



NPIA
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Improvement Agency

Digest



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The Digest is produced monthly by the Legal Services Department of the NPIA. The Digest is an environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing. In producing the Digest, information is included from Governmental and quasi-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 long awaited Green Paper on Policing was published this month and a summary of the proposals contained within it has been included in this month's edition. It is intended that the Digest will produce a more detailed analysis of the provisions in next month's issue.

July has been a big month for reports including a thematic inspection of the role of police sergeants by Her Majesty's Inspectorate of Constabulary and an IPCC consultation on the police complaints system. Elsewhere the government has published the Youth Crime Action Plan which is a cross government analysis on what needs to be done to tackle youth crime. Sir Ian Magee's Review of Criminality Information report has also been published which examines and recommends necessary improvements for recording and sharing information about criminality within the UK and between the UK and other countries.

Some important legislation changes are also included in this month's edition. Firstly emergency legislation on witness anonymity has received Royal Assent this month. The new legislation will prevent those found guilty based on the anonymous testimony of witnesses from having their convictions quashed and ensure witnesses can be granted anonymity in the future.

Also in legislative changes, Home Office Circular 16/2008 changes the guidance on issuing simple cautions to adult offenders and finally new self defence provisions have come into force under the Criminal Justice and Immigration Act 2008. SI 1586 of 2008 brings this into force along with a number of other provisions under the Act.

As usual, the Digest also covers the latest Home Office Circulars, research papers, as well as sections on recent case law and Statutory Instruments.

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Survey on Muslim Police Officers

The Guardian newspaper has published the results of a survey to establish the position of Muslim police officers within Britain's police forces. The results published at the beginning of July are however limited in that only 20 constabularies provided figures specifically on Muslim officers. Despite this their findings were as follows:

- ◆ Of a total of 76,000 officers surveyed, there are only 430 male and 78 female Muslim officers which accounts for 0.7%. The percentage of Muslims of the overall British population is about 3%.
- ◆ There appeared to be a lack of data available about representation in the police service but more worryingly an apparent unwillingness to provide the information.
- ◆ Muslim officers were found mainly in the lower ranks. Around 95% are either constables or sergeants.
- ◆ Muslim officers appeared to be almost entirely absent in counter-terrorism and other specialised units.

The survey has been severely hampered by the lack of information provided by many of the police forces. To this end 'Demos' who undertook the survey are urging the Home Office to support a commission to mark the upcoming tenth anniversary of the Stephen Lawrence Enquiry to establish what progress has been made since Jack Straw's pledge to create a force which fully reflected the communities it served.

NPIA PCSO Review

The NPIA's Neighbourhood Policing Programme PCSO Review has been published, reviewing the current ACPO guidance for PCSOs with a view to addressing the concerns raised. The report is the result of a 3 month review commissioned by ACPO, the Home Office and the Association of Police Authorities. It aims to offer greater clarity to the public and police service on how PCSOs should be deployed, noting that forces require some flexibility in this to address concerns specific to different communities and neighbourhoods.

The review focuses on the following areas:

- ◆ Role;
- ◆ Powers;
- ◆ Selection, training and career development;
- ◆ Supervision;
- ◆ Uniform;
- ◆ Protective equipment;
- ◆ Age;
- ◆ Volunteering Scheme.

The report can be found at

http://www.npia.police.uk/en/docs/PCSO_Review_Final_Report.pdf

NPIA Family Liaison Guidance

The NPIA have published new guidance relating to family liaison officers. The guidance revises the 2003 ACPO Family Liaison Strategy Manual and builds on new practice and procedures implemented over the last 5 years. The document covers:

- ◆ The role of the Family Liaison Coordinator;
- ◆ Management structures;
- ◆ The role of the Family Liaison Adviser;
- ◆ The role of the Senior Investigation Officer/Senior Identification Manager;
- ◆ The role of the Family Liaison Officer;
- ◆ The role of the National Family Liaison Adviser;
- ◆ Family liaison in Mass Fatality Incidents.

The document is not protectively marked, and can be accessed via the Genesis extranet.

'Leading from the Frontline'

Her Majesty's Inspectorate of Constabulary (HMIC) has published the results of a survey called 'Leading from the Frontline' which surveyed 4,800 officers. The report is a thematic Inspection of frontline supervision and leadership, at the rank of sergeant in the police service of England and Wales. 'Leading from the frontline' stems from the growing recognition that the role of frontline sergeant has been underplayed and undervalued. The report recognises frontline sergeants as leaders and guardians of excellence in service delivery.

Strategies developed by ACPO and its stakeholders are only effective and meaningful if the quality of local service delivery and the capability of frontline sergeants is fully effective. The report recognises that the 24/7 service is usually being delivered by people in the earliest years of their service and experience. Therefore they must be well led, coached and given guidance to fulfil this role.

The Role of the 24/7 Sergeant

The questionnaire responses and fieldwork revealed marked inconsistencies in forces' definitions of, expectations from and approaches to frontline sergeants. Forces need to ensure that frontline staff are clear about their purpose and know what is expected of them. They must also address the importance of frontline activity and its place in determining public satisfaction and confidence. If this important strategic message is not communicated and supported then frontline activity cannot accurately and tangibly reflect organisational requirements.

With this in mind ACPO must be absolutely clear in defining the role and ensuring that associated processes of selection, promotion, training and support complement the role definition. The report recommended that ACPO should, together with the NPIA, develop a set of national standards for the role of frontline sergeant. The standards need to define a baseline of competence in areas such as leadership, critical incident and risk management, management and development of staff, maintenance of standards of professionalism, and service delivery.

It was observed at chief officer level that the message was clear in that quality of service, citizen focus and risk management should be at the heart of service delivery and frontline activity. However these strategic intentions are not always effectively translated into operational activity, resulting in confusion and lack of coherent pursuit of organisational goals. Forces need to determine and clearly communicate their exact requirements of role holders in terms of organisational goals and how this should manifest itself in frontline service delivery and activity. This should then inform investment choices in terms of selection criteria, promotion processes, and training and support mechanisms to enable effective service delivery.

Preparedness and Promotion

HMIC view it as essential that the promotion process is structured to deliver service requirements in terms of leadership, confidence and capability. The report found many examples of sergeants who were viewed both by

themselves and others, including HMIC, as not having the range of skills and/or experience necessary to supervise service delivery. The report recommends the adoption of the approach taken by ACPOS.

The current selection process (OSPRES[®] and Work Based Assessment) for promotion from constable to sergeant is viewed as inadequate for testing leadership. Feedback from the focus groups and interviews showed a strong feeling that the work based assessment process was over bureaucratic, open to manipulation and added a considerable burden to candidates' workloads. HMIC believes that there needs to be a robust debate to determine if one promotion process can 'fit all' in the future, and to examine opportunities that could, with safeguards, allow the police service to benefit from individuals' experience in a supervisory capacity as part of, or complementary to, mainstream promotion processes.

Of the forces visited only GMP had a mandatory corporate training course for promotion to sergeant. In the remaining forces, training opportunities were varied and inconsistent. Also of note was the timeliness of rank and/or role specific training, with some focus group members waiting up to 18 months for their initial sergeant's training course. HMIC would strongly encourage forces to adopt a similar approach to that of GMP.

Given the increase in complexity of the context for delivery of frontline policing services, HMIC holds the view that existing preparatory processes are not currently providing frontline sergeants with the requisite skills, or with exposure to a sufficient range of experience necessary for high quality, effective leadership and supervision in the majority of cases. ACPO and the NPJA should together undertake a fundamental review of the promotion process, from constable to sergeant in the first instance. The review should take account of the need for forces to identify, nurture and develop talent through the effective use of the PDR process. This review process should refocus the promotion process towards identifying leadership qualities and complementary technical knowledge and experience. The outcome should be used to inform future decision making on the structure of promotion processes up to and including the rank of chief superintendent, placing leadership skills alongside technical competence.

Critical Incidents

The fundamental points emerging from the research are that although staff seemingly express confidence in their own ability to respond, many do not understand the term 'critical incident' and have received little guidance or training. Confusion exists between what constitutes a 'critical incident' as opposed to the more traditional and long established definition of 'major incident'. With due consideration to the importance that the NPJA and ACPO has placed on critical incident management, it appears that training in this area has not been delivered systematically across forces. HMIC is concerned that existing preparatory processes, including training, within the police service are not equipping frontline sergeants to recognise and effectively manage critical incidents, and the risks associated with them. ACPO should therefore develop a framework to implement the NPJA 'Practice Advice on Critical Incident Management' (2007) in all forces which should be completed by October 2008.

It was clear from the questionnaire responses that there is significant variation in commitment and investment in formal debriefing processes. HMIC believes this indicates insufficient levels of knowledge and understanding of the value of debriefing as a learning opportunity. The NPIA should develop processes by which individual and force learning from critical incidents, through debriefing, can be promulgated across the police service.

PDR

It appears that the PDR process within the police service is in disrepute. It is perceived by officers to be no more than a paper exercise when it should be used to underpin the development of an officer. Forces should review their use of the PDR process and ensure it's used as a means of documenting an officer's readiness for promotion.

Status and Standards

The fieldwork sought to investigate how important respondents considered the role of a frontline supervisor to be, and how they felt that they as individuals were valued. The responses confirmed there has been a steady erosion of the status of sergeant. HMIC considered it essential that the role is properly valued and that it should be regarded as a 'specialism'. The report's authors were also surprised at the extent to which a perceived erosion of basic levels of adherence to fundamental standards of professionalism was found.

ACPO must be absolutely clear in defining the role of a frontline sergeant and ensuring that associated processes of selection, promotion, training and support complement the role definition. ACPO should also overtly recognise and publicise the critical role that effective frontline leadership plays in delivery of the policing agenda on a 24/7 basis, in terms of incident management, quality of service and delivery of citizen focused policing.

Supporting the Frontline

HMIC is concerned that the variation in perceptions by individuals of the value placed on them, and on their role, is at odds with the level of expectations forces have of frontline sergeants in terms of risk management, citizen focus and quality of service delivery. The NPIA, together with ACPO should introduce a process for the formal accreditation of the rank of sergeant and the role of frontline sergeant.

HMIC is concerned at the level of use of acting sergeant and strongly suggests that forces review their practices in respect of their appointment, placing greater emphasis on ensuring continuity of competent qualified supervision.

Conclusions

The police service needs to clarify the role requirements, set clear direction and implement measures to deliver the appropriate skill set to enable frontline sergeants to succeed. ACPO and NPIA should develop a set of national standards for the role of frontline sergeant. They need to define a baseline of competence in areas such as leadership, critical incident, risk management, development of staff, maintenance of standards of professionalism and service delivery. Such standards should not be over prescriptive or restrictive, but

should allow forces, locally, to build on common foundations of expertise. The ACPO and NPIA should also develop a national standard of police leadership, which can be tailored at the local level, but with nationally agreed principles, to ensure consistency of expectation and application across all forces.

In response to the report, Police Minister Tony McNulty said that the NPIA is supporting development of a national leadership strategy for the service which will promote excellent operational management at all levels. In addition the long awaited and now published Green Paper on Policing presents an opportunity to ensure that leadership on all levels can effectively support standard setting for the frontline officers.

The full report by HMIC can be found at <http://inspectors.homeoffice.gov.uk/hmic/inspections/thematic/?version=1>

Criminal Justice and Immigration Act 2008 Self Defence Provisions Come Into Force

On 14 July 2008 Section 76 of the Criminal Justice and Immigration Act 2008 came into force. This section aims to clarify the operation of the:

- ◆ Common law defence of self-defence;
- ◆ Defences provided by Section 3(1) of the Criminal Law Act 1967 or Section 3(1) of the Criminal Law Act (Northern Ireland) 1967 (use of force in prevention of crime or making of arrest).

The Section applies where, in proceedings for an offence, an issue arises as to whether the person charged with the offence (D) is entitled to rely on one of the above defences and the question arises whether the degree of force used by them against a person was reasonable in the circumstances. The 'degree of force' means the type and amount of force used. For the purposes of Section 76 self-defence also includes acting in defence of another person.

Section 76(3) states that the question whether the degree of force used was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be.

If D claims to have held a particular belief as to the existence of any circumstances, the reasonableness of this belief is relevant in deciding whether or not D actually held the belief. If it is established that D did hold this belief, D can rely on the belief for the purposes of Section 76(3). This applies whether or not the belief was mistaken or, if it was mistaken, whether the mistake was a reasonable one to make. However if a mistaken belief is attributable to voluntary intoxication on the part of D, D may not so rely on the belief as to the circumstances.

Section 76(6) adds that if the degree of force used in the circumstances was disproportionate then it is not to be regarded as having been reasonable in the circumstances.

In determining whether or not the degree of force used by D was reasonable in the circumstances, Section 76(7) requires certain considerations to be taken into account. These are:

- ◆ That a person acting for a legitimate purpose (the purposes of the defences to which Section 76 applies) may not be able to weigh the exact measure of any necessary action;
- ◆ That evidence of a person's having done only what they honestly and instinctively thought to be necessary constitutes strong evidence that only reasonable action was taken in the circumstances.

These considerations do not prevent other matters from being taken into account in determining whether the degree of force used by D was reasonable in the circumstances.

Section 76 is brought into force by Statutory Instrument number 1586 of 2008. This SI brings into force a number of other provisions of the Criminal Justice and

Immigration Act 2008. Please see the digest of the SI on page 61 for the list of commenced provisions.

Changes to the Coroner's Rules

It has been announced that from 17 July, a new statutory duty will be placed on organisations to respond to coroners' reports on action that should be taken to prevent future deaths. Reports will then be shared with bereaved families, so that they are aware of the action being taken. Previously, Coroners have been able to make recommendations for change but could not require a response.

The move comes in response to views expressed by bereaved families that they wish something positive to come out of a coroner's inquiry and that they hope that relevant agencies will take preventative action so that the death of their relative is not in vain.

The main changes include:

- ◆ A new statutory duty will be placed on organisations receiving reports from coroners to respond within 56 days;
- ◆ Coroners must share reports and responses with those, including bereaved families, to whom they have assigned "interested persons" status;
- ◆ Reports and responses will be centrally collated for the first time so that any trends can be identified, monitored and lessons learned can be shared widely.

Another change also announced will help agencies involved in reviewing the reasons for a child's death to work better together. Under new proposals coroners will be required to notify Local Safeguarding Children Boards (LSCBs) of the death of any child reported to them and allow them to supply information (such as reports from post-mortem examinations and documents given in evidence at an inquest) to LSCBs. This will enable LSCBs to meet their statutory obligations, including their responsibility to conduct child death reviews.

The changes will amend rule 43 of the Coroners Rules 1984, and add a new rule 57A.

A new Coroners and Death Certification Bill is due to be published in the next Parliamentary session.

