

Digest



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CASELAW Police News Diversity
LEGISLATION POLICE NEWS
POLICE NEWS LEGISLATION
DIVERSITY Criminal Justice

The NPIA Digest is a journal produced each month by the Legal Services Department. The NPIA 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. During the production of the NPIA Digest, information is included from Governmental and quasi-governmental bodies, criminal justice organisations and research bodies. As such, the NPIA Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

This edition contains a summary of the House of Commons Home Affairs Committee report on Policing in the 21st Century which set out to examine how expectations of the Police service have changed in recent years and the resources it has to meet them.

There is also a number of articles outlining recently published Government and Parliamentary reports and initiatives including: New Measures to Exclude Extremists, Preventing Violent Extremism, Review of the Independent Police Complaints Commission, a Transport Committee report demanding a bolder strategy to address road safety and an invitation to participate in the consultation on tackling road safety. There is a report on the workings of Europol, the European Police Office responsible for coordinating the fight against serious and organised crime and new measures that will tackle the demand for prostitution by targeting sex buyers and kerb crawlers.

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

The Case law is produced in association with



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New Measures to Aid Minority Ethnic Recruitment, Retention and Progression in the Police

The Policing Minister published on 20 November 2008 his Assessment of Minority Ethnic Recruitment, Retention and Progression in the Police Service. The report confirms that police forces are already doing good work to aid minority ethnic recruitment, retention and progression in the police, with minority ethnic officer representation in the police service doubling over the last ten years, but recognises that there is still more to do.

The Assessment was completed after consultation with key policing partners and independent stakeholders. It was able to identify existing good practice which included the Home Office, through the National Policing Improvement Agency (NPIA), putting in place national recruitment standards for all forces to prevent people with racist or discriminatory attitudes joining the police service. Candidates who do not pass the 'respect for race and diversity' element do not get through, regardless of how well they do in other areas.

Other initiatives already underway include:

- ◆ 'Breaking Through Action Plan';
- ◆ 'Positive Action Events Toolkit' which includes practical guidance aimed at improving minority ethnic representation in the police service;
- ◆ High Potential Development Scheme which is a structured programme to equip officers with the skills to become police leaders; and
- ◆ National Senior Careers Advisory Service which aims to enhance leaders' capability in order for officers to meet the growing leadership challenges at the top of the police service.

The Assessment made other recommendations to drive forward further improvements which include:

- ◆ Developing the Three Year Equality, Diversity and Human Rights Strategy. A key initiative highlighted in the policing Green Paper which will be instrumental in helping to address the issues raised in the assessment;
- ◆ Developing Local Recruitment, Retention and Progression Improvement Plans to help forces take forward improvements and initiatives from the new Steering Group;
- ◆ New local targets. In keeping with the approach on increasing local responsibility, ambitious targets should be selected and set on the most important issues locally including equality standards;
- ◆ New 'Positive Action Good Practice Guidance'. The NPIA will develop, in partnership with Home Office, policing partners and in conjunction with Equality and Human Rights Commission, new guidance on recruitment, retention and progression for the police service;
- ◆ Improving the national exit interview data to examine further the reasons for ethnic minority officers leaving the police service; and

- ◆ Mandate NPIA to explore a targeted recruitment campaign and/or working with volunteer local forces that need support in attracting people from minority ethnic communities.

The Assessment of Minority Ethnic Recruitment, Retention and Progression in the Police Service can be found at

<http://www.police.homeoffice.gov.uk/human-resources/equality-diversity1/>

The Home Secretary's Race Employment Targets can be found at

<http://www.homeoffice.gov.uk/about-us/publications/staff-equality-targets/>

Meeting the Aspirations and Expectations of Muslim Police Officers

A survey carried out by the National Association of Muslim Police (NAMP) and think tank Demos suggests Muslims remain under-represented in the police service. Half of the 51 UK forces responded to the NAMP questionnaire.

The survey highlighted the lack of representation in the Counter-terrorism Units across the country where there are 27 Muslim counter-terrorism officers out of a total of 2,300, and few officers overall in high ranks. The National Association of Muslim Police said progress on diversity was 'painfully slow'.

According to the statistics compiled by NAMP and Demos, 0.6% of all police officers are Muslim. In contrast, the 2001 census found that approximately 3% of the UK population was Muslim.

In response to the Diversity in Modern Policing report released by NAMP, Steve Otter, Chief Constable for Devon & Cornwall Constabulary and ACPO lead on Race & Diversity welcomed the research which enjoyed ACPO's support, especially the accurate data about the aspirations and expectations of Muslim police officers. These statistics will provide impetus to the police service to encourage them to further engage in taking the agenda forward.

ACPO acknowledged the response of so many police forces to the NAMP questionnaire, indicating their willingness to participate in meeting the challenges around the progression, retention and representation of Muslim police officers in specialist areas. ACPO recognised that it had a central role to play in ensuring that the enthusiasm and expertise of Muslim officers within the police service is put to the best use, without placing the responsibility for tackling extremism exclusively on their shoulders.

Steve Otter said "It is important that we take an integrated approach to tackle all issues facing us on progression. The National Policing Improvement Agency is already engaged in sharing best practice".

A copy of the report 'Diversity in Modern Policing' can be ordered at

<http://www.namp-uk.com/>

New ACPO Practice Advice Stop and Search Now Available

In June this year, NPIA's Professional Practice Unit (PPU) were commissioned by ACPO and the Home Office to revise national Practice Advice on Stop and Search in relation to terrorism following a commitment made by the Prime Minister in October 2007.

The revised Practice Advice is due for publication by the end of November 2008 and reminds officers that the skills and experiences used in tackling other forms of criminality should be used to tackle terrorism. The Practice Advice has been developed following consultation with a wide range of stakeholders including police practitioners, the Association of Police Authorities and national community groups. The revised Practice Advice also incorporates comments made by the Independent Reviewer of terrorism legislation, Lord Carlile, in his annual reviews and judgement from the important stated case of *R (on the application of Gillan and another) v Commissioner of Police for the Metropolis and another* [2006] UKHL 12.

The document is in three sections:

- ◆ The first section covers the importance of police and community engagement in working together against terrorism;
- ◆ The second section provides advice for officers who may have to plan or implement counter-terrorist 'Stop and Search' operations; and
- ◆ The third section provides advice for officers involved in authorising special search powers under section 44 of the Terrorism Act 2000.

A new feature of the Practice Advice is the inclusion of a number of appendices aimed at helping the police service to fully engage with their communities during counter-terrorist operations. There are suggested forms of words for public leaflets and posters to help explain these powers to the public. The new advice also includes a suggested form of words for an aide-memoire summarising useful powers and principles.

For further information, please contact Chief Inspector Julian Frost, email julian.frost@npia.pnn.police.uk

Action Learning Set Facilitator Training for Women in the Justice Sector

A leadership development programme funded by UK Commission for Employment and Skills has enabled Skills for Justice to establish an initiative which aims to address issues of gender imbalance in today's labour market. The new scheme is available through the Women and Work Sector Pathways Initiative (Phase 2).

The scheme aims to support women to get in and get on in sectors and occupations where they are under-represented, and where specific skills gaps and shortages exist. It will provide women, including those in the police service, with opportunities to develop new skills as Action Learning Set (ALS) facilitators.

The scheme will utilise 'Action Learning Sets' which is a technique used primarily in leadership and management development. This learning and development technique recognises that leaders and managers learn best by working together as a group or an 'Action Learning Set'. The ALS work together to help each other to find solutions to real work problems through facilitated discussion.

The programme which begins in January 2009 will provide opportunities for women to be trained as ALS facilitators and to develop skills needed to successfully deliver action learning. The training programme will aim to:

- ◆ Enable action learning set participants to reflect on group processes;
- ◆ Enable individual members to safely explore sensitive issues;
- ◆ Take action learning set participants beyond superficial analysis;
- ◆ Ensure that action learning set participants follow action learning conventions; and
- ◆ Help action learning set participants draw out general lessons on management development.

More information regarding this initiative and how to take part can be found at <http://www.skillsforjustice.com/careers.asp?pageid=185>

Invitation to Contribute to ACPO Police Cycling User Group

An ACPO working group has been set up to look at how the police service can best utilise cycling. In particular, the group is looking at the development of a set of 'common minimum standards' for cycle training. As it stands, forces use a variety of training programmes for staff. Some opt for outside training, whilst others have developed internal training based on American cycle training structures.

Looking ahead to the London Olympics 2012, the service needs to address common skills across force boundaries and moving into the future, the occasions where officers from one force are utilised in support of another will continue to rise. Accidents in recent years have led to the recognition of a requirement for common standards across the service, agreeing health and safety parameters in line with the 'Safety matters' report by HMIC.

The Department for Transport are partners on the working group, ensuring that these new standards link in with the Government's own national cycle standards. In this way, the new structures should provide a stable platform for the future. A cycle training user group has also been set up, reporting directly to the working group, and is led by Inspector Nigel Tottie of North Yorkshire Police. Forces not already participating are invited to actively contribute by attending the user group, ensuring that all forces work together to direct this important work.

For further information about the working group contact Nigel.Tottie@northyorkshire.pnn.police.uk and the HMIC 'Safety matters' report can be found at <http://inspectors.homeoffice.gov.uk/hmic/inspections/ptd/personnel/safety-matters-r.pdf>

Clearing up the Complexity: Reforming Bribery Law

At present there are several overlapping, but distinct, corruption offences set out in three Acts dating from the 19th and early 20th centuries, as well as an even older common law offence of Bribery. As a result, the current law is complex, fragmented and out of date.

In Reforming Bribery which was published on 20 November 2008, the Law Commission sets out recommendations for change. At the heart of the proposals is the replacement of the patchwork of offences with two general offences of Bribery; one concerned with giving bribes and one concerned with taking them.

The Commission also recommends two new offences. First, it recommends a new offence of bribing a foreign public official. Secondly, it recommends a new offence, applicable to corporate bodies, of negligently failing to prevent bribery by an employee or agent. It will be a defence to this crime that the company had adequate systems in place to prevent bribery. It also recommends extending the law of bribery to cover foreign nationals who reside in the UK and conduct their business there.

The Commission's recommendations will remove the outmoded distinctions between the public and private sectors. For the first time, there will be a single set of provisions capable of dealing with both sectors.

Examples of how the new offences would operate in practice, and the plain language versions of the new offences, can be found at http://www.lawcom.gov.uk/docs/lc313_summary.pdf

The final report can be found at <http://www.lawcom.gov.uk/docs/lc313.pdf>

For further details on the Law Commission's Bribery Project visit <http://www.lawcom.gov.uk/bribery.htm>

Ministry of Justice Circular 2008/05: Commencement of Provisions of Criminal Justice and Immigration Act 2008

The Ministry of Justice Circular 2008/05 was published on 29 October 2008 in respect of provisions of the Criminal Justice and Immigration Act 2008 which commenced on 3 November 2008. This is the third commencement order for this Act and introduces the following provisions:

◆ Section 51 and Schedule 11: Bail conditions: electronic monitoring.

Section 51 introduces Schedule 11. Schedule 11 makes amendments to the Bail Act 1976 to clarify the legislative framework for the application of electronic monitoring to support bail conditions imposed by the Courts on adults and those aged 17. The Bail Act 1976 was previously amended by the Criminal Justice and Police Act 2001 to make specific provision for the use of electronic monitoring to support bail conditions applied to children and young persons, that is those aged under 17. Schedule 11 makes similar provision for electronic monitoring in respect of those aged 17 or over.

A new section 3AB of the Bail Act 1976 sets out the conditions that must be satisfied before the Courts can impose electronic monitoring on adults and those aged 17. One of these is that the Court must be satisfied that without the electronic monitoring the defendant would not be granted bail. This is intended to ensure that tagging is only used where necessary.

◆ **Section 60: Contents of an accused's defence statement.**

This section amends the laws relating to pre-trial defence disclosure. Under the Criminal Procedure and Investigations Act 1996, the accused is required to supply a defence statement in Crown Court cases, and has a discretion to do so in magistrates' courts cases. Section 60 amends the requirements as to the contents of a defence statement. It now requires defendants to set out, in advance, particulars of the matters of fact on which they intend to rely. The effect of the provision is to require defendants to disclose a factual narrative of their case.

◆ **Sections 126 and 127 and Schedules 22 and 23: Police misconduct and performance procedures.**

Sections 126 and 127 and Schedules 22 and 23, together with associated regulations and rules, introduce new police officer misconduct and performance procedures. Parts of these Schedules commenced on 3 November 2008 for the purpose of making the necessary regulations and rules. The Home Office will issue guidance in support of the new regime which is expected to come into force on 1 December 2008 following a further commencement order.

◆ **Section 129: Inspection of police authorities.**

This section extends Her Majesty's Inspectorate of Constabulary's powers of inspection of police authorities so that it may inspect the full range of an authority's functions, rather than limit their remit to the assessment of police authorities' compliance with best value in Part 1 of the Local Government Act 1999.

Further information and copies of the Act and Explanatory Notes are available at <http://www.opsi.gov.uk/acts/acts2008a>

The Ministry of Justice Circular 2008/05 can be accessed at <http://www.justice.gov.uk/publications/circular-criminal-justice-031108.htm>

Introduction of New Measures to Exclude Extremists

The Home Secretary introduced new rules on 28 October 2008 to make it easier to exclude people who are coming to the UK to stir up racial hatred. She outlined the new measures in a written statement submitted to Parliament.

There is a facility within the new rules, for the first time, to enable the government to 'name and shame' hate preachers, and share its exclusions list with other countries.

The key elements of the new rules are that they will:

- ◆ Create a legal 'presumption in favour of exclusion' for known extremists and hate preachers, which in effect means that the person would have to argue why they should be allowed into the country;
- ◆ Require that, even if somebody says they are no longer an extremist, they would have to prove that they had changed their views;
- ◆ Ensure that, in certain circumstances, even people from the European Economic Area could be excluded;
- ◆ Work with other agencies and community groups to improve the evidence used in deciding whether or not to exclude a person;
- ◆ Decide on a case-by-case basis whether to release the names of those who have been excluded, in order to keep the public safe; and
- ◆ Make greater use of UK watch lists, and consider previous extremism when considering visa applications.

The Home Secretary said, "Through these tough new measures I will stop those who want to spread extremism, hatred and violent messages in our communities from coming to our country".

The news release from the Home Office can be read at <http://www.homeoffice.gov.uk/about-us/news/tough-measures-hate>

The full written statement submitted to Parliament on 28 October 2008 by the Home Secretary can be accessed at <http://press.homeoffice.gov.uk/documents/wms-exclusions-review>

Preventing Violent Extremism: Learning and Development Exercise

A joint report by the Audit Commission and Her Majesty's Inspector of Constabulary was published on 11 November 2008 by the Department for Communities and Local Government which assesses the progress that has been made to date on Preventing Violent Extremism.

The report, 'Preventing Violent Extremism: Learning and Development Exercise' commissioned by the Department for Communities and Local Government highlights some of the work currently underway across the

country. It suggests that initial problems with the Prevent Strategy 2008 are being addressed, that local areas are growing in confidence, fostering real expertise, creating the right links into communities, already overcoming challenges and developing responses to tackling extremism. However, the report also highlights specific areas for improvement; reporting that progress is required more uniformly across the country and that information sharing between different bodies needs to be increased.

