the CJS (cases closed 12 months to June 2009) in comparison with 81% the previous year (cases closed nine months to June 2008).

Recovery of criminal assets

- There was £57.5 million of criminal assets recovered across England, Wales and Northern Ireland in the year ending September 2009;
- The value of criminal assets recovered fell by £7 Million at year ending September 2009; and
- The target for 2009/10 is to recover assets worth £250 million between April 2009 and March 2010.

Confiscation

- The number of confiscation orders obtained across England and Wales from April to September 2009 was 2,279;
- £28 million was collected from the enforcement of confiscation orders across England and Wales between April and September 2009; and
- The value of new confiscation orders obtained across England and Wales from April to September 2009 was £49 million.

Enforcement

- The payment rate for financial impositions across England and Wales was 81% for April to September 2009;
- The 2009/10 target is 85% or greater for April 2009 to March 2010; and
- The number of outstanding Failure to Appear warrants has decreased from 25,253 to 22,794 at year ending September 2009. The implied target for the year ending March 2010 is 22,119 or lower.

The full Statistical release can be found at http://www.justice.gov.uk/publications/docs/criminal-justice-system-performance-09-2009.pdf

Joint Committee on Human Rights report on Counter-Terrorism Policy and Human Rights: Annual Renewal of Control Orders Legislation

On 26 February 2010 the Joint Committee on Human Rights ('JCHR') published a report on the Counter-Terrorism Policy and Human Rights: Annual Renewal of Control Orders Legislation 2010 (the 'report').

Background

On 1 February 2010 the Home Secretary laid before both Houses the draft Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2010, along with an Explanatory Memorandum ('EM').

The draft Order provides for the continuation of the control order regime contained in sections 1 to 9 of the Prevention of Terrorism Act 2005 ('the PTA 2005') for another year from 11 March 2010 (when those provisions would otherwise expire) until 10 March 2011.

The report considers whether the system of control orders is sustainable in the light of significant developments since last year's renewal, including important court judgments and the availability of more detailed information about the cost of control orders.

Parliamentary scrutiny

The JCHR recommend that where the Secretary of State is required by statute to consult certain officers before renewing a counter-terrorism power, a summary of the consultee's response should be published in order to facilitate parliamentary scrutiny of the justification for the renewal.

The recommendation is also put forward that extraordinary counter-terrorism powers, such as control orders, should be made subject to a proper sunset clause, requiring them to be renewed by primary legislation.

The impact of control orders

The JCHR expressed concerns in the report about the impact of control orders on the subject of the orders, their families and their communities. There is a collateral impact on the partners and children of the controlees, including on their enjoyment of their basic economic and social rights as well as their right to family life. The concerns grow more acute the longer a control order against the same individual subsists.

The House of Lords decision in AF

On 10 June 2009 the House of Lords held in Secretary of State for the Home Department v AF and others [2009] UKHL 28 ('AF'), unanimously, that basic fairness requires that people who are subjected to control orders are given sufficient information about the allegations against them to enable them to give effective instructions to those representing them, the 'special advocate'. The Law Lords held that a trial procedure can never be considered fair if a party to it is kept in ignorance of the case against them.

Limitations on Special Advocates

The JCHR looked at how special advocates have limitations on their ability to perform their function of providing controlees with the 'substantial measure of procedural justice' required by Article 6 of the European Convention on Human Rights, in particular:

- The special advocates' lack of access to independent expertise and evidence;
- The special advocates' ability to test the Government's objections to disclosure of the closed case, and;
- The special advocates' ability to communicate with the affected person after seeing the closed material.

The cost of control orders

The report looks at the cost of control orders, and in particular the amount of public money being spent on litigating them. The JCHR raise questions about whether the cost of maintaining the system of control orders is out of proportion to the public benefit which they are said to serve. They recommend that more detailed and independently verified information about the costs of surveillance be provided to Parliament in advance of the renewal debates to enable parliamentarians to reach a better informed view.