The changes are made by Statutory Instrument number 1652 of 2008, a full copy of which can be found at

http://www.opsi.gov.uk/si/si2008/uksi_20081652_en_1

HOC 16/2008 Simple Cautioning of Adult Offenders

This circular replaces HOC 30/2005. It should be applied to all decisions relating to simple cautions from 10 July 2008, regardless of when the offence was committed.

The circular:

- ◆ Provides guidance to police and prosecutors on the use of the simple caution;
- ◆ Reminds police and prosecutors that simple cautions should generally only be used for low-level offending;
- ◆ Clarifies how the Statutory Charging Scheme affects police and CPS responsibility for simple cautions;
- ◆ Gives an outline of the process of administering a simple caution;
- ◆ Emphasises the importance of accurate recording of simple cautions;
- ◆ Provides a standard proforma for operational use.

The simple caution is a non-statutory disposal which may be used when specified public interest and eligibility criteria are met. It is only to be used when the suspect has made a clear and reliable admission of the offence and has not otherwise raised a defence. The circular sets out that, for a simple caution to be available, the following criteria must have been met:

- ◆ The offender must have made a clear and reliable admission of the offence;
- ◆ There must be a realistic prospect of conviction if the offender were to be prosecuted (in line with the full code test in the Code for Crown Prosecutors);
- ◆ It must be in the public interest to use a simple caution as the means of disposal (the public interest factors in the full code test in the Code for Crown Prosecutors should be taken into account, in particular the seriousness of the offence);
- ◆ The suspect must be aged 18 years or older at the time the caution is to be administered;
- ◆ The simple caution must be appropriate to the offence and the offender (reference is to be made to ACPO's Gravity Factors Matrix and the suspect's criminal history).

If the offence in question is indictable only, the case must be referred to the CPS for a decision.

The circular notes that a simple caution will not be an appropriate disposal where:

- ◆ The suspect has not made an admission of the offence or has otherwise raised a defence to the offence;
- ◆ The suspect refuses to accept the simple caution;
- ◆ Where the offence is committed by a serving prisoner, a person subject to prison recall or a person on court bail or subject to a court order.

Before administering a simple caution an admission of guilt is required. The obtaining and recording of this admission must be PACE compliant. If appropriate and possible the views of any victim about the offence and the proposed method of disposal, the nature and extent of any loss and its

significance to the victim, as well as whether the offender has made reparation or paid compensation, must be established before issuing a simple caution.

Other considerations to make include whether the suspect has a criminal record, whether they have been made aware of the significance of a simple caution, whether the suspect has given informed consent to being cautioned and whether the offenders legal rights have been met.

The circular notes that when considering the suitability of an offence for disposal by simple caution, the decision should be referred to an officer of at least Sergeant rank for approval. The officer may be a Custody Officer, but must not be connected to the investigation of the offence. The officer must sign the custody record or other suitable documentation to say that they have approved the simple caution as the appropriate method of disposal.

Also included in the circular are the following:

- ◆ The consequences to the offender of receiving a simple caution;
- ◆ Administering a simple caution;
- ◆ Recording the caution;
- ◆ Returns to the Ministry of Justice/Home Office;
- ◆ Group and multiple offences;
- ◆ Mixed disposals;
- ◆ Particular offence types and the appropriateness of a simple caution (violence against the person, domestic violence and harassment).

The circular can be found at

<http://www.knowledgenetwork.gov.uk/HO/circular.nsf/79755433dd36a66980256d4f004d1514/6409b89613fc4d908025747f003f66a6?OpenDocument>

Emergency Legislation Introduced in Relation to Witness Anonymity

Following the landmark case of *R v Davis* (2008) which was covered on page 53 of July's edition of the *Digest*, an immediate bill to make provision for the making of orders for securing the anonymity of witnesses in criminal proceedings has been presented to Parliament.

In the case of *Davis*, the defendant appealed against the Court of Appeal's dismissal of his appeal against his conviction for murder. At *Davis*'s trial, measures were taken to preserve the anonymity of crucial witnesses, which included preventing the asking of questions that might reveal their identity and allowing them to give evidence out of sight of the defendant and his legal advisers. The witnesses who identified him as the killer, and without whom he could not have been convicted, were accepted to be in fear of their lives were it to become known that they had given evidence against him. *Davis* claimed that these measures rendered the trial unfair as it went against common law and was inconsistent with the European Convention on Human Rights.

The Law Lords allowed the appeal as they decided that there was not sufficient authority in common law to provide for the current arrangements for the admission of anonymous evidence and said that this was a matter for Parliament to deal with by statute. The Government therefore urgently published a Bill to rectify the situation.

Speaking after the publication of the Criminal Evidence (Witness Anonymity) Bill, the Justice Secretary Jack Straw said:

“Allowing witnesses to give evidence anonymously has played a vital role in bringing the most violent criminals to justice and it must continue to do so. It has also been essential to act so swiftly so as not to leave a gap in the public and victims’ protection against serious crime.”

The new legislation will prevent those found guilty based on the testimony of anonymous witnesses from having their convictions quashed and ensure that anonymity can, where applicable, continue to be granted to witnesses in the future.

The Bill sets out the following:

- ◆ Clarification of the circumstances in which a witness anonymity order can be granted;
- ◆ The procedure for the courts to follow in ongoing trials which involve testimony by anonymous witnesses;
- ◆ Assurance that those convicted on the basis of anonymous evidence cannot have their conviction quashed solely on the grounds that anonymity was granted.

The Bill has progressed through both the House of Commons and the House of Lords within the last month. Royal Assent was given on 21 July.

Further information can be found at

<http://services.parliament.uk/bills/2007-08/criminalevidencewitnessanonymity.html>

Green Paper - From the Neighbourhood to the National: Policing Our Communities Together

Introduction

The long awaited Green Paper on policing was published on 18 July. A summary of the paper's content is given in this article and it is intended that the *Digest* will look at the proposals in greater detail in next month's issue.

The paper sets out a vision for policing in the 21st century which aims to give the police greater power and sets out a clear deal in the form of a 'Policing Pledge' for what the public can expect from the police.

The paper recognises that our police forces face new challenges in the 21st century. Challenges such as:

- ◆ The expectations of local people and the need to ensure they are able to play their full part in tackling crime;
- ◆ The response to serious and organised crime and terrorism;
- ◆ The need to ensure resilience of our police service;
- ◆ The challenge of the police working together with local government, the Criminal Justice System and others to deliver further reductions in crime.

The transformation that the police service has undergone over recent years to respond to the changing nature of crime, terrorism and peoples expectations is acknowledged and celebrated. The ambitions therefore of this green paper are about how these foundations can be built upon and the ways in which it can deliver for the public.

The proposals set out in the paper are stated to be more than ever from the public and police officers. Many of the ideas have also been born out of the events organised by the independent 'Review of Policing' by Sir Ronnie Flanagan, Her Majesty's Chief Inspector of Constabulary and the review by Louise Casey 'Engaging Communities in Fighting Crime'. ACPO and the Association of Police Authorities have also provided submissions. It is therefore the challenges and recommendations contained in those reports and submissions that have guided the ambitions in this green paper.

To deliver these ambitions the government aims to:

- ◆ Create a new 'Policing Pledge' to clarify what can be expected from our police service and ensure public voices are heard in setting priorities and influencing actions at both local and national level.
- ◆ Step away from centralised performance management. In its place, delivering improved levels of public confidence will be the one target for the police service from the top down.
- ◆ Strengthen the democratic link between the public and those who hold the police to account. This will be achieved by introducing directly elected Crime

and Policing Representatives who will ensure the police are tackling priorities that concern the public the most.

- ◆ Clarify who is responsible for what at national, regional and local level.

The Key Issues

The Green Paper focuses on seven key issues arranged over seven chapters:

Chapter 1 - Improving the Connection between the Public and the Police

Chapter 1 is about the local dimension and empowering citizens. It describes how the Government plans to build on existing neighbourhood policing by giving the public more chance to drive local priorities and giving more information on what is being achieved. It sets out how the public will be able to elect a majority of their members directly from their communities.

Service standards to the public are also covered in this chapter. It is widely acknowledged that one of the reasons that the police do not have higher public satisfaction and confidence ratings or get credit they deserve is due to the public's belief that their dealings with the police will fall short of standards they are used to in other public or private services.

Neighbourhood policing is starting to have a positive effect and going some way alleviating the problems in the previous paragraph by giving the public a more personalised service. The Government sets out how it wants to build on this good practice and deliver a national pledge that guarantees the public some key service standards in a similar way as now happens with the health service.

Chapter 2 - Reducing Bureaucracy and Developing Technology

The next three chapters focus on professionalising and freeing up the police.

Chapter 2 sets out the Government plans by which the police service can cut bureaucracy and red tape and how to use technology more widely to free more officers to deal with issues that matter.

Chapter 3 - Defining Roles and Leadership in the Police Service

Chapter 3 discusses the officers and staff that make up the police service and sets out the distinct and complementary roles of police officers, PCSOs, other police staff and the special constabulary. It outlines plans to develop and support the leaders of the service, including chief officers and frontline leaders.

Chapter 4 - Focussing on Development and Deployment

Chapter 4 explains improvements to the development and deployment of the police workforce to deliver better service to the individual customer, communities and the public in general. The chapter also details the Government's approach on equality and diversity, deployment to match demand and on the responsibility of authorities and forces to maintain a workforce which will deliver best service to the public.

Chapter 5 - Co-ordinating Change in Policing

The following three chapters focus on the strategic role for the Government.

Chapter 5 sets out what the Government intend to do support the changes proposed in this paper. This covers what decisions need to be taken at national level and the role of the National Policing Board in this process. It sets out issues which the Government will leave to local level and regional collaboration. It also endorses the tripartite policing structure through which the Home Secretary, chief officers and police authorities jointly provide a balanced governance arrangement.

Chapter 6 - Reinforcing Collaboration between Forces

Chapter 6 looks at the 'protective services' and discusses the progress that has been made in this area by working across police forces. This addresses the subject of the 2005 report by HMIC called 'Closing the Gap'. It states what further steps the Government will take to encourage collaboration and co-operation between forces.

Chapter 6 also sets out the approach to counter terrorism policing from preventing people from becoming terrorists to protecting the country and policing its borders.

Chapter 7 - Improving Performance in Policing

Chapter 7 outlines the plans for radical changes to the national performance management arrangements. It sets out changes in the relationship between central government and police forces and between forces and their local communities. The Government's national objectives will be set out in new Public Service Agreements and local priorities will be decided under Local Area Agreements. However to support the police service in delivering the new Policing Pledge, there will be only one target for police forces from the top down and that will be to improve public confidence.

Directly elected police authorities will have a stronger role in holding their forces to account and will be backed up by HMIC acting as a fiercer advocate of the public interest.

Next Steps

Chapter 8 sets out how the Government has initiated consultations over the next three months to hear the views of the public and stakeholders on the proposals within the Green Paper.

The consultation response forms and the Green Paper itself can be found at <http://police.homeoffice.gsi.gov.uk/police-reform/policegp/>

Consultation on Safeguarding Children from Sexual Exploitation

The Department for Children, Schools and Families has issued draft guidance for consultation on safeguarding children. The guidance will replace the current guidance issued in 2000, 'Children involved in Prostitution', and will be supplementary to 'Working Together to Safeguard Children', issued in 2006.

The draft guidance is aimed at Local Safeguarding Children Board partners, practitioners and other professionals working with children and young people,

and provides information on different forms of sexual exploitation. It aims by this to help local agencies:

- ◆ Develop local prevention strategies;
- ◆ Identify those at risk of sexual exploitation;
- ◆ Take action to safeguard and promote the welfare of particular children and young people who may be sexually exploited;
- ◆ Take action against those intent on abusing and exploiting children and young people in this way.

The guidance covers:

- ◆ The issue of sexual exploitation;
- ◆ Roles and responsibilities;
- ◆ Preventing sexual exploitation;
- ◆ Managing individual cases;
- ◆ Identifying and prosecuting perpetrators.

Consultation on the draft guidance runs until 10 October 2008. The draft guidance, together with details of how to respond to the consultation, can be found at

<http://www.dfes.gov.uk/consultations/conDetails.cfm?consultationId=1566>

Youth Crime Action Plan 2008

The Youth Crime Action Plan is a comprehensive, cross-government analysis of what further action needs to be taken to tackle youth crime. It is based on a 'triple track' approach of enforcement and punishment where behaviour is unacceptable, non-negotiable support and challenge where it is most needed, and better and earlier prevention. The Government's aims are:

- ◆ To cut the number of young people entering the criminal justice system for the first time by preventing youth offending, with an aim to reduce the number by a fifth by 2020.
- ◆ To reduce re-offending by young people.
- ◆ To build public confidence, support victims and make children and young people safer.
- ◆ To ensure that young people in the youth justice system achieve the five Every Child Matters outcomes to give them the best chance to turn their lives around. The Every Child Matters outcomes can be found at <http://www.everychildmatters.gov.uk/publications-and-resources/> .

The plan is backed by £100 million of extra funding, with some elements taking effect from this autumn and delivering immediate change on the ground. It brings together the views of young people, the public, frontline practitioners, the third sector and academic research. It also draws on recent Government

publications, such as Louise Casey's review, 'Engaging Communities in Fighting Crime' (<http://www.cabinetoffice.gov.uk/crime>) and 'The Youth Taskforce Action Plan' (<http://www.everychildmatters.gov.uk/youthmatters/ytf/actionplan/>). Both were released earlier this year.

Dealing with unacceptable behaviour

The plan recognises that youth crime and anti-social behaviour are often fuelled by alcohol and peer pressure and looks at ways that this can be tackled. Many of the measures build on those already in place, such as ensuring that police officers use the powers available to them to maximum effect, particularly in relation to alcohol-related disorder. This is in addition to the powers recently introduced by the Government surrounding anti-social behaviour, which when rigorously applied, can be very effective. Following the introduction of Anti Social Behaviour Orders (ASBOs) and Acceptable Behaviour Contracts (ABCs), figures indicate that 65% of those who received an intervention, such as a warning letter or ABC, did not re-offend, with the figure rising to 93% after three interventions had occurred. There are also plans to increase the proportion of ASBOs which are accompanied by parenting orders in an attempt to challenge parents that do not take their responsibilities seriously.

A greater number of searches on young people are to be conducted and more search equipment is to be provided, to help take weapons off the streets. The consequences will also be graver, with those over 16 facing prosecution for the first time if found carrying a knife. Furthermore, those under the age of 16 will face prosecution on their second offence.

