NPIA
National Policing Improvement Agency

Digest

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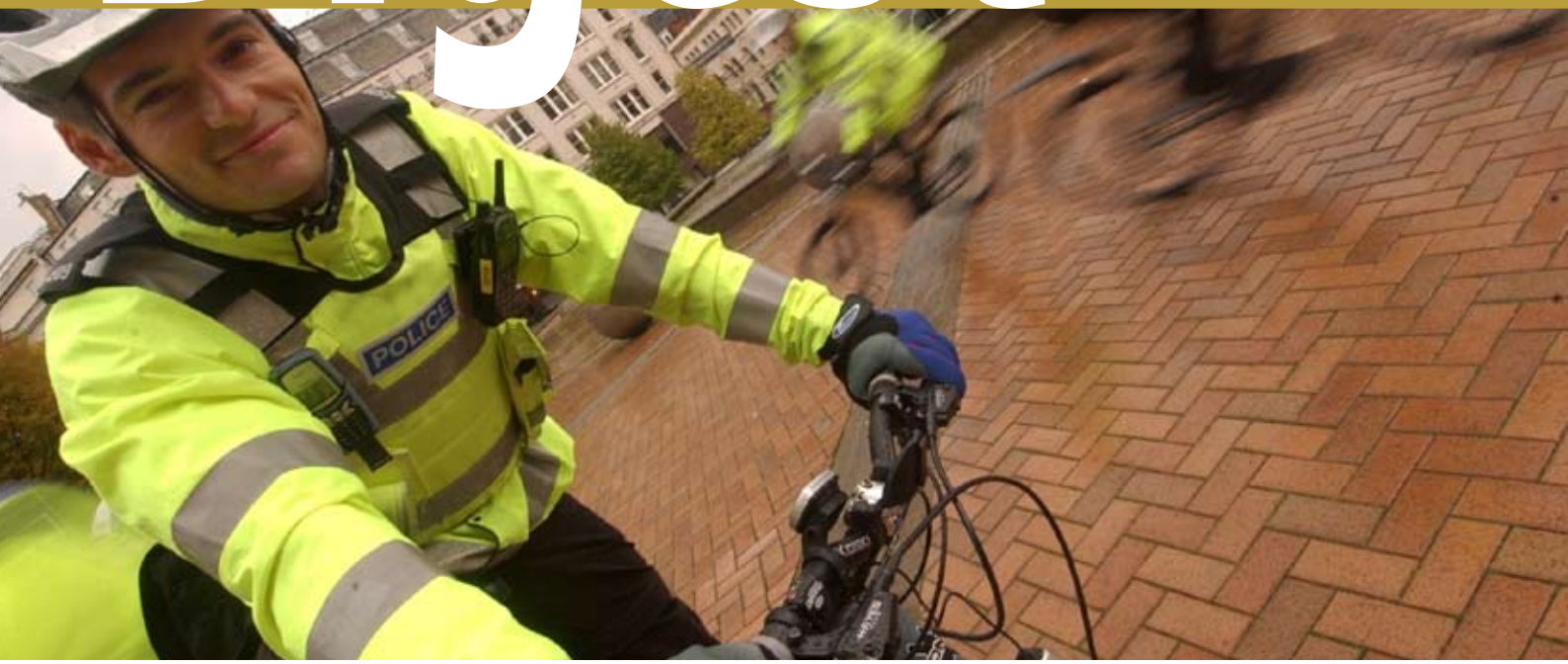

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The NPIA Digest is a journal produced each month by the Legal Services Team of the Chief Executive Officer Directorate. The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both 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.

This edition contains a summary of new legislation and proposals and reviews of issues relating to policing practice including: new Practice Advice on Schedule 7 of the Terrorism Act 2000; the latest Quarterly Update on Crime in England and Wales; the latest statistics on violence at football grounds; Report on effectiveness of Government Policies towards children, young people and crime; ECHR judgment on the use of stop and search powers under sections 44 and 45 of the Terrorism Act 2000; ESRC report on the challenges facing the Police Service in a global recession; a report on the relationship between rights and responsibilities; and the latest statistics on 'Hate crime' prosecutions.

There are also a number of articles outlining recently published Government and Parliamentary reports and initiatives including: A review of the evidence for improving public confidence in the police; Home Office response to the HMIC Crime Counts review; a new UK Foreign Bribery Strategy; Home Office Research Reports on Drug Treatment Outcomes and Tackling the demand for prostitution; and details of an initiative to identify ten communities to take part in Neighbourhood Agreements.

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 lawtel From Sweet & Maxwell

Contents

EHRC to Investigate Disability Related Harassment and Role of Public Authorities

The Equality and Human Rights Commission (EHRC) announced on 3 December 2009 that it is to conduct a formal inquiry into disability related harassment in England, Scotland and Wales and how public authorities are protecting disabled people's human rights to live free from violence and abuse.

The announcement came on the United Nations International Day of Persons with Disabilities. The EHRC is the UN accredited human rights body for Great Britain with specific responsibilities to promote and monitor implementation of the recently ratified Convention on the Rights of Persons with Disabilities.

The EHRC plans to use its legal powers to investigate the true extent of disability-related harassment and take appropriate action based on the evidence uncovered. At the end of the inquiry, public authorities found not to be doing enough to tackle the problem and to protect the human rights of disabled people could face legal action to force them to comply with their legal obligations.

Evidence already gathered by the EHRC indicates that targeted violence or hostility towards disabled people is widespread in Britain. People with learning disabilities or mental health conditions in particular experience high levels of victimisation.

The full press release is available at http://www.equalityhumanrights.com/media-centre/commission-to-investigate-disability-related-harassment-and-role-of-public-authorities/

17 Police Forces Make Stonewall's 2010 Top 100 Employers List

On 13 January 2010 Stonewall, the lesbian, gay and bisexual charity, announced the 2010 Top 100 Employers List which is the annual list announcing Britain's best employers for gay staff. In 2010 the list included seventeen police forces.