Researchers were looking to learn from those sites with experience of violent extremism and identified key learning points for central and local government, police, security services and community groups about how work in a number of areas could be improved. These include:

- ◆ Continuing to improve information sharing practices between different organisations who are involved in preventing violent extremism in local areas;
- ◆ Gaining a better understanding of the risks and increasing effective partnership working. The report signals some key success factors including the importance of involving faith and community leaders, empowering communities to lead this agenda, ensuring that the Prevent Strategy is not seen as an add on but core business on the radar of people at all levels and understanding the way that international and national events might play out in communities; and
- ◆ Looking at how local authorities and central government can better assess the level of success of their projects.

The Department of Communities and Local Government will now consider the report in further detail. However, many steps have already been taken to address several of the issues raised in the report including:

- ◆ Issuing guidance to local authorities in the summer setting out clear expectations and priorities for this work;
- ◆ Establishing a Local Delivery Advisory Group comprising council leaders, chief executives, education advisors, community cohesion advisors and housing association representatives to provide leadership across their sectors and to advise the Secretary of State on how things are going at local level;
- ◆ ACPO are developing a process and guidance for effective information sharing between the police and partners which can be tailored to local circumstances to improve the quality and flow of information. It is clear that sharing information about the vulnerability of individuals or communities with trusted partners is essential to achieve effective partnership activity to tackle violent extremism;
- ◆ A national conference is to be held in December which will seek to share best practice within the UK and learn from other international programmes;
- ◆ Peer support system established with more experienced councillors and local authority officers reviewing and providing advice to areas who ask for help;

- ◆ Establishment of a website for sharing best practice and distributing key documents;
- ◆ Guidance on appropriate use of language has been issued to local authorities and the Government's Research, Information and Communications Unit have set up a new local unit seeking to provide more active support to Local Authorities; and
- ◆ Beacon scheme for 'cohesive and resilient communities' has been set up which will support high performing local authorities to spread best practice across the sector and internationally.

The full report 'Preventing Violent Extremism: Learning and Development Exercise' can be found at

<http://www.communities.gov.uk/publications/communities/preventlearningexercise>

The Prevent Strategy 2008 can be found at

<http://www.communities.gov.uk/publications/communities/preventstrategy>

National Audit Commission Review of the Independent Police Complaints Commission

The Independent Police Complaints Commission (IPCC), the body with responsibility for the police complaints system, has improved its performance against targets, in spite of a significant increase in its workload. In a report published by the National Audit Office (NAO) on 12 November 2008 it was found that the IPCC needs to do more to get feedback from complainants on how their complaints have been handled and to improve its quality control procedures.

In 2007/08 the IPCC opened 100 new independent investigations (investigating the most serious complaints made against the police) compared to 31 in 2004/05. The increase has arisen in part because of the impact of Human Rights case law, which has expanded the range of investigations and in part because the IPCC has improved public access to the police complaints system.

The report indicated that the IPCC has not sought feedback from complainants, police officers or appellants on how it has handled their case, although it plans to conduct surveys of this nature in 2008/09. The findings indicate that IPCC's quality control procedures are underdeveloped and inconsistently applied. The NAO found that many cases were not subject to an internal review and there was no external scrutiny of the IPCC's investigative work. Reforming its quality control procedures is one of the IPCC's objectives for 2008/09.

In over 60% of cases reviewed, the NAO found recommendations for police bodies to change or strengthen their practices. The IPCC does not routinely monitor implementation of recommendations, which it does not see as its role. The IPCC does have a remit, however, to identify and disseminate the wider lessons arising from its work. Since 2007, it has issued 'Learning the Lessons' bulletins which summarise recommendations for improving police practice.

These bulletins have been widely welcomed by the police and others. The IPCC has also embarked on a stock-take of the police complaints system and a Business Change Programme to improve its efficiency and effectiveness further.

The full report on the NAO review of the Independent Police Complaints Commission can be found at

http://www.nao.org.uk/publications/nao_reports/07-08/07081035.pdf

The full report by the Institute for Criminal Policy Research for the National Audit Commission 'Appellants', Complainants' and Police Officers' satisfaction with the Independent Police Complaints Commission' can be found at

http://www.nao.org.uk/publications/nao_reports/07-08/ipcc.pdf

Transport Committee Report on Road Safety Published

On 29 October 2008, the House of Commons Transport Committee published their report 'Ending the scandal of complacency: road safety beyond 2010' which highlights the need for a much bolder strategy to address road safety.

The report expresses concern about the following issues:

- ◆ High accident rates among male drivers, younger drivers and on rural roads; and
- ◆ Continuing links between poverty and road deaths. The report cites evidence that child pedestrians from the lowest socio-economic groups are 21 times more likely to be killed in a traffic accident than those from the top socio-economic groups.

Despite a 7% fall in road user deaths in 2007, the report points out that overall progress since 2000 has been disappointing. There has been little improvement in reducing deaths among car users and there has been a significant rise in motorcyclist deaths, which rose by 26% between 1994 and 2007.

According to government statistics, serious injuries are falling much more rapidly than deaths. The report questions the accuracy of injury data and considers whether the government is really going to meet its road safety targets. Concern about changes in the reporting of accidents prompted the Transport Committee to call for a review to find ways of linking police and hospital statistics as a matter of routine.

The report makes a number of recommendations and includes:

- ◆ Stepping up the enforcement of drink-drive offences and a review of the drink-drive limit;
- ◆ Re-considering a graduated licensing scheme and restrictions on young drivers carrying teenage passengers between the hours of 11.00pm and 5.00am; and
- ◆ Introducing a range of road user training schemes targeted at school students.

The full report of the House of Commons Transport Committee 'Ending the scandal of complacency: road safety beyond 2010' can be found at <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmtran/460/460.pdf>

Consultation to Tackle Road Safety

A new road safety consultation was announced on 20 November 2008 by Road Safety Minister that sets out plans to help the police better enforce against drug and drink driving, as well as exploring whether there is a need to change the law on drug driving or on the drink drive limit. The new proposals aim to target the menace of reckless driving on Britain's roads.

The proposals will also examine whether there is a need to toughen penalties and to make it easier for the police to tackle other forms of reckless driving to cut the toll of nearly 3,000 road deaths per year.

The consultation covers proposals on a range of issues and includes:

- ◆ 1 in 5 drivers killed in road accidents may have an impairing drug in their system, according to independent research. Therefore, there is a proposal to explore whether a new offence should be created to bring drug driving more into line with drink driving, by making it illegal to drive after taking a drug which is both illegal and impairing;
- ◆ There are plans for a major new publicity campaign on drug driving and a proposal to help the police better enforce the current drug driving law through improved training and equipment;
- ◆ Proposal to remove an outdated option for drivers caught moderately above the drink drive limit to request a second test by a doctor and potentially fall back under the limit while waiting for them to arrive. Use of more accurate breath testing equipment makes this no longer necessary.
- ◆ To improve enforcement by the provision of £2 million to fund the introduction of new digital breath testing equipment, to help free up police resources, as well as helping the police introduce targeted drink drive checkpoints to strengthen deterrence;
- ◆ Views and evidence are sought on the question of reducing the legal alcohol limit;
- ◆ Proposal to make careless driving a fixed penalty offence, which will enable the police to enforce against careless drivers who admit fault with a minimum of bureaucracy, freeing up police resources. The fixed penalty would be a £60 fine and 3 penalty points;
- ◆ On speeding, there is a proposal to introduce a higher fixed penalty of 6 penalty points for drivers who exceed the speed limit by a dangerous, and very large margin (e.g. 20mph or more above most speed limits because research suggests this will be a strong deterrent). There is no proposal to change the level of fines; and

- ◆ Proposal to undertake a major review of remedial training and testing schemes to ensure consistency and common standards.

More information about the Road Safety Compliance consultation which finishes on 27 February 2009 is available at <http://www.dft.gov.uk/consultations/open/compliance/>

There are also six themed independent research reports which were published on 20 November 2008 available on the Department for Transport website at <http://www.dft.gov.uk/pgr/roadsafety/research/rsrr/>

THINK! New Road Safety Campaign for Children

The Government is taking a new approach to warning children about road safety in the light of research which has found that children, given their extensive exposure to new media, require bolder and more forthright communication.

It is the latest attempt by the government to help reduce the number of deaths and injuries on the roads. Last year more than 9,000 children were killed or injured on Britain's roads.

The £1.5 million THINK! Campaign graphically spells out the dangers of not crossing the road safely. Television adverts use animated characters to tell a series of cautionary tales. The adverts are accompanied by a new website with interactive games for children and educational material for teachers and parents.

The website is accessed at <http://talesoftheroad.direct.gov.uk/> and the full press release is available at <http://nds.coi.gov.uk/content/detail.asp?NewsAreaID=2&ReleaseID=383989>

Europol: Coordinating the Fight against Serious and Organised Crime

The House of Lords European Union (EU) Committee published its 29th report 'Europol: Coordinating the Fight against Serious and Organised Crime' on 12 November 2008. This inquiry was the seventh such report into aspects of the workings of Europol, the European Police Office responsible for coordinating the fight against serious and organised crime.

In January 2010 Europol will become an agency of the EU. The Council Decision bringing about this change in its constitution has made some amendments to its objects, powers, working methods and governance.

The purpose of Europol is to facilitate the exchange of information for law enforcement purposes. The report states that it is a matter of particular concern that four fifths of the information exchanged by national liaison officers stationed at Europol is exchanged without actually going through Europol, and hence without being placed on Europol's database and without being accessible to Member States other than those directly involved. The reason advanced for this, by the Committee, is a lack of trust: a reluctance on

the part of Member States, especially at the early stages of an investigation, to share sensitive information with all Member States through the Europol channels.

One of Europol's success stories, the report states, is that in addition to simply facilitating the exchange of factual information, it analyses information to help the investigation of particular categories of crime. Undertaking analysis of information is one of the differences between Europol and Interpol, a difference that is explained more fully in Chapter 2 of the report.

The report indicates that the UK has been influential in persuading Europol to base its work on Organised Crime Threat Assessments: planning for future threats rather than reacting to past events. However the report also recognises that much still remains to be done to persuade other Member States of the value of this, and of other modern policing methods.

In the UK the Serious Organised Crime Agency (SOCA) is the body responsible for liaison with Europol. This facility, the report recognises, works well. However, the Committee does not consider the liaison between SOCA and the United Kingdom police forces, which provide it with much of its information, to be quite so effective with a need for SOCA to develop 'a two-way relationship which works'.

The full House of Lords European Union Committee report 'Europol: Coordinating the Fight against Serious and Organised Crime' can be found at <http://www.publications.parliament.uk/pa/ld200708/ldselect/ldeucom/183/183.pdf>

New Rules to Protect Exploited Women

The Home Office published its six-month review 'Tackling the demand for prostitution' on 19 November 2008 and introduced new measures that will tackle the demand for prostitution by targeting sex buyers and kerb crawlers.

The review looked at ways to protect women who are exploited for sexual gain. There was consideration of legislative and non-legislative options, and the review reflected on the experiences of other countries with similar issues, such as Sweden and Holland.

As a result of the review, the government has decided to run national campaigns to raise awareness of the realities of human trafficking, and the legal problems facing those who frequent prostitutes.

A new offence will be created in a bid to encourage men to think twice before paying for sex, and to protect women who have been forced into prostitution and those who are held against their will.

The change in the law will make sex buyers liable for prosecution, even if they didn't know the prostitute they visited was controlled by a pimp or had been trafficked. Those convicted could receive a fine of up to £1,000. The government now intends to remove the 'persistence' and 'annoyance' requirements from the rules, making it possible to prosecute kerb crawlers the first time they're noticed.

The Home Secretary said that the new rules to protect vulnerable women coerced, exploited or trafficked into prostitution in the UK, and to bring those who take advantage of them to justice. The new measures aim to shift the focus onto the sex buyer, the person responsible for creating the demand for prostitution markets, which in turn creates demand for women being trafficked for sexual exploitation.

Dr Timothy Brain of the Association of Chief Police Officers said the changes to the law should make potential sex customers think twice. "Any man who intends to pay for sex with a prostitute will have to think very carefully, because it will be no defence in future to claim that they did not know someone was trafficked or controlled by someone else for gain".

The full report 'Tackling the demand for prostitution' can be found at <http://www.homeoffice.gov.uk/documents/tackling-demand>

New National Billboard Campaign to Unite Communities against Knife Crime

The Home Office released a new phased national billboard campaign on 31 October 2008 encouraging young people and communities to stand together against knife crime. This is the latest initiative in the Home Office campaign to deal with the knife crime issue.

The new interactive campaign will run in phases throughout the next three months in urban, residential areas across England and Wales, including the ten areas involved in the Tackling Knives Action Programme.

During the campaign young people will be encouraged to show their support by adding their own anti-knife photo pledges to the Bebo social media network website. Their images will then be included on later versions of the posters in the series which will be unveiled by the Home Secretary next month. There are over 60,000 young people who have visited the 'It Doesn't Have to Happen' page on Bebo and the site now has over 6,000 friends since it was launched in May this year.

Further information about the anti-knife crime campaign can be found at <http://www.bebo.com/itdoesnthavetohappen>

Race for Justice Campaign Launched

A new study was published on 17 November 2008 under the Race for Justice Campaign. This campaign brings together a coalition of Black and Minority Ethnic (BME) and other concerned voluntary and community based organisations to challenge the increasing over representation of BME men, women and children in the criminal justice system (CJS). The report suggests that the government must take a fresh look at policy if the issue of over-representation of people from BME communities in the criminal justice system is to be addressed.

The report 'Less Equal than Others: Ethnic Minorities and the Criminal Justice System', found that across the criminal justice system people from BME backgrounds were treated differently whether suspects, defendants, victims or witnesses from their white counterparts. As the issue of over-representation of black and minority ethnic groups in prisons and the CJS increases year-on-year, this report draws attention to understanding and addressing this disproportionality.

The report highlights that approximately 26% of the prison population in England and Wales is from a BME background when the same groups account for only 9% of the broader population. The research which examined the direct experience of BME communities of the system, found they were more likely to be prosecuted, less likely to be cautioned, less likely to get bail and more likely to serve longer prison sentences for similar offences.

This report offers a number of recommendations for how the government could work with the voluntary sector to improve the situation. These include:

- ◆ Government departments identifying best practice in the BME voluntary sector and publicising findings;
- ◆ Making criminal justice agencies more accountable; and
- ◆ Monitoring specific targets to reduce over-representation. It also suggests that urgent action is required to deal with the high levels of female BME prisoners.

The report pulls together information and research from a wide variety of sources. It shows that despite great strides to reduce racial inequalities, individuals from BME groups are over-represented at every stage of the CJS and face multiple layers of discrimination.

The full report 'Less equal than others: Ethnic minorities and the criminal justice system' can be found at

[http://www.clinks.org/\(S\(4spkdhve1ur2zxjxbdhirx45\)\)/downloads/publications/clinkspubs/081117_RFJ_Report.pdf](http://www.clinks.org/(S(4spkdhve1ur2zxjxbdhirx45))/downloads/publications/clinkspubs/081117_RFJ_Report.pdf)

Court Statements for Families of Murder Victims a Success

A pilot scheme giving families of murder victims a chance to tell the court how the death has affected them has proven to be a success, according to research published on 30 October 2008 by the Ministry of Justice.