Due to the success of the neighbourhood policing initiative there are over 3,600 neighbourhood policing teams consisting of nearly 30,000 officers and PCSOs to work with the community to identify young offenders and prevent their offending or anti-social behaviour from escalating. Building on this community link, plans will be introduced which will engage young people who are involved in crime with youth workers and ex gang members, working in partnership with the police, in an attempt to combat the negative influence that delinquent peer groups can have. There are also proposals to expand Operation Staysafe, where police use existing child protection legislation to remove children and young people from the street late at night to a place of safety. Current trials have suggested that this is an effective approach in preventing crime, with each operation removing an average of twenty children from the streets each night.

Upon arrest, an assessment by a Youth Offending Team worker is currently dependant on a referral by the police and will typically occur several days after the young offender has been in police contact. Under new proposals a Youth Offending Team worker will be based at the police station, or will be available on call, which will allow for an assessment immediately after arrest and the opportunity, if appropriate, to divert young people from the Youth Justice System.

In addition, the number of after school police patrols will be increased to tackle anti-social behaviour and disorder at school closing time and transport interchanges. Local intelligence from schools, parents and the local community will assist the police patrols in targeting problem areas. Research from young people in particular suggested that an increased presence of police and PCSOs in

areas where young people congregate would help to reduce youth offending. Furthermore, the Youth Taskforce will work with the police, Local Authorities and schools to support the roll out of after school patrols in areas where it can be seen that a greater police presence is needed.

Intervening Early

Due to poor and indifferent parenting, some children are particularly vulnerable and as a result are at a greater risk of offending. The action plan introduces measures which will provide support, both to young people and their families, as a means of preventing future offending.

Family Intervention Projects were introduced in 2006 and have proved successful. As a result the Government wants to build on this success by extending the reach of intensive family intervention to every local authority within the next three years. The focus is to ensure that existing services, such as Sure Start, are better targeted to the 110,000 families with children who are most likely to become prolific offenders. Surestart is a government programme designed to ensure that every child receives the best possible start in life (please see <http://www.surestart.gov.uk/>).

By 2010 the aim is to reach 20,000 families across the country. There will be additional support for parents of young offenders, or those at risk of offending, provided through existing Youth Offending Team measures. The Government is also exploring ways to better engage parents in the Youth Justice System, including a requirement for them to take a greater responsibility for their children's behaviour. This could include giving parents a legal responsibility to ensure that their child completes a sentence, not dissimilar from their current duty to ensure their child attends school. There will be an expansion of Safer School Partnerships (SSPs) which can significantly improve the relationships between young people and the police, promote school safety and reduce the risks of crime and anti social behaviour. To build on this further, every school will have a named police contact.

Supporting Young Victims

In recent years the Government has significantly improved the services for victims of crime, particularly through the introduction of the Code of Practice for Victims of Crime. Extra protection is available for young witnesses, with those under the age of 17 automatically considered vulnerable and as a result entitled to an enhanced service and special measures in court. Despite this however young people are less likely to report crimes to the police, even though they are more likely to be victims of crime than adults are. Research shows that this is often because young people are afraid to come forward. To tackle this, innovative ways of supporting young victims will be tested and good practice guidance will be issued on how best to support young witnesses before they attend court.

The Government, ACPO and the APA will work together to deliver a more effective response to the issues of youth crime, subsequently improving relationships and public perceptions. ACPO is currently working with the UK Youth Parliament to convene a series of nine regional conferences throughout the year to provide an opportunity for young people to get together to discuss terrorism and extremism and as a result influence local police work in their area.

On a wider scale, there is a need for the Government to be responsive and accountable to young people and the rest of the community. This will be achieved by ensuring that they are involved in tackling youth crime and in the decisions that affect them. Information will be provided to young people and their parents about the dangers and risks involved so they can protect themselves; building on the advertising campaign recently launched by the Government and further helping to tackle knife crime by setting up youth forums to engage young people with the police and policy makers.

Sentencing and Custody

A key principle of sentencing is that no young person should be sent into custody unless a court is able to specify why dealing with him or her in the community is not appropriate. In applying this however, perceptions that the Youth justice system is too lenient must also be addressed.

Measures previously introduced to address reoffending include an increased use of curfews and electronic tagging and an extended use of restorative justice, which aims to bring together victims and offenders. The Government aims to tackle youth crime by strengthening the involvement of the community in the delivery of justice to young offenders. This includes giving the public the chance to identify what reparation work they would like young people on community sentences to carry out, and telling them when this has taken place.

In recognising the value of reparation and the positive outcomes that can result from making young offenders face the consequences of their behaviour, the Government proposes a greater use of reparation. This will include expanding reparation during leisure time, such as Friday and Saturday nights, to ensure that offenders feel the impact of their sentence. In addition, a greater use of the referral order, which requires young offenders to attend a youth offender panel of community volunteers to answer for their actions and make amends to victims, will be introduced through measures in the Criminal Justice and Immigration Act 2008.

Intensive Fostering is another initiative mentioned in the plan as an alternative to custody for young offenders. It can be offered to children on remand in place of a custodial sentence, or as part of a resettlement agreement after custody. This option is for serious and persistent young offenders, whose home environment directly contributes to their offending behaviour. The aim is for the youth to undergo an intensive behaviour modification programme, before being returned to his or her original family circumstances.

A new Youth Rehabilitation Order (YRO) will be implemented from autumn 2009. It will replace nine existing sentences, building on their best elements and making the sentencing framework clearer and more coherent. Courts will be able to tailor the Order to meet the assessed needs of each offender, adding different requirements including undertaking treatment for drug or substance abuse or subjecting them to a curfew which is electronically monitored. In addition, the new Youth Conditional Caution (YCC) will be piloted from April 2009 for 16-17 year olds in a bid to reduce the number of young people who are taken to court for relatively low-level offences. Conditions include requiring the young offender to make amends to their victims and taking an active role in the local community.

There are plans for the Government to explore with the judiciary and magistrates how far their use of discretion to remove reporting restrictions for convicted 16 and 17 year olds can be encouraged, in an attempt to improve the transparency of the youth justice system. In addition, piloting of court reviews of high-risk young offenders on community sentences will be introduced. As part of these reviews, high-risk young offenders on the Youth Rehabilitation Order, will be brought back before the court at intervals during their sentence, to ensure that there are carrying the order out as directed and to encourage them to fulfil the requirements of their sentence. It is hoped that this strengthened monitoring will increase compliance and as a result reduce re-offending.

Breaking the cycle of offending

While many young offenders do not reoffend due to a fear of more serious consequences, a minority of offenders require more support. This will be achieved through improved, high quality education and training, which will be tailored to the personal needs of the young offender. Measures include:

- ◆ Placing new duties on local authorities to fund and commission education and training in juvenile custody.
- ◆ Developing a National Delivery Framework for education and training, which will set roles, responsibilities and a core curriculum aligned to the 14-19 curriculum reforms.
- ◆ Access to health services will also be ensured, and the effectiveness of early intervention on mental health issues is particularly noted.
- ◆ There will also be a consultation on a more comprehensive package of support for children leaving custody, which will include identifying a lead professional to take responsibility for each child and conducting ongoing assessments of a young person's risk of re-offending.

Alongside this, the Government will explore ways to expand existing resettlement provisions for young people who leave custody, with a review on the current system due later this year. There will be further measures to support offenders following their sentence, including ensuring that suitable accommodation is available and financial assistance provided to those who need it.

Making it happen

A reduction in youth crime can only be achieved if all services and local agencies work together. In support of this the Government will strengthen its response at local level by enhancing the role of Children's Trusts. These will include setting specific responsibilities for improving outcomes, in particular on the prevention of youth crime and re-offending. The duty to co-operate with Children's Trusts will be extended to schools and Sixth Form Colleges. Such involvement will help in early identification and referral of vulnerable young people at a greater risk of crime. Local partners, including the police, will have a leading responsibility for reducing youth crime and the Government will support them in the challenge the Youth Crime Action Plan presents; to focus their efforts on the major priority to make communities safer and improve the lives of children.

A copy of the Youth Crime Action Plan can be found at <http://www.homeoffice.gov.uk/documents/youth-crime-action-plan/youth-crime-action-plan-08?view=Binary>

The Review of Criminality Information by Sir Ian Magee

Following an inquiry in 2007 into the handling of notifications by other European countries of criminal convictions for UK citizens, Sir Ian Magee was asked to examine and recommend necessary improvements for recording and sharing information about criminality within the UK and between the UK and other countries in the interests of public protection.

The definition of public protection used in the review is 'the safeguarding from harm of our communities and individuals within them'. The definition of criminality information is 'any information which is, or may be, relevant to the prevention, investigation, prosecution, or penalising of crime'.

The guiding principle of the review is that the public must have confidence in the arrangements made for the recording and sharing of information for their protection, and feel that action is proportionate to the risks being addressed.

Strategic Direction

The Review considers the many organisations involved in protecting the public as belonging to a network, with a need for common understanding, a common approach to sharing information, and an agreed agenda for improvement. The present picture however shows that there are many UK organisations within the network acting independently.

Developing a strategic approach requires improved co-operation between these interlinked, but independent activities. All those involved in managing elements of the public protection network (PPN) must also understand the full network and their position in it.

The Review is clear that the benefits of cooperation can vastly outweigh the associated costs.

Recommendations on Strategic Direction

By January 2009, the Government should agree, across departments:

- ◆ A strategic direction for the improvement of criminality information management across the Public Protection Network (PPN).
- ◆ Prioritised immediate objectives for improvement.
- ◆ The embedding in relevant departments' goals and objectives of the principles of the review.

Governance and Delivery

If criminality information is to be shared more effectively in the interests of public protection there must be a governance framework which will satisfy the public that proper safeguards are in place and that accountability is clear.

In recommending a strategic approach to information management and oversight across the PPN the review identified four principles:

- ◆ Adhere to all existing governance around information management in particular: Data Protection Act 1998 and Freedom of Information Act 2000.
- ◆ Collaborate only where the total benefits to public protection of co-ordination exceed the total costs.
- ◆ Maintain delegated authorities wherever possible to allow delivery units to own core processes and thereby deliver agile responses to criminal activity.
- ◆ Institutionalise key aspects of the PPN only as needed to deliver clarity and value to PPN participants.

Recommendations on Governance and Delivery

- ◆ The action to deliver specific parts of this agenda should be led by the agencies concerned (NPIA, ACPO, UKBA, Prison Service etc.), with support from a Central Implementation Team located in the Home Office. This unit should be substantially in place by September 2008.
- ◆ The work of agencies and the Implementation Team should be governed by the Home Secretary chaired Ministerial group with external advice from a Commission for Public Protection Information.
- ◆ The Review recognises that there are several parallel initiatives underway and governance regimes in place, (the most notable being the Bichard Implementation team). Therefore the report suggests that senior Home Office management consider consolidations as they set up implementation of the Criminality Information Review.

Leadership and Culture

The Review found that there is currently a presumption not to share criminality information (in some cases for fear of criminal penalties) and a lack of understanding from those entering data about its fundamental purpose (public protection). Decisions about when it is appropriate and proportionate to share personal, and in some cases, highly sensitive information are often left by default to those at the front line.

Recommendations in Relation to Leadership and Culture

- ◆ Leaders at all levels within the PPN need to demonstrate awareness of the importance of information flow across the network and of managing them with their partners, so as to ensure the appropriate sharing of criminality information in the interests of public protection.
- ◆ Leaders should make a statement of intent in their area before December 2008 to ensure that at all levels of leadership there is:
 - ◆ Recognition of their accountability for the improvement in criminality information capture and sharing, by including this in their key objectives.

- ◆ Simple straightforward communication to staff of the importance of accurate data capture and appropriate sharing of information (within law) as fundamental to public protection.
- ◆ The importance of information management should be explicitly included in leadership training and development programmes such as the Police Strategic Command Course before September 2009.
- ◆ Within one year of publication of the report, leaders should assess, with peer review, their provision of organisational training, guidance etc. on criminality information for staff and commit to deliver:
 - ◆ The necessary tools, agreed protocols and processes so that staff may capture, share and use criminality information appropriately.
 - ◆ Improved capacity and confidence of staff through training, guidance and sharing good practice.

Risk and Risk Management

Risk identification and management tends to be undertaken within each organisation rather than across the public protection network and in practice is front-line operational rather than strategic in nature. As a result unnecessary risks are taken.

Both the Home Office and MoJ have mechanisms for identifying risks to public protection that are predominantly financial and reputational in nature. This means that the focus for public protection organisation seems to be on risks to their internal processes and their reputation rather than on the business of protecting the public itself.

Alongside corporate risk management, many front-line professionals carry out sophisticated risk assessments of individuals and of specific situations. However, weaknesses in these risk assessments, including information gaps and deficiencies, are not always fed into corporate risk management processes creating avoidable risks for public protection.

Recommendations in Relation to Risk and Risk Management

- ◆ Those responsible for strategy, business planning and risk management within each department or organisation belonging to the PPN should give explicit considerations to the potential impact of their decision on risk to public protection as a whole.
- ◆ Each agency within the PPN should institute by 2009 a regular mechanism to enable escalation of significant front line risk to public protection.
- ◆ The Home Office and, where necessary, the Ministerial group should facilitate mechanisms to encourage senior managers to share their analysis and assessment of public protection risks and vulnerabilities, and proposed action, with other organisations.
- ◆ The Ministerial Group should ensure that an assessment of the effectiveness of risk identification and management is included in the inspection framework of public protection organisations.

- ◆ Agency heads, as part of their leadership recommendations, should ensure that adequate training in risk assessment and management should be provided for managers at all levels.

Investment

The review found that it is problematic for organisations involved in public protection to align their investment plans with others and to see where they have similar priorities which would benefit from joint investment. This is because there is no map of the landscape, or overall strategy. The NPIA have made a useful starting point however in their diagram of policing systems and information flows. In addition there is no single organisation with the authority to develop or broker a set of PPN investment priorities.

Recommendations in Relation to Investment

- ◆ Investment boards in the various public protection organisations should always take account of wider public protection priorities in making funding decisions.
- ◆ The implementation team should facilitate mechanisms to ensure better joined up investment across the PPN.

International Dimension

The UK should look ahead to where trends in criminal activity suggest future threats lie, taking a proactive risk based approach in setting up any new arrangements. International work is also currently not seen as a high priority for the front-line officer, not only is there a lack of training but the absence of performance indicators and targets on international work suggests it is a low priority.

Improvements are required on data sharing within the UK itself. For example, there are still only limited links between PNC and Northern Ireland police information. The Review welcomes the feasibility study conducted by the NPIA on the matter and expects by the time the issue is revisited in early 2009, for it to be resolved.