Hampshire Constabulary came second on the list and is the top public sector employer. It is followed by Kent (9th), Merseyside (13th), West Midlands (19th), Metropolitan Police Service (21st), Cheshire (23rd), Greater Manchester (23rd), Staffordshire (34th), Sussex (34th), British Transport Police (39th), Lancashire (47th), North Wales (50th), Suffolk (50th), Thames Valley Police (50th), Hertfordshire (60th), West Mercia (73rd) and West Yorkshire (79th).

Alex Marshall, Chief Constable of Hampshire, who marched at the front of the annual Gay Pride Parade in Brighton, last year, said that second place was hugely gratifying. "My team of police officers, staff and volunteers does a brilliant job to ensure we treat everyone fairly and equally, regardless of sexual orientation."

The ACPO spokesperson on LGBT (lesbian, gay, bisexual and transgender) issues, Assistant Chief Constable Steve Dann of Hampshire said “We are pleased that so many forces have made it onto the Stonewall Top 100 Employers List this year and we congratulate them all on this achievement. The service as a whole strives to ensure they treat everyone fairly and equally regardless of sexual orientation. ACPO is committed to ensuring the police service is a good employer. The police service should lead by example and reflect the make-up of our society so that we can promote better understanding, acceptance and diversity of all within our ranks and amongst our communities.”

The full press release and Stonewall’s 2010 Top 100 Employers List can be found at http://www.stonewall.org.uk/media/current_releases/3619.asp

New Practice Advice on Schedule 7 of the Terrorism Act 2000 Published

On 21 December 2009 the NPIA published new practice advice on the use of Schedule 7 of the Terrorism Act 2000. This legislation provides powers to examine people travelling through ports, airports and international railway stations. The practice advice reinforces the importance of briefing and tasking, and the vital role of community engagement.

The practice advice will be useful to police officers and staff with any involvement in the use of these powers. It may also be of interest to members of the public.

The document was produced on behalf of ACPO and ACPOS by the Office of the National Co-ordinator PROTECT with the assistance of the NPIA's Practice Improvement Unit. The practice advice complements the Home Office Examining Officers under the Terrorism Act 2000 Code of Practice which was issued earlier in 2009.

The Practice Advice on the use of Schedule 7 of the Terrorism Act 2000 can be found at
http://www.npia.police.uk/en/docs/Schedule_7_of_the_Terrorism_Act_2000.pdf

Further information regarding Schedule 7 of the Terrorism Act 2000 is available from Detective Chief Inspector Tony McCarthy by email at tony.mccarthy2@homeoffice.gsi.gov.uk or telephone 0207 084 8514 and Chief Inspector Julian Frost by email at julian.frost@npia.pnn.police.uk or telephone 01480 33 4541

Potential New Qualification: Preventing and Tackling Domestic and Sexual Abuse

During the development of the National Occupational Standards for preventing and tackling domestic and sexual abuse discussions took place around the potential need for qualifications based on the standards. Skills for Justice are now undertaking a scoping exercise to assess the potential demand for such qualifications. The deadline for submissions to the scoping exercise is 12 February 2010.

The short qualification scoping questionnaire can be found at
http://www.skillsforjustice.com/surveys/DSAsurvey/dsa.htm

More information is available from Emma Dove at
emma.dove@skillsforjustice.com or telephone 0114 231 7251.

Devon and Cornwall Constabulary Provide Support Group for Staff with Mental Health Issues

For any member of staff or their families suffering from stress, depression, bipolar disorder and anxiety in Devon and Cornwall Constabulary there is now extra help available from a newly formed support group.

The force has set up a group for staff suffering from mental illness in a move that could help 'save lives'. One officer in the force said "When you are struggling it is hard to tell a force's personnel department because of the stigma. That is why I want to set up a group that can help people with mental illness, to identify with them and offer them support. It would provide someone who is not emotionally involved who could go to human resources or the Police Federation and explain what is happening, get everything documented and move things along."

A spokesman for Devon and Cornwall Constabulary said "The force is not complacent about its management of mental health issues. It recognises that there is much more that can be done. The attendance management policy is under active review and we are setting up a group, including those with direct experience of mental health problems, to look at what other forms of support might be offered to those with problems. We are also examining ways in which we can help educate managers in how to recognise and manage mental health problems in our organisation."

More information about the support group can be found at http://www4.janes.com/subscribe/jprcom/doc_view.jsp?K2DocKey=/content1/janesdata/mags/jprc/history/jprc2010/jpr25522.htm@current&Prod_Name=JPRC&QueryText

Ethnic Minority Advisory Group Invites Applications for Membership

On 18 January 2010 the Department for Work and Pensions announced an invitation to those wanting to make a difference to the employment opportunities of ethnic minorities and to help influence Government policy. The Ethnic Minority Advisory Group (EMAG) is seeking applications for membership.

Whilst the ethnic minority employment gap has narrowed over recent years, it still stands at 13.8 percentage points and recent research shows that racial discrimination still exists in some recruitment practices. EMAG provides advice to the Ethnic Minority Employment Task Force on:

- What is likely to work best for ethnic minority communities;
- It reviews planned initiatives to ensure they have the best chance of success;
- Makes recommendations on new initiatives that the Government could take forward; and
- Examines existing policies to advise if they are working as intended.

Applicants are being sought from various sectors including education, voluntary and community groups, training providers, faith groups and employers, to provide a valuable source of advice and guidance based on their experiences.

Membership of EMAG is voluntary and unpaid. The group meets quarterly, usually in London. However, representatives from across the country are urged to apply with the option of meetings taking place in other areas or via a new virtual network.

