NPIA
National Policing Improvement Agency

Digest

December 2011

A digest of police law, operational policing practice and criminal justice

The NPIA Digest is a journal produced each month by the Legal Services Team of the Chief Executive Officer Directorate. The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing. During the production of the Digest, information is included from Governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

The NPIA aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request. Please email digest@npia.pnn.police.uk or telephone +44 (0)1480 334733.

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Legal Services

Chief Executive Officer Directorate

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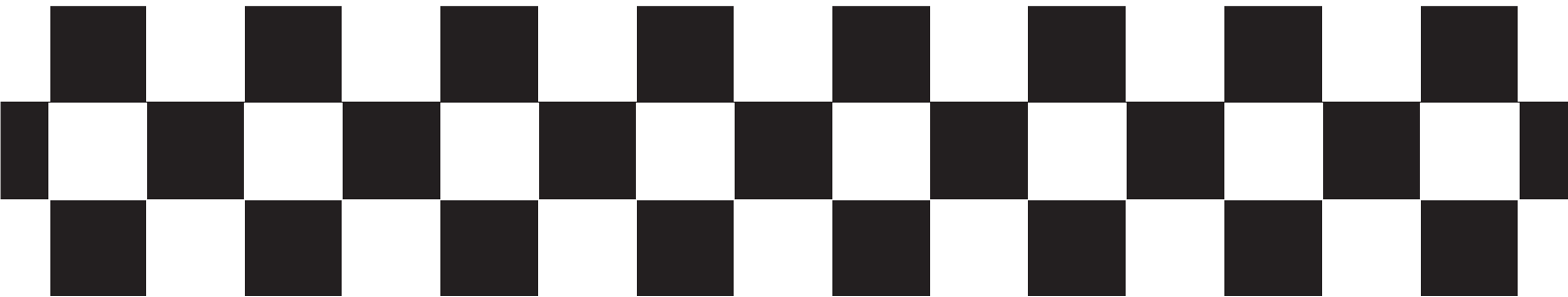

NPIA Digest December 2011

This month's edition of the Digest contains a summary of issues relating to police law, operational policing practice and criminal justice.

There are reports of cases on appropriation and intention to permanently deprive, joint enterprise in relation to manslaughter and a judicial review of the police power to search.

We look at Temporary Class Drug Orders, which came into force in November, the cross-government strategy on gang and youth violence, the Cabinet Office report on the motivations behind the August Riots and a new national action plan for tackling child sexual exploitation. Consultations on stalking, a revision of the PACE codes and domestic violence are also covered.

Statistical bulletins are covered which detail drug seizures over the past year and provide a detailed analysis on perceptions of crime, engagement with the police, views on the authorities dealing with anti-social behaviour and perceptions of Community Payback. The CPS Violence against Women and Girls Crime Report for 2010-11 is also covered.

There are also articles on the National Audit Office report on the Streamlined Process, research from the Equality and Human Rights Commission on Targeted Crime and the HMIC report on Multi-Agency Public Protection Arrangements (MAPPA), alongside the MAPPA Annual Report.

The progress of proposed new legislation through Parliament is examined and statutory instruments published this month summarised.

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Bills Before Parliament 2010/11 - Progress Report

The following Bills from the 2010/11 session have progressed as follows through the parliamentary process:

- Protection of Freedoms Bill - The Bill:
  - Provides for the destruction, retention, use and other regulation of certain evidential material;
  - Imposes consent and other requirements in relation to certain processing of biometric information relating to children;
  - Provides for a code of practice on surveillance camera systems and for the appointment and role of the Surveillance Camera Commissioner;
  - Provides for judicial approval in relation to certain authorisations and notices under the Regulation of Investigatory Powers Act 2000;
  - Provides for the repeal or rewriting of powers of entry and associated powers and for codes of practice and other safeguards in relation to such powers;
  - Makes provision about vehicles left on land;
  - Provides for a maximum detention period of 14 days for terrorist suspects;
  - Replaces certain stop and search powers and provides for a related code of practice;
  - Amends the Safeguarding Vulnerable Groups Act 2006;
  - Makes provision about criminal records;
  - Disregards convictions and cautions for certain abolished offences;
  - Makes provision about the release and publication of datasets held by public authorities and to make other provision about freedom of information and the Information Commissioner; and
  - Repeals certain enactments.

The Bill was presented to Parliament on 11 February 2011.

Second reading - the general debate on all aspects of the Bill - took place on 8 November. Committee stage - line by line examination of the Bill - begins on 29 November.

- Terrorism Prevention and Investigation Measures Bill - The Bill proposes to abolish control orders and make provision for the imposition of terrorism prevention and investigation measures.

The Bill was presented to Parliament on 23 May 2011.

Final amendments were made to the Bill during the third reading on 23 November. The House of Commons will consider the House of Lords amendments on 29 November 2011.

- Legal Aid, Sentencing and Punishment of Offenders Bill - The Bill:
  - Reverses the position under the Access to Justice Act 1999, whereby civil legal aid is available for any matter not specifically excluded;
  - Abolishes the Legal Services Commission;
  - Makes various provisions in respect of civil litigation funding and costs, taking forward the recommendations of the Jackson Review and the Government's response to that review;
  - Makes changes to sentencing provisions, including giving courts an express duty to consider making compensation orders where victims have suffered harm or loss; reducing the detailed requirements on courts when they give reasons for a sentence; allowing courts to suspend sentences of up to two years rather than 12 months; and amending the court's power to suspend a prison sentence;
  - Introduces new powers to allow curfews to be imposed for more hours in the day and for up to 12 months rather than the current six;
  - Repeals provisions in the Criminal Justice Act 2003 which would have increased the maximum sentence a magistrates' court could impose from six to 12 months;
  - Makes changes to the law on bail and remand, aimed at reducing the number of those who are unnecessarily remanded into custody. Under the new "no real prospect" test, people would be released on bail if they would be unlikely to receive a custodial sentence;
  - Makes provision to ensure that, where a person aged under 18 has to be remanded into custody, in most cases they would be remanded into local authority accommodation;
  - Amends provisions relating to the release and recall of prisoners;

- Gives the Secretary of State new powers to make prison rules about prisoners' employment, pay and deductions from their pay. The intention of these provisions is that prisoners should make payments which would support victims of crime;
- Introduces a penalty notice with an education option and provision for conditional cautions to be given without the need to refer the case to the relevant prosecutor;
- Creates a new offence of threatening with an offensive weapon or an article with a blade or point thereby creating an immediate risk of serious physical harm. A minimum sentence of 6 months' imprisonment would normally be given to persons over 18 found guilty of this offence.

The Bill was presented to Parliament on 21 June 2011. Second reading took place on 21 November. Committee stage is yet to be scheduled.

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

Appropriation and Intention to Permanently Deprive

R v Vinall and another [2011] EWCA Crim 6252

This case concerned an appeal against two convictions for robbery, which raised the following issues:

(1) what is required to prove "appropriation" of property

(2) with intent permanently to deprive the owner of it.

The case at trial

Two young men, Joshua De-Nijs and Harvey Wrixon, were riding along a cycle path when they came across three youths, two of whom were the appellants. Wrixon passed the youths, and waited for his friend further up the path. As De-Nijs approached, one of the appellants, J, punched him from his bicycle and said 'Don't try anything stupid mate, I've got a knife'. The other two hurled abuse at him. J began to chase De-Nijs who ran towards Wrixon leaving his bicycle behind. The three youths gave up the chase and walked off with the bicycle, which was found abandoned by a bus shelter some 50 yards from the place De-Nijs had left it. Both appellants were convicted of robbery.

Grounds for appeal

- The prosecution was required to prove that the appellants had an intention permanently to deprive De-Nijs of his bicycle. This could not be done as the bicycle was left in full view of passers-by next to a bus stop on a main road;
- The appellants argued that the disposal of the bicycle provided no evidence of an intention to assume the rights of the owner;
- The appellants argued that the judge was wrong to rule that there was sufficient evidence from which it could be inferred that aggressive and violent behaviour was used in order to achieve the theft of the bicycle within the meaning of Section 8 of the 1968 Act;
- The judge provided insufficient assistance to the jury upon the correct approach to the issue of the appellant's intent.

Judge's directions - appropriation and intent permanently to deprive

Firstly, it was submitted that section 6 had no application to the facts of the case. The appellants rode or wheeled the bike a short distance and then left it in a place where it was likely (although not certain) to be recovered. If this was regarded as theft, it was submitted there would have been no requirement

for the offence of taking a pedal cycle for the defendants own or another's use, contrary to section 12(5) Theft Act 1968. Secondly, it was submitted that the abandonment of the bicycle at the bus shelter could not have amounted to a disposal regardless of the owner's rights and could not, therefore, amount to proof of an intention to assume the rights of the owner.