Recommendations in Relation to International Dimension

- ◆ The Home Office led Implementation Team should support Ministers in developing by January 2009 an agreed approach for the UK on international exchange of criminality information.
- ◆ Police forces, individually and collectively, and other PPN organisations should nominate a lead official for international criminality information issues and the resulting network should be maintained by the Implementation Team.
- ◆ The Implementation Team should ensure that all international proposals on the management of criminality information, whether from the UK or elsewhere, are evaluated by a combination of international experts, senior policy makers and those key delivery organisations who would be affected or required to put them into effect.

- ◆ Subject to reaching an agreement with Jersey, Guernsey and the Isle of Man, the earliest opportunity should be taken to bring them within the CRB regime.

Technology

Many of the problems currently experienced in sharing criminality information arise from the IT systems because they cannot communicate with each other. The landscape of criminality information is heavily populated, and so some collaboration between the many different players is essential.

The PNC is one example. The NPIA in developing the PNC are concerned about the transparency of governance, and are seeking to clarify the governance of the PNC. Sir Ian Magee believes this is the correct approach given the importance that the PNC has, and PND will have, to a number of processes across various organisations concerned with public protection.

Recommendations in Relation to Technology

- ◆ A full review should be taken of IT systems as they relate to criminality information management.
- ◆ Each CIO should consider as a matter of urgency giving effect to any simple tactical IT fixes that will support the recommendations.
- ◆ Building on the governance, processes, standards and architecture that will flow from the recommendations. Increasing IT integrations should be an objective and programmes that increase information sharing should be accorded a degree of priority.
- ◆ Looking to future requirements, all IT developments in the sphere of criminality information should pass through an assessment process.
- ◆ There should be better engagement with IT suppliers so that they understand priorities and respond to the need for process and IT systems to be able to share criminality information across departments and agencies.
- ◆ By Spring 2009, ACPO working with the NPIA and stakeholders, should clarify the governance of PNC and develop a clear and agreed approach in the light of the issues identified in the review as to who in which organisations should have what access to PNC.
- ◆ The SROs for the remaining Bichard recommendations should urgently reconsider the timetables for implementation with a view to expediting them. Sir Ian expects greater progress when the issue is revisited in early 2009.

The Front-Line

The review recognises that ultimate responsibility for public protection rests with the Government, but the reality is that significant decisions are taken every day by frontline staff. The fact that these decisions are sometimes based on inadequate information impacts on public safety.

Recommendations in Relation to the Front-Line

- ◆ Where justified by the risk to the public, proffered identification should be checked against relevant databases, and relevant information sought at each decision point as offenders move through the criminal justice system.
- ◆ Clear accountability and standard procedures should be developed to manage storage and access to all key PPN information.
- ◆ Where information sharing is both necessary and proportionate to support effective public protection, arrangements should be systematic, proactive and accountability clear.
- ◆ Clear frameworks should be developed for decision making on individual cases appropriate to the staff member taking the decision, and indicating clear escalation paths when required.

The Future

Establishing the real identity of those who have committed criminal offences is key to ensuring that they are caught, brought to justice and denied further opportunity to offend. The best way to verify an individual's identity is through a combination of biographical data cross checked with biometric data.

Organisations in the Public Protection Network should ensure that arrangements are in place to keep abreast of the technology development, its application, and its acceptability, technology evaluation and impact analysis. Therefore an effective horizon scanning capability is essential.

Whatever technological benefits become available their success or failure will depend on people. Public protection and the management of criminality information to deliver it can only be effected with the support of the public themselves. Ensuring their understanding and confidence in new developments will be essential to securing that.

Recommendations in Relation to the Future

- ◆ Horizon scanning should be undertaken (on a regular basis) by the proposed independent Commission for Public Protection Information.
- ◆ Ministers should lead a public debate about the DNA database, and the use of biometrics more widely, to help improve public understanding and confidence.

Fall in Crime According to British Crime Survey

New figures from the Home Office measured by the British Crime Survey (BCS) over the past year across England and Wales are showing a historic fall in levels of crime. The figures amount in real terms to the equivalent of 1 million fewer crimes.

Under the new arrangements for statistics overseen by the UK Statistical Authority, the annual publication 'Crime in England and Wales 2007/2008' produced by the Home Office, shows the risk of being a victim of crime having

fallen from 24 to 22%. This is the lowest level recorded since the British Crime Survey began in 1981.

The results are compiled from the British Crime Survey which is a victimisation survey and crime recorded by the police. All BCS crime is down by 10% and police recorded crime down by 9%. These decreases were reflected in nearly every type of crime.

According to the BCS figures:

- ◆ Violent crime is down by 12%;
- ◆ Vandalism is down by 10%;
- ◆ Vehicle related theft is down by 11%;
- ◆ Perceptions of anti-social behaviour are down 2% to 16%.

According to police recorded figures:

- ◆ Sex offences are down by 7%;
- ◆ Violence against the person down by 8%;
- ◆ Domestic burglary reported to the police down by 4%.

The Government stated that its priority is to build on and improve these figures especially in relation to violence involving knives and guns which are consistently used in the most serious violent incidents.

The British Crime Survey is available online at <http://www.homeoffice.gov.uk/rds/>

Record Number of Foreign Criminals Deported

The Home Office have announced that since January, more than 2400 convicted criminals have been deported, putting the government on track to improve on its record-breaking level of removals in 2007.

In 2007 a total of 4200 foreign prisoners were sent home. This year has seen the most foreign criminals ever removed in a six-month period, an increase of 22% on the same period last year.

The most dangerous of these criminals will be deported first. So far this year 15 convicted killers, 137 sex offenders and 844 drug offenders have been deported.

It is hoped that the high level of removals continues following last month's newly forged crime partnerships between the UK Borders Agency and police across the UK.

Later this year the government will activate powers to automatically deport foreign national prisoners. By the end of the summer those sentenced to 12 months or more in prison will face automatic deportation as well as those who use or sell guns regardless of their sentence.

More information can be found at <http://www.bia.homeoffice.gov.uk/>

New Local Area Agreements

The results of a comprehensive shake up of council targets and priorities have been published and show the pattern of issues across England that councils will have to deal with over the next three years.

The Government has more than halved local targets for councils from over 100 to just 35 to ensure more rigorous focus on what matters to local people and reduce bureaucracy.

The new targets are called Local Area Agreements (LAAs) and have been produced in consultation with those at the sharp end of providing services to the public. In addition, each locality has specified priorities it feels will most improve the quality of life for its residents. Although referred to generically as affecting councils, LAAs apply to local authorities and a range of other local service providers including the police, hospitals and jobcentres.

Alongside tackling crime, three-quarters of local areas have prioritised getting unemployed young people into work or education and two thirds will focus on reducing teenage pregnancy.

To view the chosen priorities in every local area in England please see <http://www.localpriorities.communities.gov.uk>

Failure of Licensing Laws

According to a survey by the Local Government Association, 24 hour licensing laws have cost the taxpayer £100 million and have failed to reduce the number of alcohol fuelled disorders.

The survey found that 7 out of 10 police authorities, primary care trusts and councils had stated that the number of drink related incidents had gone up or had stayed the same. Almost 1 in 3 primary care trusts reported an increase.

The LGA survey was based on the responses from 51 local authorities, 49 primary care trusts and 20 police authorities. The results have showed a level of financial strain on these services imposed by round the clock drinking.

Further information can be found at <http://www.lga.gov.uk>

Consultation on 'The Gambling Act 2005 - Advice for British Police Services'

The Gambling Commission has launched a consultation on its draft reference document for British police services regarding their role in the regulation of the gambling industry. The consultation document sets out topics the Gambling Commission considers to be important for the police, and offers advice on specific matters that police may encounter regarding gambling premises in their individual areas.

The consultation runs until 25 August 2008, and asks six questions regarding the draft document:

- ◆ Is there any information regarding police powers under the Gambling Act 2005 that you think is not included but should be referred to?
- ◆ What other information can you think of regarding gambling intelligence that would be useful for police services?
- ◆ What suggestions do you have regarding other information that could be included in this section relating to licensing authority functions under the Act and the role of the police?
- ◆ Can you suggest any other information relating to premises licence reviews or appeals that could be included here?
- ◆ Is there any other information relating to where and how gambling takes place that you would like to see included in this document?
- ◆ Do you have any other comments about the document?

The consultation document, including the draft reference document, can be found at

<http://www.gamblingcommission.gov.uk/UploadDocs/publications/Document/Advice%20to%20Police%20Final.pdf>

UK Border Agency to Protect Children

The Home Office and the Department for Children, Schools and Families have announced that the UK Border Agency is to have a legal duty to safeguard and promote the welfare of children. The proposals will become part of the forthcoming Citizenship, Immigration and Borders Bill which will be introduced in the next Parliamentary session.

The statement to Parliament argued that those responsible for running the immigration system should have the same responsibilities for ensuring the safety and welfare of children as other agencies which are subject to Section 11 of the Children Act 2004.

The UK Borders Agency (UKBA) is already working towards implementing a Code of Practice to Protect Children from Harm whilst in the UK and is working closely with the Children's Commissioner. By introducing a Section 11 duty on the UKBA there will be a stronger focus not just on the status of children and young people arriving in the UK but on their safety and welfare.

Further information can be found at <http://www.dcsf.gov.uk>

New Rules for Short Term Visitors to the UK

The Home Office have announced some firm but fair changes to the short term visa system. The new proposals will include tough new sanctions to be imposed on people who fail to ensure that family members visiting from abroad abide by the rules. This will mean that people will have to become licensed to sponsor family members who visit from abroad. These sponsors will then have a duty to ensure their visitors leave before their visa runs out. If the sponsor fails in their duties, they will either face a ban on bringing anyone else into the country, a penalty of up to £5,000 or a jail sentence.

Further proposals announced alongside these changes include:

- ◆ Introducing two new business visas for sportspeople and entertainers;
- ◆ Setting the maximum leave for visitors at six months;
- ◆ Introducing an appeal system for those coming in under the family route;
- ◆ A new short term, low-cost group travel visa to promote British tourism; and
- ◆ A visa for people coming to the UK for one off cultural events such as the Edinburgh Festival.

All of the proposals follow a consultation which ran from December 2007 to March of this year which uniquely included contributions from foreign communities abroad as well as communities in the UK.

All of the proposed changes will sit alongside the new Points Based System which has replaced around 80 different work permit routes with just 5. Those travelling to the UK are now locked into one identity through the introduction of fingerprinting for all visa applicants, a new hi-tech system for counting people in and out of the country and the roll out of ID cards for all foreign nationals.

The Government's response to the consultation can be found at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/visitorsconsultationpaper/visitorsconsultationrespon.PDF>

UK Action Plan on Human Trafficking - 2008 Revision

The first revision to the 'living' UK Action Plan on Human Trafficking has been published by the Home Office and the Scottish Government. The new plan sets out the Government strategy to tackle human trafficking, which includes updates on prevention, enforcement and prosecutions and the protection and support of adult and child victims. It also contains details of the drive toward ratification of the Council of Europe Convention on Action Against Trafficking in Human Beings.

The plan also highlights the importance of effective partnership working in tackling human trafficking, citing Operation Pentameter 2 as an example of this. Operation Pentameter 2, a coordinated campaign of activity aimed at disrupting those who engage in trafficking for sexual exploitation in the UK, has resulted in police rescuing 167 victims and arresting 528 suspected traffickers. Of the victims, 13 were children aged between 14 and 17 years old.

The plan covers a number of issues surrounding tackling human trafficking, including:

- ◆ Prevention of trafficking;
- ◆ Investigation, law enforcement and Prosecution;
- ◆ Providing protection and assistance to adult victims; and
- ◆ Child victims of trafficking.

The Action Plan can be found at
<http://www.crimereduction.homeoffice.gov.uk/humantrafficking004.pdf>

Advice Leaflet on Alternatives to Prosecution

The Office for Criminal Justice Reform have issued a new leaflet, 'I'm an adult and I've been arrested - what can happen to me?' giving advice on out-of-court disposals. The leaflet is designed for adult offenders to read in custody, and explains in simple language the out-of-court disposals available to the police and the CPS.

The out-of-court disposals covered in the leaflet are:

- ◆ Cannabis warning;
- ◆ Simple caution;
- ◆ Conditional caution;
- ◆ Penalty Notice for Disorder.

The disposals can, if available, offer low-risk, low-level and mostly first time offenders a chance to make reparation and/or get help, whilst also avoiding a criminal conviction and court appearance. The leaflet gives information on what each disposal is and when it may be available. It also explains how the disposals can affect the offender's future.

The leaflet notes that the police cannot discuss out-of-court disposals until after they have finished investigating the case. It also gives information on taking offences into consideration.

The leaflet can be found at

http://www.frontline.cjsonline.gov.uk/_includes/downloads/guidance/out-of-court-disposals/Disposals_leaflet_for_adult_offenders.pdf

Rehabilitation Versus Punishment - Judge for Yourself

The Ministry for Justice has launched an innovative online programme for members of the public who can decide what they think is the most appropriate sentence for virtual offenders. The move came as a new survey showed that the public think that reforming offenders to cut re-offending is equally as important as punishment.

The survey analysed the public's understanding of community sentencing and their views around crime and punishment. It showed that 82% thought that rehabilitation was as and if not more important than punishment when it came to sentencing.

The online project aims to allow the public a better understanding of how sentences work and see the benefits of different sentences for individual offenders by letting them experience probation work first hand, albeit virtually.

To access 'Judge for Yourself' go to <http://www.direct.gov.uk/en/index.htm>

Sentencing Guidelines on Dealing with Driving Offences Resulting in Death

The Sentencing Guidelines Council (SGC) have published a definitive guideline for courts that gives a clear message that driving offences which result in death are serious offences and should receive appropriate sentences.

Tougher custodial sentences of at least 7 years are recommended by the Council for cases involving:

- ◆ Prolonged, persistent and deliberate bad driving;
- ◆ Where drivers are intoxicated or under the influence of drugs;
- ◆ Where drivers are using mobile phones when the offence was committed. This includes reading and composing text messages over a period of time whilst at the wheel.
- ◆ Driving whilst banned.

The definitive guideline covers four offences:

- ◆ Causing death by dangerous driving;
- ◆ Causing death by driving under the influence of alcohol or drugs;
- ◆ Causing death by careless driving; and
- ◆ Causing death by driving: unlicensed, disqualified or uninsured drivers.

The latter two sentences were introduced by the Road Safety Act 2006 but are yet to come into force.

Other issues largely related to the offender's behaviour will be treated as aggravating factors. A combination of dangerous driving features, particularly if there are aggravating factors, should attract sentence towards the maximum of 14 years. The degree of intoxication in driving under the influence cases should also increase as the intoxication does.

However careless driving where the driving involved a momentary lack of attention and where there are no aggravating factors should attract a community sentence which could include a curfew.

The guideline is aimed to support sentencers making difficult decisions where there are varying levels of culpability, from complete disregard of road safety to momentary inattention.