The closing date for applications is Friday 26 February 2010. Further details on how to apply and the application form can be found at http://www.emetaskforce.gov.uk/index.asp or telephone Christine Wright on 020 7449 5630.

Home Office Circular 21/2009: A Change to the Misuse of Drugs Act 1971 Published

On 23 December 2009 the Home Office published Circular 21/2009 entitled 'A Change to the Misuse of Drugs Act 1971: Control of GBL, 1,4-BD, BZP and related piperazine compounds, a further group of anabolic steroids and 2 non-steroidal agents, synthetic cannabinoid receptor agonists and oripavine'.

The Circular draws attention to the contents of the following Statutory Instruments (SIs); SI 2009/3209, SI 2009/3135 and SI 2009/3136 which came into force on 23 December 2009. The Misuse of Drugs Act 1971 (Amendment) Order 2009 classifies the following drugs as controlled drugs under Schedule 2 to the Misuse of Drugs Act 1971:

- Gamma-butyrolactone (GBL) and 1,4-butanediol (1,4-BD) in Part 3 of the Schedule as Class C drugs;
- 1-benzylpiperazine (BZP) and a group of substituted piperazines in Part 3 of the Schedule as Class C drugs;
- 15 anabolic steroids and 2 non-steroidal agents (growth promoters) in Part 3 of the Schedule as Class C drugs;
- Synthetic cannabinoid receptor agonists in Part 2 of the Schedule as Class B drugs; and
- Oripavine in Part 3 of the Schedule as a Class C drug.

The full Home Office Circular 21/2009 is available at http://www.homeoffice.gov.uk/about-us/publications/home-office-circulars/circulars-2009/021-2009/21-20092835.pdf?view=Binary

The statutory instruments together with explanatory memorandums can found at http://www.opsi.gov.uk/si/si-2009-index

Ministry of Justice Circular 08/2009: Commencement of Witness Anonymity Provisions of Coroners and Justice Act 2009

The Ministry of Justice published Circular 08/2009 on 23 December 2009 announcing the commencement of the witness anonymity provisions of the Coroners and Justice Act 2009 on 1 January 2010. This circular alerts practitioners to the fact that the effective expiry of the emergency Criminal Evidence (Witness Anonymity) Act 2008 ('the 2008 Act') on 31 December 2009 does not mean that witness anonymity is no longer available in criminal proceedings. Similar provisions in the Coroners and Justice Act 2009 ('the 2009 Act') come into force on a permanent basis on 1 January 2010. These provisions replace those in the 2008 Act for the making of witness anonymity orders as of that date.

The witness anonymity provisions in Chapter 2 of Part 3 of the 2009 Act are brought into force automatically on 1 January 2010 by section 182(3)(a) of

that Act. The 2009 Act contains some differences from the 2008 Act. The 2009 Act also contains transitional provisions and provision on the future handling of orders made under the 2008 Act. These are described in further detail below.

Differences from the Criminal Evidence (Witness Anonymity) Act 2008

The general nature of the scheme in the 2009 Act is very similar to that in the 2008 Act. In particular, more detailed provision is now made for the discharge and variation of orders. See sections 91 to 93 of the 2009 Act.

The central provisions on the conditions for making orders in section 88 of the 2009 Act and the relevant considerations in section 89 of that Act are almost entirely unchanged. In section 88(5)(b) of the 2009 Act, condition C has been changed from that in section 4(5)(b) of the 2008 Act in order to make the test clearer for witnesses who may be generally obliged to give evidence, as with certain law enforcement officers.

Transitional Provisions

Where an application for a witness anonymity order under the 2008 Act has been made before 1 January 2010 and falls to be heard on or after 1 January 2010, it is to be treated from that date as an application under the 2009 Act. See Schedule 22 paragraph 16 to the 2009 Act.

Handling of orders under the 2008 Act after 31 December 2009

Should it be necessary to discharge or vary any order made under the 2008 Act for any reason; the provisions of the 2009 Act are to apply on or after 1 January 2010 for such discharge or variation. Again, see Schedule 22 paragraph 16 to the 2009 Act.

Northern Ireland

These provisions extend to Northern Ireland.

Courts Martial

The witness anonymity provisions apply in relation to criminal proceedings before the service courts. Decisions to be made by the court under sections 86-92 fall to be made by the judge advocate. Transitional provisions made under the Armed Forces Act 2006 cover the situation where an order is made by an 'old service court' prior to 31 October 2009.

Investigation Anonymity Orders

Chapter 1 of Part 3 of the 2009 Act creates a new Investigation Anonymity Order to afford greater protection to informants in certain homicide investigations. These provisions are provisionally expected to be brought into force by commencement order in Spring 2010.

Ministry of Justice Circular 08/2009: Commencement of Witness Anonymity Provisions of Coroners and Justice Act 2009 is available at http://www.justice.gov.uk/about/docs/circular-2009-08-witness-anonymity.pdf

The full text of Chapter 2 of the Coroners and Justice Act 2009 can be found at http://www.opsi.gov.uk/acts/acts2009/ukpga_20090025_en_7#pt3-ch2

Bills before Parliament 2009/10 - Progress Report

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

Public Bills

- **Bribery Bill** - this Bill was introduced with its first reading in the House of Lords on 19 November 2009. The committee stage involving a line by line examination of the Bill began on 7 January 2010 and was completed on 13 January. The discussion included amendments to clause 12 of the Bill. The report stage is scheduled for 2 February 2010;
- **Crime and Security Bill** - this Bill was introduced with its first reading in the House of Commons on 19 November 2009. The second reading debate for this Bill took place on 18 January 2010. The dates for the committee stage of this Bill are 26 and 28 January 2010;
- **Equality Bill** - this Bill was originally laid before Parliament in the 2008/09 session and progressed as far as the committee stage. A carry-over motion to the 2009/10 session was agreed by the House of Commons on 13 May 2009. This means that the first reading, second reading and committee stages in the current session will be formal and without debate. A line by line examination of the Bill took place in the House of Lords during the second day of committee stage on 13 January 2010 where amendments were discussed covering clauses 10 to 29 of the Bill. The committee stage continued on 19 January 2010 when further amendments were discussed.