The full text of the report can be found at
http://www.publications.parliament.uk/pa/jt200910/jtselect/jtrights/64/64.pdf

Memorandum to the Home Affairs Committee Post - Legislative Assessment of the Prevention of Terrorism Act 2005

This preliminary assessment of the Prevention of Terrorism Act 2005 (PTA) was prepared by the Home Office for submission to the Home Affairs Committee as part of the process set out in 'Post Legislative Scrutiny - The Government's Approach' (Cm 7320).

The Government's overall assessment of the Act and the control order regime therein, is that it remains a necessary and proportionate tool for protecting the public from the risk of terrorism. The Government consider that without control orders there would be an unquantifiable increased risk to the public from controlled individuals. This is a view with which Lord Carlile of Berriew QC, the independent reviewer of terrorism legislation, agrees.

Necessity

The Government's preferred approach for dealing with suspected terrorists is prosecution. Significant efforts have been made to improve the ability to prosecute these individuals, for example by way of the introduction of terrorism-related offences and acceptance of the Privy Council's recommendation that intercept material should be admissible, subject to certain requirements deemed necessary to provide protection to the public and national security.

Where prosecution is not possible, and the individual concerned is a foreign national, deportation is considered. This is subject to the UK's human rights commitments, in particular the prohibition on removing any person to a country where there is a real risk that they will be subject to torture, inhuman or degrading treatment or punishment on their return, as contained in Article 3 of the European Convention on Human Rights (ECHR). The Government have sought to address this challenge through interventions to the European Court of Human Rights, which have thus far been unsuccessful, and through the negotiation of framework arrangements for deportation with assurances, so as to allow an increased ability to assess whether deportation in a particular case is in conformity with the UK's international human rights obligations.

Where neither prosecution nor deportation is possible, the Government consider control orders to often be the only means available with which to disrupt a suspected terrorist.

Effectiveness

The Government state that the test by which the effectiveness of control orders should be measured is whether they prevent or restrict controlled individuals from involvement in terrorism related activity. It is acknowledged that the regime established in the PTA 2005 cannot entirely eliminate the risk of an individual's involvement in terrorism; indeed seven individuals subject to control orders have absconded and eight individuals have been or are being prosecuted for one or more breaches of the obligations set out in their orders.

The Memorandum reports on the work carried out to reduce the number of individuals absconding, supported by the statement that there has not been one abscond since June 2007. All current control orders are kept under review to ensure that they and their obligations remain proportionate, necessary and as effective as possible and the Prevention of Terrorism Act 2008 introduced new police powers of entry and search to assist in the enforcement and monitoring of control orders.

The Government considers that powers to search individuals subject to control orders are necessary and proportionate as part of an enforceable control order regime and will legislate on this issue when Parliamentary time allows.

Compliance with human rights obligations

The memorandum states that the Government has put in place various internal and external safeguards to ensure rigorous scrutiny of the control order regime as a whole and that the rights of those subject to such an order are properly safeguarded, such as the requirement for the High Court to give permission for each order to be made, mandatory review of each order by the High Court, a right of appeal against a decision of the Home Secretary and a time limit of 12 months (subject to renewal).

Article 3 ECHR

The Government unreservedly condemns the use of torture and states that allegations that the intelligence on which control orders are based may have been gained through the use of torture are inaccurate.

Article 5 ECHR

According to the memorandum the Government has complied with various judgments concerning control orders and Article 5 to ensure that the obligations contained in control orders are compatible with the individual's right to liberty. It is clear that the curfew element of a control order is key in determining whether Article 5 has been breached.

Article 6 ECHR

Following the House of Lords decision in *Secretary of State for the Home Department v AF & Others* [2009] UKHL 28 in which it was held that for control order proceedings to be compatible with Article 6, the individual subject to the order must be given sufficient information about the allegations against him to enable him to give sufficient instructions to the special advocate, the Government carried out a review of all control order cases current at the time.