The definitive guideline is available at <http://www.sentencingguidelines.gov.uk>

Tackling Youth Crime

New research undertaken by the Institute for Public Policy Research (IPPR) has argued that young people committing non-severe crimes should be dealt with by Community Justice Panels in which victims and community representatives are able to confront non-severe young offenders, rather than putting them through the police and court system.

IPPR argue that criminalisation targets should be replaced with a “tiered system” for youth justice. This would consist of:

- ◆ Criminal courts would focus on severe crimes;
- ◆ Non-severe offences and anti-social behaviour would be tackled using a range of “Community Justice” approaches;
- ◆ Community Justice approaches would include Community Justice Panels where members of the local community meet offenders to agree “payback” contracts that also tackle re-offending and Restorative Conferences where the offender meets the victim in a mediated forum.

Their research shows that targets to bring offences to justice led to a disproportionate focus on minor offending by young people, despite no increase in offending in that period. Since the target was introduced in 2002:

- ◆ The number of under 18’s being brought into the criminal justice system has risen by over a quarter, two and a half times faster than adults;
- ◆ The number of under 15’s being criminalised has increased by a third;
- ◆ The average seriousness of offences being brought into the youth justice system has been falling.

IPPR have stated that their suggested approach would:

- ◆ Help to prevent re-offending by allowing a co-ordinated approach between the victim, the local community and the offender’s family, school and peer group.
- ◆ Through Community Justice Panels, focus would be on the offender ‘paying back’ the victim and the community.
- ◆ Offenders would also contribute a number of hours of constructive voluntary work in the community.

This research has been published before the Youth Crime Action Plan, which is discussed on page 19.

First Use of Serious Crime Prevention Orders

The Revenue and Customs Prosecutions Office (RCPO) secured 3 Serious Crime Prevention Orders (SCPO) at the very end of June following an investigation by the Serious Organised Crime Agency (SOCA). The case is the first ever use of the legislation under Section 1 of the Serious Crime Act 2007 which came into force in April of this year.

As a result of the orders given at Isleworth Crown Court, for 5 years from the day they are released from prison, those concerned will be at risk of an additional 5 years in prison if they breach the orders which are designed to prevent them carrying out activities related to the possession and movement of money.

The team of 3 money launderers received a total of 17 years imprisonment for their part in laundering £25 million cash in just over 2 years for organised crime

networks. In addition to the SCPOs the couple involved were given Financial Reporting Orders requiring them to report all their financial details every year and on release every 6 months for the next 10 years.

The purposes of the orders are to protect the public by preventing, restricting or deterring those involved in serious crime from continuing their involvement. Breach of a SCPO is punishable by up to 5 years imprisonment and an unlimited fine. A SCPO can last for up to 5 years from the date on which it commences.

Financial Reporting Orders can require a convicted criminal to report their financial details at regular intervals for a period of up to 20 years for those sentenced to life, or a maximum of 15 years for other offences.

Progress in Dealing with Women Offenders

The Ministerial Champion for Women in the Criminal Justice System has set out a number of initiatives to support women with particular vulnerabilities in the criminal justice system.

The new initiatives have been published to coincide with the publication of the Government's sixth month progress report on Baroness Corston's independent review of women in the criminal justice system that have specific vulnerabilities.

The new initiatives are in addition to a National Service Framework for Women Offenders which was included in the July edition of the *Digest*.

The new initiatives include:

- ◆ Piloting a new approach to providing access to community based services and residential facilities by agencies working in a more integrated way;
- ◆ Support for the continued development of the Turnaround Project in Wales which demonstrates the value of multi-agency multi-sector work with women offenders;
- ◆ Developing specific guidance and support for Offender Managers on how to deal with women offenders;
- ◆ Running pilots in five women's prisons testing a new kind of search which does not require the removal of underwear unless there is intelligence or suspicion at any stage that this is necessary.

A copy of the progress report can be found at <http://www.justice.gov.uk>

Disqualified Drivers Targeted in International Agreement

At a meeting in Belfast at the end of June, British, Northern Irish and Irish Ministers came together to make an agreement which will keep disqualified drivers off the roads.

The agreement is the first of its kind in Europe and will mean that UK drivers who are disqualified for an offence in Ireland will no longer escape that punishment when they return to the UK. Likewise, disqualification of Irish drivers while in the UK will be enforced when they return to Ireland.

The mutual agreement to recognise disqualified drivers across the three jurisdictions is the first to be drawn up under the terms of the 1998 European Convention on driving disqualification. The Convention provides 6 agreed types of conduct which will be internationally recognised.

The agreed behaviours covered by the Convention include:

- ◆ Reckless or dangerous driving;
- ◆ Hit and run driving;
- ◆ Driving whilst under the influence of alcohol or drugs;
- ◆ Speeding; and
- ◆ Driving whilst disqualified.

Mutual recognition within the 3 jurisdictions should be in place by the spring of 2009.

Further information can be found at <http://www.dft.gov.uk>

Police Handcuff Shortage

The company which has been making handcuffs for over 200 years and which have supplied almost every police force has announced their closure within a matter of weeks. The news has prompted a supply problem to UK forces.

With the closure of the company it is thought that there may be an increase in the number of officers switching from the rigid handcuff to a 'hinged' version. The hinged version of the handcuff is said to enable an officer to assert the same level of control on prisoners but with less associated injuries. They can also be carried folded which makes them more versatile.

The leading supplier of the hinged handcuff has said that 5 UK forces are already trialling the model. However the purchase of handcuffs is a matter for each individual force and therefore many may soon be looking for a new supplier.

'Go Wisely' Stop and Search DVD

A DVD has been produced by the Metropolitan Police Authority called 'Go Wisely - everything you need to know about Stop and Search'. The DVD is intended to:

- ◆ Explore what stop and search is for and why it is controversial;
- ◆ Inform the public of their rights when they are stopped or searched; and
- ◆ Be part of an overall training package for the police in how to use stop and search appropriately.

There is an accompanying resource pack developed and produced by Greater Manchester Police Authority designed to explore the issues within the DVD. It is intended that the DVD and resource pack will encourage debate within and between communities and their local police and therefore foster trust and understanding which will enable stop and search tactics to be effective.

The DVD can be watched online or the transcript read at <http://www.mpa.gov.uk/issues/stop-search/go-wisely.htm>

'Operation Goodnight' Trial

Police officers and local authority officials in an area of Redruth will patrol a Voluntary Child Curfew in the town aimed at keeping children under 16 of the streets at night.

All those of 15 and under who are out unsupervised after 9 pm, and all those under 10 who are out unsupervised after 8 pm, will be stopped. Police will then contact the parents or carers. If the parents or carers do not act or co-operate, other agencies would be brought in, such as social services, and measures such as parenting orders may be imposed.

The campaign, named 'Operation Goodnight', is to run from 25 July to 7 September, and follows the ending of a dispersal zone set up in the area under the Anti-social Behaviour Act 2003.

IPCC Consultation on Police Complaints System

Four years since its launch, the Independent Police Complaints Commission has decided that it is time to take stock and review how the system is working and has undertaken a 12 week public consultation on the future of the police complaints system.

The consultation document 'Building on Experience' describes how the system is currently working and includes 10 proposals for how to improve the system. These proposals have been published for consultation until 12 September 2008. The stock take found that there needs to be change as 79% of people stated that they were dissatisfied with the way their complaint was dealt with.

Nick Hardwick, the Chairman on the IPCC said that the current process for dealing with a complaint involves no fewer than 12 different correspondences between the IPCC, the complainant and the police. The IPCC wants to deal with things at a more local level so that commanders are taking responsibility not just for filling in forms, but actually putting things right. A simple way of dealing with a complaint would be for the individual to complain to their local force who should then record it and decide whether or not to dispense with it. The complainant would have one right of appeal to the IPCC if they feel their grievance had not been properly dealt with.

Mr Hardwick stated that the bulk of the changes would not require a change in the law, rather a change in practice which can be achieved through a new set of statutory guidance. Some however would require changes in legislation with Ministerial approval. He concluded that the police should be given greater trust and responsibility but with that will come greater accountability if they deal with it badly.

The ten proposals for consultation are as follows:

Defining a complaint

- ◆ Removing the current distinction between conduct, maladministration and service failure matters. This would place a stronger emphasis on putting right what went wrong rather than solely considering individual conduct.

Resolving a complaint

- ◆ Dealing with all complaints at the lowest appropriate level whilst keeping a direct route to the IPCC for the most serious cases. This would speed up the process and reduce the cost of the system. It could also facilitate local learning from complaints.
- ◆ Assessing and handling complaints locally with the aim of resolving them and improving service. By focussing on putting things right rather than solely identifying individual culpability this should increase complainants' satisfaction and reassure officers that the system is not just about apportioning blame.
- ◆ Separate consideration of whether a complaint is 'upheld' from any finding of misconduct/poor performance against an officer (substantiated). This would enable a complaint to be upheld whether or not there is evidence of individual misconduct or poor performance.

Reviewing the handling of complaints

- ◆ Review within the police force if the complainant is still not satisfied. This would enable the force to have an opportunity at a more senior level to resolve the complaint successfully.
- ◆ Review the appeal structure. Introduce one overarching right of appeal to the IPCC, a public interest test and clearer standards on how appeals to the IPCC will be handled. This would provide incentives for forces to get the handling of complaints right from the outset.

IPCC oversight

- ◆ Greater oversight role for the IPCC to check force handling of lower level complaints. This will ensure that the system is accessible to all potential complainants.
- ◆ Introduce measures to make the complaints data more meaningful. A better understanding of performance would help forces and other organisations involved in the complaints system to learn and improve their services.
- ◆ Remove excessive bureaucracy from the complaints system. This would enable the complaints system to operate more quickly and with transparency.

Independent investigations

- ◆ IPCC to normally issue an early interim statement on independent investigations. This openness and transparency would reassure the public that serious incidents and complaints are handled quickly and fairly.

In addition to this consultation the IPCC have begun a 6 week consultation which started on 7 July on a framework to assess the performance of the police complaints system. The purpose is to seek feedback from key stakeholders on the above proposals. The consultation invites comment on:

- ◆ The proposed content of the performance framework;
- ◆ The practicalities of data collection and verification;
- ◆ The suggested roles of stakeholders of the police complaints system.

Both consultations can be found at

<http://www.ipcc.gov.uk/index/resources/consultation.htm>

IPCC Advice on Domestic Violence Policy

The IPCC has concluded its independent investigation into the actions of Staffordshire police officers prior to the deaths of Donna Wilson and Shaun Clarke.

In January 2007, Donna Wilson died from stab wounds sustained in her home by attacker Shaun Clarke. Clarke was found dead the following day in a nearby park. In the 8 days prior to her death, Donna Wilson had been in contact with

Staffordshire police and had made allegations of theft and assault against Shaun Clarke. Wilson lived in a 'warden' house in a sheltered housing development where she worked. Clarke was at the time living in the community on a life licence under Probation monitoring as a 'low risk' of re-offending. He had served some 20 years for a previous murder.

Soon after the allegations were made, Donna Wilson asked for them to be withdrawn fearing that they would impact negatively on her working arrangements. The officer had rightly informed Wilson that Clarke would have to be arrested. This however did not happen.

The IPCC investigation held that the Force had failed in terms of the duty of care it owed Donna Wilson. It concluded that this amounted to a systematic failure because of:

- ◆ Repeated missed opportunities to identify the seriousness of the threat Clarke presented to her.
- ◆ Initially the police did not visit and assess the scene following the assault incident and wrongly assessed the risk posed as low to medium rather than high.
- ◆ The investigating officer failed to identify Clarke by using too narrow search parameters on their national and local intelligence databases. This was compounded by the failure to update systems with current data in the Force's possession in relation to Clarke's current address.
- ◆ Contravention of the Force Domestic Violence Policy (DVP) by there being no attempt to arrest Clarke at the time of the assault nor thereafter.
- ◆ The Force Public Protection Unit (PPU) did not identify the real and present scale of the risk to Donna Wilson by conducting a second risk assessment as such assessments had been confined to cases already assessed as 'high risk'.
- ◆ The investigation also found failures of supervision.

A number of recommendations were made by the IPCC to the Force but also nationally. As a result of the investigation the IPCC will encourage national improvements across all forces in England and Wales relating to:

- ◆ The dissemination of the potential national intelligence gaps between the National Probation Service and the Police Service in relation to those released on life licences.
- ◆ The undertaking of domestic violence homicide reviews in the context of a Homicide Reduction Policy.

The IPCC stated that it is vital that the police seize the opportunity presented in this investigation to minimise any risk presented to the community by life licensees who go on to re-offend. It also concluded that Forces need to ensure their Domestic Violence Policy is effective and that local level supervision of the policy is crucial to getting its application right.

Further information can be found at <http://www.ipcc.gov.uk>

Policy on Prosecuting Crimes Against Older People Published

The CPS has published a new policy, 'Prosecuting Crimes Against Older People', to make clear to older people, their families, communities and the general public that the CPS understands the serious implications of crimes against older people. Research has shown that such crimes are prevalent, but are under-reported to police.

The policy explains how the CPS deal with crimes against older people and how it supports older people who are victims and witnesses of crime. It outlines a number of factors in dealing with crimes against older people, including:

- ◆ The role of the Crown Prosecution Service;
- ◆ The role of the police;
- ◆ Prosecuting crimes against older people;
- ◆ Helping older people to give their best evidence at court;
- ◆ Sentencing;
- ◆ Recording crimes against older people.

The policy can be found at

http://www.cps.gov.uk/publications/docs/caop_policy.pdf

Survey on Homophobic Hate Crime

In the first statistically significant National survey of its kind commissioned by Stonewall from YouGov, the extent of abuse facing many of Britain's lesbian, gay and bisexual people on a daily basis was disturbingly highlighted.

The report showed that:

- ◆ One in five has been a victim of homophobic hate crimes in the last three years.
- ◆ The incidents range from harassment to serious physical and sexual assaults.
- ◆ Three in four don't report incidents to the police as many believe no action will follow.
- ◆ Only 1% of those that did report the crime or incident resulted in a conviction.
- ◆ Two thirds of those who reported incidents to the police were not offered or referred to advice or support services.

The report set out ten key recommendations which included:

- ◆ Encouraging police to improve the recording of homophobic hate incidents and help lesbian and gay people to report them.

- ◆ Tackling homophobic bullying in schools and the workplace in order to help reduce the likelihood of homophobic incidents on the streets.

Stonewall set out to carry out the research, supported by the Home Office, after the conviction of two men for the homophobic murder of Jody Dobrowski in June 2006. The British Crime Survey currently fails to identify or quantify homophobic crime.

As a result of the findings in the survey, Home Secretary Jacqui Smith has tasked the Ministerial Action Group on Violence to address homophobic hate crime.