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

Home Office Response to Crime Counts Report

On 16 December 2009 the Home Secretary published a more detailed response to Her Majesty's Inspectorate of Constabulary (HMIC) review 'Crime Counts. A Review of Data Quality for Offences of the Most Serious Violence - Technical Report' (see *NPIA Digest* November 2009 edition, p27). The response was made jointly following agreement with the Justice Secretary and the President of ACPO, Chief Constable Sir Hugh Orde.

The joint statement provided comments and proposed next steps in respect of all the recommendations made by the HMIC report including:

Recommendation 1

Those forces with consistently high error rates in the areas tested should be subject to further review and inspection.

Next steps:

- ACPO, HMIC and the NPIA have been asked to compile examples of good practice for no crimes and 'additional verifiable information' recording. This could provide a baseline reference point for all force crime registrars. It is to be taken forward through the Home Office Counting Rules Working Group and it is expected to have the guidance approved for dissemination in February 2010;
- The process of refreshing the Data Quality Assurance Manual has started and will ensure the no crimes section is up to date and accurate and that examples of good practice are included. This will be taken forward through the Audit and Inspection Working Group and it is expected to have the refreshed manual approved for dissemination in February 2010;
- HMIC have been asked to test the efficacy of these processes as part of their inspection regime when they go to a force to review no crime data. HMIC have agreed to do this and are considering the introduction of a light touch regime of unannounced inspections to begin in the second half of 2010/11 once forces have an opportunity to put performance improvement measures in place. HMIC will communicate the format and timing of the inspection regime through the ACPO and the APA.

Recommendation 2

The Association of Chief Police Officers (ACPO) and the Home Office should define an acceptable error rate in recording crime that reflects public concerns in relation to offences of violence.

Next steps:

- ACPO will conduct a piece of work to examine the questions of data accuracy, compliance and audit in the context of maintaining a primary focus on serious crime and managing bureaucracy. This is to be set against the cost considerations of setting a minimum threshold for compliance. The findings will be considered by the Home Office and ACPO Performance Management Business Area in January 2010 for ratification and implementation from April 2010;

- From May 2010, force level data quality reviews will utilise the agreed banding system. The self-assessments will be sample tested annually on a risk-assessed basis in consultation with ACPO and the NPIA; and
- HMIC and ACPO will be asked to ensure that quantitative estimates of non-compliance are subject, on a risk assessed basis, to a qualitative assessment as to whether the non-compliant records demonstrate unacceptable practice as opposed to administrative failures in record keeping.

Recommendation 3

Forces should ensure that their crime-recording system *modi operandi* (MOs) contain sufficient information for a decision to be made on the correct crime classification.

Next steps:

- NPIA will be asked to take this forward as part of the exemplification of best practice work it is doing in support of the response to the HMIC recommendations more generally. The product from this work will be circulated to force crime registrars from February 2010; and
- The Home Office are working with HMIC to determine the review requirement in this area. Forces will be required to review compliance as part of their internal quality assurance processes. Compliance may also be monitored externally on a sample basis as part of the HMIC inspection and audit process.

Recommendation 4

There are a number of detailed recommendations in relation to Home Office Counting Rules.

Next steps:

Further actions were set out in the response in respect of the following:

- Record as charged Rule;
- Reclassification;
- Home Office Extranet;
- Injury clarity; and
- No crime.

Recommendation 5

The Ministry of Justice and the Home Office should consider a review of the Offences against the Person Act 1861 legislation.

Next steps:

- NPIA invited to support ACPO in the development of the business case and evidence base;

- ACPO will lead a workshop in February 2010 with the NPIA, Crown Prosecution Service, Ministry of Justice, Home Office and HMIC to support the development of the evidence base;
- Following the workshop, the Ministry of Justice, in consultation with the Home Office and Crown Prosecution Service, will consider the case for reviewing the Offences against the Person Act 1861 and how any action might be taken forward; and
- Careful consideration to be given to any evidence submitted in consultation with stakeholders and delivery partners.

The full response of the Home Secretary to all the HMIC recommendations set out in 'Crime Counts. A Review of Data Quality for Offences of the Most Serious Violence - Technical Report' can be found at http://www.homeoffice.gov.uk/documents/joint-response-crime-counts2835.pdf?view=Binary

The HMIC review 'Crime Counts. A Review of Data Quality for Offences of the Most Serious Violence - Technical Report' is available at http://www.hmic.gov.uk/SiteCollectionDocuments/Thematics/THM_20091020_1.pdf

10 Communities Sought for New Neighbourhood Agreement Initiative

On 12 January 2010 the Government issued an invitation for communities to step forward to lead the fight against crime and anti-social behaviour. Ministers are looking for ten areas to become pathfinders and to pioneer Neighbourhood Agreements on community safety and justice between police, councils and residents. The pathfinders will require police, councils and other agencies to agree service standards with local residents and enable the residents to hold them to account.

Communities which win the right to sign the first Neighbourhood Agreements will be able to help target the crime and anti-social behaviour that matter most in their local areas. The agreements will allow residents to have a say in how those issues are tackled, build better relationships with local service providers, understand better what services they are entitled to and how they can be improved.

Local Government areas, estates, neighbourhood policing team areas, crime and disorder reduction partnerships (CDRPs) and community safety partnerships (CSPs) can apply to become Neighbourhood Agreement pathfinders. Joint applications from local councils and police forces will be considered by a cross-departmental selection panel, which will pick the ten pathfinder areas. They will then be independently evaluated before the scheme is introduced in other areas across England and Wales in Spring 2011.