Section 6 of the Theft Act 168 provides:

"6(1) A person appropriating property belonging to another without meaning the other permanently to lose the thing itself is nevertheless to be regarded as having the intention of permanently depriving the other of it if his intention is to treat the thing as his own to dispose of regardless of the other's rights..."

Section 8 states:

"A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he used forces on any person or puts or seeks to put and person in fear of being then and there subjected to force"

The starting point for the offence of theft in the circumstances of the present case was the taking, that is, the court stated, the moments leading up to and including the removal of the bicycle from the place where De-Nijs left it. The appropriation could have occurred when De-Nijs was chased away or when the bicycle was wheeled away. The judge directed the jury that they could treat the act of taking and abandonment of the bicycle as an assumption of the rights of an owner and, therefore, an act of appropriation. The judge then directed the jury that they could conclude that when leaving the bicycle at the bus stop, showing no regard to the rights of the owner, the appellants should "be taken as intending permanently to deprive the owner of it". The Court of Appeal however stated that the appropriation by the appellants, their dishonesty and their intention permanently to deprive must coincide. If the intent required for theft was not present until minutes after De-Nijs was chased away, the requirements of section 8 could not be proved. The judge left to the jury the option of concluding that the act of theft was completed not at the time of taking but at the time of abandonment. If the theft was committed only at the moment of abandonment, the prosecution could not prove that the threat of force was used before or at the time of, and in order to steal.

The Court held that the judge's direction to the jury left open the real possibility that the jury thought they could convict of robbery if the requisite intention for theft was formed only when the appellants decided to abandon the bicycle. The judge did direct the jury that they had to be sure that "the purpose

behind the violence or the threat was…the theft of the bike. If it was just a free standing act of violence not connected with any ulterior purpose to steal the bike, no-one could be found guilty of robbery". While the jury may have spotted that they had to be sure the joint intention to commit the offence of theft had been formed before or at the time of the violence, or the threat of violence, there was a risk that the jury would fail to appreciate how significant a decision it was, in deciding the moment when the offence of theft was complete.

Robbery and section 6(1) Theft Act 1968

In reaching their conclusion, the Court assumed that the act of abandonment was capable of being evidence from which the jury could infer an intention at the time of taking to treat the bicycle as their own to dispose of regardless of the owner's rights. If the prosecution is unable to establish an intent permanently to deprive at the moment of taking it may nevertheless establish that the defendant exercised such a dominion over the property that it can be inferred that at the time of the taking he intended to treat the property as his own to dispose of regardless of the owner's rights. Subsequent disposal of the property may be evidence either of an intention at the time of the taking or evidence of an intention at the time of the disposal. When the allegation is theft, a later appropriation will suffice; when the allegation is robbery it almost certainly will not.

The Court concluded that in the present case, it was open to the judge to invite the jury to consider whether the later abandonment of Mr De-Nijs' bicycle was evidence from which they could infer that the appellants intended at the time of taking to treat the bicycle as their own to dispose of regardless of his rights. If that was the way the judge had chosen to leave the issue of intent to the jury, an explicit direction would have been required explaining that an intention formed only upon abandonment of the bicycle at the bus shelter was inconsistent with and fatal to the allegation of robbery. In the absence of such an explanation, the court held the verdicts were unsafe and should be quashed.

The judgement can be read in full at:
http://www.bailii.org/ew/cases/EWCA/Crim/2011/6252.html

Joint Enterprise in Relation to Manslaughter

R v Carpenter [2011] EWCA Crim 2568

The Facts

The appellant's family and the deceased's family belonged to the travelling community and had known one another for a couple of years. Following a disagreement, the appellant and the deceased met at a pre-arranged location, in the presence of members of both families, to settle their differences in a 'fair-play fight'. During the fight the appellant's son inflicted a number on stab wounds on the deceased, as a result of which he died. The appellant's son also inflicted knife injuries on the deceased's mother.

The appellant's son admitted his own part in these matters and the trial concerned the involvement of his parents. The prosecution alleged joint enterprise, contending that the appellant's family went to the scene, armed with at least two weapons (her son had a knife, and her husband a machete) and that the appellant was aware at least of the fact that her son was carrying a knife. It was alleged that the appellant and her husband held on to members of the deceased's family to prevent assistance being given. The appellant was acquitted of murder but was found guilty of manslaughter.

Issue on appeal

The grounds of her appeal relate to the judge's direction as to joint enterprise in relation to manslaughter. In his summing up, the judge stated:

"…if the prosecution prove, against either Paul Carpenter or Tracy Carpenter, that he or she participated in the violence, and that, when he or she did so, he or she knew that Joe Carpenter had a knife, and intended to use it to cause some injury or harm, but falling short of killing or causing serious bodily harm, or realised that he might use a knife to cause some injury, falling short of really serious harm, then whoever was in that state of mind would be guilty not of murder but of manslaughter. Why? Because the killing would have been unlawful and a shared intention to that extent, but not a shared intention to kill or cause serious bodily harm"

The essence of the appellant's case was that because the offence was murder, the appellant could not be liable for the death as a secondary party unless she shared the intention of the principal, Joe, to kill or to cause really serious harm, or she foresaw that Joe might act with that intention. In other words, it was murder or nothing, and the jury should not have been directed that a verdict of manslaughter was open to them. A person can be liable as a secondary party in manslaughter only

to the extent of the act which he or she foresees which in this case (as shown by the acquittal on the count or murder) did not include death or life-threatening injury.

The appellant's case was based heavily on R v Mendez and Thompson [2010] EWCA Crim 516 which examines issues of secondary liability for murder by parties to joint enterprise and refers to "the removal of the ability of the jury to return a verdict of guilty of manslaughter in circumstances where D sets out with others on a criminal venture in joint possession of weapons, but without intent to kill or cause serious bodily harm, and P murders V in the course of it".

Judgement

The Court of Appeal held that this ran contrary to a clear and well established line of authority, quoting the case of R v Roberts and Others [2001] EWCA 1594, in which it was stated:

"…it is not part of the law of joint enterprise that a secondary party, B, must share the mens rea of the principal offender A… The subject matter of a joint enterprise is not a state of mind or intention but an objective act which will or might be done…"

The Court drew distinctions between the case in hand and the Mendez and Thompson case. In the Mendez and Thompson case, the underlying issue was whether use of a knife to stab the deceased was fundamentally different from anything the secondary party foresaw, so as to fall outside the scope of the joint enterprise, where there was evidence that he foresaw the use of violence and of weapons (fist, foot, pieces of wood and/or metal bars) but not that he foresaw the use of a knife. The court was not considering a case where the use of a knife to do some harm was foreseen but the secondary part did not share or foresee the murderous intention. What the court had said about the unavailability of manslaughter as a possible verdict had to be read in that context: it was directed to a case where use of a knife was not foreseen, rather than to a case where use of a knife was foreseen but the secondary party did not share or foresee the intention with which it was used. It had no bearing on the issue in the present case. The Court was not addressing a situation where, as here, use of a knife was foreseen but it was not intended or foreseen that the knife would be used with the intention to kill or cause really serious harm.

The Court took the view that the Roberts line of authority remained good law and was satisfied that the alternative of manslaughter was properly left to the jury. The appeal was dismissed.

The judgement can be accessed in full at:
http://www.bailii.org/ew/cases/EWCA/Crim/2011/2568.html

Judicial Review of Police Right to Search

Howarth v Commissioner of Police of the Metropolis [2011] EWHC 2818 (QB)

This case concerned a claim for judicial review against the Commissioner of Police of the Metropolis ('the Commissioner'), challenging the lawfulness of a personal search of Mr Howarth on a railway train, on which he was travelling in order to reach a site of intended protest.

The facts

On the day in question, Mr Howarth was travelling with four friends to London to attend a demonstration organised by a group calling themselves 'Crude Awakening', whose principal object is to campaign against the activities of those involved in the oil industry. Included in the invitation to demonstrate, which appeared on the website, was the following passage:

"Ready yourself for a day at the office, trading floor, well or refinery. Come dressed as a banker, oil worker/prospector, or just in a boiler suit etc. With tools of your trade…brief cases, office furniture, drilling equipment, hard hats, oil (molasses/ treacle), symbolic (!) chains, bags or wads of money etc…"

The Commissioner's evidence indicated that the police were aware that at previous demonstration, molasses had been used to simulate slicks of oil. On some occasions it had been sprayed up the walls of buildings and used to make makeshift catapults. Chalk had also been used to make protest marks at previous demonstrations.