The Victims Advocates Pilot evaluation measured the success of the new initiative to allow victims' families to have an impact statement to be read out in court. The publication marks the one-year anniversary of the decision to extend the key elements of the pilots nationally under the Victim Focus Scheme.

The Victims Advocate Pilots enable a meeting to take place between the prosecutor and the victim's family, pre-trial, to explain the processes and assist in making a Victim Personal Statement. These statements include the impact the crime committed had on the victim's family.

The evaluation report identified the following:

- ◆ Families welcomed it as an opportunity to have their voice heard in court and felt a sense of positive and active involvement in the trial;
- ◆ Families reported the process of preparing and delivering the statement to be therapeutic; and
- ◆ A variety of different reasons for families wanting to have a personal statement read out in court. These included a desire to give the court a better appreciation of the victim's character and to make the defendant understand the gravity of what they had done.

The evaluation report notes that families reported that the pre-trial meeting made the criminal justice system more accessible and easier to understand, which they found comforting during a difficult period of bereavement and the subsequent criminal proceedings.

The scheme was piloted in Birmingham, Cardiff, London, Manchester and Winchester Crown Courts from April 2006 to April 2008.

The full Victims Advocates Pilot evaluation report can be found at <http://www.justice.gov.uk/publications/research-victims-advocate.htm>

Alcohol Arrest Referral Projects

Pilot schemes, which allow persons arrested for alcohol related offences to be referred to alcohol specialists, have been extended to nine additional police force areas: Northeast Lincolnshire; Northamptonshire; Bristol; Cleveland; Leicestershire and Rutland; Stoke-on-Trent; Islington; and Swindon. Such schemes were already running in Liverpool, Manchester, Cheshire and Ealing.

At the referral session a person's drinking behaviour will be assessed and advice on reducing alcohol consumption may be given. Attendance at such sessions can be required as part of a conditional caution.

These new pilots will enable a more thorough evaluation of how effective the referrals are in tackling alcohol related crime and disorder. There is, though, already evidence that they can have a positive impact e.g. in Gloucestershire, the re-offending rate for those who attended two referral sessions fell by fifty per cent in the following year. If the pilot projects prove successful during their first year, further funding will be provided to allow them to continue running.

The full Home Office announcement can be viewed at <http://press.homeoffice.gov.uk/press-releases/binge-drinkers-confront>

Compensation for Victims of Violent Crime

The House of Commons Committee of Public Accounts published their report 'Compensating victims of violent crime' on 20 November 2008.

Although the Ministry of Justice now has oversight of the Criminal Injuries Compensation Scheme, the report identified that the low priority given to it belies its importance to the Ministry's objective of putting victims at the heart of the criminal justice system. The report claimed that the Ministry did not set rigorous targets for either the Criminal Injuries Compensation Authority or the Panel nor did it hold them accountable for their performance.

The report listed a number of issues of concern which included:

- ◆ Victims of violent crime not made sufficiently aware of the existence of the scheme or its requirements;
- ◆ Only about one third of victims of violent crime surveyed in 2006 were aware of the scheme and only 5% applied;
- ◆ Some demographic groups are more likely to apply than others;
- ◆ Over half of applicants use representatives, although it is not necessary to do so, and over 20% pay solicitors, even though Victim Support offers a free service;
- ◆ The Scheme application form is long and complex, and almost a fifth of applicants found it difficult to complete; and
- ◆ The Authority's call centre is currently outsourced but performance is poor; 15% of calls are not answered, and half of those that are answered had to be referred back to the Authority.

The Authority requires information from third parties such as police forces, GPs and hospitals to resolve cases but it has failed to work sufficiently with them to encourage faster response times. The Authority's casework processes have become increasingly repetitive and bureaucratic. The Code of Practice for Victims of Crime specifies that the Police should respond to initial requests for information in 30 days. The Ministry has, however, not managed to get all police forces to comply, and only 15 police forces met this timescale for half of the requests they receive.

The full report 'Compensating victims of violent crime' can be found at <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubacc/251/251.pdf>

Youth Inclusion Programme Reaches 25,000 Young Lives

The Youth Justice Board (YJB) published on 10 November 2008 the second independent evaluation of a programme that aims to prevent crime and make communities safer. The evaluation was undertaken by Morgan Harris Burrows.

The report indicates that over 25,000 children and young people in danger of falling into crime and anti-social behaviour have been reached by the Youth Inclusion Programmes (YIPs). There are now 120 YIPs across England and Wales, based in some of the most deprived and high-crime areas. YIPs work with 8 to 17-year-olds who are carefully targeted according to their risk of involvement in offending or anti-social behaviour. This targeting is based on many factors, such as exclusion from school, and involves many different agencies working together including youth offending teams, police, schools and social services.

The development of YIP and other YJB-funded prevention initiatives such as parenting programmes and safer school partnerships have helped to bring local agencies together to achieve a sharper focus on youth crime prevention. The YJB has exceeded its 5% target to reduce the number of first-time entrants to the youth justice system, which means that 10% fewer young people have become involved with crime since 2005/06. Data released today by the Government also confirms that action on youth crime is working with 10,000 fewer first-time entrants to the criminal justice system last year. The Youth Crime Action Plan, being taken forward by Government, brings an opportunity to build on this success.

The full evaluation report can be found at <http://www.yjb.gov.uk/en-gb/News/younglivesreachedthroughtheYouthInclusionProgramme.htm>

Punishing Children Leads to More Crime and an Unsafe Society

A new report published by the Howard League for Penal Reform on 5 November 2008 claims that punishing children in trouble with the law contributes to more crime and an unsafe society. The study made comparisons between the youth justice system in the UK and those across Europe.

The report indicates that in the UK punishment is at the heart of the response to children in trouble with the law, whereas in Europe there is deliberate welfare-based approach. The majority of Europe, the report suggests views a child committing crime as a welfare issue.

The study claims that crime is a symptom of underlying problems which welfare agencies need to address, whether they are caused by educational

difficulties, mental health needs or histories of abuse and neglect. Conversely, it is claimed that the UK system is structured to respond primarily through punishment.

The director of the Howard League for Penal Reform, Frances Crook, said "Given the continuing degree to which youth crime is seen as an issue of great public concern, for example, knife crime among inner city teenage boys, it is clear that generations of a system based on punishing children contributes to more crime and an unsafe society".

The full report is available for purchase at <http://www.howardleague.org/index.php?id=youngpeople>

Policing in the 21st Century Report Published

Following the announcement of an inquiry in January 2008 into Policing in the 21st Century, the House of Commons Home Affairs Committee (HAC) published their seventh report on 10 November 2008. The inquiry set out to examine how expectations of the Police service have changed in recent years and the resources it has to meet them.

The House of Commons Home Affairs Committee inquiry received a considerable amount of oral and written evidence from ACPO, NPIA, HMIC, Chief Officers, other ranks, the Police Federation, Home Office, APA, LGA and other partners/stakeholders.

The inquiry also took cognisance of and makes reference to other recent key reports on Policing and Police reform, such as HMIC Sir Ronnie Flanagan's Review of Policing, the Casey Review, Policing Green Paper, and think tank reports on Police reform by Civitas, Policy Exchange and the Institute for Public Policy Research (IPPR).

Other recent HAC inquiries covered specific aspects of policing and police activity such as funding for the service, anti-social behaviour, counter-terrorism and domestic violence. Partly in response to calls from ACPO and the Police Federation for a Royal Commission on Policing, HAC decided to conduct this inquiry and its subsequent report attempts to draw together evidence on what are seen to be the main challenges facing policing for this century.

It should be noted whilst the Government must respond to such reports, Ministers can either accept and take forward its recommendations, or decide not to do so if they disagree with the Committee members, which are drawn from across the major political parties. Some recommendations may also be incorporated into new legislation being introduced to Parliament such as the expected Policing and Criminal Justice Bill. HAC stated it expects "the Government to take full account of our recommendations as part of its programme of Police reform".

Each of the report's chapters are summarised below:

Chapter 1: Introduction

In the introduction to the report the particular issues taken into account by the inquiry were (several of which are also explored in the Policing Green Paper, Casey and Flanagan reviews):

- ◆ What the public expects of the Police, how Chief Constables determine priorities and the role of the Home Office in setting priorities;
- ◆ The effect of heightened concerns about terrorism, immigration, gun and knife crime, identity fraud, the growth in cyber-crime and the London 2012 Olympics;
- ◆ Public involvement in local policing;
- ◆ Roles of, and relationships between, Police Constables and Police Community Support Officers and different ways Forces deploy staff;

- ◆ Use of technology to return officers to the beat;
- ◆ Police funding and the efficiency with which Forces deploy available financial resources; and
- ◆ Potential difficulties in recruitment and retention, including the quality of applicants and staff retained.

Additionally, HAC believed it necessary to conduct this inquiry because it feels many of the original questions posed in the 2001 White Paper, *Policing a new century: a blueprint for reform* remain unresolved.

Chapter 2: Expectations of the Police

This chapter is sub-divided into three sections considering the following:

- ◆ What the role of the Police in the 21st century is;
- ◆ The appropriateness of Home Office targets in setting policing priorities and driving performance; and
- ◆ Whether or not the service is meeting public expectations for crime prevention and investigation.

The Role of the Police in the 21st century

There are several factors that have led to significant changes to policing activity in recent years which in turn have affected and extended the Police's role as set out in the 1990 *Statement of Common Purpose and Values for the Police Service*. These factors include:

- ◆ Increased mobility and new technologies facilitating new kinds of crime;
- ◆ Increased emphasis on multi-agency approaches to public protection and community safety. This has led to the police 'taking too much on' and taking the lead when sometimes it is more appropriate for other partners to lead;
- ◆ Incidents have become the predominant focus at expense of dealing with underlying problems causing them with the effect of many more incidents now being recorded as formal crimes;
- ◆ Greater breadth of work being undertaken by the police, but with less clarity of expectation; and
- ◆ Concern by ACPO that other partners are not bound by the Assessment of Policing and Community Safety (APACS) performance indicators to the same extent as the police. By demanding greater accountability from other partners this may motivate them to take more responsibility.

Home Office Expectations of the Police: 'Hitting the target but missing the point'

This section sets out the Home Office's expectations of the police through their policing activities and target setting and includes:

- ◆ Evidence of negative effect of 'Offences brought to Justice' (OBTJs) and 'sanction detections'. The conflict of targets versus discretion leading to 'perverse outcomes' (The report highlights that 7.1% of the 1.447 million OBTJs in 2007/08 were cannabis warnings allowing the target to be met by increasing the number of lower level offences);
- ◆ Situation exacerbated by conflict between police and CPS targets. The police target to increase detections versus CPS targets to reduce proportion of ineffective unsuccessful trials resulting in police being more likely to pursue charges and CPS becoming more 'risk averse';
- ◆ Issue of criminalisation of individuals for trivial misdemeanours highlighted by several witnesses;
- ◆ Above issues recognised by Government with the then Policing Minister Tony McNulty pointing to the new focus on serious crime and OBTJ and detection performance indicators for serious crime categories only;
- ◆ ACPO remain concerned regarding the reliance upon quantitative targets and argued for a qualitative assessment instead. Proposals in the Policing Green Paper by the Home Office for scrapping 'top-down' numerical targets and for HMIC to lead on qualitative assessments of policing performance;
- ◆ HAC support for greater use of discretion by police officers, but sees this as dependent upon improved supervision by sergeants and inspectors and the importance of urgent implementation of recommendations outlined in the recent HMIC report, *Leading from the frontline*; and
- ◆ Concerns expressed by several bodies (e.g. CIFAS) to HAC regarding absence of fraud from performance targets which have an estimated annual cost to the UK of £13.9 billion and the issue of the need for high levels of training and expertise to successfully prosecute fraud investigations.

Public Expectations of the Police

This sections comments on the low level of public confidence in the police and crime statistics and public encounters with the police and includes the following issues:

- ◆ According to the Casey Review, low public confidence in the police not just due to issue of mistrust of statistics, but also based on the public's own experiences of low-level crime and Anti-social Behaviour (ASB);
- ◆ General support among public and politicians for use of crime mapping and other information on Policing activity to address this issue with the Policing Green Paper stating that all police forces in England and Wales will publish crime maps by the end of 2008;
- ◆ Anecdotal evidence from HAC members' constituencies in relation to quality of service problems in relation to dealing with 'low level' criminal damage, ASB and harassment;
- ◆ Potential tension between new focus on serious and organised crime and dealing with low-level issues of concern to general public;

- ◆ The rising number of complaints against the police (The 5% rise in overall allegations against the Police during 2007/08 was highlighted);
- ◆ Positive effects of the use of the appointments system for 'low priority' callers with the Greater Manchester Police and Thames Valley pilots cited;
- ◆ Public confusion over how to contact the police in non-emergency situations. HAC believe that Home Office funding for 101 should have continued and believes it to be a useful initiative;
- ◆ Popularity among the public of the visibility of the police in their communities e.g. the perceived deterrent effect of foot patrols; and
- ◆ HAC concerns regarding the definition of 'front-line policing' which they believe should exclude paperwork done in police stations. (Frontline policing measures have subsequently been removed from 2008/09 Strategic Performance Indicators).

Chapter 3: Pressures on Resources

This chapter is concerned with police funding arrangements and issues relating to the availability of police resources in four key areas where the burden of work has recently increased, namely:

- ◆ The effects of immigration;
- ◆ Alcohol-related violence and disorder;
- ◆ Bail awarded to those charged with serious offences (including some murder suspects); and
- ◆ Gun and knife crime.

Police funding arrangements

This section comments of the issues relating to the funding arrangements of the police service and includes:

- ◆ APA state that police funding shortfalls are estimated to increase between 2008/09 and 2010/11 (from £391 million to £966 million);
- ◆ Growth in funding matched (or exceeded) by demand;
- ◆ Issue of application of funding formula (this issue was also explored in the Flanagan Review) with conflicting views submitted to HAC from Forces who are potential 'winners' and 'losers' if the formula is to be applied in full; and
- ◆ ACPO and APA support for greater flexibility in council tax capping guidance for Forces and Police Authorities with below average precept levels.

Immigration

The section covers the inquiry's objective in trying to establish the claims made in the media about the effects of recent high levels of immigration upon police resources and includes:

- ◆ Effect of underestimations of rising immigrant population levels on funding settlements for Forces which creates a funding gap. Funding tends to lag behind population growth therefore there is support for the recommendation in the Flanagan Review, that in future, funding formula should take this into account to ensure areas needing extra funding receive it;
- ◆ Difficulty in obtaining accurate statistics on immigrants as either perpetrators or victims of crime. The current police recording processes do not accurately capture nationality and language barriers;
- ◆ Lack of knowledge of British law in migrant communities may result in under-reporting of crime;
- ◆ Local Government Association (LGA) and Cambridgeshire Chief Constable Julie Spence stated that there is no immigrant 'crime wave', but that there are specific issues in some areas (e.g. knife carrying among certain nationalities and a greater international dimension to some crimes such as cannabis cultivation, human trafficking and drinking/driving offences);
- ◆ LGA state that immigrants are more likely to be victims rather than perpetrators of crime (e.g. hate crime, exploitation etc.);
- ◆ Key factor for policing in terms of impact on extra specific costs for public services is increased demand for translation services (e.g. Kent Police spending costs in this area are up by a third in three years). There are also costs in terms of additional time taken to deal with issues;
- ◆ Some confusion over whether or not Forces can apply for new Department for Communities and Local Government Transitional Impacts Migrant Fund from 2009/10; and
- ◆ Good practice recognised by ACPO who highlighted various initiatives to manage impacts of immigration, e.g. police training and encouraging migrant membership of Independent Advisory Groups. Use by some Local Authorities such as Burnley and West Lancashire of information packs for immigrants explaining aspects of law and personal safety.