The Policing and Crime Minister David Hanson MP said "We want the public, wherever they live, to be confident their local police and council are tackling the crime and antisocial behaviour issues that matter in their area. That is why the only target we now set for police is to improve public confidence.

Neighbourhood Agreements will be a key part of how the police and other local agencies can work with communities to meet this aim."

Building on the experience of the Department for Communities and Local Government in developing community contracts across a wide range of services in England (for example on local environmental issues such as litter, graffiti, fly-tipping and street lighting and promoting healthy living) and core national standards such as the Policing Pledge, these pathfinders will specifically provide a way for communities and local partnerships in England and Wales to negotiate and agree local standards of service and priorities for action across the community safety and justice agendas, including anti-social behaviour.

Applications close on 29 January 2010 and the ten pathfinder areas will be confirmed in February 2010. More information is available at http://press.homeoffice.gov.uk/press-releases/pioneer-communities-sought.html

New Powers to Tackle Alcohol-Related Crime

The Home Secretary Alan Johnson announced on 19 January 2010 new proposals for a mandatory code for alcohol retailers. The proposed conditions of the mandatory code will now go before Parliament for approval. The power to introduce a mandatory code of conduct for alcohol retailers was granted through the Policing and Crime Act 2009, which received Royal Assent in November 2009.

Following a nationwide consultation, that generated more than 7,000 responses, the government has outlined five mandatory conditions to tackle alcohol-related crime and disorder, which costs the UK an estimated £8bn to £13bn a year. The conditions will be applied to all alcohol retailers to ensure consistent good practice and help to identify problem premises where irresponsible drinking could put individuals at risk and lead to crime and anti-social behaviour.

The proposed conditions are:

- Banning irresponsible promotions such as 'all you can drink for £10' offers, women drink free deals and speed drinking competitions. These promotions often encourage people to drink quickly or irresponsibly and could lead to crime or antisocial behaviour;
- Banning 'dentist's chairs' where drink is poured directly into the mouths of customers making it impossible for them to control the amount they are drinking;
- Ensuring free tap water is available for customers, allowing people to space out their drinks and reduce the risks of becoming dangerously drunk.
- Ensuring all those who sell alcohol have an age verification policy in place requiring them to check the ID of anyone who looks under-18 to prevent underage drinking which can lead to anti-social behaviour and put young people at risk of harm; and

- Ensuring that all 'on trade' premises make available small measures of beers, wine and spirits to customers so customers have the choice between a single or double measure of spirits and a large or small glass of wine.

Any premises that breach the mandatory code or any secondary conditions that have been imposed will face a range of possible sanctions including losing their licence, having additional conditions imposed on their licence or, on summary conviction a maximum £20,000 fine and/or six months imprisonment.

The full press release can be found at http://press.homeoffice.gov.uk/press-releases/powers-tackle-alcohol-crime.html

UK Foreign Bribery Strategy Published

The Ministry of Justice published the new UK Foreign Bribery Strategy on 19 January 2010. The new strategy complements existing international corruption strategies on anti-money laundering and asset-recovery.

The strategy sets out how the Government will address and manage the evolving challenges and establish a clear legal, regulatory and policy framework for action against foreign bribery. Law reform through the new Bribery Bill will underpin their approach but the strategy also reinforces links to the wider international anti-corruption agenda and will complement other UK efforts to combat international corruption.

The Government's work in this area will be co-ordinated under four strategic objectives:

- Objective 1 - To modernise and strengthen the UK law on bribery;
- Objective 2 - To encourage and support UK companies to establish and apply appropriate standards of ethical business conduct to combat foreign bribery;
- Objective 3 - To support effective law enforcement against foreign bribery and take proportionate action against those benefiting from foreign bribery; and
- Objective 4 - To reduce the demand for foreign bribery by strengthening international anti-corruption efforts.

The strategy provides that the Government will:

- Implement and monitor the strategy through the Foreign Bribery Strategy Board;
- Measure success through the delivery of specific pieces of work and performance in international anti-corruption surveys and corporate studies;
- Inform its work by ongoing dialogue with domestic stakeholders and international partners, and by analysis of trends from overseas corruption assessments and research; and

- Review the strategy in 2012 in the light of the UK's next Organisation for Economic Co-operation and Development evaluation, and provide annual progress updates to Parliament.

The UK Foreign Bribery Strategy document is available at http://www.official-documents.gov.uk/document/cm77/7791/7791.pdf

Government to Allow Wider Use of 20mph Schemes Without Speed Humps

The Road Safety Minister Paul Clark announced on 16 December 2009 new proposals to allow councils to put in place 20mph schemes over groups of streets without the need for traffic calming measures such as speed humps.

The Government is encouraging local councils to introduce 20mph schemes into residential streets and other roads where cycle and pedestrian traffic is high, such as around schools, shops and parks. In the past, councils wanting to implement 20 mph schemes on groups of roads have had to do so in 'zones' which require traffic calming measures such as speed humps. 20 mph limits without traffic calming were only recommended on individual roads.

A report published on 10 December 2009 in the British Medical Journal found that 20mph zones in London had led to a dramatic reduction in the number of accidents in those areas and called for more 20mph zones and limits to be put in place.

There are two ways of introducing 20mph schemes:

- 20mph zones, which require traffic calming measures at regular intervals as well as specific terminal signs at the start and end of the zone; and
- 20mph limits which are signed with terminal and regular repeater signs, but which do not require traffic calming measures. Under current Department for Transport guidance 20 mph limits without traffic calming are only recommended for individual streets.

Portsmouth City Council has installed signed-only 20mph limits on 410km (94%) of its 438km road network. Portsmouth is a densely built-up urban area and many of the roads treated had average speeds of about 20mph when the limits were installed. On the minority of roads where average speeds were more than 24mph, reductions in speed averaging 7mph have occurred. Early indications are that casualties are 15% less than before the speed limits were introduced and appear to indicate likely casualty benefits above the national trend.