As of 10 December 2009 the Government has revoked two control orders as a result of the decision in *AF & Others* on the basis that the required further disclosure would cause serious damage to the public interest. Control orders have been revoked on Article 6 grounds in two other cases and replaced with new orders containing significantly reduced obligations.

The Government maintains its view that the PTA 2005 control order regime remains viable and necessary following the decision in *AF & Others*.

Article 14 ECHR

The document states that the Government does not impose control orders on a discriminatory basis - they are imposed on those suspected of involvement in terrorist-related activity.

Impact on the community

There is a programme of ongoing engagement with key opinion formers and community leaders to address concerns regarding the use of control orders.

A rapid evidence assessment on public perceptions of counter-terrorism legislation (due for publication shortly) highlights concerns expressed by some parts of the community regarding counter-terrorism legislation. The Government will continue its programme of engagement with the community.

Impact on the mental and physical health of the individual subject to the control order

The physical and mental impact on the individual is taken extremely seriously by the Government at the outset, on imposition and on an ongoing basis, taking account of representations by the individual concerned, lay assessments from those who meet regularly with the individual, such as police officers, and, where appropriate, independent medical assessment. The High Court has accepted that the individual's mental health does not automatically outweigh the right of the public to be protected from the risk he poses or the national security case against him.

Prosecution

Improved procedures have been put in place with regard to reviewing the prospects of prosecution before a control order is imposed. Section 8(2) of the PTA 2005 requires the Secretary of State to consult with the police, and they in turn to consult with the Crown Prosecution Service, regarding the prospects of a prosecution for a terrorism-related offence before imposition of a control order. The possibility of a prosecution is considered on an ongoing basis.

Financial costs

The Home Office spent approximately £10.8 million on control orders between April 2006 and August 2009. Over £8 million of this sum relates to legal costs associated with the process. The Government considers that viable alternatives that offer similar levels of assurance against risk would be considerably more expensive.

The Memorandum to the Home Affairs Committee Post-Legislative Assessment of the Prevention of Terrorism Act 2005 is available at http://security.homeoffice.gov.uk/news-publications/publication-search/legislation/prevention-terrorism-act-2005/memo-Prevention-TerrorismAct052835.pdf?view=Binary

Home Office Publishes Guidance on Protecting Crowded Places

On 18 March 2010, the Home Office published strategic guidance setting out advice for key partners such as local authorities, police and businesses on how they can better protect the public from terrorist attack in crowded places. The 'Working Together to Protect Crowded Places' Guidance follows a public consultation in April 2009 and sets out how partners can work together to reduce the vulnerability of crowded places. The range of crowded places includes:

- Bars, pubs and night clubs;
- Shopping centres;
- Sports and entertainment stadia;
- Cinemas and theatres;
- Visitor attractions;
- Restaurants and hotels;
- Major events;
- Commercial centres;
- Health sector;
- Education sector; and
- Religious sites/places of worship.

At a national level, the crowded places programme will be delivered through the Home Office, Government Offices, Devolved Administrations, and the Police National Counter Terrorism Security Office (NaCTSO). At a local level, the guidance envisages a lead role for either local Crime and Disorder Reduction Partnerships or the Resilience Network. Local authority chief executives and police Basic Command Unit heads will also have a key role. There will also be a continuing role for Police Counter-Terrorism Security Advisers in assessing the relative risks of crowded places to terrorist attack and making recommendations for protective security improvements.

The guidance notes that part of the national counter-terrorism strategy (CONTEST) includes 'Protect', strategies aiming to strengthen overall protection against terrorist attack. To achieve this aim good local partnerships are crucial.

The guidance details the role of police Counter-Terrorism Security Advisers who conduct risk assessments of crowded places and recommend protective security improvements. The risk assessment matrix used in this is included in the guidance. A web-based vulnerability self-assessment tool is also being developed by police.

The guidance includes details of the information exchange between local and national stakeholders, and sets out the responsibilities for protecting crowded places for:

- Central government;
- Devolved administrations;
- Local Partnerships;
- Health trusts;
- NaCTSO;
- Local businesses and other local organisations; and
- Fire and rescue services.