Alcohol-Related Crime

This section commented upon the scale of alcohol-related crime and disorder and its impact on resources:

- ◆ Requirements for policing alcohol-related disorder in town and city centres at weekends leads to fewer resources available for dealing with other issues and increasing visibility in communities;
- ◆ Devon & Cornwall CC Steven Otter outlined a fairly significant increase since 2004/05 in the proportion of violent crime where alcohol was almost certainly a factor (e.g. 42% of violence in street and 30% in home related directly to domestic violence);
- ◆ Extra financial and time costs of drunken persons in custody (e.g. monitoring, noise, hygiene issues);

- ◆ British Beer and Pub Association (BBPA) indicated an increase in problems outside town and city centres due to extended hours of premises (e.g. less incentive to go elsewhere to drink after hours);
- ◆ Improved powers to tackle licensees breaking the law now possible under the Licensing Act 2003 leading to increasing activity;
- ◆ View that extra legislative measures are not as important as the need for extra resources to tackle the problem;
- ◆ Further research is required in the use of Penalty Notices for Disorder in respect of alcohol disorder. There is some evidence of success in proactive use early on in the evening leading to reduction in serious offences later;
- ◆ Alcohol Referral Pilots have had some success, but take-up is dependent on persons recognising they have a drink problem;
- ◆ Devon & Cornwall indicated that UV marking of alcohol products sold in stores to enable traceability to identify underage sales and use in ASB was useful;
- ◆ Call for voluntary contributions for dealing with alcohol-related disorder to be mandatory (similar to charging to football and based on a number of factors such as history of violence and intelligence);
- ◆ Concerns by LGA, ACPO and House of Lords regarding the potential costs, bureaucracy and effectiveness of Alcohol Disorder Zones (ADZs);
- ◆ Research by Liverpool John Moores University suggests that 'pre-loading' of cheap alcohol before people go out causes additional problems. On this basis, there is a need to target cheap alcohol sales in stores for preventative action;
- ◆ Issue of alcohol industry 'hiding' behind competition law in order to avoid banning 'loss leaders' and other discounting of alcohol or potential for introduction of minimum pricing for sales. HAC called for the Government to establish a legal basis as soon as possible for banning use of loss-leading and setting a minimum price for sale of alcohol (this particular recommendation was the main focus of media reports on the report); and
- ◆ Home office published KPMG research in July 2008 that suggested the alcohol industry's voluntary social responsibility standards are ineffective.

Bail

This section relates to bail awarded to those charged with serious offences and the issues raised include:

- ◆ ACPO highlighted the problem of increased use of bail and 'spree offending' committed by some on bail who are expecting prison sentence and the fact that those on bail along with Prolific and other Priority Offenders (PPOs) are the offenders who cause Police the most work;
- ◆ Impact highlighted of cases involving Gary Weddell (who committed a second murder whilst on bail for murder of his wife) and murder of

Gary Newlove (issues around lack of Police resources to effectively monitor offenders on bail with one person involved in the murder breaching his bail by being at the location where it took place);

- ◆ Evidence from High Court Judge Mr Justice Fulford that there is always a risk of offenders on bail committing further offences, but the judiciary recognises that Police representations and objections on bail decisions are important and are taken into account in the subsequent considerations;
- ◆ Proposal by CC Sir Norman Bettison for use of a tagging order as a condition of bail to enable effective monitoring to take place which was supported by Mr Justice Fulford; and
- ◆ Issues and concerns around breaches of tagging explored with G4S Justice Services who attempted to offer reassurances on this matter.

Gun and Knife Crime

This section considered the issues of gun and knife crime, especially when associated with gangs as this is an area of perceived increase in the police workload. The issues include:

- ◆ Conflicting evidence from official and other statistics as to whether or not knife crime is increasing (*in light of claims of increases in media*):
 - Metropolitan Police statistics for knife-enabled crimes fell by 16% to 10,220 crimes in 2007/08 compared to the previous year (not able to compare nationally as all Forces only started recording use of knife or sharp instrument in murder, GBH, and robbery offences from 2007/08 - 22,151 instances);
 - Statistics on number of persons presenting themselves at hospitals with gun and knife wounds is increasing though many were not reported to Police; and
 - Convictions for 'having an article with blade or point in a public place' rose from around 3,500 in 1997 to over 6,000 in 2006.
- ◆ Knife crime is a much bigger issue than gun crime with much greater prevalence, (notwithstanding impact of gun crime on communities) requiring more emphasis and resources to be committed by the Police;
- ◆ HAC and Tony McNulty agreed Sentencing Guidelines Council's current guideline of a starting point of a Band C fine for possession of a bladed article is not an appropriate sentence;
- ◆ Successes of recent anti-knife crime operations in various Forces highlighted:
 - Operation Blunt 2 in Metropolitan Police area had 1,277 arrests and 26,777 searches between May and June 2008;
 - Merseyside used intelligence-based area operations; and
 - Operation Cougar in Moss Side, Greater Manchester Police used a dual approach targeting key offenders combined with diversionary activities in partnership with the Local Authority.

The HAC have decided to launch a new inquiry specifically into gun and knife crime which is to commence this autumn.

Chapter 4: Releasing Resources

This chapter looks at ways in which Forces are, or could be, freeing up resources, focusing on:

- ◆ Flanagan Review recommendations for reducing bureaucracy;
- ◆ Use of technology to enable officers to remain on beat and operate more efficiently;
- ◆ Efficiency savings through collaboration between Forces at Regional level; and
- ◆ The scope and appropriateness of using Police staff for tasks previously undertaken by sworn officers.

Reducing Bureaucracy

This section covers the recommendations set out in the Flanagan Review and includes:

- ◆ HAC reiterated concerns from Flanagan Review regarding excessive amount of paperwork officers are required to complete (e.g. time spent crime recording versus crime fighting);
- ◆ Current streamlined crime recording pilot schemes in Staffordshire, Surrey, Leicestershire and West Midlands were outlined and a full assessment of these schemes should now be underway;
- ◆ Success of the streamlined process for case-building mainly for Magistrates' courts in seven pilot areas with Staffordshire reporting that it saved around one hour per case completing files, with 78% of guilty cases now dealt with at first hearing, a 48% reduction in requirements to take statements and a 15% reduction in officer tasking;
- ◆ Mr McNulty told HAC he was confident Police service would meet or possibly exceed the Flanagan Review's projections for reducing bureaucracy (5-7 million hours, equivalent to 2,500 - 3,000 officers); and
- ◆ Concerns were expressed by the Equality and Human Rights Commission (ECHR) of the danger of an increase in community tensions following a reduction in stop and account requirements and potential increase in use of police powers. However, HMIC were confident this could be avoided.

Use of Technology

This section considered the use of personal digital assistants (PDAs) to increase effectiveness. The issues included:

- ◆ HAC report outlines benefits of using PDAs such as Blackberry devices. Previous recommendation made in report on Police funding (2007) that Chief Constables should ensure they were introduced in all Forces. This has yet to be achieved but additional funding recently made available by

Home Office (£25 million over next two years to allow delivery of 30,000 extra devices by 2010);

- ◆ Potential safety issues highlighted by Police Federation of officers using a PDA being distracted if offender becomes violent (Staffordshire policy that officers revert to communication via Airwave if they suspect an offender may become violent);
- ◆ NPIA attempting to speed up procurement of national IT solutions to reduce pressure and temptation on Forces to buy or develop their own (e.g. mobile data platform) and reduce potential for duplication of effort resulting from a fragmented approach;
- ◆ Risk of fragmentation acting as a barrier to integration across Forces;
- ◆ Pressure to reduce duplication of data entry across forces and the wider CJS which could be achieved by linking of IT systems between Forces and agencies;
- ◆ Fragmented approach to IT procurement leads to less interest from major suppliers who could bid for contracts to implement major complex programmes;
- ◆ A balance is required between centralised procurement and local solutions due to need for local tailoring to meet specific circumstances (e.g. Airwave - standard national structure able to cater for some local issues); and
- ◆ Benefits of collaboration in IT procurement between Forces highlighted - example of successful Yorkshire and East Midlands joint bids for PDA funding.

Collaboration

This section covers the collaboration between Forces at regional level including shared support services, in addition to protective services and includes:

- ◆ HAC heard evidence of good practice from Wales and East Midlands where a number of shared services projects are underway (East Midlands includes forensics and identification; demand management; crime investigation; and Force strength and resilience alignment); and
- ◆ Policy Exchange and Flanagan Review reported on slow progress in such collaboration and CC Sir Norman Bettison offered some reasons why this may be the case (e.g. issues around Chief Constable's and Police Authority's sovereignty and fear of being a 'net donor').

Use of Police Staff

This section identifies the issues relating to the use of police staff and includes:

- ◆ Recent Policy Exchange report on Police Reform and Flanagan Review contained proposals on expanded roles for Police Staff (e.g. as investigators, custody officers etc.) in posts previously only held by officers in order to free up more officers for frontline duties;

- ◆ Possible benefits of cost and effectiveness balanced against issues around resilience and trust of the public which are a potential barrier on extended use of Police staff in public facing roles;
- ◆ Need to ensure no reduction in officers at expense of more Police staff in order to preserve capabilities for arrest and public order;
- ◆ HAC backed use of Police staff for back office functions such as Administration or HR, but urged caution in the use of Police staff for investigative work. There was some concern expressed about the implications for resilience in the event of officer numbers falling;
- ◆ Concerns were expressed regarding the impact of sections 120 and 121 of the Serious Organised Crime and Police Act 2005 (not yet enacted) which would allow for the use of police staff as Custody Officers in place of Custody Sergeants; and
- ◆ Mr McNulty acknowledged these concerns and said that the Home Office would repeal sections 120 and 121, thereby scrapping the proposal for Police staff custody officers.

Chapter 5: Structures

This chapter examines the appropriateness of current Police service structures in the 21st century in the light of increased policing activity at both the Regional and very local (i.e. Neighbourhood Policing Team) level, covering:

- ◆ Accountability structures;
- ◆ Neighbourhood policing;
- ◆ Regional policing; and
- ◆ The impact of the London 2012 Olympics.

Accountability Structures

This section covers the accountability structures of the tripartite structure and the options for reform:

- ◆ Highlighted Flanagan Review's concerns regarding the current arrangements under the tripartite structure (e.g. unbalanced structure with Home Office becoming too involved in local policing delivery; role of partners; profile and participation in Police Authorities);
- ◆ Police officers giving evidence to the inquiry tended to agree the structure has become unbalanced with more power in the centre (Mr McNulty also broadly agreed with this);
- ◆ The position of the Police Federation, ACPO and APA on accountability was also explored by HAC. All agreed on need for re-focused tripartite arrangements as the most appropriate structure for setting priorities and enabling local people to hold the police service to account;
- ◆ However, concern expressed by ACPO and APA around any proposals for directly electing commissioners which was suggested by the Institute for

Public Policy Research (IPPR) think-tank and directly electing Police Authorities;

- ◆ LGA told the inquiry it was opposed to the Green Paper proposals for replacing Councillors on Police Authorities with Crime and Policing Representatives (CPRs) and argued that this would undermine partnership working between the police service and Local Authorities; and
- ◆ HAC also expressed concern regarding CPRs and was not clear about how they would extend accountability. However, it believes that Police Authorities are under-resourced and relatively unknown in their current form and therefore supports reform of them.

Neighbourhood Policing

This section of the report commented on neighbourhood policing and raised the following:

- ◆ Report refers to comments in Flanagan Review that a Neighbourhood Management approach is critical to delivering successful Neighbourhood Policing;
- ◆ Approach used in Reading (Thames Valley Police) for involving local residents in priority setting outlined and includes neighbourhood action groups. This initiative resulted in 17 priorities around ASB, which in response the Force co-ordinated a multi-agency approach to managing individuals involved in ASB, leading to a 12% decrease in criminal damage and a detection rate of 25% for the offence;
- ◆ Tension between locally agreed priorities and those set at a higher level (BCU or Force level). For example one group in Reading agreed a high priority in tackling cannabis use which contradicted Force targets;
- ◆ Where community engagement is less successful, Forces may find it difficult to set priorities truly representative of local needs (including where there is lack of awareness of Neighbourhood Policing);
- ◆ Importance of using information and intelligence from Neighbourhood Policing Teams in dealing with Counter-terrorism and Serious and Organised Crime issues. There is a need for Forces to have effective systems in place for intelligence sharing between these functions; and
- ◆ Competition for resources between Neighbourhood Policing Teams and protective services. The policing pledge in the Green Paper indicated that there was ring-fenced Neighbourhood Policing funding for at least a further three years.

Regional Policing

This section considers the issues regarding regional policing particularly in respect of protective services:

- ◆ HMIC said had been shift from structural solutions to bridging protective services gap towards 'more co-operative and collaborative approaches' including the Demonstrator Projects. Examples from work in four Welsh forces collaborating on counter-terrorism and the consideration of

appointing one Deputy Chief Constable to oversee Serious and Organised Crime and Counter-terrorism throughout Wales and East Midlands including witness protection, high tech crime, sex and dangerous offenders, domestic violence amongst other protective service areas;

- ◆ Evidence to inquiry that protective services gap is not being closed, for example:
 - Not enough focus in middle of crime spectrum (including Serious and Organised Crime); and
 - Potential impact of major Counter-terrorism investigations which can involve many forces in terms of working across boundaries and different Forces' varying manpower levels and experience.
- ◆ Need for similar arrangements for Serious and Organised Crime as now exist under Counter-terrorism Unit structures. ACPO estimate new funding for this (up to £3000 million) required and this gap cannot be closed through efficiency savings and increased collaboration alone. According to the inquiry, Mr McNulty was 'unconvinced' of the need for more resources and said the gap was closing;
- ◆ Tony McNulty said mergers no longer being considered, but Home Office would allow any voluntary merges and still thinks 43 Forces in England and Wales is too many; and
- ◆ ACPO and Professional view still favours mergers which would allow for both strategic policing from 'hubs' and also delivery of effective Neighbourhood Policing. However, HAC noted opposition to mergers from Forces where they fell not in best interests of their communities e.g. where merging with areas with higher crime rates.

London 2012

This section covers the issues relating to security planning at a national level and in particular regarding the Olympic Games to be held in London in 2012:

- ◆ ACPO warned HAC that a lack of ability to co-ordinate the service at national level will impact on the Olympics and other large-scale national events;
- ◆ Concerns expressed over lack of progress on Olympic security in terms of funding commitments also affecting other Forces not just the Metropolitan Police;
- ◆ Potential Airwave network capacity issues when there are a large number of users accessing the system in one place and that use in the Underground System remains a factor (this issue is being addressed); and
- ◆ Airwave Solutions working with the London Organising Committee for the Olympic Games, Metropolitan Police and Home Office to resolve capacity issues. Academy of Engineering suggested could be possible Airwave capacity issues in other areas in the event of a major incident with voice traffic already near capacity in some areas of London.