The full report 'Interim Evaluation of the Implementation of 20mph speed limits in Portsmouth' is available at http://www.dft.gov.uk/pgr/roadsafety/research/rsrr/theme4/interimeval20mphspeedlimits.pdf

The British Medical Journal article 'Effect of 20mph traffic speed zones on road injuries in London 1986 - 2006: controlled interrupted time series analysis' can be found at http://www.bmj.com/cgi/content/full/339/dec10_3/b4469

Commons Committee Publishes Report on Case for Justice Reinvestment

The House of Commons Justice Committee (HCJC) published their first report of the 2009/10 session on 14 January 2010 entitled 'Cutting crime: the case for justice reinvestment'. The HCJC undertook the inquiry into 'justice reinvestment' because of three linked issues:

- First, the criminal justice system is a complex network of agencies with substantial public funding operating under increasing pressure but the different parts of the system do not seem to be pursuing the same goals or making cogent contributions to an agreed overarching purpose;
- Secondly, the Government's main answer to the current overcrowding of prisons and the predicted rise in the prison population is to provide more prison places rather than to seek to address the root causes of its growth; and
- Thirdly, it is clear that authorities and agencies outside the criminal justice system, with relevant objectives, remits and funding, could take more effective action to reduce both the number of people entering the criminal justice system in the first place and the likelihood of re-entry after serving a sentence.

The HCJC advise that the key priorities for government policy must include:

- Putting in place appropriate community-based services to prevent potential offenders from entering the criminal justice system and to divert them from the offending behaviour which can lead to custody;
- Creating a well-resourced, credible, nationally-available but locally-responsive system of community sentences that evidence shows would be more effective in reducing re-offending than custody and hence prevent low-level, but nevertheless persistent, offenders from remaining within the criminal justice system;
- Establishing a financially sustainable and effective sentencing framework that can deploy community sentences on an evidential basis, including a mechanism, via statutory provision if necessary, to ensure custody is used only as a last resort and promote the protection of the public by reducing crime effectively;
- Looking to the judiciary to adopt an active role within local criminal justice boards so that they better understand the outcomes of their sentencing decisions, and are enabled to draw lessons from what happens to those they sentence; judges and magistrates should be encouraged to work closer with criminal justice agencies as has been proved successful in community, and drug and alcohol, court initiatives;
- Establishing an institution, or other mechanism, to assess and report on the effectiveness of criminal justice interventions, in much the same way that NICE does in health care, in order to move policy onto a firmer evidential footing, responsive to public opinion but insulated from media-driven reactions to emotive cases; and

- Linking the planning and allocation of resources within the criminal justice system to the management and flow of relevant resources outside that system, principally at a local level.

The full House of Commons Justice Committee report 'Cutting crime: the case for justice reinvestment' is available at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmjust/94/94i.pdf

Improving Public Confidence in Police: Review of Evidence

The Home Office published research report 28 entitled 'Improving public confidence in the police: A review of the evidence' on 30 December 2009. The report aims to provide guidance on how to improve public confidence in the police. It summarises the available literature and reviews local practice schemes with the potential for wider implementation.

The interventions are classified into three categories:

- What interventions work;
- What interventions are promising; and
- What are the potential pitfalls.

The interventions with most potential are: embedding neighbourhood policing; high quality community engagement; local communications/newsletters; and restorative justice.

The key implications of the report include:

- A rapid assessment of the available literature on public confidence in the police as well as an assessment of local practice schemes with the potential for wider implementation was undertaken. Interventions were classified (according to the quality of evidence in support of them) into three main categories: what works; what looks promising; and potential pitfalls;
- Overall the evidence suggests that the strategies most likely to be effective in improving confidence are initiatives aimed at increasing community engagement. Three out of the four interventions classified in the 'what works' category included an element of communicating and engaging with the community (embedding neighbourhood policing; high quality community engagement; and use of local-level newsletters and communications;
- There is strong evidence to support the continuation and embedding of neighbourhood policing, though the quality of implementation is critical as all three components of neighbourhood policing (targeted foot patrol; community engagement; and effective problem-solving) need to be fully delivered to achieve intended impacts;
- Restorative justice face-to-face meetings mediated by police officers also improved perceptions of the criminal justice system, including the police;
- Among the interventions that looked promising for increasing confidence, targeting confidence-building activities to localised areas where they are most needed was of particular interest. If further evaluation shows this intervention to be successful, then it could prove an intelligent approach to efficiently achieving increases in confidence with limited resources;
- One considerable potential pitfall to increasing confidence is the organisational culture change required. If some police officers do not

believe that the community-policing approach is feasible or desirable then this can hinder the quality of delivery;

- To deliver any confidence-building intervention successfully, a high quality of implementation is required. Without high quality implementation there is a risk that a reduction in confidence could occur;
- It should not be assumed that the same interventions will work in every area and in every situation. The best practice for any community is one that fits their needs and conditions and is compatible with available resources;
- Local monitoring and evaluation of confidence related interventions should be undertaken to measure whether they are achieving their intended impact and revisions made as necessary; and
- Increasing and maintaining public confidence in the police should be seen as a long-term continuous process with time taken to understand and address the expectations of different communities.

The full Home Office Research Report 28 'Improving public confidence in the police: A review of the evidence' is available at http://www.homeoffice.gov.uk/rds/pdfs09/horr28c.pdf

Challenge to TACT Stop and Search Powers Allowed: Gillan and another v United Kingdom (European Court of Human Rights)

On 12 January 2010 the European Court of Human Rights handed down a judgment in the case of Gillan and another v United Kingdom (App. No. 4158/05) [2010] ECHR 4158/05.