The Home Office has also published 'Crowded Places: The Planning System and Counter Terrorism' which contains practical guidance directly relevant to the role of planning officers. 'Protecting Crowded Places: Design and Technical Issues' is jointly published by the Home Office, the Centre for the Protection of the National Infrastructure and the police NaCTSO and contains design and counter-protective security guidance aimed at architects and designers.

The crowded places guidance can be found at http://security.homeoffice.gov.uk/news-publications/publication-search/protect/crowded-places-guidance/working-together-crowded-places2835.pdf?view=Binary

Home Affairs Committee Report: The Cocaine Trade

The Home Affairs Committee has published a report expressing concern that cocaine is becoming more widely acceptable in the UK and urging more to be done to tackle the demand for the drug. In May 2009, as a result of the British Crime Survey 2007/08 which revealed that the percentage of individuals using cocaine had risen from 0.6% in 1996 to 2.3% in 2007/08, the Committee announced their intention to conduct an inquiry into the cocaine trade. The report follows the inquiry, which focused on a range on issues, including the influence of 'celebrity cocaine culture', international collaboration and the effectiveness of advertising campaigns as a deterrent.

Despite the wholesale price of cocaine at the UK border increasing two fold between 1999 and 2009, the price of 'street level' cocaine has halved. While this shows that law enforcement efforts have had some impact on supply to the UK, it also reveals that there has been little or no impact on the demand or the availability of the drug on the street. The report highlights the risks associated with the drug and raises concern over the misconception that cocaine is a 'safe drug'. However, while the report suggests that the propensity of celebrity users to 'get away' with cocaine related offences may contribute towards the glamorisation of the drug, it did not find any evidence to support the belief that celebrity culture encourages cocaine use.

The Committee make a number of recommendations throughout the report; highlighting that any successful policy against cocaine must address both supply-side enforcement and a reduction in demand. They express their support for a full and independent value for money review of the Misuse of Drugs Act 1971 and recommend that the Government appoint an Independent Drugs Advisor. It recommends that the current practice of disrupting the cocaine trade overseas, to prevent it reaching UK shores rather than just intercept it once here, should continue to form the basis of the law enforcement response.

A change to the way in which the Serious Organised Crime Agency (SOCA) record their involvement in seizures is recommended, and a joint target, set substantially higher than at present, between SOCA and the UK Border Agency, is advised. The report also reveals details of current initiatives to tackle cocaine use, such as high-visibility anti-cocaine police operations and the use of handheld drug trace machines, and recommends their use across all police forces.

The Home Affairs Committee report can be accessed in full at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/74/74i.pdf

14 Additional Specialist Domestic Violence Courts Announced

The Ministry of Justice (MoJ) has announced plans to create 14 additional specialist domestic violence courts (SDVCs) in England and Wales.

The SDVCs are to be located in East Midlands, London, North East, North West, and the South East with an additional one being based in Wales and form part of the Governments multi-agency approach to tackling domestic violence.

This will bring the total number of specialist domestic violence courts in England and Wales to 141, exceeding the Government's target of having 128 specialist courts by 2011.

The aim is to promote a combined approach to tackling domestic violence, working closely with the police, the Crown Prosecution Service (CPS), magistrates, courts and probation services. The courts will provide specialist support services for victims and provide a community-wide response to domestic violence.

Key features of the courts include:

- Trained and dedicated criminal justice staff with enhanced expertise in dealing with domestic violence, including magistrates specially trained in dealing with domestic violence cases;
- Tailored support and advice from independent domestic violence advisers; and
- Multi-agency risk assessment conferences (MARAC) to provide protection for those most at risk of harm.

Justice Minister, Bridget Prentice said:

"Specialist domestic violence courts are a key part of our fight against domestic violence and part of a wider government commitment to putting victims at the heart of the criminal justice system, helping the victim and family, and stop them ending back in the court."