Intelligence was received by the Silver Commander that protesters were in possession of large amounts of chalk being carried in suitcases, and as a result she directed DI McGinley to search the protestors on the train. Relevant officers were briefed and were informed that the intelligence related to the protestors as a group and not to identifiable individuals. Officers boarded the train and as it departed the station, the officers began searching those who appeared to be protestors. Mr Howarth said that he felt intimidated by the searches. He was given a 'pat-down' search and his external jacket and trouser pockets were searched; his wallet was opened and closed by the officer, who did not look in it. Following the search, Mr Howarth was given the official form stating that the reason for the search was "Identified as part of a group believed to be carrying articles in relation to criminal damage travelling on the train". The officers escorted the protestors to the demonstration, which took place without incident.

The claims

Mr Howarth contended that the search of him was unlawful and in breach of section 1(3) of the Police and Criminal Evidence Act 1984 (PACE). He also claimed that the search violated his rights under Articles 8, 10 and 11 of the European Convention on Human Rights and Fundamental Freedoms (ECHR). He sought damages for breaches of section 6 of the Human Rights Act 1998 and for assault at common law.

Section 1 PACE

Section 1 of PACE provides as follows:

"(2) Subject to subsection (3) to (5) below a constable -

(a) may search -

(i) any persons…

For…prohibited articles…and

(b) may detain a person…for the purposes of such a search.

(3) This section does not give a constable power to search a person…unless he has reasonable grounds for suspecting that he will find…prohibited articles.."

An article is prohibited for the purposes of Part 1 of PACE if it is made or adapted for use in the course of or in connection with a specified offence or is intended for such use. This section applies to offences under section 1 of the Criminal Damage Act 1971; destroying or damaging property.

Mr Howarth argued that the search was unlawful, within the terms of section 1(3) of PACE, because the officer who conducted the search did not have any grounds to suspect him of being in possession of a prohibited article and had merely done what he was told under orders from a superior. It was submitted that attendance at a mass demonstration was an insufficient basis for reasonable suspicion. It was also contented that it was irrational at common law to search such a large number of people for items which were at most likely to cause 'only' minor and transient damage.

For the search to have been lawful, PC Babin who conducted the search must himself have had reasonable grounds for suspecting that he would find prohibited articles. A search is not lawful if the searching officer merely relies upon superior orders. The test of lawfulness of a search, it is accepted, is the same in all material aspects as that for the lawfulness of an arrest by a police officer. It is set out in the three questions posed in the judgement in Castorina v Chief Constable of Surrey (10 June 1988, unreported):

"1. Did the arresting officer suspect that the person who was arrested was guilty of the offence? The answer to this question depends entirely on the findings of fact as to the officer's state of mind.

2. Assuming the officer had the necessary suspicion, was there reasonable cause for suspicion? This is a purely objective requirement to be determined by the judge if necessary on the facts found by a jury.

3. If the answer to the two previous questions is in the affirmative, then the officer has a discretion which entitles him to make an arrest…"

The Court held that, having regard to the intelligence and the potential for damage, PC Babin did reasonably suspect that if he and his colleagues carried out the search, prohibited items would be found on one or more of the protestors. It is not necessarily essential in all cases for the searching officer reasonably to suspect each and every individual member of a suspected group to be carrying the offending items before the search of the members of the group is lawful. Once that point is accepted, the feature of 'group searching' goes to the third Castorina question; whether the officer's decision to search individuals, given his suspicion of the group, reasonably held, went beyond the bounds of decision open to an officer in such circumstances. The Court held that it did not go beyond the reasonable responses of a police officer to the intelligence received, to search the protestors in this case. The intelligence and past experience gave a reasonable anticipation of significant damage. Steps were taken to identify those searched as protestors and while all searches are intrusive to some extent, the searches in this case were not excessive. The Court also kept in mind that it was not a case where the organisers of the protest had consulted with the police to assist in the orderly conduct of the event. It was not a protest characterised by the organisers' advance co-operation with the police to ensure mutual facilitation of protest and the preservation of law and order. Enhanced concern was to that extent justified.

Articles 8, 10 and 11

It was further submitted that Mr Howarth's rights under Article 8, 10 and 11 of the ECHR to respect for family and private life, freedom of expression and freedom of assembly and association respectively, had been infringed. It was accepted that the search was conducted for a legitimate purpose, namely the prevention of crime, but the argument was that it was not 'prescribed by law' as it was out of the bounds of PACE. In addition, it was argued that it was disproportionate, because, amongst other things: Mr Howarth was exercising a right of peaceful protest; large numbers were searched in a detailed and

intrusive fashion; the searches were intimidating; there were no grounds to search him personally; there was no focus on the types of prohibited articles suggested by police intelligence; the search was premature in that no damage was imminent; the damage could only have been minor and transient.

It was not accepted on the Commissioners behalf that article 8 was engaged, however the Court proceeded as if article 8 had been engaged; in which case the question would still arise whether the saving in Article 8.2 applies. In the Courts judgement, the interference was 'in accordance with the law' as it was authorised by section 1 of PACE. It was accepted that the search was conducted in the interests of the prevention of crime. In relation to whether it was a proportionate action necessary for that purpose in a democratic society, it was submitted on behalf of Mr Howarth that the search could not be justified in these terms. It was said that the search was calculated to deter lawful protest and went beyond what was necessary in the circumstances.

The Court stated that the rights of expression and assembly are precious in a democratic society, however that there is a significant danger of the law becoming 'over precious'. It stated that minimal intrusions into privacy and alleged indirect infringements of the rights of privacy, assembly and expression are the price of participation in the numerous lawful activities conducted in large groups of people. Expression and assembly are encouraged and fostered, rather than hindered, by sensible and good natured controls by the authorities and the sensible and good natured acceptance of such controls by members of the public. While the courts must be astute to guard individuals against true oppression, it is precisely this type of consideration that is envisaged by Articles 8.2, 10.2 and 11.2. In the court's view, PC Babin's actions were necessary and proportionate for the legitimate purpose that existed. As a result, no breaches of Articles 8, 10 or 11 were found to have occurred and the claim was dismissed.

The judgement can be accessed in full at:
http://www.bailii.org/ew/cases/EWHC/QB/2011/2818.html

SI 2598/2011 The Freedom of Information (Designation as Public Authorities) Order 2011

The obligations under the Freedom of Information Act 2000 apply to public authorities. For the purposes of the Act, a "public authority" means a body or office which is listed in Schedule 1 to the Act or designated by an order under section 5 of the Act, or a publicly-owned company as defined by section 6 of the Act. Additional bodies or offices may be added to Schedule 1 by an order under section 4(1) of the Act provided that the conditions in section 4(2) and (3) are satisfied.

This Order, which came into force on **1 November 2011**, designates as public authorities the Association of Chief Police Officers of England, Wales and Northern Ireland, the Financial Ombudsman Service Limited and the Universities and Colleges Admissions Service (article 2 and column 1 of the Schedule). The functions with respect to which the designation takes effect are listed in column 2 of the Schedule.

SI 2645/2011 The Mental Capacity Act 2005 (Appropriate Body) (England) Amendment Regulations 2011

These Regulations are made under section 30(4) of the Mental Capacity Act 2005 and amend the definition of "appropriate body" in the Mental Capacity Act 2005 (Appropriate Bodies) (England) Regulations 2006 ("the 2006 Regulations") for the purposes of sections 30 to 32 of that Act. Section 30(1) of that Act provides that certain research carried out on or in relation to a person without capacity is unlawful unless it is carried out as part of a project which is approved by an appropriate body and satisfies further requirements specified in the Act.

These Regulations amend regulation 2 of the 2006 Regulations to clarify that in the definition of an appropriate body, a committee recognised by the Secretary of State means a committee recognised by the Secretary of State in exercise of his powers in section 2 of the National Health Service Act 2006.

The Regulations come into force on **1 December 2011**.

SI 2646/2011 The Equality Act 2010 (Commencement No. 8) Order 2011

This Order commences section 202 of the Act for remaining purposes on **5 December 2011**. The effect of this Order is to bring into force the provisions of section 202 which were not brought into force by the seventh Commencement Order, including section 202(2) and what remains of section 202(4). Section 202(2) removes from the Civil Partnership Act 2004 ("the CPA") the prohibition which prevents civil partnerships from being registered on religious premises. The remainder of section 202(4) inserts a new provision into the CPA to make it

explicit that nothing in the CPA obliges religious organisations to host civil partnerships if they do not wish to do so.

SI 2701/2011 The Terrorism Act 2000 and Proceeds of Crime Act 2002 (Business in the Regulated Sector) Order 2011

This Order, which comes into force on **12 December 2011**, amends the definition of a business in the regulated sector for the purposes of Part 3 of the Terrorism Act 2000 (terrorist property) and Part 7 of the Proceeds of Crime Act 2002 (money laundering) by adding the activity of auctioning certain emission allowances. Those Parts contain provisions relating to the reporting of suspicious activity, including requirements and offences specific to such businesses. Article 4 requires the Treasury to review the operation and effect of this Order and publish a report within five years after it comes into force and within every five years after that.