Chapter 6: Workforce

The final chapter of the report considers the Police service workforce in terms of:

- ◆ Police numbers;
- ◆ Recruitment and retention;
- ◆ Appointment of Chief Officers;
- ◆ Police Community Support Officers; and
- ◆ Diversity in respect of women and black and minority ethnic (BME) officers.

Police Numbers

This section covers the number of police officers in the police service and raised the following issues:

- ◆ HMIC clarified comments made in the Flanagan Review which some misunderstood in that it did not propose a reduction in officer numbers but stated that it was unlikely that recent increases would continue. (The comment relates to the potential savings to be made by a reduction in bureaucracy); and
- ◆ Home Office confirmed that their position is to maintain 140,000 officers and the focus is on freeing up officers for the frontline and more effective deployment, not on arbitrary numbers.

Recruitment and Retention

There are two sections covering the recruitment and retention of police officers in the police service and the issues raised:

- ◆ Federation called for a better understanding and more research on the quality and consistency of officer applications;
- ◆ ACPO stated that the challenge is to recruit the best quality people and (in longer term) meet the impact of ageing population which may lead to shortages in those available for employment;
- ◆ Difference in opinion between the Home Office and Forces which gave evidence (East Midlands and Northamptonshire) in respect of whether retention is a problem. Home Office stated that the 'wastage rate' had remained similar over the last few years whilst Forces identified staff turnover an issue (e.g. with some officers leaving for 'quality of life' reasons); and
- ◆ Issue of impact of long-term sick and officers who were no longer capable of frontline operations but still on officer strength. A Freedom of Information Act request in October 2008 indicated that Forces lost more than 1 million days to long-term sick leave last year (to March 2008), costing around £90 million which is an increase of 20% in the last five years.

Appointment of Chief Officers

This section covers the Appointment of Chief Officers in the police service and raised the following issues:

- ◆ APA expressed concern over the lack of quality and quantity of applications for Chief Officer posts. The reasons cited included; increased scrutiny pressure, the merger debate, distortions to pay and conditions and parochial thinking;
- ◆ Strong opposition from ACPO, Superintendent's Association and the Police Federation to direct entry to senior officer level as proposed by the APA;
- ◆ APA clarified their proposal and felt that there was some scope for bringing in outside experience e.g. in HR to Command Team level. HAC stated that these appointments should be separate to the Chief Officer roles;
- ◆ Strong operational experience at senior level seen as a way of reversing 'risk averse' culture e.g. the revised leadership strategy being developed by NPIA; and
- ◆ Government to retain requirement for 2 years' Chief Officer experience in other Force before being eligible for Chief Officer posts.

Police Community Support Officers

This section covers the issues raised by the media image portrayed by Police Community Support Officers and some aspects of their deployment, turnover, supervision and training:

- ◆ Contrast between negative media coverage of PCSOs and the evidence to the contrary given to inquiry e.g. East Midlands pointed out the positive public reaction and positive feedback to the role. Police Federation softened stance on PCSOs and their is feedback from officers on positive team working;
- ◆ Police Federation and ACPO are against extension of PCSO powers taking them closer to a more confrontational role and that of a Police Constable. There is a need to retain visibility and not to allocate powers that would increase the potential of taking PCSOs away from patrol duties;
- ◆ Home Office are due to evaluate standard and discretionary PCSO powers by the end of this year. (Home Secretary recently stated her view that all PCSOs should have the power to detain); and
- ◆ Tony McNulty referred to Casey Review proposals around standardisation of PCSO uniforms and possible further standardisation of their powers.

Diversity

This section covers the progress made by the police service towards meeting the diversity targets set out for ensuring that it represents the population it serves:

- ◆ British Association of Women in Policing called for affirmative action to more quickly achieve the target of 35% representation of women which is estimated to take further 15 years to achieve;
- ◆ Resignations from female officers are reported to be twice as high as from their male counterparts with one woman in four citing 'domestic responsibilities' as their reason for resigning;
- ◆ Tony McNulty said nationally, Forces were close to achieving targets for BME recruitment. However, it is recognised that it is only a start and that there is a need to do better;
- ◆ However, HAC said two-thirds of individual Forces (including Metropolitan Police, Greater Manchester, West Midlands and West Yorkshire Police) will miss the 2009 target;
- ◆ Home Office statistics indicate BME officers resigning or dismissed from service at higher rate than for white colleagues; and
- ◆ NPIA referred to measures being taken to encourage BME career progression, for example their work with the National Black Police Association to promote the High Potential Development Scheme and the Positive Action Leadership Programme. ACPO have established a BME Progression Group and in collaboration with the NPIA a BME Senior Staff Network.

The report outlines 70 conclusions and recommendations which have been put forward by the HAC. The conclusions and recommendations are mainly aimed at the Government and Home Office and in some instances at Forces and other stakeholders.

Further Information regarding the oral and written evidence submitted to the inquiry and the full report, 'Policing in the 21st Century' is available at <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/364/364ii.pdf>

ACPO to Change Guidance on Firearms Incident Note-Taking

ACPO have announced that revisions to ACPO Firearms Guidance are to be made regarding the way in which police officers record events following a firearms incident. The changes take account of the recent judgement in the judicial review of the decision by the Independent Police Complaints Commission and others not to prevent the officers involved in two police shootings from collaborating in their notebook entries (as covered in the November 2008 issue of the *NPIA Digest*, at page 60).

The amendments will state that officers should not, as a matter of general practice, confer with others before making their initial or subsequent accounts. They should individually record what their honestly held belief of the situation was at the time force was used, and as such there should be no need to confer. The revision will point out however, that if in a particular case a need to confer does arise, officers must, to ensure transparency and maintain public

confidence, document the fact that some discussion has taken place, highlighting:

- ◆ The time, date and place where conferring took place;
- ◆ The issues discussed;
- ◆ With whom the discussion took place; and
- ◆ The reasons for the discussion.

The full press release can be found at

http://www.acpo.police.uk/pressrelease.asp?PR_GUID=%7B696DD600-B30B-406F-8429-DE3784F96328%7D

Learning the Lessons: Recurring Issues

The latest bulletin (No. 5) issued by the Independent Police Complaints Commission (IPCC) in October 2008 spotlights the way in which the police deal with vulnerable people. There is a recognition that contact with people who are vulnerable; especially those with mental health difficulties, victims of domestic violence or those with a history of self harm, for example often present some of the most challenging situations for the police.

The purpose of the bulletin is to share the learning from cases involving vulnerable people but it also demonstrates the huge variety of challenging and often disturbing incidents the police are called to deal with.

In 2007 Her Majesty's Inspectorate of the Constabulary (HMIC) inspected arrangements for protecting vulnerable people. The focus on specific areas of vulnerability by HMIC is mirrored in the bulletin. There is particular emphasis upon domestic abuse and vulnerable missing persons where important issues recurred. Other areas of vulnerability are also covered, notably mental health and self harm, where a significant number of cases were identified.

The following areas of vulnerability are covered:

◆ **Mental health**

Six of the cases in the bulletin involve mental health. This reflects the number of serious cases investigated by the IPCC where mental health is an issue and highlights the difficulties in responding effectively to people with mental health difficulties. There is considerable national work in progress on mental health issues. The IPCC recently published its research report 'Police Custody as a 'Place of Safety' which examined the use of Section 136 Mental Health Act 1983. ACPO and NPIA are currently developing 'Guidance for police responses to people with mental health issues' which they hope to publish next year.

◆ **Missing persons**

Three cases in this bulletin involve missing persons. The HMIC inspection identified work on missing persons as needing a higher profile nationally and called for a single ministerial champion. There is considerable work underway in this area. NPIA are developing a Code of Practice for use of

the national Missing Persons Bureau and HMIC are considering a thematic inspection on missing persons.

◆ **Domestic Abuse**

The first Learning the Lessons bulletin was focussed upon the theme of victims of domestic violence. There continues to be a significant number of independent or managed cases which involve domestic abuse. Four of the cases in this bulletin involve domestic abuse; two of them, however, centre on the alleged perpetrator killing himself.

◆ **Risk of Suicide and Self Harm**

In three of the cases, individuals were known to the police or other partner agencies to be at risk of self harm or suicide. A number of the recurring issues concerns how the police did, or did not, use this information.

◆ **Treatment of a person with disabilities or other physical impairment**

◆ **Arresting a young person**

There are recurring issues with many cutting across different types of vulnerability including:

◆ **Call handling** - this issue featured in many of the cases and is one of the main issues for forces when responding to incidents involving vulnerable people:

- Several incidents were incorrectly graded;
- Not enough information for officers attending; and
- Lack of sufficient operational control in responding to call for assistance led to too many officers being deployed to arrest a young person in a children's home.

◆ **Identifying Risk** - this issue was a significant concern:

- Psychiatric patient with a history of violence and aggression who was reported missing from hospital was assessed as medium rather than high risk;
- Need for assessment of persons detained under section 136 of the Mental Health Act on arrival in custody by a Forensic Medical Examiner and Approved Social Worker; and
- Need to identify links between suicide and risk in domestic abuse cases, in accordance with ACPO Guidance on Investigating Domestic Abuse.

◆ **Sharing intelligence/information:**

- In two cases, officers attending incidents were not given all the relevant information about the incident;

- An officer arresting a man for domestic abuse did not have all information held by the Force as it was stored on a standalone database held by the Domestic Violence Unit; and
- No use of markers or flags on the Force system to indicate previous domestic violence at the address in question.
- ◆ **Working with other agencies:**
 - When dealing with vulnerable people the police often have to work with a variety of agencies. This relationship is critical in ensuring an appropriate response and is often tested to the limit by challenging circumstances.
- ◆ **Record keeping** - was an issue in a number of cases:
 - Problems in having duplicate entries on databases;
 - Free text summaries associated with a log not retrievable; and
 - Insufficient staff available to process encounter forms.
- ◆ **Policies & Protocols** - there were a number of cases where police officers/staff were not aware of or did not implement policies and protocols:
 - Force Incident Room staff were reluctant to apply domestic violence policy requiring them to ask relevant questions of police officers attending incidents; and
 - Force policy on removing persons suffering from mental health was not followed.

The latest IPCC Learning the Lessons bulletin containing all the cases and the key lessons learned can be accessed at

http://www.learningthelessons.org.uk/learningthelessons_bulletin_oct08_v4.pdf

Mental Health Act 1983: Revised Code of Practice Issued

The revised Code of Practice in respect of the Mental Health Act 1983 was published on 3 November 2008 by the Department of Health. The revised Code updates and amends the previous version to take account of recent case law and changes in practice and terminology since it was last revised in 1993.

The following chapters of the revised code are of particular interest to the police and the criminal justice sector:

- ◆ Chapter 10: Police powers and places of safety;
- ◆ Chapter 11: Conveyance of patients;
- ◆ Chapter 18: Confidentiality and information sharing;
- ◆ Chapter 22: Absence without leave; and
- ◆ Chapter 33: Patients concerned with criminal proceedings.

There is a full revised Code of Practice and a summary of the changes from the current code of practice to be found at

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_084597

Home Secretary Congratulates Essex on Delivering First Policing Pledge

The Home Secretary joined with Neighbourhood Crime and Justice Adviser Louise Casey on 4 November 2008 to congratulate Essex Police on being the first police force to deliver the new national Policing Pledge.

Chief Constable Roger Baker and representatives from the neighbourhood policing team unveiled the new pledge. The Policing Pledge provides the public with a clear minimum standard of service which includes:

- ◆ That the police will be with them within an hour in response to calls about agreed neighbourhood priorities where police attendance is required;
- ◆ The right to meet with their local team and others in the community to agree priorities and action to tackle them at least once a month and an entitlement to crime maps, information on specific crimes and information about what happened to those brought to justice in their neighbourhood; and
- ◆ That neighbourhood policing teams will spend at least 80 percent of their time visibly working on behalf of the public in their neighbourhood.

Essex Police are now delivering against this standard of service and all 43 Police Forces across England and Wales have signed up to deliver the pledge for their communities by the end of the year. In addition to the national standard every neighbourhood will have a local pledge by which to hold their local teams to account. The Policing Pledge will provide a platform for local people to express a stronger voice in setting local police priorities and the means to challenge their local force if they are not getting the service they expect.

The pledge is part of a radical programme of reform set out in the Policing Green Paper earlier this year. Other reforms included removing all but one central target imposed on police forces to that of increasing public confidence that the police and other agencies are dealing with local crime and anti-social behaviour priorities.

More information about the policing pledge can be found at

http://police.homeoffice.gov.uk/publications/police-reform/Policing_Pledge.pdf

Crime and Justice Pioneer Areas Established

A new initiative to open up the criminal justice system to the public was launched on 4 November 2008 by the Home Secretary when she announced the establishment of sixty Crime and Justice pioneer areas.

The new pioneer areas will appoint a dedicated person to work to ensure Community Payback efforts are visible and tough, and to provide support for victims. The new coordinators will take forward the vision set out in the Casey Review and the Policing Green Paper to give the public a greater say in the way their streets are policed and how offenders should be dealt with. The new coordinators will work to:

- ◆ Let the public know their entitlement in the new Policing Pledge so that they know their rights, know who their neighbourhood policing team are, how they can hold them to account and the minimum level of service they should expect;
- ◆ Open up the criminal justice system so that there are clear and public consequences for criminals that the public get to know about, including more visible Community Payback; and,
- ◆ Ensure that services and support for victims and witnesses like separate seating arrangements at court are up to scratch.

More information about the Crime and Justice areas can be found at <http://police.homeoffice.gov.uk/news-and-events/news/crime-justice-pioneer-areas>

Mobile Data Device for Officers in Cleveland

Police officers in Cleveland are to be equipped with new mobile data devices which will give frontline officers access to local intelligence systems and the Police National Computer.

Whilst out on the street, officers will be able to identify vehicles and people, to fill in and submit forms electronically, and to check on the progress of investigations. This will enable officers to spend more time on the frontline.

The project, named CUPID (Cleveland Universal Police Information Device), will initially be piloted in Hartlepool. The intention is to roll out the devices to the rest of the force during 2009 and Cleveland Police Authority has committed £7.9 million to fund the project.

The press release is available at http://www.cleveland.police.uk/news_resources/press_releases/081106_Cupid.htm

Tackling Rogue Drivers

A joint operation carried out by ACPO, ACPOS and the Department for Transport has found that the number of rogue drivers on Britain's roads has dropped significantly.

Compared with a similar operation in 2006 the number of unlicensed drivers stopped fell from 1.6% to 0.8%; uninsured drivers fell from 1.9% to 1.2%; those without a current MOT fell from 4.2% to 1.5%; those without valid vehicle tax fell from 2% to 1%; the number of drivers committing a serious motoring offence, such as no insurance or driving whilst disqualified, fell from 7.5% to 3.4%; and the number committing any of the offences looked for fell from 21% to 11.1%.

The Serious Organised Crime and Police Act 2005 (s.152) gave police the power to seize a vehicle being driven without a licence or insurance. In 2007 the police removed around 170,000 vehicles under this power. When the relevant provisions of the Road Safety Act (s.22) are brought into force, a new offence of being the registered keeper of an uninsured vehicle will be introduced.

The full press release is available at

<http://nds.coi.gov.uk/Content/Detail.asp?ReleaseID=383719&NewsAreaID=2>

Reducing the Risk of Violent Crime Report Published

On 23 October 2008, the House of Commons Public Accounts Committee published a report which examines how effectively the Home Office is tackling violent crime.