Further information on the specialist courts can be found at http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence59.htm

The MoJ press release can be found at http://www.justice.gov.uk/news/newsrelease190310b.htm

HMIC Launch 'Mypolice' Website

In March 2010, Her Majesty's Inspectorate of Constabulary (HMIC) launched the MyPolice.org website.

Described as ground-breaking, the website is aimed at providing an independent, professional assessment to the public on how well a force is performing and to enable them to ask questions on issues such as service improvement and victim support.

HIMC describe the site as 'a one-stop-shop that will provide a wealth of facts, figures, grades and assessments of the 43 police forces in England and Wales' which allows the public to see the top performers and how their local force is performing.

The website provides a 'report card' which allows the public to see information such as:

- How many officers are on visible duties;
- How well forces identify and protect distressed and vulnerable people;
- How much Council Tax is paid for each force; and
- Whether a police force responds to the needs of people in its neighbourhood.

The website also provides useful information on what police forces are doing to reduce anti-social behaviour (ASB) and violent crime as well as their initiatives for solving crime and ensuring value for money.

The website address is http://www.mypolice.org.uk

Review into Sexualisation of Young People Published

On 26 February 2010, the Home Office published its independent review into the sexualisation of young people.

The review was conducted by psychologist Dr Linda Papadopoulos, and forms part of the government's strategy to tackle 'Violence Against Women and Girls'(VAWG).

Sexualisation occurs when adult sexuality is imposed upon children and young people before they are capable of dealing with it.

The key findings include:

- Sexualisation impacts individuals, families and society as a whole;
- Sexualising children prematurely places them at risk of a variety of harms;
- There is an unprecedented rise in the volume of sexualised images;
- Young teens are regularly posting sexually explicit images of themselves on social networking sites;
- There is an important connection between sexualised music lyrics and young people's early sexual activity;
- There is substantial evidence linking stereotypical attitudes to women's sexuality with aggressive sexual behaviour;
- Women on TV are far more likely than their male counterparts to be provocatively dressed;
- Young people are under pressure to emulate gender stereotypes; and

- Unless sexualisation is accepted as harmful, we will miss an important opportunity to broaden young people's beliefs about where their value lies.

The key recommendations of the review include:

- The government to launch an online 'one-stop-shop' to allow the public to voice their concerns regarding irresponsible marketing which sexualises children;
- The government to work with the support of the Advertising Standards Agency (ASA) to extend the existing regulatory standards to include commercial websites;
- Broadcasters to be required to ensure that music videos featuring sexual posing or sexually suggestive lyrics are broadcast only after the 'watershed';
- Manufacturers and retailers are to encourage corporate responsibility with regard to sexualised merchandise;
- Games consoles should be sold with parental controls already switched on with the option for purchasers to 'unlock' the console if they wish to allow access to adult and online content; and
- All school staff to have training on gender equality and how to approach inequality, sexual and sexist bullying and violence against women and girls.

The Home Office Strategy 'Violence Against Women and Girls (VAWG) can be found at
http://www.homeoffice.gov.uk/crime-victims/reducing-crime/violence-against-women1/

The full review on the sexualisation of children can be found at
http://www.homeoffice.gov.uk/documents/Sexualisation-young-people.pdf

Consultation on Dangerous Dogs

The Department for Environment, Food and Rural Affairs (Defra) is carrying out a consultation on dangerous dogs which runs 9 March to 1 June 2010. It examines whether current legislation relating to dangerous dogs adequately protects the public and encourages responsible dog ownership.

Defra has identified a number of potential options to be considered under the consultation. These include:

- An extension of criminal law to all places, including private property;
- The introduction of Dog Control Notices applied for by police or local authorities where an owner has failed to properly control a dog;
- A requirement that all dogs are covered by third-party insurance;
- A requirement that all dogs, or puppies, are microchipped; and

- More effective enforcement of the existing law, including a consolidation of existing statutes into one new updated Act.

Full details of the consultation can be found at
http://www.defra.gov.uk/corporate/consult/dangerous-dogs/

NPIA
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