SI 2703/2011 The Children and Young Persons Act 2008 (Commencement No.4) (England) Order 2011

Article 2 brought section 1 of the Act into force on **14 November 2011** in relation to four specified local authorities. Section 1 provides that a local authority may enter into arrangements with a provider of social work services for the discharge by that provider of some or all of the relevant care functions of that authority. The four specified local authorities are: Barnet London Borough Council, Redbridge London Borough Council, Shropshire Council, and Sunderland City Council.

SI 2742/2011 The Al-Qaida (Asset-Freezing) Regulations 2011

These Regulations, which came into force on **16 November 2011**, make provision relating to the enforcement of Council Regulation (EC) No. 881/2002 of 27 May 2002 imposing certain specific restrictive measures directed against certain persons and entities associated with the Al-Qaida network. The measures include the freezing of funds and economic resources of designated persons and ensuring that funds and economic resources are not made available to them or for their benefit.

Regulation 2 defines designated persons as any person listed in Annex I to the Council Regulation (as amended from time to time). Regulations 3 to 7 provide prohibitions against dealing with the funds or economic resources of a designated person or making funds available, directly or indirectly, to or for the benefit of a designated person.

Regulation 8 provides an exception to the prohibitions in regulations 4 and 5 in the circumstances set out in the Council Regulation, where a frozen account is credited for a permitted

reason. Regulation 9 provides a licensing procedure to enable funds and economic resources to be exempted from the prohibitions. Regulation 10 creates offences where the prohibitions in regulations 3 to 7 are contravened. Regulations 13 to 16 contain provisions about penalties, proceedings and who, in relation to bodies corporate and other bodies, may be prosecuted for an offence under the Regulations. Regulation 19 revokes the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010, which are superseded by these Regulations and by the Afghanistan (Asset-Freezing) Regulations 2011. Regulation 20 provides that any licences which were issued under those revoked Regulations in respect of a designated person continue to have effect for the purposes of these Regulations.

Schedule 1 makes provision for information gathering and information disclosure. Schedule 2 sets out amendments to primary and secondary legislation, including an amendment to the Counter-Terrorism Act 2008 so that an application to the High Court to set aside any decision of the Treasury under these Regulations is subject to the procedure set out in that Act and in Part 79 of the Civil Procedure Rules.

SI 2834/2011 The Police Reform and Social Responsibility Act 2011 (Commencement No. 2) Order 2011

This Commencement Order brings into force sections 142 to 149 and section 150 (except for section 150(2) insofar as it relates to local authorities in Wales) of the Police Reform and Social Responsibility Act 2011 on **19 December 2011**. It also brings into force the repeal of section 137 of the Serious Organised Crime and Police Act 2005 on **19 December 2011**.

The repeal of sections 132 to 136 and 138 of the Serious Organised Crime and Police Act 2005 is brought into force on **30 March 2012** as is the transitional provision in section 141(2) of the Police Reform and Social Responsibility Act.

Revision of PACE Codes Consultation

The Home Office has launched a consultation seeking opinions on PACE Codes C, G and H and on a new code for recording interviews in terrorism cases. The draft, revised versions of the codes issued under the Police and Criminal Evidence Act 1984 (PACE) concern detention and arrest and a new code of practice issued under Schedule 8 of the Terrorism Act 2000 and section 25 of the Counter-Terrorism Act 2008, for the video-recording with sound of interviews in terrorism cases.

The main changes to the codes are as follows:

Codes C (detention) and H (detention of terrorist suspects)

Most of the changes to Codes C and H mirror each other. They include:

- Emphasising that the Equality Act 2010 makes it unlawful to discriminate against a person based on the 'protected characteristics';
- Setting out the procedures to be followed when searching transgendered individuals;
- Revising arrangements concerning the notification required when a foreign national is detained;
- Allowing custody officers to direct other custody staff to provide specified information to, and obtain specified information from, the detainee during the initial booking-in process.

Particular changes to Code H:

- New provisions on when a High Court judge may extend or further extend a warrant of further detention of a person beyond 14 days from the time of their arrest for detention of a suspect beyond a period of 14 days from the time of their arrest (of if they were detained under Schedule 7 of the Terrorism Act 2000, from the time their examination began). These provisions are subject to the enactment of the Detention of Terrorist Suspects (Temporary Extension) Bill;
- The arrangements for post-charge questioning where, under section 22 of the Counter-Terrorism Act 2008, a judge of the Crown Court has authorised the questioning of a person about a terrorism offence or an offence which appears to the judge to have a terrorist connection for which they have been charged.

Code G

The changes place additional emphasis on the consideration by a police officer of the two key elements of lawful arrest, whereby an arresting officer must have reasonable grounds to:

- Suspect than an offence has been committed and that the person has committed it;
- Believe that arrest is necessary for one or more of the reasons specified in section 24 PACE.

The amended Code G sets out that, in order to establish grounds to suspect a person of committing an offence, officers should consider facts and information which tend to indicate the person's innocence as well as their guilt. It also sets out that, if an offence involves the use of force and a person claims to have been acting in self-defence, an officer contemplating an arrest must take account of the circumstances under which the law allows the use of reasonable force. This consideration would also apply to the power given to school staff by Section 93 of the Education and Inspections Act 2006, to use reasonable force to prevent their pupils from committing offences, causing personal injury or damaging property and to maintain good order and discipline.

Video-recording code in terrorism cases

Section 22 of the Counter-Terrorism Act 2008 requires that the relevant PACE Code includes provisions about post-charge questioning and section 25 requires the issue of a non-PACE code of practice on the video-recording with sound of such questioning before the enabling statutory provisions can be commenced. In order to reflect best practice and ensure consistency in terrorism cases, a further code issued under the Terrorism Act 2000 will extend the requirement for visual recording with sound to all interviews of persons detained under section 41 of, or Schedule 7 to, that Act. When in place, it will supersede the current audio-recording codes applicable to those cases.

A new combined draft code sets out the requirements for video-recording with sound and the relevant procedures to be followed according to whether the person concerned is detained under section 41 or Schedule 7 or subject to post-charge questioning and whether they are in England and Wales or Scotland.

Responses should arrive by 24 January 2012.

The Consultations can be accessed in full at:
http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/revisions-pace-codes/

Temporary Class Drug Orders

As of 15 November 2011, the Home Secretary has the power, under the Misuse of Drugs Act 1971, to make any drug subject to temporary control. It follows the appointment of Sections 151 and 152 of the Police and Social Responsibility Act 2011, by SI 2011/2515. Section 151 gives effect to Schedule 17 of the 2011 Act, which makes provision for temporary class drug orders under the Misuse of Drugs Act 1971. Section 152 amends Schedule 1 to the 1971 Act, relating to the constitution of the Advisory Council on the Misuse of Drugs (ACMD).

Temporary class drug orders can be made if the following two conditions are met:

1. the drug is not already controlled under the Act as a Class A, B or C drug;
2. the ACMD has been consulted and determined that the order should be made, or the Home Secretary has received a recommendation from the Advisory Council that the order should be made, on the basis that it appears to the Home Secretary that:
    a. the drug is being, or is likely to be, misused; and
    b. the misuse is having, or is capable of having, harmful effects.

A temporary class drug order will come into immediate effect and will last for up to 12 months, subject to Parliament agreeing to it within 40 sitting days of the Order being made. They will enable the government to act faster to protect the public against emerging harmful new psychoactive substances, while full expert advice is being prepared.

A drug placed under a temporary class drug order will be referred to as a 'temporary class drug' and will be a 'controlled drug' for the purposes of the Misuse Of Drugs Act 1971, and other legislation such as the Proceeds of Crime Act 2002, unless otherwise stated. With the exception of the possession offence, all the offences under the Misuse of Drugs Act will apply. This includes possession in connection with an offence or prohibition, under sections 3, 4 and 5(3) of the Act, i.e. possession with intent to supply. Offences committed under the Act in relation to a temporary class drugs are subject to the following maximum penalties:

- 14 years' imprisonment and an unlimited fine on indictment, and
- 6 months' imprisonment and a £5,000 fine on summary conviction.

Simple possession of a temporary class drug is not an offence under the 1971 Act; however law enforcement officers have been given the following powers to enable them to take appropriate action to prevent possible harm to the individual:

- Search and detain a person (or vehicle etc.) where there are reasonable grounds to suspect that the person is in possession of a temporary class drug;
- Seize, detain and dispose of a suspected temporary class drug, and
- Arrest or charge a person who commits the offence of intentionally obstructing an enforcement officer in the exercise of their powers.

A new working protocol has been agreed between the Home Secretary and the ACMD; highlighting how the government engages with the ACMD, the expertise and membership of the council and the advisory process to use the temporary control power with emphasis on 'legal highs'.