The Chamber, consisting of 7 Judges, unanimously found that the powers of authorisation and confirmation as well as those of stop and search under sections 44 and 45 of the Terrorism Act 2000 ("the 2000 Act") were neither sufficiently circumscribed nor subject to adequate legal safeguards against abuse. They were not, therefore, 'in accordance with the law' and it followed that as a consequence of being stopped and searched, there had been a violation of Article 8 of the European Convention on Human Rights (ECHR), the right to respect for private and family life.

Background

Between 9 and 12 September 2003, the Defence System and Equipment International Exhibition ("the exhibition") was taking place at the ExCel Centre in Docklands, London, which was subject to demonstrations and protests. On 9 September, two individuals were separately stopped and searched under section 44 of the 2000 Act ("section 44") close to the exhibition.

The first individual, Mr Gillan, was stopped at about 10.30am, riding a bicycle and carrying a rucksack near the exhibition, on his way to join the demonstration. He was stopped and searched by two police officers under section 44 for articles which could be used in connection with terrorism and

was handed a notice to that effect. Nothing incriminating was found and he was allowed to go on his way after approximately 20 minutes.

The second individual, Ms Quinton, was also stopped close to the exhibition on the same day but at about 1.15pm, wearing a photographer's jacket, carrying a small bag and holding a camera in her hand. She showed her press cards to the police officer to identify herself and was told to stop filming. She was searched and as nothing incriminating was found, was allowed to go on her way. The record of the search showed she was stopped for 5 minutes although Ms Quinton thought it was more like 30 minutes. She also claimed to have felt so intimidated and distressed that she was not able to return to the demonstration.

Challenge to the Decision in Domestic Courts

Both individuals sought to challenge the legality of the stop and search powers used against them through the national courts by way of judicial review on three grounds. The first was that the authorisation and confirmation in question formed part of a rolling programme of authorisations covering the whole of London and is beyond the scope of the law as Parliament had intended authorisations to be given and confirmed only in response to an imminent terrorist threat in a specific location, where normal stop and search powers were inadequate. Secondly that the use of section 44 authorisation at the exhibition was contrary to the legislative purpose and unlawful and that the guidance given to police officers was either non-existent or could result in officers misusing the powers. Finally they claimed that the section 44 authorisations and the exercise of powers interfered with rights under the ECHR.

The High Court, The Court of Appeal and the House of Lords all dismissed the challenges as they found that the powers were provided for by law and not disproportionate given the risk of terrorist attacks in London. The House of Lords in its judgment ([2006] UKHL 12) stated that the rolling programme of authorisations had not been beyond the limit of powers conferred on to the police and that the legislation embodies a series of constraints, such as:

- The person authorising section 44 use must be of a very senior rank (at least the rank of Commander of the Metropolitan Police or Assistant Chief Constable in other force areas);
- It may only be given if the person authorising considers it expedient for the prevention of acts of terrorism;
- It can not extend beyond the boundary of a police force area;
- It is limited for a period of 28 days;
- The authorisation must be reported to the Secretary of State, who may abbreviate the term of the authorisation or cancel it;
- The authorisation lapses after 48 hours if not confirmed by the Secretary of State; and
- Parliament made provision that reports on the working of the 2000 Act must be made at least once a year.

There are also constraints on its use, as the powers conferred on a constable through section 44 may only be exercised to search for articles of a kind which could be used in connection with terrorism and any misuse will expose the person to correct legislative action.

Doubts were raised as to the applicability of Article 5 (the right to liberty and security), Article 8 (the right to respect for private and family life), Article 10 (the right to freedom of expression) or Article 11 (the right to freedom of peaceful assembly and freedom of association with others) of the ECHR and the House of Lords found that there was no violation of these rights. (Although it had been conceded by the Commissioner of the Metropolitan Police in The Court of Appeal ([2004] EWCA Civ 1067) that the stop and search measures amounted to an interference with the individual's Article 8 rights, it was decided that the interference was in accordance with the law). They also considered the requirement of lawfulness under the ECHR as there must not be arbitrary use of section 44 and agreed that if a constable uses that power only for reasons connected with terrorism and does not discriminate, they are acting within those limits and not arbitrarily.

Application to European Court of Human Rights

An application (no. 4158/05) was made against the United Kingdom and lodged with the European Court of Human Rights ("the Court") in 2005 with the hearing taking place in May 2009. It was alleged that the powers of stop and search under sections 44-47 of the 2000 Act used against Mr Gillan and Ms Quinton by the police breached their rights under Articles 5, 8, 10 and 11 of the ECHR. The application focussed on the general compatibility of the stop and search powers with the above provisions of the ECHR.

The first contention was that when the police offers stopped and searched them, they were subjected to a deprivation of liberty within the meaning of Article 5 ECHR. Both individuals had no choice as to whether to comply as they would have been liable to criminal prosecution had they not. The argument followed that the measures in question were not lawful, given the breadth of the search power and the fact that a person could be required to remain with the police officer for as long as was reasonably necessary to permit the search to be carried out. The Court said that although both individuals were held less than 30 minutes, during that period they were entirely deprived of any freedom of movement. They were obliged to remain where they were and submit to the search or be arrested and this element of coercion is "indicative of a deprivation of liberty within the meaning of Article 5". The Court did not finally determine whether there was an actual violation of Article 5 in light of its findings in connection with Article 8.

In considering whether the stop and search measures amounted to an interference with the individuals' right to respect for their family life, the Court did not accept the analogy drawn in the House of Lords that Article 8 was not engaged because "an ordinary superficial search of the person and an opening of bags, of the kind to which passengers uncomplainingly submit at airports, ...can scarcely be said to reach" the requisite level of seriousness.