Stonewall said that it welcomed the action by the Home Secretary and looked forward to working with the criminal justice system to ensure that such crimes are confidently reported and the perpetrators are brought to justice.

A spokesperson for ACPO said that the statistics speak for themselves and this cannot be accepted. The findings offer the police service a real opportunity to make real improvements in terms of how homophobic incidents are dealt with but also in terms of raising confidence in reporting incidents in the first place.

The full report can be accessed from <http://www.stonewall.org.uk>

2008 Safeguarding Children Review

The third joint inspector's review of arrangements to safeguard children and young people has been published. The review looks four key areas:

- ◆ How effective are existing safeguarding systems and frameworks;
- ◆ The wider safeguarding role of public services;
- ◆ How well vulnerable groups of children and young people are safeguarded;
- ◆ How well the relevant agencies deal with child protection concerns.

The review notes that there is evidence of improvements in children's services and in outcomes for children and young people since the 2008 review, but notes that certain groups of children still need particular attention to ensure they are safeguarded. These groups include:

- ◆ Some children who are looked after by their local authority;
- ◆ Children who are asylum seekers;
- ◆ Children and young people in secure settings.

The review can be accessed from

<http://www.safeguardingchildren.org.uk/Safeguarding-Children/2008-report/Download-the-report>

'Gun Crime: A Review of Evidence and Policy'

The Centre for Crime and Justice Studies at King's College London produced a report on 28 June which stated that most of the problems associated with the illegal use of firearms require social and economic solutions rather than criminal justice ones.

'Gun Crime: A Review of Evidence and Policy' provides a detailed analysis of recent research and data and highlights extensive gaps in existing knowledge and the inadequacies of current policies. The report says that there is 'no compelling evidence' that the current mainly enforcement led approach to gun crime by the Government is effective in dealing with firearm related offending.

The main author of the report, Peter Squires, said that by examining what is and is not known about gun crime, the report aims to establish a basis from which we can start to ask the right questions and develop effective policies. The report identifies that use of guns is a product of conflict and violence in deprived and excluded communities and states that once that is accepted we can start addressing causes and not just symptoms.

The report can be found at <http://www.crimeandjustice.org.uk>

Safer Nightlife Best Practice Document Published

The London Drug Policy Forum has published 'Safer Nightlife: Best practice for those concerned about drug use and the night-time economy'. The document, a new and updated version of the 2002 'Safer Clubbing' document, aims to help ensure the health and safety of everyone who goes out to pubs and clubs, particularly those who also take controlled drugs. The updated document reflects that, since the 2002 document:

- ◆ There have been substantial changes in licensing legislation;
- ◆ These changes have been accompanied by a growth in the night-time economy with more pubs opening until the early hours;
- ◆ Patterns and trends of recreational drug use have changed significantly alongside a significant increase in alcohol use among sections of the population.

The guide is particularly aimed at:

- ◆ Owners and managers of pubs and clubs;
- ◆ The promoters of music and dance events;
- ◆ Those responsible for licensing and policing music and dance events;
- ◆ Drug (and Alcohol) Action Teams, many of which are now part of Crime and Disorder Reduction Partnerships;
- ◆ Those providing substance misuse, sexual health, medical or general welfare services at music and dance events.

A copy of the document can be found at http://213.86.34.248/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS_LDPF_safer_nightlife.pdf

The Cost of Crime

A report produced by the Taxpayers' Alliance has been published. It claims that the cost of tackling recorded crime is £15 billion a year, which works out at £275 per person.

Data was gathered from each police force under the Freedom of Information Act 2000. The report uses this data to compare the number of different crimes in each police force area in England, Wales and Northern Ireland with the Home Office estimates of the cost of each type of crime.

Using local population figures, the Taxpayers' Alliance have produced a league table of police forces ranked by the cost of crime per head of population, allowing local citizens to assess the performance of their local police and compare it with other parts of the country. The highest cost of crime was in Nottinghamshire, at £390 per person. It was closely followed by London, at £388 per person. Humberside had the third highest cost at £380 per person.

Other findings in the report include:

- ◆ Violence against the person, including murder and serious assault, was responsible for the highest economic and social costs, at around £155 per person.
- ◆ Many, predominantly rural, areas saw a far lower cost of crime. Crime cost £130 per resident in North Yorkshire, £186 per resident in Dyfed Powys and £194 per resident in Surrey.

The report, which details the cost of recorded crime per person in each police force in 2007, can be found in full at

<http://tpa.typepad.com/bettergovernment/2008/07/crime-costs-15.html>

Statistics on Road Casualties

The Department of Transport has published statistics on road casualties in Great Britain in 2007.

The figures, which relate to casualties in accidents reported to the police, are as follows:

- ◆ The number of people killed in road accidents fell by 7% from 3,172 in 2006 to 2,943 in 2007.
- ◆ 30,720 people were killed or seriously injured in 2007, 4% fewer than in 2006.
- ◆ There were 247,780 road casualties in Great Britain in 2007, 4% less than in 2006.
- ◆ Child casualties fell by 7%. The number of children killed or seriously injured in 2007 was 3,090. Of those 1,899 were pedestrians, 6% lower than 2006.
- ◆ 121 children died on the roads, 285 fewer than in 2006.
- ◆ Provisional figures indicate that road traffic levels rose by 1% compared to 2006 and the provisional estimate is that the overall casualty rate per 100 million vehicle kilometres was 5% lower than in 2006.
- ◆ There were 644 pedestrian deaths, 5% lower than in 2006.
- ◆ The number of pedal cyclists killed fell by 7% from 146 in 2006 to 136 in 2007.
- ◆ There were 588 motorcycle user fatalities in 2007, 2% lower than during 2006. The number seriously injured fell by 9% to 11,536.
- ◆ There were 182,115 road accidents involving personal injury in 2007, 4% fewer than in 2006. Of these, 27,036 accidents involved death or serious injury.

Back in 2000 the Government announced that it wanted to see the following reductions in road casualties by 2010:

- ◆ 40% reduction in the number of people killed or seriously injured in road accidents compared with the average for 1994-1998;
- ◆ 50% reduction in the number of children killed or seriously injured;
- ◆ 10% reduction in the slight casualty rate, expressed as the number of people slightly injured per 100 million vehicle kilometres.

The recent figures show that in 2007 the number of people killed or seriously injured was 36% below the 1994-1998 average. The number of children killed or seriously injured was also below the previous average and provisional estimates show that the slight casualty rate was 30% below the 1994-1998 average.

Further information can be found in statistics bulletin Road Casualties Great Britain: 2007: Main Results at <http://www.dft.gov.uk/pgr/statistics/datatablespublications/accidents/casualtiesmr/rcgbmainresults2007>

Single Border Force in Action at the Port of Harwich

A 'Primary Checkpoint' has been established at the port at Harwich to strengthen border controls across the region. The new checkpoint ensures that passengers arriving at Harwich have both customs and immigration checks carried out in the same place.

Customs and immigration officers have now been combined into a 130 strong team for the newly formed UK Border Agency. Harwich is just one of the five pilot Flagship Ports for the Primary Checkpoint, which started operating on 9 June 2008. The other pilot ports are Edinburgh, Coquelles, Gatwick and Teesport.

Since the beginning of the year:

- ◆ Officers protecting Harwich port have stopped more than 70 illegal immigrants gaining entry into the UK;
- ◆ Officers have seized huge volumes of drugs with a street value of £15 million.

Powers of the Border Force officers include:

- ◆ Sharing intelligence to target illegal immigrants, drug smugglers and revenue cheats;
- ◆ Prosecuting traffickers and people smugglers who make money out of human misery;
- ◆ Power to search vehicles for smuggled people and goods;
- ◆ Power to detain and search people, vehicles and goods.

Further information can be found at http://www.cabinetoffice.gov.uk/border_review.aspx

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.

Inadequacy of Jury Directions on CCTV Evidence Rendered Conviction Unsafe

R v FARAZ ALI (2008)

CA (Crim Div) (Hooper LJ, Cox J, Judge Stokes QC) 17/7/2008

Criminal Evidence

Identification: Jury Directions: Turnbull Directions: Video Recordings: Identification From Closed-Circuit Television Images: Adequacy Of Jury Directions

[A conviction based on identification made from closed-circuit television images was unsafe where the judge had given inadequate directions to the jury as to the possibility of mistaken identity and had wrongly treated the identification as an established fact.](#)

The appellant (F) appealed against his conviction of robbery. The victim (V) had been set upon in the carriage of a train by 15 or 16 men. His mobile phone had been taken. He gave a description of one of the men, saying that he had been wearing a turquoise top and black tracksuit bottoms. Following a video identity parade, he identified F as that man, but said that he was not 100 per cent sure. Closed-circuit television images showed a man leaving the train and using his top to cover most of his face. Although the man was wearing neither a turquoise top, nor black tracksuit bottoms, a police officer, who had no particular expertise in the area, purported to identify the man as F. The jury saw the CCTV footage together with still images taken from it stamped with F's name. When shown the footage, V recognised nobody and did not pick out F. Under cross-examination he accepted that another man, standing next to the man said by the police to be F, could in fact have been F. The judge gave the standard JSB direction in respect of V's evidence. He referred to the person on the CCTV footage as F and indicated that the police officer's identification of F as the man on the CCTV footage was supporting evidence. He then indicated that the CCTV footage contained clear views of the man's face and invited the jury to form their own views. F denied being present, and the issue was whether his conviction was safe.

HELD

It appeared that in his summing up the judge was telling the jury that they could convict if the person on the CCTV images was F. That was not, however, how

the Crown had put the case. Moreover, his reference to the person on the CCTV images as F was unfortunate given that was the very issue the jury had to decide. It was doubtful whether the evidence of the police officer was supporting evidence. He was not purporting to give expert evidence and the image showed only a portion of the man's face. In any event, the directions given were quite inadequate. It was incumbent on the judge to direct the jury in such a way that they fully understood that mistakes could be made in purported identifications. No such direction was given in relation to the police officer's evidence. On the contrary, the judge appeared to have treated his recognition of F as an established fact. It was doubtful whether even the clearest of the images from the CCTV footage was sufficiently clear to permit a comparison by the jury with F. Only an expert could have made a meaningful comparison. Moreover, the judge did not remind the jury that they needed to be sure if they were going to rely on the images, either alone or in support of V's evidence, to convict F. There was an invariable requirement for the judge to warn the jury of the risk of mistaken identification and of the need to exercise particular care in any identification that they made for themselves, *R v Blenkinsop* (David Richard) (1995) 1 Cr App R 7 CA (Crim Div) applied. The circumstances of F's case required a careful and full direction as to the dangers of possible mistaken identification, and the judge had failed in that regard. F's conviction was unsafe and was quashed.

APPEAL ALLOWED



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Video Identification Evidence Obtained in Breach of Code D Should Not Have Been Excluded

R v B (2008)

CA (Crim Div) (Maurice Kay LJ, Plender J, Judge Stokes QC) 17/7/2008

Criminal Evidence

Identification Parades: Kidnapping: Pace Codes Of Practice: Robbery: Video Evidence: Exclusion Of Unfair Evidence: Code D: S.78 Police And Criminal Evidence Act 1984

A judge had erred in ruling that video identification evidence should be excluded for breach of the PACE codes of practice, Code D, as he had failed to consider whether the consequences of the breach could have been cured and any unfairness alleviated by the trial process, including the possibility of drawing the attention of the jury to the shortcomings of the identification evidence or references to any breach of the Code.

The Crown appealed against a terminating ruling, that had the effect of acquitting the defendant (B) of kidnapping and robbery. The victim (V), had been kidnapped and robbed by two men and a woman. B was later arrested, but denied involvement. Subsequently, a video identification parade was arranged and V was informed that he was required to view the film at least

twice. After the first viewing, V identified B as the female perpetrator and he was informed that he had to watch the film a second time. After the second showing, V was asked whether he wanted to see the film or any individual images again, but confirmed his identification of B. It was common ground that the procedure that took place was in breach of the PACE codes of practice, Code D, as V should have been told not to make any decision on identification until after he had seen the set of images at least twice. An application was made by B to exclude the identification evidence under the Police and Criminal Evidence Act 1984 s.78 on the basis that the video identification had been in breach of Code D. The judge ruled that the evidence should be excluded as there was a possibility that V would have given a different answer had he been properly instructed. The judge further considered that any cross-examination of V, directed to that question would have been pointless because almost inevitably, and looking at the matter realistically, he would have confirmed the original identification. The Crown submitted that the consequences of the breach could have been cured and any unfairness in the proceedings could have been alleviated by the trial process, and it was therefore wrong for the judge to have reached the contrary conclusion.

HELD

The judge had erred by focusing on the point that the victim might have given a different answer if he had been given the full instructions and on the assumed answer to any question in cross-examination about it. Reference to a problem being cured or alleviated within the trial process was not simply a reference to the possibility, however remote, that a witness would contradict his previous identification or account. There were other ingredients of the process to be considered including the possibility of giving the jury cautionary directions drawing attention to the shortcomings of the identification evidence or references to any breach of the Code. A judge would fall into error if he terminated a case at the outset without considering the full potential of the trial process to enable fairness and justice to be assured. One of the matters which the judge would have had to consider was the existence or otherwise of other evidence which may be said to support the disputed identification. There was some albeit not overwhelming evidence in the instant case and the judge had wrongly failed to consider it. The judge should not have excluded the identification when and for the reason that he did.

APPEAL ALLOWED



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Extraneous Material Supplied to Jury Rendered Conviction Unsafe

R v PAUL MARTIN CADMAN (2008)

CA (Crim Div) (Hooper LJ, Forbes J, Blake J) 3/7/2008

Criminal Procedure - Criminal Evidence

Conspiracy To Defraud: Irregularities: Jury Deliberations: Prejudice: Retirement Of Jury: Consideration Of Extraneous Material By Jury After Their Retirement

[A conviction for conspiracy to defraud was unsafe as a result of the jury being provided with extraneous material that had not been produced in evidence during the course of the trial and which was likely to have been used by the jury in manner that prejudiced the accused.](#)

The appellant (C) appealed against his conviction for conspiracy to defraud. The government operated a scheme that provided financial assistance, through the means of an individual learning account, to the public in order to retrain or further their education. Learning providers, who registered under the scheme, were able charge each enrolled student, who had an individual learning account, a discounted fee and claim the appropriate government contribution. The prosecution's case was that the fraud involved the making of bogus claims supported by forged applications forms, and that C managed or controlled companies that had been involved in the fraud. The prosecution maintained that payments to co-conspirators by means of cheques signed by C coincided with periods when the co-conspirators were provably forging the individual learning account application forms. C claimed that he had not filled in the body of any of the relevant cheques that he had admittedly signed, by which the withdrawal and distribution of the fraudulently obtained funds had been affected. That part of C's evidence was not challenged in cross-examination, but the prosecution inadvertently suggested to the jury that C had written and signed most of the relevant cheques. Amongst the evidence produced was a bundle, referred to as appendix G, which consisted of copies of some of the relevant cheques signed by C. C denied having filled in the body of any of them, save some of the details of a cheque. After the jury had retired to consider their verdict, the jury requested a sample of cheques that C had written. They were provided with extraneous material, in the form of a number of sample cheques that had not been produced in evidence during the course of the trial. About an hour-and-a-half later, they returned a verdict of guilty. C argued that he had been prejudiced as a result of the jury being provided with the extraneous material after their retirement. C argued that, as a result of inadvertent suggestion by the prosecution, the jury may have been prompted to carry out a comparison between the handwriting on the cheques supplied to them with the handwriting on the sample of cheques and the cheques in appendix G and that, once they had concluded that he had written the body of the cheques in appendix G, it was inevitable that they would have regarded such a conclusion as very cogent evidence of his participation in the conspiracy. C argued that that explained why the jury had convicted him so quickly after having been supplied with the sample cheques.