The Home Office has published circular 12/2011, which provides guidance on the amendments that have been made to the Misuse of Drugs Act 1971. It includes, at Annex A, the charging codes for offences under the 1971 Act in respect of temporary class drugs, which are used for statistical purposes within the Home Office Recorded Crime and Ministry of Justice court appearance database.

The Home Office website will be updated as appropriate with details of drugs that are placed under a temporary drug order.

The Home Office factsheet on Temporary Class Drug Orders can be accessed at:
http://www.homeoffice.gov.uk/publications/alcohol-drugs/drugs/temporary-class-drug-factsheet?view=Binary

The Working Protocol agreed by the Home Secretary and the ACMD can be accessed at:
http://www.homeoffice.gov.uk/publications/agencies-public-bodies/acmd1/workingprotocol

Home Office Circular 12/2011 can be accessed at:
http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2011/012-2011/

Cross-government Strategy on Gang and Youth Violence Published

A new, cross-government strategy has been published following a review of gang and youth violence. The report, entitled 'Ending Gang and Youth Violence' states several key messages which have emerged from the research:

- The vast majority of young people are not involved in violence or gangs and want nothing to do with it;
- The small number of young people who are involved have a disproportionately large impact on the communities around them in some parts of the UK. It is clear that gang membership increases the risk of serious violence;
- This small minority of violent young people is not randomly distributed and does not appear out of the blue. Some areas suffer significantly greater levels of violence than others; some individual and family risk factors repeat themselves time and time again.

The report sets out five key principles which underpin the strategy:

Providing support to local areas to tackle their gang or youth problem.

- An Ending Gang and Youth Violence Team will be established, which will work with a virtual network of over 100 expert advisors to provide practical advice and support to local areas with a gang or serious violence problem;
- In addition £10 million in Home Office funding in 2012/13 will be provided to support local areas and at least £1.2 million of additional resource will be invested over the next three years to improve services for under 18s suffering sexual violence.

Preventing young people becoming involved in serious violence in the first place, with a new emphasis on early intervention and prevention.

- The capacity of Family Nurse Partnerships will be doubled, 4,200 more health visitors will be recruited by 2015 and over £18 million will be invested in specialist services;
- Existing materials on youth violence, which are being used in schools, will be assessed and the education offered to excluded pupils will be improved, to reduce their risk of involvement in gang violence and other crimes;
- Parents who are worried about their children's behaviour will be supported by working with a range of family service providers to develop new advice on gangs.

Pathways out of violence and the gang culture for young people wanting to make a break with the past.

- The promotion of intensive family intervention work with the most troubled families will be continued, with a specific commitment to roll out Multi-Systemic Therapy for young people with behavioural problems and their families to 25 sites by 2014;
- A second wave of Youth Justice Liaison and Diversions schemes for young offenders at the point of arrest will be set up, to be targeted at areas whether there is a known and significant gang or youth crime problem;
- The government will work with A&E departments and children's social care to promote better local application of guidance around young people who may be affected by gang violence presenting at A&E. The potential for placing youth workers in A&E departments will also be explored;
- Areas will be supported to roll out schemes to re-house former gang members who want to exit the gang lifestyle;
- Ways to improve the provision of education for young people in the secure estate and for those released from custody will be explored and new offending behaviour programmes for violent offenders in prison and under community supervision will be implemented.

Punishment and enforcement to suppress the violence of those refusing to exit violent lifestyles.

- Police powers to take out gang injunctions will be extended, to cover those aged 14-17 and mandatory custodial sentences will be implemented for those using a knife to threaten or endanger others, including offenders aged 16 and 17;
- A mandatory life sentence will be introduced for adult offenders convicted of a second very serious or sexual crime;
- The work that the UK Border Agency undertakes with the police, using immigration powers to deport dangerous gang members who are not UK citizens, will be extended;
- There will also be a consultation on whether the police need additional curfew powers, on the need for a new offence of possession of illegal firearms with intent to supply and on the appropriate penalty level for illegal firearm importation.

Partnership working to join up the way local areas respond to gang and other youth violence.

- Clear and simple guidelines on data sharing will be issued, that will clarify the position on what information can be

shared between agencies about high risk individuals, on a risk aware, not risk adverse, basis;

- The roll out of Multi-Agency Safeguarding Hubs, which co-locate police and other public agencies, will be promoted;
- The government will deliver on its commitment that all hospital A&E departments share anonymised data on knife and gang assaults with the police, and other agencies, and the feasibility of including A&E data on local crime maps will be piloted;
- The use on local multi-agency reviews after every gang related homicide will be encouraged.

'Ending gang and Youth Violence: A Cross Government Report' can be accessed in full at: http://www.homeoffice.gov.uk/publications/crime/ending-gang-violence/

Consultation on Domestic Violence Disclosure Launched

The Home Office has launched a consultation which seeks views on whether the protection of victims of domestic violence could be improved by establishing a national domestic violence disclosure scheme. Currently the police have powers under common law to disclose information to the public relating to previous convictions or charges, where there is a pressing need for disclosure in order to prevent further crime. In addition, under the Multi-Agency Public Protection Arrangements (MAPPA), where a violent offender requires inter-agency management at Level 2 or 3 (as defined by the MAPPA criteria) the MAPPA panel is obliged to consider disclosing previous convictions to potential victims every time an offender's case is reviewed.

The consultation paper seeks views on whether the existing legal provisions for disclosing information to an individual (A) about previous violent offences committed by another individual (B), and who has an intimate relationship with A are sufficient, or whether the protection available to A should be extended by establishing a national domestic violence disclosure scheme, with recognised and consistent processes for the police to disclose information to A. This would enable new partners of previously violent suspects to make informed choices about how, and whether, they take forward that relationship.

The Government seeks views on the following three options:

Option 1: continue current arrangements under existing law where the police already have common law powers to disclosure information relating to previous convictions or

charges to A where there is a pressing need for disclosure of the information concerning B's history in order to prevent further crime.

Option 2: a 'right to ask' national disclosure scheme which enables A to ask the police about B's previous history of domestic violence or violent acts where the police would undertake full checks to inform a risk assessment and disclosure. A precedent upon which suitable adoptions could be made exists with the Child Sex Offender Disclosure Scheme.

Option 3: a 'right to know' national disclosure scheme where the police would proactively disclose information in prescribed circumstances to A relating to B's previous history of domestic violence or violent acts.

The consultation closes on 13 January 2012 and can be access in full at:
http://www.homeoffice.gov.uk/publications/about-us/consultations/domestic-violence-disclosure/domestic-violence-disclo-cons?view=Binary

Cabinet Office Publishes Research on Motivations Behind August Riots

The Cabinet Office has published independent research which examines the motivations of young people involved in the riots in August earlier this year. 'The August Riots in England - Understanding the involvement of young people', is the first and currently the only major study to be based on what young people themselves have to say about the riots. It focused particularly on young people for two reasons; young people played a significant role in the riots, and their perspectives are less likely to be heard in other ways.

The report focuses on the question 'Why did young people get involved in the riots?' and concludes that decisions about whether to get involved were based on what young people thought was right or wrong; and whether they felt the benefits to themselves outweighed the risks. These decisions were based on the following factors.

Situational factors related to events and the actions of others:

Young people who would normally think such behaviour was wrong were encouraged to join in, either through witnessing others or through news and social media. Boredom and influence by peers also contributed, however the presence of adults, particularly parents, at the time of the riots played an important role in preventing some young people getting involved.

Personal factors related to young people's values, experiences and prospects:

Previous criminal behaviour was a facilitating factor for involvement in rioting and looting, with young people citing previous negative experiences of the police as a significant 'nudge' factor to get involved. There were expressions of anger and resentment about authority figures, particularly politicians, although engagement in formal politics was seen as irrelevant to young people. A distinction was made between young people who had a personal stake in society and a sense of something to lose from involvement in the riots, and those that did not.

Family and community factors' influence on relationships and identity:

How young people are brought up was viewed as very important, both in preventing and encouraging bad behaviour. Young people and community stakeholders described some neighbourhoods as having a prevailing culture of low-level criminality with negative attitudes towards the police and authority. In contrast, young people also talked about the importance of belonging to a community, or a group or family

within it, which opposed criminal behaviour, with religion cited in particular as protecting them from getting involved.

Societal factors related to broader social issues:

Young people who were involved in voluntary and community work alongside older people were clear that, as a result, they had not wanted 'to trash their own backyard'. Alternatively, other young people and community stakeholders identified a feeling that they were written off in their communities as a lost cause. Boredom and the desire for excitement was linked to a lack of legitimate things to do and places to go, with young people feeling they were a particular target for cuts in government spending. For some, life was described as a constant struggle, with difficulties in managing money when out of work or when in training. At the same time, a materialistic culture was mentioned as having contributed towards looting, by both young people and community stakeholders.