The report notes that whilst violent crime has fallen in recent years, which is broadly in line with crime generally, more serious violent offences such as homicide and wounding have not fallen as quickly. The report emphasises that these types of crime cause the most harm to individuals and communities.

Additionally, the report highlights disturbing trends which included:

- ◆ Number of recorded crimes involving a firearm doubled between 1998/99 and 2005/06; and
- ◆ Number of 15-17 year olds convicted of carrying a knife in public also doubled.

The fall in crime and violence overall has enabled the Home Office to concentrate on tackling more serious violence and gang-related activities. However, the report argues that the department's efforts have been undermined by poor distribution of funding and its mixed performance in spreading good practice. The Home Office's key delivery bodies usually receive funding for tackling violence late in the financial year and money is often provided as a one off and on a short term basis. This approach results in expenditure being targeted at the consequences of violence and not its causes.

The report makes nine recommendations that include:

- ◆ Although the Home Office has been increasingly concerned about the use of weapons, only since 2007 has it been mandatory for the police to record the presence of a knife at the scene of a crime. Together with police forces and Partnerships, the Home Office should use the information it can now gather about knife crime, together with other research, in order to tackle more effectively the root causes of why people carry knives;
- ◆ Between 2002/03 and 2006/07 all crime, as recorded in the British Crime Survey, fell by 8.5% and violent crime fell by 9.0%. Incidents of the most serious violence against the person recorded by the police fell by 5.9% in this period, and the Home Office admitted to being worried by trends both in the use of weapons and also in the age of offenders. Despite the welcome decline in recorded violent crime overall, there is growing public concern about weapons use and more serious violence. The Department should now seek the same level of improvement in rates of serious violence that has occurred in crime generally, by implementing the recommendations in this Report;
- ◆ The majority of victims of violent crime treated in Accident and Emergency units did not report their injuries to the police, but without knowing the full picture of violence in their areas, Partnerships cannot implement effective measures to counter the violence. The Home Office and Department of Health should jointly establish a national system for the automatic sharing of depersonalised violent crime data between hospitals,

police, and Partnerships. They should also publicise successful approaches such as training hospital receptionists to record violent crime data for sharing with the police, and establishing what steps they need to take to encourage health agencies to participate willingly in crime reduction groups;

- ◆ As of summer 2007, less than one third of Partnerships had a written strategy, and fewer than half had a specific violent crime group to tackle violent crime. The Home Office should promote good practice in violent crime groups and strategies by establishing the different types and quality of those already in existence in different areas, and publicising what works well; and
- ◆ Partnerships still lack the analytical capacity needed to assess the data they collect on violent crime in their locality, despite the recommendation made by our predecessors in their report in 2005. In recognition of the fact that many Partnerships do not have the resources to increase their analytical capacities; the Home Office should use its teams in the Government Offices for the Regions to provide analytical support at a regional level.

The full report can be found at

<http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpublic/546/54602.htm>

Designing Out Crime Initiative Grows

On 4 November 2008 the Home Office announced its agreement with the Design and Technology Alliance to support the development of new and innovative designs to crime-proof gadgets.

The three year programme will bring together industry, the public sector, designers and crime prevention experts with victims of crime to develop new and innovative design solutions to:

- ◆ Help prevent robbery;
- ◆ Crime-proof new gadgets; and
- ◆ Embed public safety in the design of new public spaces and housing.

The programme, led by the Design Council, will work on developing solutions to a wide range of crime-related problems, particularly those which affect young people, including:

- ◆ Schools - finding and applying specific design solutions to reduce problems such as bullying, fighting and petty theft in schools. This is being led by Sir John Sorrell, Chair of the Commission for Architecture and the Built Environment and the Sorrell Foundation;
- ◆ 'Hot' products - developing innovations in technology, services and product design which help make personal electronics more 'crime-proof'. This is led by Joe McGeehan, Director of the Centre for Communications Research at Bristol University;

- ◆ Housing - embedding design-led crime reducing approaches in the planning and construction of housing, led by Ken Pease, a forensic psychologist and visiting professor at University College London;
- ◆ Alcohol-related crime - finding design-led approaches to reduce the harm caused by alcohol-related antisocial and criminal behaviour, especially assaults in pubs and clubs. This is led by Jeremy Myerson, Professor of Design Studies at the Royal College of Art; and
- ◆ Business crime - such as helping businesses to use design to minimise crimes which victimise them, their customers or employees such as shoplifting and other forms of retail theft. This is led by Lorraine Gamman, Professor of Design Studies at Central St Martins.

There is more information available at

<http://www.designcouncil.org.uk/en/Live-Issues/Can-design-help-in-the-fight-against-crime/>

Statistical News Releases on Drug Misuse and Seizure

Two annual statistical bulletins have been issued by the Home Office examining drug misuse and drug seizure in England and Wales.

'Drug Misuse Declared: Findings from the 2007/08 British Crime Survey' examines the prevalence and trends of illicit drug use among 15 to 59 year olds resident in households in England and Wales, from the self-report drug use data in the 2007/08 British Crime Survey. The overall use of any drug by 16 to 59 year olds in 2007/08 was 9.3%, the lowest level since the British Crime Survey started measurement in 1996. This is mainly due to a decline in the use of cannabis since 2006/07. Cannabis remains the most prevalent drug, with 7.4% having used it in the last year.

Changes in drug use between 2006/07 and 2007/08 showed a decline in the level of any illicit drug use from 10.0% to 9.3%, and a decline in Class A drug use from 3.4% to 3.0%. There were decreases in use of cocaine, ecstasy, amphetamines, cannabis and glues.

In young people aged 16 to 24, the use of illicit drugs is, at 21.3%, the lowest level since 1996. Ecstasy, hallucinogen and amphetamine use has decreased amongst this age group, however cocaine use has increased. Frequent use of any drug has decreased from 11.6% in 2002/03 to 7.3% in 2007/08. Last year drug use showed a decrease in use of illicit drugs from 24.1% in 2006/07 to 21.3% in 2007/08, with a decrease in use of any Class A drug from 8.0% to 6.8% over the same period.

Examination of variation in drug use by demographic and lifestyle factors showed that men aged 16 to 59 were twice as likely as women to have used any drug in the last year. In young people aged 16 to 24 levels of drug use in the last year were higher for those who had visited a nightclub or pub, or had consumed alcohol, than those who hadn't. In particular, the level of drug use of those young people visiting nightclubs four or more times in the last month was twice as high as those who had not visited a nightclub in the last month. Young people going to a nightclub at least once a week on average were over three times as likely to have taken any Class A drug in the last month than those not visiting a nightclub at all.

'Seizures of Drugs in England and Wales 2006/07' contains figures for seizures of drugs made by local police forces and HM Revenue and Customs in England and Wales. In 2006/07 there were 186,028 such drug seizures, an increase of 15% since 2005. Class A drugs seizures increased by 10%, with cocaine seizures increasing by 35% and heroin decreasing by 1%. Class B drugs seizures increased by 15%, with amphetamine seizures up by 8%. Class C drugs seizures increased by 20%, with herbal cannabis seizures increasing by 44% and cannabis resin seizures decreasing by 21%.

'Drug Misuse Declared: Findings from the 2007/08 British Crime Survey' can be found at

<http://www.homeoffice.gov.uk/rds/pdfs08/hosb1308.pdf>

'Seizures of Drugs in England and Wales 2006/07' can be found at

<http://www.homeoffice.gov.uk/rds/pdfs08/hosb1208.pdf>

Opiate and Crack Cocaine Statistics 2006/07 Published

The Home Office released the third and final stage of a research report on 6 November 2008 which presents the results of a study to estimate the prevalence of 'problem drug use' (defined as use of opiates and/or crack cocaine) nationally (England only), regionally, and locally. An overview of national and Government Office Region estimates are presented in the report, as are comparisons with the estimates produced by the second (2005/06) stage of the study.

The information regarding the number of people who use illicit drugs such as heroin, other opiates or crack cocaine is identified as key to formulating effective policies for tackling drug-related harm as these drugs are associated with the highest levels of harm. It also helps inform service provision at the local level and provides a context in which to understand the population impact of interventions to reduce drug-related harm.

It is obvious that direct recording of those engaged in a largely covert activity such as the use of Class A drugs is difficult and standard household survey techniques tend to underestimate the extent of such activity. However, indirect techniques making use of various data sources offer a more reliable way of calculating prevalence estimates for the use of opiates and/or crack cocaine. The estimates presented in this report utilise two indirect measurement techniques; the capture-recapture method and the multiple indicator method.

The individuals covered by this study were people aged 15 to 64 years, resident in each Drug Action Team area, and known to be using heroin, methadone, other opiate drugs, or crack cocaine. The estimates are also sorted by drug type (opiate, crack and/or drug injecting), age and gender.

The research indicated that in 2006/07 there were an estimated 328,767 problem drug users in England. The figures show that the estimate for the total number of problem drug users has remained stable across the three stages of the study. However, since the first stage there has been a significant reduction in the prevalence of drug injectors, which has fallen from 4.16 per thousand in 2004/05 to 3.47 per thousand in 2006/07.

The report on national and regional estimates of the prevalence of opiate use and/or crack cocaine use in 2006/07 can be found at <http://www.homeoffice.gov.uk/rds/pdfs08/horr09.pdf>

The Drug Action Team estimates, used for local planning purposes, are available separately at http://www.nta.nhs.uk/areas/facts_and_figures/prevalence_data/docs/0607/default.aspx

£6m Seized from Criminals to Boost Policing

The Home Office announced on 17 November 2008 that Police forces across England and Wales are to receive a £6million cash boost from assets seized from criminals. Criminal assets confiscated by police forces and other asset

recovery agencies between April and June 2008 totalled £28.6 million, £14.3m of which is to be shared between police, prosecutors and courts.

A total of £5.97million will be given to police forces in England and Wales, compared with £3.71million paid out in the same quarter last year.

Since 2003 when the Proceeds of Crime Act came into effect a total of £497million has been seized by police forces and other asset recovery agencies. An incentive scheme introduced in 2006 allows the police and recovery agencies to retain half of all cash they seize from criminals.

The Home Office Minister Alan Campbell said "The incentive scheme is a great benefit for policing. Taking money from criminals makes crime far less profitable for them. At the same time, that money is ploughed directly back into the police force that seized it so they can strengthen their fight against crime in their area."

Mick Creedon, Chief Constable of Derbyshire Constabulary and ACPO lead on Asset Recovery said "The public are quite rightly sick and tired of seeing criminals leading lavish lifestyles without challenge and all forces across England and Wales are determined to respond to this and make full use of the available powers granted under the Proceeds of Crime Act and other legislation. We continue to work closely with the Home Office and other asset recovery agencies to ensure that not only crime doesn't pay, but that it is also seen by the public that it doesn't pay."

The full article and details of amounts received by each force can be found at <http://press.homeoffice.gov.uk/press-releases/6-million-seized>

New Website to Enhance Security around Heathrow Airport Takes Off

A new website has specifically been set up by the Metropolitan Police Aviation Security Unit as a communications tool for partners within the airline industry, airport staff, air passengers and local residents. This initiative will deliver bespoke police and community intelligence in the form of up to date news bulletins, appeals for those wanted for airport criminality or are subject to behaviour orders, Probation or Anti-social Behaviour Orders and notices regarding suspicious behaviour or vehicles. This facility will enable the Aviation Security Unit to engage with the airport's staff and 87 million annual visitors.

The website, which is supported by the British Airport Authority, will also serve Heathrow's local community by providing specific contact information for dedicated Safer Neighbourhood teams. Members of the public will have the opportunity to contact local officers directly and in confidence via the site, to report any concerns or pass on information.

The website can be found at <https://www.airportcommunity.org/>

Industry and Government Work Together to Tackle Internet Terror

The development of state-of-the art filtering technology is now available, the Home Secretary announced on 18 November 2008, to enable parents, schools, businesses and web users in the UK to further restrict access to websites which advocate or promote terrorism.

A collaborative project between the internet industry and Government enables web users to have the opportunity to download software allowing them to restrict access to websites which may encourage the endorsement or participation in acts of terrorism.

The Home Secretary announced the initiative in order that parents and guardians of vulnerable young people will be able to further enhance internet safety for their home computers. The software can be downloaded voluntarily and is available to parents, schools, colleges and businesses.

The full article can be accessed at
<http://nds.coi.gov.uk/environment/fullDetail.asp?ReleaseID=384520&NewsAreaID=2&NavigatedFromDepartment=True>

Greater International Cooperation Required to Tackle Fraud

At the first international conference on boiler room fraud, the Financial Services Authority (FSA) called on regulators and agencies from around the world to work together to tackle the problem.

Each year, around thirty thousand people fall victim to boiler room fraud in the United Kingdom alone. Estimates put the total fraud at three hundred million pounds. Typically, victims will be 'groomed' over weeks or months by fraudsters who call them regularly, eventually persuading them to buy worthless shares. Boiler rooms tend to be based overseas and often cross into several different jurisdictions.

The FSA has launched a number of initiatives this year to help raise awareness of boiler room fraud. In the past eighteen months it has also taken action against seven entities for acting as or assisting boiler rooms, including taking out injunctions, freezing assets, making people bankrupt and starting criminal investigations. In March it helped to refund around one million pounds to UK investors.

The full FSA press release can be viewed at
<http://www.fsa.gov.uk/pages/Library/Communication/PR/2008/128.shtml>

Case Law



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It is not Reasonable for an Arresting Officer to Infer that his Superiors must have Good Grounds for Suspicion Before Instructing Him/Her to Arrest a Suspect

COMMISSIONER OF POLICE OF THE METROPOLIS v MOHAMED RAISSI (2008)

CA (Civ Div) (Sir Anthony Clarke MR, Maurice Kay LJ, Stanley Burnton LJ) 12/11/2008

Criminal Law - Criminal Procedure - Police - Torts

False Imprisonment: Suspicion: Terrorism: Unlawful Arrest: Arrest: Basis Of Reasonable Grounds For Suspicion: Reliance On Knowledge Of Superior Officers

The proposition that it was sufficient for an arresting police officer to infer that his superiors must have had reasonable grounds for suspicion before instructing him to arrest a suspect was inconsistent with the decision in *O'Hara v Chief Constable of the Royal Ulster Constabulary* (1997) AC 286 and was not the law.

The appellant commissioner appealed against an order ((2007) EWHC 2842 (QB)) that the respondent (M) was entitled to damages for wrongful arrest and false imprisonment. M had been arrested and detained on suspicion of involvement in the terrorist attacks in the United States on September 11, 2001. The arresting officer (B) had relied, in making the judgment whether to arrest, on the fact that more senior officers might have other additional information to which he was not privy. M was the brother of a man (L) who was also suspected of being involved in the attacks and who lived near to M. M was not charged and was released after interview and a period of four-and-a-half days' detention. The judge held that, although B subjectively suspected that M was concerned in the commission, preparation or instigation of acts of terrorism, he had no reasonable grounds for the suspicion, which was an objective requirement. The commissioner argued that the judge had erred in principle in concluding that B did not have reasonable grounds to suspect that M was a terrorist in the sense defined in the terrorism act 2000 s.40. In particular the judge had wrongly discounted or dismissed the fact that B had taken into account M's familial connections with a prime suspect, M was a close brother of L and the brothers had mutual access to each other's houses and B had relied on the greater knowledge of his senior officers.