HELD

As contended by C, although at the time the judge and his leading counsel appeared to consider that it could only be to his advantage to comply with the jury request, that was because they had both failed to understand the purpose for which the cheques had been requested. C should not be prejudiced as the result of any such error. When the jury had been provided with the sample cheques, they had been entitled to assume that those were cheques that had been written by C. It was clear that the jury had wished to compare the handwriting on the sample cheques supplied to them with the handwriting on the cheques in their bundles, namely the cheques in appendix G, and it was very likely that they had done so. It was also possible that the inadvertent suggestion by the prosecution, which was claimed to be unintentional, prompted the comparison exercise. The prosecution had not challenged C's evidence that he had not filled in the body of the relevant cheques that he admitted having signed, which went to the very heart of C's defence. For the jury to use the extraneous material provided after their retirement in the manner indicated meant using the material as evidence in an exercise that would enable them to reach their own conclusion in relation to C's unchallenged and crucial evidence to the contrary effect. It was wholly impermissible for the jury to make use of the material for such an evidential exercise. As a result of their impermissible exercise, the jury could have come to the conclusion that C had not merely signed the cheques in appendix G, but that he had written out the entire body of the cheques and had lied about it. There could be no doubt that any conclusion by the jury that C had lied about that important matter was one that might reasonably have affected their decision to convict him. In the circumstances, C's conviction was unsafe, *R v Pendleton* (Donald) Unreported June 22, 2000 CA (Crim Div) and *R v Karakaya* (Adem) (2005) EWCA Crim 346, (2005) 2 Cr App R 5 applied.

APPEAL ALLOWED



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Convictions Safe where Serious Irregularity Did Not Affect Verdict

(1) LIAQUAT ALI (2) AKHTAR HUSSAIN v REVENUE & CUSTOMS PROSECUTIONS OFFICE (2008)

CA (Crim Div) (Moses LJ, Maddison J, Sir Richard Curtis) 9/7/2008

Criminal Law - Criminal Evidence - Criminal Procedure

Delay: Fairness: Irregularities: Money Laundering: Proceeds Of Crime: Verdicts: Serious Irregularity: Affect Of Irregularity On Verdict: S.49(2) Drug Trafficking Act 1994: S.93c Criminal Justice Act 1988: Art.6 European Convention On Human Rights

Convictions for money laundering were safe in circumstances where, although the judge had reached his conclusion by a serious erroneous procedure, that

serious irregularity had not affected the verdict. However the sentences were reduced in light of mis-directions at the first trial which had led to substantial delay.

The appellants (L and H) appealed against their convictions for money laundering. L and H had successfully appealed against their convictions for money laundering ([2005] EWCA Crim 87) on the basis that the jury had been misdirected as to the state of mind which the prosecution had to prove to make good accusations of conspiracy to contravene the Drug Trafficking Act 1994 s.49(2) or the Criminal Justice Act 1988 s.93C. In the trial, the subject matter of the instant appeal, the jury was correctly directed that the prosecution must prove that L and H knew that they were laundering proceeds of criminal activity through their travel business. The prosecution relied on evidence that very large sums of money were routed through the United States to show that L and H had guilty knowledge. L and H were convicted on their retrial on two counts of conspiracy and sentenced to 12 years' imprisonment. L and H contended that the prosecution presented their case to the jury in a manner so unfair as to deflect the jury from the true issues in the case and deprive them of a fair and proper opportunity to present their defence. They further argued that the prosecution declined to accept the legitimacy of a proportion of their travel trade and thus cast unjustified suspicion over that which was lawful, and that the Crown ought to have accepted that a balance of £180 million was cash lawfully handled by the travel company in the course of legitimate trade. L and H also raised a ground of appeal relating to the delay which had ensued as a result of their first successful appeal and the retrial.

HELD

- (1) The prosecution should not have relied on the exchange of sterling into dollars by the operation of corresponding US bank accounts at all. That means of making available the sterling funds provided no basis for determining the state of L and H's minds as to the source of the sterling funds. The question was whether reliance on that feature of the evidence rendered the verdicts unsafe. It did not. The judge referred to the expert evidence during his directions to the jury and reminded them that there was no real significance in the money being routed via the US. Whilst the judge was charitable to the prosecution, he made it sufficiently clear that the route of the money was not a factor tending to suggest guilty knowledge. The inappropriate reliance on that feature by the prosecution was not a basis for concluding that the verdicts were unsafe. On the contrary the reliance on this bad point could only have assisted the defence.
- (2) The wording of the judge's ruling made it plain that the judge was relying on material, to which the defence had not been allowed access, as the basis for concluding that he should not permit the defence to adduce evidence before the jury which was misleading. The judge's ruling demonstrated that he reached his conclusion by a seriously erroneous procedure. It was wrong and contrary to the European Convention on Human Rights 1950 art.6 for the prosecution to have the advantage of relying on material unavailable to the defence. However the court had to consider the impact of the serious irregularity on the safety of the verdict. The material on which the defence relied did not begin to meet the prosecution's case that L

and H knew that the source of the sterling was criminal activity and in reality the judge would have had ample basis for excluding the evidence bases which did not rely in any way on material not disclosed to the defence.

- (3) It did not avail either defendant to assert the lawfulness of a proportion of their business. There was no point in money laundering unless it be through the medium of a legitimate business. The jury was entitled to reject the explanation as to why L and H were ignorant of the true source of the deposits. The conduct of the prosecution in failing to admit the legitimacy of any of the trade whilst seeking to prove the criminality of a substantial proportion was correct. L and H had resolutely failed to comply with the regulations designed to afford protection, not just to the public, but also to those dealing with the transmission of cash.
- (4) The mis-directions at the first trial led to a substantial delay which should be reflected by a reduction in sentence of 2 years.

APPEALS ALLOWED IN PART



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Joint Enterprise - Accessory Only Needs Foresight of What Associate Might Do for Murder Conviction

R v (1) ISLAMUR RAHMAN (2) KAMER AKRAM (3) ANJUM NISA AMIN (4) LIAQUAT ALI (2008)

HL (Lord Bingham of Cornhill, Lord Scott of Foscote, Lord Rodger of Earlsferry, Lord Brown of Eaton-under-Heywood, Lord Neuberger of Abbotsbury) 2/7/2008

Criminal Law

Criminal Liability: Direct Participation: Intention: Joint Enterprise: Jury Directions: Knives: Mens Rea: Murder: Intention Of Associates To Joint Enterprise: Fundamental Difference Test

[A defendant involved in a joint enterprise which resulted in murder only had to foresee what his associate might do, not what he specifically intended to do, to be guilty of murder as an accessory.](#)

The appellants (R) appealed against a decision ((2007) EWCA Crim 342, (2007) 1 WLR 2191) upholding their convictions for the murder of a young man (V). R were part of a group of men which chased and attacked V and his friends with weapons including baseball bats, metal bars and knives. V died from two deep knife wounds in his back. There was no evidence that R inflicted the fatal injuries; the participant who did probably escaped arrest. R were convicted for their part in the joint enterprise. The question posed for the opinion of the House of Lords was whether, if in the course of a joint enterprise to inflict unlawful violence a principal party killed with an intention to kill which was unknown to and unforeseen by a secondary party, the principal's intention was relevant: (i) to whether the killing was within the scope of a common purpose to which the secondary party was an accessory; (ii) to whether the principal's act was fundamentally different from the act or acts which the secondary party foresaw as part of the joint enterprise.

HELD

The principle of joint enterprise was illustrated by the following example: if B realised (without agreeing to such conduct being used) that C might kill or intentionally inflict serious injury, but nevertheless continued to participate with C in the venture, that would amount to a sufficient mental element for B to be guilty of the murder if C, with the requisite intent, killed in the course of the venture, unless: (a) C suddenly produced and used a weapon of which B knew nothing and which was more lethal than any weapon which B contemplated that C or any other participant might be carrying and (b) for that reason C's act was to be regarded as fundamentally different from anything foreseen by B, R v Powell (Anthony Glassford) (1999) 1 AC 1 HL and R v Hyde (David Charles) (1991) 1 QB 134 CA (Crim Div) applied, Chan Wing Siu v R (1985) AC 168 PC (HK) considered. However, the decision in R. v Gamble and Others [1989] NI 268 was not easily reconcilable with that formulation, Gamble doubted. The question in the instant case was whether an intention by the primary party to kill must have been known or foreseen by R if R were to be held criminally liable for V's murder. If that proposition were accepted it would introduce a highly

undesirable level of complexity into such cases. It was often difficult for jurors to make a reliable assessment of what a defendant foresaw as likely acts of his associates during fast-moving events. It would be even harder for jurors to judge what a defendant foresaw as the intention with which his associates might perform such acts. It was safer to focus on a defendant's foresight of what an associate might do, an issue to which knowledge of the associate's possession of an obviously lethal weapon such as a gun or a knife would usually be very relevant. In addition, requiring foresight of an associate's intention to kill would undermine the principle on which the law of murder was based since in the prosecution of a principal offender for murder, it was not necessary for the prosecution to prove whether the defendant intended on the one hand to kill or on the other to cause really serious injury. R knew that they were taking part in a joint attack with the purpose of causing serious injury, in which one or more of the participants was armed with a knife. Obviously, those participants would not have had a knife unless they were prepared to use it in the attack. In the absence of any evidence to the contrary, the jury was entitled to conclude that R must have realised that when they joined in the attack. Killing due to the use of a knife could not be regarded as a complete departure from what R contemplated as being involved in the common design. The answer to both questions posed by the Court of Appeal was therefore no. The Court of Appeal had suggested a series of questions which a trial judge might invite a jury to consider in similar cases. However, there could be no prescriptive formula for directing juries. Having made clear the governing principle, it was for trial judges to choose the terms most apt to enable juries to reach a just decision in the particular case.

APPEALS DISMISSED



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Police Taking and Retaining Photographs of Individuals in a Public Place Did Not Interfere with Right to Privacy

ANDREW WOOD v COMMISSIONER OF POLICE OF THE METROPOLIS (2008)

QBD (Admin) (McCombe J) 22/5/2008

Human Rights - Police

Photographs: Retention: Right To Respect For Private And Family Life:
Surveillance: Police Photographing Individuals In Streets: Breaches Of Art.8
European Convention On Human Rights 1950: Art.8 European Convention On
Human Rights

The taking and the retention of photographs by police officers of a person connected with a group opposed to the arms industry as he left a shareholders' meeting of the company that organised trade fairs for the arms industry did not amount to an unjustified interference with that person's right to respect for privacy under the European Convention on Human Rights 1950 art.8.

The claimant (W) applied for judicial review of the decision of the defendant police commissioner's officers to photograph him whilst he attended the Annual General Meeting of a third party company (R). At the relevant time W was a media co-ordinator employed by an unincorporated association (C) that campaigned against the arms industry. R, through a subsidiary company, organised trade fairs for various industries, including the arms industry. Over the years R's offices in the United Kingdom had been subjected to demonstrations, some involving criminal damage. It became known to R that a number of individuals opposed to the arms industry intended to attend R's AGM, and it informed the police. The commissioner took the view that there was a real possibility of a demonstration at the AGM and that unlawful activity might occur. He decided to authorise the deployment of police officers with a civilian photographer around the hotel where the AGM was taking place. Those officers, having observed W in the company of a known arms industry protestor, decided to photograph him. The police subsequently discovered W's identity from the photographs and retained them. W submitted that the taking and the retention of photographs by the police officers amounted to an unjustified interference with his right to respect for privacy under the European Convention on Human Rights 1950 art.8. The commissioner submitted that art.8 was not engaged as W had been photographed, not in his private capacity, but as a media officer of C, which had been conducting a legitimate but public campaign against R, so that W could have had no reasonable expectation of privacy and, further, that W had not been photographed randomly or arbitrarily, but in the light of past offences that had been committed against R, and in the light of W's association, on the instant occasion, with the known protestor. Additionally, the commissioner argued that the photography had been overt and that the photographs were retained, not for the compilation of a national database or for general publication, but for the purposes of identifying at future events persons who had been involved in unlawful activity.

HELD

There was no interference with W's rights under art.8(1) of the Convention by the taking and retention of the photographs. The English courts at the highest level had adopted a very robust approach to questions of interference with rights under art.8(1) in relation to photographs in public places and their subsequent retention, and in relation to the retention of intimate samples for proper police purposes in assisting in the detection of crime. Adopting the "reasonable expectation" of privacy test in regard to disclosure of photographic material in *Campbell v Mirror Group Newspapers Ltd* (2004) UKHL 22, (2004) 2 AC 457 and the views of the House of Lords concerning, firstly, the stop and search powers in *R (on the application of Gillan) v Commissioner of Police of the Metropolis* (2006) UKHL 12, (2006) 2 AC 307 and, secondly, the retention of DNA samples in *R (on the application of S) v Chief Constable of South Yorkshire* (2002) EWHC 478 (Admin), (2002) Po LR 273, it was difficult to see how the taking and retention of the photographs in the instant case could be an interference with W's rights under art.8, *Campbell*, *Gillan* and *S* applied. On the facts, W could have little expectation of privacy generally in relation to his attendance at R's AGM. He was attending as a media co-ordinator of a high-profile national pressure group. One of C's members was actively and publicly canvassing those attending the meeting. R was a company that had been the victim of criminal activity in the conduct of its lawful business in the past. It would not have been surprising if press interest had led to photography of those attending, irrespective of police interest. W was photographed in a public street, in circumstances in which police presence could not have been unexpected by W or anyone else. The images were to be retained, without general disclosure, for very limited purposes. Their retention was not part of the compilation of a general dossier of information concerning W of the type that had been held in the past to constitute an interference with art.8 rights.