'The August riots in England - Understanding the involvement of young people' can be accessed in full at:
http://www.cabinetoffice.gov.uk/resource-library/august-riots-england-understanding-involvement-young-people

Seizures of drugs in England and Wales 2010/11

The Home Office has published annual figures relating to seizures of drugs made in 2010/11 by local police forces and the UK Border Agency (UKBA) in England and Wales. In 2010/11 there were 212,784 drug seizures in England and Wales, a decrease of five percent on the previous year.

- Class A drugs seizures decreased by 15 percent. Cocaine seizures decreased by 17 percent and heroin seizures fell by 16 percent. Crack seizures rose by six percent. Cocaine was the most commonly seized drug in the last year;
- Class B drugs seizures decreased by four percent, with cannabis seizures falling by five percent;
- Class C seizures rose by 16 percent.

In 2010/11, the following quantities of drugs were seized:

- 2.4 tonnes of cocaine;
- 0.7 tonnes of heroin;
- 357,000 doses of ecstasy;
- 0.7 tonnes of amphetamines;
- 48.6 tonnes of herbal cannabis and cannabis resin combined; and
- 730,000 cannabis plants.

Home Office Statistical Bulletin 17/11 - Seizures of drugs in England and Wales 2010/11, can be accessed in full at: http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/police-research/hosb1711/hosb1711?view=Binary

Government Launch Consultation on Stalking

The government has launched a consultation which seeks views on the operation of the current law on harassment and how victims of stalking can be protected more effectively. Stalking is defined for the purposes of the British Crime Survey 2010/11 as "two or more incidents (causing distress, fear or alarm) of obscene or threatening, unwanted letters or phone calls, waiting or loitering around home or workplace, following or watching, or interfering with or damaging personal property by any persons, including a partner or family member". The Protection from Harassment Act 1997 is intended to criminalise behaviour that stops short of actual violence, and enables intervention in cases where previously, little could be done. The word stalking is not specifically used in the Act, but it was designed to, and does, cover many forms of harassment including stalking and cyber stalking.

The consultation paper poses questions on the following areas:

Police Information Notices

A Police Information Notice (PIN), often referred to as a 'harassment warning' or 'warning notice' is used to inform a person verbally and/or in writing that an allegation has been made against them, allowing them to consider their future behaviour, thereby potentially avoiding prosecution. A PIN should only be issued when the offence is incomplete, or in situations where the perpetrator seems genuinely unaware that what they are doing constitutes an offence. Acknowledging receipt of a PIN is not an acceptance of guilt, and there is no right of appeal. An individual's details would not be recorded on the police national computer (PNC) purely on the basis on a PIN, and it is not considered a criminal record.

The government has recognised that there are concerns around PINs, with some arguing that those to whom they are issued are not given a fair hearing. Equally, some consider that PINs 'lack teeth' and give victims a false sense of security.

Search Powers

The offence of harassment, contrary to section 2 of the Protection from Harassment Act 1997, is a summary only offence and as a result police do not have the power under the Police and Criminal Evidence Act 1984, to enter and search

premises in respect of this offence on its own. Harassment under section 4 of the Act is an either-way offence, and the police have the power to enter and search powers in relation to this, more serious offence.

The consultation paper asks whether police should have the power, in addition to the limited powers available for summary only offences, to search premises and seize property in relation to offences under section 2 of the Protection from Harassment Act 1997. It comes as a result of police forces pressing the government to consider extending entry and search powers so they apply to stalking; pointing out that in cyber stalking cases in particular, it is sometimes very difficult to link stalking behaviour of the perpetrator to the victim, without seizing the equipment that has been used to commit the offence.

It is arguable, the paper states, that there is nothing about the nature of section 2 offending that makes it serious enough to justify such powers. There is also a question as to whether such a power is necessary, as the victim should be able to provide the police with any emails, text messages etc. that they have received.

Working together at local level

A number of organisations are working to improve the response to stalking. The consultation asks respondents to consider whether local agencies, including the police and other criminal justice partners, and the public are sufficiently aware of what stalking is and the behaviour it covers. It also asks whether local agencies are provided with sufficient training to address it.

Other remedies to tackle stalking

Victims may apply for civil injunctions under section 3 of the Protection from Harassment Act 1997 to prevent stalking. There is a lower burden of proof than in criminal courts and damages can be awarded for any anxiety of financial loss resulting from the harassment. Breach of a civil injunction issued after 1 September 1998 is a criminal offence.

Under section 5 of the Protection from Harassment Act 1997, a court sentencing someone for any offence may also impose a restraining order prohibiting specified forms of behaviour which cause harassment or a fear of violence. Section 5A of the Act allows a court to make a restraining order following an acquittal, or where a conviction has been overturned on appeal, if it considers that it is necessary to protect a person from harassment. The paper asks respondents how effective these remedies are in tackling stalking.

The paper also asks respondents to consider other actions that are being taken, across various agencies, to tackle stalking and

whether there are any barriers that prevent victims reporting offences to police and the CPS gaining prosecutions that result in convictions. It concludes by setting out potential next steps, with a particularly commitment to address the issue of cyber crime.

The Consultation on Stalking closes on 5 February 2012 and can be accessed in full at:
http://www.homeoffice.gov.uk/publications/about-us/consultations/stalking-consultation/consultation?view=Binary

First Supplement to Annual Crime Bulletin Published

The Home Office have published a statistical bulletin, presenting a detailed analysis on perceptions of crime, engagement with the police, views on the authorities dealing with anti-social behaviour (ASB) and perceptions of Community Payback. It is the first in a serious of volumes to supplement the annual crime bulletin 'Crime in England and Wales 2010/11'.

Policing and community engagement

The 2010/11 British Crime Survey (BCS) revealed:

- Over half of people had seen a police officer or Police Community Support Officer (PCSO) on foot patrol at least once a month; an increase from 38 percent in 2006/07;
- Awareness of local neighbourhood policing teams increased from 39 percent in 2009/10 to 44 percent in 2010/11;
- 32 percent of adults had seen, read or heard details about their local police, and 57 percent said they knew how to contact the police about policing, crime or ASB;
- Around a quarter of people, 23 percent, had made contact with the police (other than about local issues), most commonly to report a personal or household crime;
- 9 percent of people had been in a car or motorcycle which was stopped by the police in the last 12 months, with a much smaller proportion having being stopped on foot.

Public confidence in the authorities tackling anti-social behaviour and awareness of Community Payback

Analysis relating to confidence in authorities tackling anti-social behaviour focused on people who perceived at least one of the following five behaviours to be a problem in their local areas: noisy neighbours, teenagers hanging around, vandalism and graffiti, people using or dealing drugs, and people being drunk or rowdy. Of those:

- 52 percent were confident that the authorities were effective at reducing ASB;
- 41 percent felt the authorities were effective in bringing ASB offenders to justice; and
- A third felt well informed about what was being done to tackle ASB.

A high proportion of people had heard of Community Payback (85 percent), but levels of awareness of activities in the local area were much lower; only 15 percent of adults had personally seen offenders carrying out Community Payback work in the last 12 months. Two thirds of all adults felt that it was a very or fairly effective form of punishment, with only 5 percent thinking it was not effective at all.

Understanding the perceptions of crime

The 2010/11 BCS showed that 60 percent of people thought that crime in the country as a whole had risen over the last few years; however only 28 percent of people thought the same about crime in their local area. The media was commonly mentioned as a source of information which gave the impression that crime was going up nationally, and was also important in informing views on changes locally.

The use of crime data, such as via online crime maps or published as official Home Office statistics, was low when compared with media consumption. 36 percent of people said they take notice of official crime statistics, and four percent had used crime maps in the last 12 months. This compares with 73 percent of people reading newspapers and 91 percent watching the news on television.

Perceptions of crime, engagement with the police, authorities dealing with anti-social behaviour and Community Payback: Findings from the 2010/11 British Crime Survey, Supplementary Volume 1 to Crime in England and Wales 2010/11 can be accessed in full at:
http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1811/hosb1811?view=Binary

Equality and Human Rights Commission Publish Research on Targeted Crime

Research published by the Equality and Human Rights Commission (EHRC) has found that some public authorities do not always recognise their role in preventing incidents of hate crime. The Commission says that the evidence is a stark reminder of their duty to have due regard to the need to eliminate unlawful harassment, advance equality and foster good relations. While the number of hate crimes recorded by the police service in England and Wales has fallen, from 50,868 in 2009 to 47,229 in 2010, the Commission believes that there is still a significant under reporting of some types of targeted violence, such as disability related harassment.

Research Report 74 describes the first attempt at a systematic investigation of what public authorities are doing to eliminate targeted harassment directed at people on the grounds of age, disability, gender, race, religion or belief, sexual orientation or transgender status. It responds directly to the Commission's Triennial Review, 'How fair is Britain?', which brought together evidence from a range of sources, to paint a picture of how far what happens in people's real lives matches up to the ideals of equality. The review identified ending identity-based or targeted violence and harassment as one of the five most important objectives that must be met to create a society in which every individual has an equal chance in life; human rights are respected; and prejudice is replaced by greater understanding.