HELD

B had not been told what his superiors suspected M to have done. It was not reasonable for B to infer that his superiors must have had good grounds for suspicion of terrorism and whether B had reasonable grounds for the suspicion depended on the information that he had had, *O'Hara v Chief Constable of the Royal Ulster Constabulary* (1997) AC 286 HL, *Castorina v Chief Constable of Surrey Times*, June 15, 1988 CA (Civ Div) and *McKee v Chief Constable of Northern Ireland* (1984) 1 WLR 1358 HL considered. The proposition that it was sufficient for the arresting officer to infer that his superiors must have had reasonable grounds for suspicion before instructing him to arrest a suspect was inconsistent with the decision in *O'Hara*. Further the fact that M and L were close brothers, that they lived not very far apart and that each had access to the other's house did not afford B reasonable grounds for suspicion that M was a terrorist.

APPEAL DISMISSED



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Where an Offender had Originally Become Party to Joint Enterprise it is open to a Jury to Decide Whether that Offender Ceased or Continued to be a Part of a Joint Enterprise for the Purpose of a Conviction for Murder and Violent Disorder

R v LAURA MITCHELL (2008)

CA (Crim Div) (Thomas LJ, Field J, Dobbs J) 4/11/2008

Criminal Evidence - Criminal Law

Joint Enterprise: Jury Directions: Murder: Withdrawal From Joint Enterprise: Clear Action Required To Demonstrate Withdrawal

It was open to a jury to convict an offender of murder and violent disorder on the basis of her participation in a joint enterprise where it was accepted that the offender had originally become party to the joint enterprise and the recorder had given the jury appropriate directions as to whether she had ceased to be part of the joint enterprise at the relevant time.

The appellant (M) appealed against her conviction for murder and violent disorder. M had led a violent and unprovoked attack on a group that included the deceased. There was a brief lull in the violence, during which the majority of M's party went to a nearby house where they collected weapons and then returned to the scene. The violence continued and the deceased was killed by a member of M's group, who later pleaded guilty to murder. It was accepted that M had been in the vicinity during the fatal attack. The Crown claimed that M was party to a single joint enterprise from which she had not withdrawn at the time of the fatal attack. It alleged that as she had remained present it was open to the jury to conclude that she had been there to encourage the others.

She was charged with murder and violent disorder. In summing up the matter to the jury, the recorder stated that it was necessary to decide whether anything that M did in the second part of the attack showed that she was continuing to be party to the joint enterprise or, in contrast, whether she ceased to be part of it. The recorder went on to explain that where a person became party to a joint enterprise they were still, in law, taken to be participating in it at the time when the fatal blows were inflicted by one of their associates, even though they might personally have ceased any violence. He also gave specific directions that a mere change of heart was not sufficient to withdraw from a joint enterprise, but that something must be done to demonstrate withdrawal. The jury found M guilty. M appealed against the conviction, alleging that the recorder had misdirected the jury in respect of joint enterprise, although it was accepted that M had originally become party to the joint enterprise to kill or inflict serious bodily injury. M submitted that she had only participated in the first part of the joint enterprise, which was the original violence, and that at that time there was nothing from which it could be inferred that weapons would later be used. She argued that a second and distinct joint enterprise arose from the plan that was formed when weapons were acquired, but that she had not participated in that enterprise and there was no evidence that she knew that weapons were to be used. M further submitted that there was therefore no evidence from which it could be inferred that she had participated in any way on the second enterprise and, alternatively, if there had been only one enterprise she contended that it was clear that she had withdrawn from it.

HELD

It was clear that the recorder had given appropriate directions as to whether M was still part of the joint enterprise when the deceased was killed, as he had outlined the need for some act to be done to demonstrate withdrawal, *R v Mitchell (Frank)* (1999) 163 JP 75 CA (Crim Div) and *R v Robinson (Gary Ian)* Unreported February 3, 2000 CA (Crim Div) applied and *R v O'Flaherty (Errol Carlton)* (2004) EWCA Crim 526, (2004) 2 Cr App R 20 considered. It was open to the jury to conclude that M had become party to an enterprise in which she foresaw that one of those might kill or cause really serious bodily harm and that she had not withdrawn from it at the material time. The jury was entitled to find her guilty on the basis of her participation in the joint enterprise.

APPEAL DISMISSED



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Conviction for Possessing Indecent Photographs of Children is Unsafe if Most of the Counts Relate to Deleted Computer Images of Which Defendant No Longer Had Custody or Control

R v CHRISTOPHER ROWE (2008)

CA (Crim Div) (Lord Judge LCJ, Swift J, Cranston J) 3/11/2008

Criminal Law

Computers: Criminal Cases Review Commission: Indecent Photographs Of Children: Knowledge: Deleted Computer And Floppy Disk Images: Deleted Computer Images

A conviction for possessing indecent photographs of children was quashed as most of the counts related to deleted computer images and deleted images on floppy disks, of which the offender no longer had custody or control. As there were only a few images in non-deleted files it was unlikely that the jury would have convicted the offender on that evidence alone.

The appellant (R) appealed against his conviction for 12 counts of possessing indecent photographs of children on a reference by the Criminal Cases Review Commission. The police had searched R's parent's house and seized 20 floppy disks and a computer tower from R's bedroom. Eight disks contained several deleted files and two non-deleted files of images of child pornography, and two movie images. There were also three deleted files of child pornography on the computer tower. At trial, experts agreed that R would have needed specialist software to access the deleted files, which he did not appear to have. It was not possible for them to prove whether the deleted files had actually been viewed. The last time that the non-deleted files had been accessed was years before the date on the indictment.

HELD

- (1) The convictions on the counts relating to the deleted files were unsafe as R no longer had custody or control of the images, R v Porter (Ross Warwick) (2006) EWCA Crim 560, (2006) 1 WLR 2633 applied. The jury were not directed to consider the potential significance that the deleted files had on R's ability to have had knowledge of the images. The counts relating to the deleted images were quashed.
- (2) The absence of the counts relating to the deleted files made a significant change in the factual evidence, and only eight still images in non-deleted files remained. Had the jury only had that evidence to assess they might have had reservations in finding R guilty of possessing the non-deleted files. Those counts were also unsafe and were also quashed.

APPEAL ALLOWED



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Where an Individual has made Numerous Persistent Phone Calls Within a Short Period of Time and had Included Personal Details of the Recipient, a Prima Facie Case that the Conduct Amounted to Harassment is Established

DPP v HARDY (2008)

DC (Pill LJ, Pitchford J) 30/10/2008

Criminal Law - Criminal Procedure

Course of Conduct: Harassment: No Case to Answer: Telephone Calls:
Persistent Phone Calls Made To Small Business: Prima Facie Case Of
Harassment: S.1(3) Protection from Harassment Act 1997

Where an individual had made numerous and persistent phone calls to a small company within a short period of time, and had among other things mentioned the personal details of the recipient, a prima facie case that that course of conduct amounted to harassment was established, and a magistrates' court had accordingly erred in finding there had been no case to answer.

The appellant DPP appealed by way of case stated against a decision of a magistrates' court that there had been no case to answer in respect of a charge brought against the respondent (H) under the Protection from Harassment Act 1997. A business owner (Y) ran a small company providing primary care to patients. To that end, Y had an emergency telephone line. H phoned Y on that line and said that he wished to discuss the fact that his partner had not been successful in an interview with the company. Y said that she could not discuss the matter with H because of data protection concerns. When Y put the phone down H rang again. The phone rang incessantly for an hour and a half. During one call, H said that he would continue phoning until Y spoke to him. During another call, H mentioned the home addresses of both Y and her son, as well as Y's date of birth. Y's son then contacted H, after which the phone calls ceased. At trial, the magistrates heard evidence from Y, her husband and her son. Also before the court was a statement from H. The magistrates held that no reasonable tribunal properly directed might convict H, and therefore there was no case to answer. They found that in the circumstances of the case, the pursuit of the course of conduct was reasonable within s.1(3) of the Act and was therefore not conduct amounting to the harassment of another.

HELD

A course of conduct which might begin with a legitimate enquiry might become harassment by reason of persistence and the manner of its being pursued. There was evidence of numerous phone calls made to a small business within an hour and a half, during which the caller said that he would persist until he was spoken to and made clear that he had personal details of the recipient. That was capable of amounting to harassment within the meaning of the Act. There was a prima facie case, and no reasonable bench could have found otherwise. The case was accordingly remitted to the magistrates' court.

APPEAL ALLOWED



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Where there is a System of Street Lighting it is Not Necessary to Prove Traffic Authority has Complied with Duty to Provide Traffic Signs Prescribing the Speed Limit

HUMBER v DIRECTOR OF PUBLIC PROSECUTIONS (2008)

DC (Latham LJ, Underhill J) 17/11/2008

Road Traffic - Criminal Law

Restricted Roads: Road Signs: Speed Limits: Speeding: Requirement for Restricted Road to Have Signs Stating Prescribed Speed Limit: Road Traffic Regulation Act 1984: S.81(1) Road Traffic Regulation Act 1984: S.85 Road Traffic Regulation Act 1984: S.85(4) Road Traffic Regulation Act 1984

In order to prove that a motorist was guilty of exceeding a speed limit contrary to the Road Traffic Regulation Act 1984 S.81(1) on a road that was a restricted road by virtue of the provision on it of a system of street lighting, it was not necessary for the prosecution to prove that the relevant traffic authority had complied with its duty to provide traffic signs warning motorists what the prescribed speed limit was.

The appellant (H) appealed by way of case stated against a pre-trial decision that had led her to plead guilty to an offence of driving over the speed limit. H had been charged with driving a vehicle on a restricted road over the prescribed speed limit. Her defence to the charge was that although the stretch of road in question had had road lighting there had been inadequate signage to inform motorists that the speed limit was 30 mph. At a pre-trial hearing the trial judge determined that a failure by a local traffic authority to comply with its duty under the Road Traffic Regulation Act 1984 s.85(2) to erect and maintain traffic signs did not absolve a defendant from criminal liability for an offence contrary to s.81(1). The judge further held that the absence of signs or even the presence of misleading signs could only be relevant to sentencing. H pleaded guilty on the basis of the judge's decision. The question for the opinion of the High Court was whether, in order to prove that a defendant was guilty of an offence of exceeding a speed limit contrary to s.81(1) on a road that was a restricted road by virtue of the provision on it of a system of street lighting furnished by means of lamps placed not more than 200 yards apart, it was necessary for the prosecution to prove that the relevant traffic authority had fully complied with its duty under s.85(2) in respect of the provision of signs for the purpose of securing that adequate guidance was given to drivers of motor vehicles as to whether any, and if so what, limit of speed was to be observed on the road in question.

HELD

It was clear from s.81 that it was not lawful for a person to drive a motor vehicle on a restricted road at a speed exceeding 30 mph and it was clear from s.82 that a road was restricted if there was, amongst other things, provided on it a system of carriageway lighting furnished by means of lamps placed not more than 200 yards apart. Further, the trial judge was correct in his interpretation of s.85(2) that there was nothing in that subsection, or indeed s.85 as a whole, that meant that a motorist could not be convicted of driving a

motor vehicle on a restricted road over the prescribed speed limit by reason of a failure of a local traffic authority to provide traffic signs as to what the speed limit was. In fact, it was clear from the opening words of s.85(4) that the absence of traffic signs had no bearing on liability where a system of road lighting as mentioned in s.82 was provided. In principle it was for a motorist to know where he stood regarding the prescribed speed limit by observing whether the road on which he was travelling was lit, and whilst that might not be as well known as it might be it was explicitly referred to in the Highway Code. Accordingly, the answer to the case stated was no.

APPEAL DISMISSED



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The Failure of the Director of Public Prosecutions to Publish Detailed Guidance as to the Circumstances in which Individuals Would not be Prosecuted for Assisting a Suicide was not Unlawful

R (on the application of DEBBIE PURDY) (Claimant) v DIRECTOR OF PUBLIC PROSECUTIONS (Defendant) & SOCIETY FOR THE PROTECTION OF UNBORN CHILDREN (Intervener) (2008)

DC (Scott Baker LJ, Aikens J) 29/10/2008

Human Rights - Criminal Law

Assisted Suicide: Codes Of Practice: Consent To Prosecute: Decision-Making: Director Of Public Prosecutions: Judicial Review: Prosecutions: Public Policy: Right To Respect For Private And Family Life: Alleged Infringement Of Convention Rights: Interference In Accordance With Law: Protection Against Arbitrary Executive Action: Personal Autonomy: S.2(4) Suicide Act 1961: Art.8 European Convention On Human Rights: S.10 Prosecution Of Offences Act 1985

[The Director of Public Prosecutions had not acted unlawfully in failing to publish detailed guidance as to the circumstances in which individuals would or would not be prosecuted for assisting another person to commit suicide.](#)

The claimant (P) applied for judicial review to challenge the failure of the DPP to promulgate a specific policy as to the circumstances in which a prosecution would be brought for aiding and abetting, counselling or procuring a suicide contrary to the Suicide Act 1961 s.2(1) in particular where the assisted suicide took place in a country where the practice was lawful. P, who was 45 years of age, suffered from primary progressive multiple sclerosis. As her condition deteriorated she would become increasingly incapable of carrying out everyday tasks. She accepted that there would come a time when her continuing existence would become increasingly unbearable, at which point she would wish to end her own life. Because it was an offence in the United Kingdom to aid, abet, counsel or procure a person to commit suicide, if she decided to carry out that wish she would have to travel to a country where "assisted suicide" was lawful, probably Switzerland. P expected that, because of her condition, she would be unable to make the necessary arrangements without the assistance of her husband, who would, if he assisted her, be at risk of prosecution under s.2(1) of the Act. No prosecution could be brought without the consent of the DPP under s.2(4) of the Act, and P's case was that there was a duty on the DPP to publish a specific policy outlining the circumstances in which a prosecution under s.2(1) would or would not be appropriate or setting out the public policy factors that would be taken into account for and against prosecuting in each case. P contended that the offence created by s.2(1) of the Act interfered with the rights under the European Convention on Human Rights 1950 art.8 of both the potential suicide and anyone who would assist her, and that in order to justify that interference and make it "according to the law" within art.8(2) the DPP was obliged to exercise his power to issue a specific policy statement on the criteria he would consider when deciding

whether to grant consent to the prosecution for an offence under s.2(1) of the Act.

HELD

- (1) There was a difference of opinion between the House of Lords and the European Court of Human Rights as to whether assisted suicide engaged art.8 at all. The House of Lords had held that it did not; the European Court took a different and wider view about the ambit of art.8. The Divisional Court had to follow the House of Lords unless the circumstances were truly exceptional, *Kay v Lambeth LBC* (2006) UKHL 10, (2006) 2 AC 465 and *R (on the application of Pretty) v DPP* (2001) UKHL 61, (2002) 1 AC 800 applied and *Pretty v United Kingdom* (2346/02) (2002) 2 FLR 45 ECHR not followed. The House of Lords had not subsequently departed from its view on the ambit of art.8(1), *R (on the application of Countryside Alliance) v Attorney General* (2007) UKHL 52, (2008) 1 AC 719 considered. Therefore art.8 was not engaged on the facts of the instant case.
- (2) The combination of the Code of Practice promulgated by the DPP under the Prosecution of Offences Act 1985 s.10 and the administrative law principles and remedies developed in the common law of England would satisfy the required Convention standards of clarity and foreseeability and provide the necessary degree of protection against arbitrariness so as to fulfil the requirements of art.8(2) as elaborated by the European Court of Human Rights, *Herczegfalvy v Austria* (A/242-B) (1993) 15 EHRR 437 ECHR and *Hasan v Bulgaria* (30985/96) (2002) 34 EHRR 55 ECHR considered. If the guidance in the Code of Practice was followed and only relevant factors were taken into account in making a decision on whether to prosecute an offence under s.2(1) of the Act, it could not be said that the exercise of the discretion on whether to prosecute constituted an arbitrary or unfettered power of the executive. Any failure in decision making could be dealt with either by the legal remedy of judicial review or within the context of the criminal proceedings themselves. There were special reasons why the DPP had promulgated specific Codes of Practice in relation to crimes of domestic violence, bad driving and football-related offences, and those reasons did not apply to assisted suicide.