APPLICATION REFUSED



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SI 1586/2008 The Criminal Justice and Immigration Act 2008 (Commencement No 2 and Transitional and Saving Provisions) Order 2008

In force **14 and 15 July**. This Order brings into force a number of provisions in the Criminal Justice and Immigration Act 2008 (the Act). Paragraph 63 of Schedule 26 to, and section 148(1) of, the Act, so far as it relates to that paragraph, come into force on 15 July. The remaining provisions come into force on 14 July. These provisions are:

- ◆ Section 10 (Effect of restriction on imposing community sentences);
- ◆ Section 11(1) (Restriction on power to make a community order);
- ◆ Section 12 (Pre-sentence reports);
- ◆ Section 13 (Sentences of imprisonment for public protection) and Schedule 5 (Offences specified for the purposes of sections 225(3A) and 227(2A) of the Criminal Justice Act 2003);
- ◆ Section 14 (Sentences of detention for public protection);
- ◆ Section 15 (Extended sentences for certain violent or sexual offences: persons 18 or over);
- ◆ Section 16 (Extended sentences for certain violent or sexual offences: persons under 18);
- ◆ Section 17 (The assessment of dangerousness);
- ◆ Section 18 (Further amendments relating to sentences for public protection);
- ◆ Section 20 (Consecutive terms of imprisonment);
- ◆ Section 24 (Minimum conditions for early release under section 246(1) of the Criminal Justice Act 2003);
- ◆ Section 25 (Release on licence under Criminal Justice Act 2003 of prisoners serving extended sentences);
- ◆ Section 27 (Application of section 35(1) of the Criminal Justice Act 1991(5) to prisoners liable to removal from the UK);
- ◆ Section 28 (Release of fine defaulters and contemnors under Criminal Justice Act 1991);
- ◆ Section 29 (Release of prisoners after recall) save insofar as subsection (2) inserts subsections (9) and (10) of section 255A of the 2003 Act;
- ◆ Section 30 (Further review and release of prisoners after recall);
- ◆ Section 31 (Recall of life prisoners: abolition of requirement for recommendation by Parole Board);
- ◆ Section 32 (Release of prisoners recalled following release under Criminal Justice Act 1991);

- ◆ Section 38 (Imposition of unpaid work requirement for breach of community order);
- ◆ Section 40 (Power to impose attendance centre requirement on fine defaulter);
- ◆ Section 42 (Power to dismiss certain appeals following references by the CCRC: England and Wales);
- ◆ Section 43 (Power to dismiss certain appeals following references by the CCRC: Northern Ireland);
- ◆ Section 44 (Determination of prosecution appeals: England and Wales);
- ◆ Section 45 (Determination of prosecution appeals: Northern Ireland);
- ◆ Section 46(1) and (3) (Review of sentence on reference by Attorney General);
- ◆ Section 47 (Further amendments relating to appeals in criminal cases) and Schedule 8 (Appeals in criminal cases);
- ◆ Section 52 (Bail for summary offences and certain other offences to be tried summarily) and Schedule 12 (Bail for summary offences and certain other offences to be tried summarily);
- ◆ Section 54 (Trial or sentencing in absence of accused in magistrates' courts);
- ◆ Section 55 (Extension of powers of non-legal staff);
- ◆ Section 56 (Provisional grant of right to representation);
- ◆ Section 57 (Disclosure of information to enable assessment of financial eligibility);
- ◆ Section 58 (Pilot schemes);
- ◆ Section 59 (SFO's pre-investigation powers in relation to bribery and corruption: foreign officers etc.);
- ◆ Section 72 (Offences committed outside the United Kingdom);
- ◆ Section 73 (Grooming and adoption) and Schedule 15 (Sexual offences: grooming and adoption) to the extent not already in force;
- ◆ Section 76 (Reasonable force for purposes of self-defence etc.);
- ◆ Section 93 (Delivery of prisoner to place abroad for purposes of transfer out of the United Kingdom);
- ◆ Section 94 (Issue of warrant transferring responsibility for detention and release of an offender to or from the relevant Minister);
- ◆ Section 95 (Powers to arrest and detain persons believed to fall within section 4A(3) of Repatriation of Prisoners Act 1984(6));
- ◆ Section 96 (Amendments relating to Scotland);

- ◆ Section 97 (Power to transfer functions under Crime (International Co-operation) Act 2003(7) in relation to direct taxation);
- ◆ Section 126(1) (Police misconduct and performance procedures) insofar as it relates to the provision specified in paragraph 47;
- ◆ Section 140 (Disclosure of information about convictions etc. of child sex offenders to members of the public) and Schedule 24 (Section 327A of the Criminal Justice Act 2003: meaning of “child sex offence”);
- ◆ Section 141 (Sexual offences prevention orders: relevant sexual offences);
- ◆ Section 142 (Notification requirements: prescribed information);
- ◆ Sections 148(1) and (2) and 149 insofar as they relate to the provisions specified in paragraphs 48, 49 and 50 respectively;
- ◆ In Schedule 22 (Police misconduct and performance procedures), paragraph 6 (Police Advisory Board);
- ◆ In Schedule 26 (Minor and consequential amendments):
 - ◆ Paragraphs 2(1), (2), (4), (5) and (6), 59, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75 and 76 (2003 Act);
 - ◆ Paragraph 3 (Prison Act 1952 (c.52));
 - ◆ Paragraph 4 (Criminal Justice Act 1961 (c.39));
 - ◆ Paragraph 6 (Criminal Appeal (Northern Ireland) Act 1980 (c.47)),
 - ◆ Paragraph 7 (Wildlife and Countryside Act 1981 (c.69));
 - ◆ Paragraph 8 (Mental Health Act 1983 (c.20));
 - ◆ Paragraphs 10 to 19 (Repatriation of Prisoners Act 1984) to the extent not already in force;
 - ◆ Paragraph 21 (Criminal Justice Act 1987 (c.38));
 - ◆ Paragraphs 22 and 23 (Criminal Justice Act 1988 (c.33));
 - ◆ Paragraph 26 (Football Spectators Act 1989 (c.37));
 - ◆ Paragraph 27 (Criminal Justice (International Co-operation) Act 1990 (c.5));
 - ◆ Paragraph 28 (Broadcasting Act 1990 (c.42)),
 - ◆ Paragraph 30 (Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)),
 - ◆ Paragraph 32 and, to the extent not already in force, paragraph 33 (Crime (Sentences) Act 1997 (c.43));
 - ◆ Paragraphs 41, 44, 45(b), 46, 47 and 48 (Powers of Criminal Courts (Sentencing) Act 2000 (c.6));
 - ◆ Paragraph 51 (Life Sentences (Northern Ireland) Order 2001 (SI 2001/2564(N.I.2)));

- ◆ Paragraph 52 (Crime (International Co-operation) Act 2000 (c.32));
- ◆ Paragraphs 53, 56(1), (2)(a) and (4) and 57 (Sexual Offences Act 2003 (c.42));
- ◆ Paragraph 78 (Criminal Justice Act 2003 (Commencement No 8 and Transitional and Saving Provisions) Order 2005 (SI 2005/950));
- ◆ Paragraph 80 (Natural Environment and Rural Communities Act 2006 (c.16));
- ◆ Paragraph 81 (Police and Justice Act 2006 (c.48));
- ◆ In Schedule 27 (Transitory, transitional and saving provisions), paragraphs 6, 10 to 12, 13(2), 14 to 17, 21, 27, 30 and 38;
- ◆ The following entries in Schedule 28 (repeals):
 - ◆ In Part 2 (Sentencing), the entries relating to the:
 - ◆ Criminal Justice Act 1991 in sections 45, 46(1) and 50(2),
 - ◆ Crime (Sentences) Act 1997 (c.43);
 - ◆ 2003 Act, in sections 153(1), 224(3), 227(1)(a), 228, 229, 234, 247, 254(3) to (5), 256 and 305(4)(e), Schedules 16 and 17 and in paragraph 4(5)(a) of Schedule 31;
 - ◆ Criminal Justice Act 2003 (Commencement No 8 and Transitional and Saving Provisions) Order 2005 (SI 2005/950);
 - ◆ In Part 3 (Appeals), the entries relating to the:
 - ◆ 1968 Act;
 - ◆ Judicature (Northern Ireland) Act 1978 (c.23);
 - ◆ Criminal Appeal (Northern Ireland) Act 1980 (c.47);
 - ◆ Mental Health Act 1983 (c.20);
 - ◆ Criminal Justice Act 1988 (c.33);
 - ◆ Powers of Criminal Courts (Sentencing) Act 2000 (c.6);
 - ◆ In Part 4 (Other criminal justice provisions), the entries relating to the:
 - ◆ Magistrates' Courts Act 1980 (c.43), section 13(5);
 - ◆ Prosecution of Offences Act 1985 (c.23);
 - ◆ Access to Justice Act 1999 (c.22);
 - ◆ Sexual Offences Act 2003;
 - ◆ 2003 Act, section 23A(7) to (9);
 - ◆ In Part 5 (Criminal law), the entry relating to the Sexual Offences Act 2003;

- ◆ All the entries in Part 6 (International co-operation in relation to criminal justice matters);
- ◆ In Part 8 (Policing), the entries relating to the:
 - ◆ Police Act 1996 (c.16) in section 54(2);
 - ◆ Police and Justice Act 2006 (c.48) in section 49(1) and in Schedule 1.

All of the provisions brought into force in this Order are subject to the transitional and savings provisions in Schedule 2 to the Order.

SI 1587/2008 The Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008

In force **14 July**. This Order makes transitional modifications to provisions amended or added by the Criminal Justice and Immigration Act 2008.

It includes amendments necessary to ensure that the provisions in the Criminal Justice Act 2003 regarding sentencing and release and recall apply to offenders aged at least 18 but under 21. This is pending the repeal of Section 61 of the Criminal Justice and Court Services Act 2000, which repeals the sentences of detention in a young offenders institution and custody for life for offenders aged at least 18 but under 21.

The Order also makes transitional amendments until the provisions in the Constitutional Reform Act 2005 making the House of Lords the Supreme Court are implemented.

SI 1592/2008 The Data Protection Act 1998 (Commencement No 2) Order 2008

In force **7 July**. This Order brings Section 56 of the Data Protection Act 1998 partially into force.

Section 56 prohibits a person from requiring an individual or third party to provide them with any records obtained by means of a subject access request under Section 7 of the Data Protection Act 1998. The Order brings this prohibition into force only in relation to records of the Secretary of State and the Independent Barring Board relating to their functions under the Safeguarding Vulnerable Groups Act 2006 and the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

SI 1645/2008 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) Order 2008

In force **24 June**. This Order removes Mujaheddin e Khalq from the list of proscribed organisations in Schedule 2 to the Terrorism Act 2000. Part 2 of the Terrorism Act 2000 makes provision about proscribed organisations including setting out offences in relation to such organisations.

SI 1693/2008 The Immigration (Registration Card) Order 2008

In force **27 June**. This Order amends the definition of a registration card contained in Section 26A(1) of the Immigration Act 1971 to mean a document

which carries information about a person (whether or not wholly or partly electronically) and is issued by the Secretary of State either:

- ◆ To the person wholly or partly in connection with a claim for asylum (whether or not made by that person), or
- ◆ To the person wholly or partly in connection with a claim for support under section 4 of the Immigration and Asylum Act 1999.

SI 1715/2008 The Vehicles Crime (Registration of Registration Plate Suppliers) Regulations 2008

In force **1 August**. These Regulations revoke the Vehicles Crime (Registration of Registration Plate Suppliers) (England and Wales) Regulations 2002 and make provision for the registration of registration plate suppliers which extends to the whole of the United Kingdom. The Regulations:

- ◆ Exempt the sale of registrations by a dealer in vehicles who has arranged first registration of a vehicle or who has not himself fixed the plates to the vehicle. This will mean this sale is not a sale of registration plates under Section 17(1) of the Vehicles (Crime) Act 2001 (the Act);
- ◆ Prescribe the particulars to be kept in the register maintained by the Secretary of State under Section 18 of the Act;
- ◆ Prescribe the requirements and the fee for an application for registration;
- ◆ Provide that a registered seller must obtain and verify certain information from a prospective purchaser before selling a registration plate;
- ◆ Provide for the keeping of records of each sale of a registration plate.

SI 1745/2008 The Terrorism Act 2006 (Disapplication of Section 25) Order 2008

In force **25 July**. This Order disapplies Section 25 of the Terrorism Act 2006 (the Act) for a period of one year beginning with 25 July 2008. Section 25 operates to reduce the maximum period of detention under Schedule 8 of the Act from 28 days to 14 days, unless disapplied by Order.

SI 1818/2008 The UK Borders Act 2007 (Commencement No 3 and Transitional Provisions) Order 2008

In force **1 August**. This Order brings certain provisions of the UK Borders Act 2007 (the Act) in respect of a person to whom Condition 1 (within the meaning of Section 32 of the Act) applies. This is a person who is not a British national who is convicted of an offence in the United Kingdom and has been sentenced to a period of imprisonment of at least 12 months.

The provisions brought into force in relation to a person to whom Condition 1 applies are:

- ◆ Section 32 (automatic deportation);
- ◆ Section 33 (exceptions);
- ◆ Section 34 (timing);

- ◆ Section 35 (appeal);
- ◆ Section 36 (detention);
- ◆ Section 37 (family);
- ◆ Section 38 (interpretation).

Section 39 of the Act (consequential amendments) is also brought into force in full by the Order.

SI 1819/2008 The Immigration (Notices) (Amendment) (No 2) Regulations 2008

In force **1 August**. These Regulations make changes to the Immigration (Notices) Regulations 2003 to ensure that certain provisions regarding the notice, content and service of immigration decisions apply when the Secretary of State decides that the automatic deportation provisions in Section 32(5) of the UK Borders Act 2007 apply to a person.

SI 1863/2007 The Serious Crime Act 2007 (Appeals under Section 24) Order 2008

In force **18 August**. This Order makes provision relating to appeals under the Serious Crime Act 2007 (the Act) relating to the making and variation of serious crime prevention orders by the Crown Court. The Act provides a route of appeal to the Court of Appeal from the Crown Court, and to the Supreme Court from the Court of Appeal. Transitional provisions are included so that references to the Supreme Court are to be read as references to the House of Lords, until the Constitutional Reform Act 2005 comes into force.

The provisions correspond, with some modification, to the procedure for appeals to the Court of Appeal under Part 1 of the Criminal Appeals Act 1968 and for appeals from the Court of Appeal in England and Wales. It also makes provision for the orders that may be made by the Court of Appeal for costs relating to the appeal. Parts 5 and 6 of the Order make similar provision for appeals in Northern Ireland.

Notes