Over 90 percent of those that responded to the online survey reported that their policies included something in them about targeted harassment; however respondents were less likely to state that they had action plans, which can help translate policies into actions. Between 1 and 2 in 10 of respondents had not involved people from the various protected groups when developing their policies, strategies and/or actions plans. Despite the involvement of disabled people being a specific requirement of the disability equality duty, just over a tenth of respondents said that their organisation had not involved this group. The majority of respondents, 95 percent, worked with other organisations to tackle targeted harassment, indicating that partnership work is highly regarded and an important practice. Just over half had shared information with regard to all protected equality groups; the exception being for age, which is a consistent finding across the data.

Almost one in five respondents did not recognise that they have a role in preventing targeted harassment, despite most authorities having some obligations under existing equalities and human rights legislation. Nearly a fifth of those who did recognise that they had a role reported taking no form of

action to prevent targeted harassment. The main actions that were undertaken included publicity and general awareness raising/education that harassment is unacceptable, promoting understanding and tolerance of different groups in society and working with communities to identify and address emerging tensions.

Respondents were most likely to recognise their role in helping people to report targeted harassment, and referred to a range of actions that were being taking to maximise reporting, including the development of third party reporting centres at a variety of venues and 'protected group-specific' reporting material, such as Easy Read, large print and Braille for disabled people. Respondents were however, slightly less likely to recognize that they have a role in recording incidents of targeted harassment.

Over a tenth of respondents did not recognise that they have a role in helping victims of targeted harassment. While all police forces and the vast majority of Registered Social Landlords (RSLs) were clear in their role, only around three quarters of Local Authorities recognised that they have a role. Of those that did, nearly a fifth reported taking no form of action to help victims. Actions that had been taken to support victims included referrals to appropriate support groups and services, the provision of guidance and the provision of emotional and practical support. Respondents were least likely to recognise that they had a role in working with perpetrators of targeted harassment.

The majority of police forces and RSLs that responded felt that the right support and guidance on targeted harassment was available to them in relation to each of the protected groups. In addition, while nearly all police respondents and the majority of RSL respondents reported having provided training on the targeted harassment of all protected groups, only around four fifths of Local Authority respondents had done so.

The Commission has made the following recommendations, based on the evidence in the research, which aim to address the key challenges that have been highlighted:

- Public authorities should identify how they can tackle targeted harassment;
- Community safety partnerships should identify how they can play their part in ending targeted harassment;
- Future guidance on targeted harassment needs to support public authorities to turn good intentions into action that delivers positive outcomes.

The EHRC has also published a briefing paper, which used data from the British Crime Survey (BCS) to understand the different equality groups' expectations about being insulted,

and their experience of intimidation, threats, violence and crime. It found a widespread expectation of being insulted or intimidated in public places amongst most minority equality groups. Younger age groups, men and lesbian, gay and bisexual (LGB) respondents are much more likely to report being a victim of crime, and experiencing threats of deliberate use of violence than older age groups, women and heterosexual respondents. Ethnic minority groups are more likely than White groups to report being a victim of crime, with Mixed and White groups most likely to experience violence. People over 60, ethnic minority groups and LGB respondents are most likely to report experiencing crime motivated by the offender's attitude to their identity.

Research report 74: Public authority commitment and action to eliminate targeted harassment and violence can be accessed in full at:
http://www.equalityhumanrights.com/uploaded_files/research/rr74_targeted_harassment.pdf

Briefing paper 4: Equality groups' perceptions and experience of crime can be accessed at:
http://www.equalityhumanrights.com/uploaded_files/research/bp4.pdf

National Audit Office Publish Report on the Streamlined Process

A report has been published by the National Audit Office (NAO), which examines the implementation of the Streamlined Process; an initiative to reduce the amount of paperwork, and therefore police time spent preparing prosecution files in summary only and either way cases.

Key Facts

- 79 percent of police prosecution files that were reviewed did not contain an amount of paperwork which was 'proportionate to the needs of the case' under the Streamlined Process guidance;
- 53 percent of police files reviewed did not give an adequate summary of the case;
- In 2010, 967,000 cases were dealt with in the magistrates' courts by the Crown Prosecution Service (CPS);
- The Prosecution Team Change and Delivery Board has a £1 million budget for delivering a range of initiatives, including the Streamlined Process;
- The total funding for local criminal justice boards to roll-out the Streamlined Process is £740,000;
- It is estimated that the Streamlined Process could potentially save police forces £10 million.

The Streamlined Process was rolled out as guidance from the Director of Public Prosecutions, with its roll-out jointly managed by the CPS and the Association of Chief Police Officers (ACPO). In 2011, the guidance was incorporated into 'The Director's Guidance on Charging 2011', which includes a new national file standard based on the Streamlined Process.

Key Findings

- The Streamlined Process guidance allows police officers to undertake less paperwork when creating simple prosecution files;
- The Streamlined Process has not had a negative impact upon the progression of cases through the magistrates' courts nationally;
- The Prosecution Team Change and Delivery Board brought together key agencies in the criminal justice system(CJS) in order to implement a range of initiatives including the Streamlined Process;

- Despite agencies working in partnership at its launch, the Streamlined Process guidance has not overcome the barriers of complexity inherent within the CJS;
- The criminal justice landscape has recently undergone significant reorganisation;
- The case for reducing police bureaucracy with guidance such as the Streamlined Process was established by a number of preceding initiatives; however its roll-out did not meet principles of effective project management;
- The Streamlined Process was rolled out nationally before its pilots were completed and evaluated;
- In keeping with reforms across the CJS, ownership of the Streamlined Process has transferred from the centre to local areas;
- Significant variation was found between the police forces visited in the extent to which they are implementing the Streamlined Process;
- There are persistent barriers to implementing the Streamlined Process within individual police forces;
- More than half of the files reviewed did not summarise key evidence in accordance with the Director's guidance on the Streamlined Process;
- A concerning lack of effective supervision of prosecution files was found in the areas visited;
- Local CPS offices rarely provide feedback to the police on the quality of the files they receive;
- The Prosecution Team and Delivery Board did not collect information to estimate how much police forces may save by embedding the Streamlined Process, and they do not know how much it costs to roll out.

The report found that the Streamlined Process guidance can reduce the amount of time the police spend on preparing prosecution files, without reducing the effectiveness of the courts. While the guidance took account of the complexity of the CJS by involving key national and local agencies in its roll-out, it has failed to secure local buy-in. In addition the implementation of the initiative did not follow established principles of effective project management which has led to widespread variation in compliance. A lack of data made it unclear whether the initiative has reduced paperwork for police forces. The report concludes that the Streamlined Process has not yet achieved its potential value for money.

The NAO have made a number of recommendations in the report, in order to make the guidance on the Streamlined Process more effective. These include the CPS raising awareness of the Streamlined Process with prosecutors and other staff, ensuring that there is an effective mechanism to feed back to police officers on the quality of the prosecution files, and that the Home Office should work with ACPO to make it clear to police forces that they expect the guidance to be implemented. They also recommend ensuring that the Streamlined Process and file preparation is covered in police training, and making forces aware of the potential savings that can be made from such initiatives, especially in light of future budget cuts.

The National Audit Office report 'Crown Prosecution Service: The introduction of the Streamlined Process' can be accessed in full at:
http://www.nao.org.uk/publications/1012/cps_streamlined_process.aspx

Violence against Women and Girls Crime Report 2010-11

The Crown Prosecution Service is successfully prosecuting more cases involving offences of violence against women and girls, according to its Violence against Women and Girls (VAWG) Crime Report for 2010-11. The report is the fourth edition to be published by the CPS, and covers a range of VAWG strands; domestic violence, rape and sexual offences, human trafficking, prostitution, forced marriage, honour based violence and female genital mutilation, child abuse and pornography. The report shows that the number of VAWG prosecutions has risen year on year, from 86,930 in 2006-07 to 95,257 this year. The volume of convictions has also increased; rising by 52 percent from 44,836 to 68,154.

Domestic Violence

- There was a 65 percent increase in the volume of domestic violence prosecutions from 2005-6 to 2010-11, with a corresponding 99 percent increase in the volume of defendants convicted;
- In 2010-11, 30 percent of offenders were under 24 years old, of which 3,363 were recorded as Under 18.

Harassment

- Prosecutions commenced for 10,238 harassment offences in 2010-11, of which 61 percent were related to domestic violence;

- 5,922 restraining orders were provided, of which 68 percent were domestic violence related;
- 5,281 breaches of non-molestation orders started prosecution.