APPLICATION REFUSED



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The Extent of the Police's Obligation under the Article 3 of ECHR to Protect Against Inhuman and Degrading Treatment is Not Absolute

RE E (A CHILD) subnom E (A CHILD) v CHIEF CONSTABLE OF THE ROYAL CONSTABULARY & ANOR (2008)

HL (NI) (Lord Hoffmann, Lord Scott of Foscote, Baroness Hale of Richmond, Lord Carswell, Lord Brown of Eaton-under-Heywood)
12/11/2008

Human Rights - Police

Demonstrations: Inhuman Or Degrading Treatment Or Punishment: Northern Ireland: Police Powers And Duties: Positive Obligations: Positive Obligation To Protect Against Inhuman Or Degrading Treatment: Sectarian Violence: Scope Of Obligation: Art.3 European Convention On Human Rights: Art.2 European Convention On Human Rights

In making decisions about the policing of loyalist violence directed at parents and children walking to and from a school on the Ardoyne Road in Belfast in 2001, the police had not breached their obligation under the European Convention on Human Rights 1950 art.3 to protect them against inhuman and degrading treatment.

The appellant (X) appealed against the refusal of her application for judicial review of decisions taken by the police force in Northern Ireland in respect of the way it dealt with incidents of loyalist violence occurring on the Ardoyne Road in Belfast in 2001. X's daughter (E) attended a Roman Catholic school on Ardoyne Road and, like many other parents, X walked E to and from school along that road. In June 2001 serious disorder broke out and developed into attacks by loyalists on children and parents returning from school. Ardoyne Road was closed until the end of the school term, the police concluding that they could not mount an operation that would guarantee the safety of the children and parents if they travelled along the road. Violence continued when the new school term began in September, and it became apparent that the loyalists were intent on preventing Catholic parents and children from walking to and from school along Ardoyne Road. Parents and children were abused, spat at, and missiles were thrown at them. The police strategy was to try to create a corridor along Ardoyne Road through which the parents and children could walk. Initially, a barrier of screens was erected, but when that met with limited success, the screens were replaced with police and military vehicles. Police and soldiers were deployed both to keep back the protestors and to escort the parents and children. Although both an alternative route and an armoured bus were offered to the parents, most refused, and instead continued to walk along Ardoyne Road. The situation persisted until late November when the loyalist protest was suspended following negotiation. X submitted that the police (1) should have taken more robust action and, in offering passive protection, had failed to take appropriate steps to discharge their obligation under the European Convention on Human Rights 1950 art.3 to protect her and her daughter against inhuman and degrading treatment; (2) had discriminated against them in their handling of the situation.

HELD

- (1) The police had fulfilled the positive obligation imposed on them by art.3. The extent of that obligation was not absolute. It was clear from *Osman v United Kingdom* (23452/94) (1999) 1 FLR 193 ECHR that the obligation placed upon the State by art.2 of the Convention was an obligation to do all that could reasonably be expected of it to avoid a real and immediate risk to life, once it had, or ought to have had, knowledge of the existence of the risk. The obligation under art.3 was not different in kind, and to hold otherwise would place an intolerable burden on the State, *Osman, Oneryildiz v Turkey* (48939/99) (No2) (2005) 41 EHRR 20 ECHR (Grand Chamber) and *Z v United Kingdom* (29392/95) (2001) 2 FLR 612 ECHR applied. In the instant case it would have required the police to drive back the protesters by force and make numerous arrests irrespective of the possible consequences, which could have given rise to widespread disorder, loss of life and destruction of property. Both the High Court and the Court of Appeal had accepted the principle of reasonableness as the test to be applied to the measures adopted by the police, the Court of Appeal applying the test in *R v Ministry of Defence Ex p Smith* (1996) QB 517 CA (Civ Div). However, it was clear that neither the *Smith* nor the *Wednesbury* test was sufficient to determine an issue of proportionality under the Convention, *Huang v Secretary of State for the Home Department* (2007) UKHL 11, (2007) 2 AC 167, R (on the application of *Begum*) v *Denbigh High School Governors* (2006) UKHL 15, (2007) 1 AC 100 and R (on the application of *Daly*) v *Secretary of State for the Home Department* (2001) UKHL 26, (2001) 2 AC 532 followed, *Smith* not applied. The Court of Appeal had therefore erred in applying the *Smith* test. However, X's case was that the police should have forced the protesters back and made more arrests. The police view was that a robust response contained a serious danger that violence could escalate. The police were uniquely placed through their experience and intelligence to make a judgment on the wisest course to take and the evidence supported the overall wisdom of the course that they adopted.
- (2) There was no evidence that the police would have handled matters differently had X been a Protestant facing a similar Catholic protest. They had taken all reasonable steps to protect the parents and children and there was nothing to suggest sectarian bias in their handling of the situation.
- (3) (Per Baroness Hale) The special vulnerability of children was relevant to the assessment of whether the treatment to which they had been subjected reached level of severity needed to attract the protection of art.3 and to the scope of the State's obligation to protect them from such treatment.
- (4) (Per Lord Hoffmann) While the court was frequently assisted by the submissions of statutory bodies and non-governmental organisations on questions of general public importance, an intervention was of no assistance if it merely repeated points that the appellant or respondent had already made.

APPEAL DISMISSED



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SI 2503/2008 The Police and Justice Act 2006 (Commencement No. 9) Order 2008

In force **1 October**. This Order brings into force in England, Wales and Northern Ireland the following provisions of the Police and Justice Act 2006:

- ◆ Sections 35 to 38 (computer misuse);
- ◆ Section 52 (amendments and repeals) in so far as it relates to the provisions in the following two bullet points;
- ◆ Paragraphs 2, 6, 17 to 24, 26, 27 and 29 of Schedule 14 (minor and consequential amendments);
- ◆ In Part 4 of Schedule 15 (repeals and revocations), the entries relating to:
 - Sections 11, 12, 14, 16 and 17 of the Computer Misuse Act 1990;
 - Schedule 4, paragraph 7 and Schedule 8, paragraph 347 to the Courts Act 2003; and
 - Schedule 16, paragraph 7 to the Serious Organised Crime and Police Act 2005.

The Order also brings into force in relation to Northern Ireland only section 52 of the Police and Justice Act 2006, in so far as it relates to paragraph 28 of Schedule 14 to the Act.

SI 2504/2008 The Serious Crime Act 2007 (Commencement No. 3) Order 2008

In force **1 October**. This Order brings into force the following provisions of the Serious Crime Act 2007:

- ◆ Part 2 (encouraging and assisting crime) together with Schedules 3 (listed offences), 4 (extra-territoriality), 5 (amendments relating to service law) and 6 (minor and consequential amendments);
- ◆ Section 68(1) to (7) (disclosure of information to prevent fraud);
- ◆ Sections 69 and 70 (offence for certain further disclosures of information and penalty for that offence);
- ◆ Section 71(3) and (6) (code of practice for disclosure of information to prevent fraud);
- ◆ Section 72 (data protection rules);
- ◆ Section 91(1) (transitional and transitory provisions and savings) in so far as it relates to the provisions in the following bullet point;
- ◆ Paragraphs 5, 6 and 8 of Schedule 13 (transitional and transitory provisions and savings);
- ◆ Section 92 (repeals and revocation) in so far as it relates to the entries in Schedule 14 in the following bullet point; and
- ◆ In Schedule 14 (repeals and revocation) the entries relating to:

- the Criminal Law Act 1977;
- the Magistrates' Courts Act 1980;
- the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983;
- the Public Order Act 1986;
- the Computer Misuse Act 1990;
- the International Criminal Court Act 2001; and
- the Police and Justice Act 2006.

SI 2638/2008 The Police and Criminal Evidence Act 1984 (Codes of Practice) (Revisions to Code A) Order 2008

In force **28 October**. This Order brings into force a change to Code of Practice A to the Police and Criminal Evidence Act 1984. The change inserts a new Annex E (replacement of the need to make or provide a record of the encounter with the ability to provide a receipt and to record only the person's self-defined ethnicity) into the Code, and enables police officers operating from specified locations exercising their powers in their force areas to provide a receipt rather than a full record when they undertake an encounter in accordance with paragraphs 4.11 to 4.20 of Code A. The constables will only be required to record the ethnicity of the person. A receipt will also be made available to the person. The change is a pilot study and is being undertaken in the following force areas (the 'specified locations' mentioned above):

- ◆ Leicestershire;
- ◆ Staffordshire;
- ◆ Surrey;
- ◆ West Midlands;
- ◆ Essex;
- ◆ Greater Manchester;
- ◆ Lancashire;
- ◆ Merseyside;
- ◆ Nottinghamshire;
- ◆ South Wales;
- ◆ West Yorkshire; and
- ◆ Thames Valley.

SI 2712/2008 The Criminal Justice and Immigration Act 2008 (Commencement No. 3 and Transitional Provisions) Order 2008

In force **3 November**. This Order brings into force a number of provisions in the Criminal Justice and Immigration Act 2008. It also contains transitional and saving provisions in relation to the coming into force of section 60 of the Act and in relation to the amendments concerning the police misconduct and performance procedures and the investigation of complaints of police misconduct etc. The provisions of the Act being brought into force are:

- ◆ Section 21(1) and (3) to (7) (Credit for period of remand on bail: terms of imprisonment and detention);
- ◆ Section 22 (Credit for period of remand on bail: other cases);
- ◆ Section 23 (Credit for period of remand on bail: transitional provisions);
- ◆ Section 33(1), (3), (5) and (6) (Removal under Criminal Justice Act 1991);
- ◆ Section 34(1), (3), (4)(a), (5), (6), (8) and (9) (Removal under Criminal Justice Act 2003), save insofar as subsection (6) provides that section 260(3A) of the Criminal Justice Act 2003 ceases to have effect;
- ◆ Section 41 (Disclosure of information for enforcing fines);
- ◆ Section 51 (Bail conditions: electronic monitoring);
- ◆ Section 60 (Contents of an accused's defence statement);
- ◆ Section 126(1) (Police misconduct and performance procedures) insofar as it relates to the provisions specified in the following bullet point;
- ◆ In Part 1 of Schedule 22 (Police misconduct and performance procedures):
 - paragraphs 1 and 2;
 - paragraphs 3, 4, and 7 for the purposes of making regulations; and
 - paragraph 8 for the purpose of making rules;
- ◆ Section 127 (Investigation of complaints of police misconduct etc.) insofar as it relates to the provisions specified in the following bullet point;
- ◆ In Schedule 23 (Investigation of complaints of police misconduct etc.):
 - paragraphs 1 to 3 and 12(1); and
 - paragraphs 5, 12(4) and 19 for the purpose of making regulations;
- ◆ Section 129 (Inspection of police authorities);
- ◆ Section 148(1) (Consequential etc. amendments and transitional and saving provision) insofar as it relates to the provisions specified in the following bullet point;
- ◆ In Schedule 26 (Minor and consequential amendments):

- paragraph 5 (Children and Young Persons Act 1969 (c.54)),
- paragraph 29(3), (4), (6) and (7) (Criminal Justice Act 1991);
- ◆ Section 149 (Repeals and revocations) insofar as it relates to the provisions specified in the following bullet point;
- ◆ The following entries in Schedule 28 (Repeals and revocations):
 - In Part 2 (Sentencing), the entries relating to the:
 - Criminal Justice Act 1991, section 46A; and
 - Criminal Justice Act 2003, section 260(3) and (6);
 - In Part 4 (Other criminal justice provisions), the entries relating to the:
 - Children and Young Persons Act 1969 (c.54), section 23AA(4)(a); and
 - Bail Act 1976 (c.63), section 3AA(6) to (10) and (12);
- ◆ Schedule 6 (Credit for period of remand on bail: transitional provisions);
- ◆ Schedule 11 (Electronic monitoring of persons released on bail subject to conditions).

SI 2713/2008 The Bail (Electronic Monitoring of Requirements) (Responsible Officer) Order 2008

In force **3 November**. This Order specifies the persons responsible (the 'responsible officer') for the electronic monitoring of a persons compliance with a requirement imposed as a condition of bail. The responsible officer is determined according to the police area to which the bail condition relates. The order makes provision for bail conditions relating to more than one police area.

SI 2785/2008 The Police and Justice Act 2006 (Commencement No. 10) Order 2008

In force **14 November**. This Order brings into force section 45 (attendance by accused at certain preliminary or sentencing hearings) to the extent not already in force and section 46 (live link bail) of the Police and Justice Act 2006, in the following local justice areas:

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

It also brings into force section 52 of the Act in so far as it relates to paragraphs 47 and 49 to 51 of Schedule 14 (minor and consequential amendments).

SI 2829/2008 The Gambling Act 2005 (Advertising of Foreign Gambling) (Amendment) (No.2) Regulations 2008

In force **20 November**. These Regulations amend the Gambling Act 2005 (Advertising of Foreign Gambling) Regulations 2007 by treating the Island of Aldernay, Tasmania and Antigua and Barbada as if they were EEA states for the purposes of section 331 of the Gambling Act 2005 in relation to remote gambling. Section 331 makes it unlawful to advertise foreign gambling other than a lottery. Remote gambling constitutes foreign gambling if none of the arrangements for it are subject to the laws of an EEA state.

SI 2862/2008 The Police (Performance) Regulations 2008

SI 2863/2008 The Police Appeals Tribunals Rules 2008

SI 2864/2008 The Police (Conduct) Regulations 2008

SI 2865/2008 The Police (Amendment) Regulations 2008

SI 2866/2008 The Police (Complaints and Misconduct) (Amendment) Regulations 2008

In force **1 December**. Further to the article in the November issue of the *NPIA Digest* (at page 9), the above Statutory Instruments are no longer at draft status. Instruments 2862, 2863 and 2864 establish a new set of procedures which govern police disciplinary matters. Instrument 2862 (the 'Performance Regulations') establish the procedures for dealing with issues of unsatisfactory performance and attendance by police officers (excluding senior officers) and special constables. Instrument 2864 (the 'Conduct Regulations') establish the procedures for taking action following misconduct by police officers and special constables. Instrument 2863 provides the rules providing for and governing appeals to a Police Appeals Tribunal against the findings and outcomes from the Performance and the Conduct Regulations.

Statutory Instrument 2865, the Police (Amendment) Regulations, update the disciplinary and unsatisfactory performance outcomes that are required to be recorded on a police officer's personal record. The Regulations also set out the time that such matters are to remain on that personal record.

Instrument 2866, the Police (Complaints and Misconduct) (Amendment) Regulations, link the new police officer disciplinary procedure provided in the Conduct Regulations with the police complaints system established by the Police Reform Act 2002.