Rape

- Since 2007-08, CPS performance management data has illustrated an increase of 20 percent in the volume of prosecutions and a 22 percent increase in the volume of defendants convicted;
- In 2010-11 there was a slight fall in the proportion of defendants convicted after charge, against a ten percent increase in the volume of defendants prosecuted and a nine percent increase in volume of those convicted;
- Unsuccessful outcomes due to victim issues fell from 16.5 percent in 2009-10 to 14 percent in 2010-11.

Sexual offences (excluding rape)

- In 2010-11 there was a slight fall in the proportion of defendants convicted after charge, against an eleven percent increase in the volume of defendants prosecuted and a nine percent increase in volume of those convicted.

Forced marriage, honour-based violence and female genital mutilation

- From April 2010, trained specialist prosecutors dealt with forced marriage and honour based violence in each Area, with cases flagged and monitored for the first time;
- In 2010-11, 41 defendants were prosecuted for forced marriages and 234 for honour-based violence crime, with around half convicted;
- CPS Guidance on Female Genital Mutilation was published in September 2011.

Child abuse

- In 2010-11 there was a slight fall in the volume of child abuse homicide offence prosecutions, with an increase in successful outcomes;
- There was an increase in the volume of offences against the person and a slight increase in the volume of successful prosecutions;
- There was also an increase in the number of prosecutions for sexual offences, with a slight fall in successful outcomes.

Human trafficking and prostitution

- The CPS Human Trafficking Public Policy Statement was published with revised guidance for prosecutors in June 2011;
- The CPS now flag and monitor all cases of trafficking; 103 cases were recorded in 2010-11;
- Policy and legal guidance on exploitation of prostitution was published in June 2011.

Pornography

- In 2010-11, there was a rise in the prosecution of child abuse images, including the commencement of prosecutions on 17,400 offences of sexual exploitation of children through photographs;
- There was a rise in the prosecution of obscenity offences which related to the use of technology and the internet.

The CPS Violence against Women and Girls Crime Report for 2010-11 can be accessed in full at: http://www.cps.gov.uk/publications/docs/CPS_VAW_report_2011.pdf

HMIC Report on Multi-Agency Public Protection Arrangements

HM Inspectorate of Constabulary has published a report entitled 'Putting the pieces together', which states that Multi-Agency Public Protection Arrangements (MAPPA) to reduce the risk of harm to the public presented by offenders have been successful but need to evolve. It follows a joint inspection of MAPPA by HM Inspectorate of Probation and HM Inspectorate of Constabulary, which was carried out in six towns and cities.

The report found that the level of cooperation amongst criminal justice and other agencies was impressive, with a culture of trust and openness in the agencies involved that encouraged the thoughtful exchange of information between staff working with the offenders. However, while the findings were broadly positive, the inspection revealed a number of key areas for improvement which, it states, are crucial if MAPPA are to ensure that all reasonable action is taken to manage the risk of harm presented by an offender to others in the community.

The national guidance that sets out the way in which MAPPA are to operate requires that a lead agency should be identified for each MAPPA eligible offender. Despite this, the inspection found that while this concept was acknowledged by staff, it was underdeveloped and did not impact on the way in which

cases were managed. A clearer focus on a specified lead agency would promote a more coordinated approach to the management of each offender.

In accordance with national guidance, MAPPA should agree a risk management plan for each offender subject to multi-agency management. This, the report found rarely happened in a comprehensive way; in some cases a list of short-term actions were identified while in others, actions were too vague or not identified at all. Most cases were managed though a range of restrictive interventions, and while these were necessary, the report stated that they needed to be balanced by a focus on protective factors such as involvement in positive activities and constructive interventions, designed to reduce the level of risk in the longer term.

Emphasis was too often placed on information exchange within MAPPA rather than of the active management of an offender. Minutes of MAPPA meetings were often not fit for purpose, which meant that agencies within MAPPA could not always be able to demonstrate that they had made defensible decisions in the event of a challenge. As part of the inspection, a detailed audit of the ViSOR records held on the offenders was undertaken. It found that ViSOR was not used as a shared working tool by police and probation staff, mainly because access by probation staff was severely constrained.

The report concludes that in order to work well, all participants in MAPPA need to work together to develop a shared view about the nature of the risk presented by an individual offender to the public, draw up a plan to manage that risk and then ensure that the plan is implemented, reviewed and updated in response to events.

HMIC 'Putting pieces together' can be accessed in full at: http://www.hmic.gov.uk/media/Multi-agency-public-protection-arrangements.pdf

Annual MAPPA Report Published

The Ministry of Justice has published a statistical bulletin, setting out the 2010/11 Multi-Agency Public Protection Arrangements (MAPPA) Annual Report. MAPPA are a set of statutory arrangements to assess and manage the risk posted by certain sexual and violent offenders. By virtue of the Criminal Justice Act 2003, there are 3 broad categories of offender eligible for MAPPA:

Category 1 - Registered sexual offenders: offenders who have been convicted of a specified sexual offence and/or the notification requirements under Part 2 of the Sexual Offences Act 2003 apply;

Category 2 - Violent offenders: offenders convicted of a specified offence and sentenced to imprisonment/detention for 12 months or more, or detained under a hospital order. Also includes a small number of sexual offenders who do not qualify for the notification requirements that apply to Category 1 offenders and offenders disqualified from working with children; and

Category 3 - Other dangerous offenders: offenders who do not qualify under categories 1 or 2 but have been assessed as currently posing a risk of serious harm.

Within each category there are three levels at which offenders are managed:

Level 1 - Ordinary Agency Management. Offenders are subject to the usual management arrangements applied by whichever agency has the lead in supervising them.

Level 2 - Active Multi-Agency Management. The risk management plans for these offenders require the active involvement of several agencies via regular multi-agency public protection meetings.

Level 3 - Active Multi-Agency Management. As with level 2, the active involvement of several agencies is required, however the involvement of senior staff from these agencies is additionally required to authorise the use of special resources, such as specialised accommodation.

Key points:

- On 31 March 2011, there were 51,489 MAPPA-eligible offenders, an increase of 7 percent when compared with 31 March 2010;
- There were 7,962 offenders managed at Level 2 and 734 managed at Level 3 throughout 2010/11, a decrease from 8,793 and 843 respectively in 2009/10;
- The courts imposed 2,438 Sexual Offences Prevention Orders (SOPO) in 2010/11, compared with 1,862 in 2009/10;
- 1,008 Level 2 and 3 offenders have been returned to custody for breach of their licence and 57 for breach of their SOPO; a decrease from the previous year of 10 percent and 36 percent respectively;
- 134 MAPPA-eligible offenders were charged with a 'serious further offence' in 2010/11.

The Multi-Agency Public Protection Arrangements Annual Report 2010/11 can be accessed in full at:
http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/mappa-annual-report-2010-11.pdf

Tackling Child Sexual Exploitation

A national action plan for tackling child sexual exploitation has been published; bringing together actions by the Government and a range of national and local partners to protect children from this form of child abuse. The action plan was developed in the context of the Munro review of child protection, and emphasises the important role of Local Safeguarding Children Boards (LSCBs) at the centre of local multi-agency arrangements to help and protect children and young people.

The 2009 statutory guidance Safeguarding Children and Young People from Sexual Exploitation defines child sexual exploitation as involving "….exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities…." It can occur without physical contact, for example when children are groomed to post sexual images of themselves on the internet.

The action plan looks at sexual exploitation from the perspective of the child. It highlights areas where more needs to be done and sets out specific actions for government, local agencies and voluntary and community sector partners to take. These include:

- The Home Office will work with the Association of Chief Police Officers (ACPO) on training for frontline police officers in recognising child sexual exploitation and responding appropriately;
- ACPO will also work to ensure that all police officers receive appropriate training on child sexual exploitation issues;
- The Department for Education will work with key interested parties to review and reissue the current statutory guidance on children who run away or go missing from home, published by the Department for Children, Schools and Families in 2008;
- CEOP will continue to raise awareness of child sexual exploitation and associated issues through the ThinkUKnow programme;
- The Government's new strategy on missing children and adults, to be published shortly, will highlight 'missing' as an indicator of vulnerability And highlight the importance of agencies' response to this issue;
- The Home Office will build on existing arrangements for managing sex offenders by ensuring that they are not able to exploit any loopholes in the notifications system;

- The Home Office will work with organisations such as Rape Crisis, The Survivor's Trust and local Sexual Assault Referral Centres to improve services for young people suffering sexual abuse by gang members and other violent offenders;
- The Home Office will also establish a working group to develop proposals to address violence against women and girls and female involvement in gangs (including in the contest of child sexual exploitation).

The Department for Education 'Tackling Child Exploitation Action Plan' can be accessed in full at:
http://media.education.gov.uk/assets/files/pdf/t/tackling%20child%20sexual%20exploitation%20action%20plan.pdf

NPIA

National Policing
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Chief Executive Officer Directorate

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