The freedom to travel by air was conditional upon agreeing to be searched and a person could choose not to travel by air or leave behind anything they would

not wish to have examined in public. The search powers under section 44 are qualitatively different. The individual can be stopped anywhere and at anytime, without notice and without any choice as to whether or not to submit to a search, sections 44-47 of the 2000 Act permit a constable in uniform to stop any person within the geographical area covered by the authorisation and physically search the person, without the need for any reasonable suspicion.

Although the search is undertaken in a public place, it does not mean that Article 8 ECHR is inapplicable and the Court considered that the search of both individuals constituted an interference with their right to respect for private life. Such an interference could only be justified under paragraph 2 of Article 8 ECHR if it is "in accordance with the law", and is "necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".

Although the House of Lords considered that the discretion given to the police, both in terms of the authorisation of the power to stop and search and its application in practice was subject to effective control, the Court was concerned with the breadth of the discretion conferred on the individual police officer. The decision to use this power is based solely on the "hunch" or "professional intuition" of the officer concerned. There is no necessity to demonstrate the existence of any reasonable suspicion or subjectively suspect anything about the person. The sole proviso is that the search is for the purpose of looking for articles which could be used in connection with terrorism.

The law must be adequately accessible and foreseeable, that is, formulated with sufficient precision to enable the individual, if need be with appropriate advice, to regulate their conduct and the law must also afford a measure of legal protection against arbitrary interferences by public authorities.

The Court found that there is a risk of arbitrariness in the grant of such a broad discretion to a police officer. The powers of authorisation and confirmation as well as those of stop and search under sections 44 and 45 of the 2000 Act are neither sufficiently circumscribed nor subject to adequate legal safeguards against abuse and were therefore not "in accordance with the law" and that there had been a violation of Article 8 ECHR.

Due to its findings the Court did not consider it necessary to examine the complaints under Articles 10 and 11 ECHR and considered that the finding of a violation of Human Rights would be just satisfaction for the individuals. The Court did not award them any monetary compensation but awarded them €35,000 to cover costs for legal fees.

The full judgment of Gillan and another v United Kingdom (App. No. 4158/05) [2010] ECHR 4158/05 can be found at http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=860909&portal=hbkm&source=externalbydocnumber&tabl

New Youth Taskforce Survey Data on Perceptions of Anti-Social Behaviour Published

The Department for Children, Schools and Families published on 6 January 2010 the results of the Youth Taskforce survey that indicated that while respondents have noticed an increased police presence two thirds of those surveyed think anti-social behaviour has stayed the same or has got better.

The survey also shows broad support for the approach set out in the Youth Crime Action Plan with 80% saying more positive activities for young people and confiscating alcohol is the right thing to do and 90% felt it was a good idea to make alcohol more difficult to buy.

The key findings of the survey include:

- Street based teams have dealt with over 86,000 young people at risk in priority areas, redirecting them to support services and positive activities;
- Since 2008, 28,000 disruptive young people have faced measures and support to tackle their behaviour through 'Challenge and Support' projects, with 2165 Acceptable Behaviour Contracts and 313 Anti-Social Behaviour Orders issued;
- 517 young people have benefitted from targeted and persistent support through the 'Intensive Intervention Projects'; and
- Recent data from the British Crime Survey shows that concerns about teenagers hanging around have dropped by 3% over the last two years.

The full report including findings from the survey and qualitative research with young people will be published at the end of February 2010. The full press release can be found at
http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2010_0008

Further Advice from NPIA and Department for Transport on Use of Mobile Data Terminals in Vehicles

Following a number of responses from forces to the original advice from the Department for Transport (DfT) (see *NPIA Digest* December 2009 edition, pp38-39) a further briefing was issued by the NPIA and the DfT which seeks to provide further clarification regarding Mobile Data Terminals (MDTs) being visible to the driver whilst the vehicle is in motion.

Background

The DfT view is that if the type of device or screen used becomes an issue it may lead to the regulation being re-written to include the current LED, LCD, Plasma and any other technology, as that is the intention of the legislation. Please note that any advice or interpretation of the legislation given in the briefing would be subject to ratification in a court of law.

Further clarification from DfT

The DfT interpretation is that the legislation is to protect the driver from being distracted from their primary duty of driving safely and not the type of screen used to display information to them. Clarification has been sought to determine whether there is specific guidance on what is deemed to be within the visible range of the driver.

The rationale being, if the legislation did not apply to all screens there would be no need for a specific exemption for items like Sat Nav which are not 'television receiving apparatus' or 'other cinematographic apparatus'.

Clarification has also been sought on the use of in vehicle screens for controlling or operating radios, lights, sirens etc. and whether these are included in the exemptions concerning the use and location of the vehicle. It is believed that a display relating to the state or use of the radio, lights etc. within the vehicle would fall within exemptions A (the state of the equipment) and C (for lighting to see the road adjacent to the vehicle).

This is different to the use for ANPR or Speed Enforcement as they do not relate to the state of the vehicle being driven or assist the driver to see the road adjacent to the vehicle. This view is, again, subject to verification in a court of law.

The Way Forward

There are three options:

- Option 1 - Accept local interpretation and legal advice and await case law judgment for clarification;
- Option 2 - Accept the DfT guidance and look for process and technical solutions to reduce the impact on the benefits to policing; or
- Option 3 - Build a case to convince DfT and potentially the legislators that justifiable grounds exist to seek specific exemptions to the legislation.

The first option may be attractive to forces, however, it brings with it risk in terms of losing workarounds if challenged, it does not support the officers and has the potential for reputational damage. This is not a position the NPIA MIP supports and any force taking this option would be accepting those risks.

The solution sits within a combination of options 2 and 3. A high level summary of the more common uses of the screens, including the benefits, for ANPR and Mobile Information have been submitted to the DfT. The initial response is that the case is not made for either use, whilst driving, in the current legislation. It is, however, believed that it may be possible to make a case for a legislation change for ANPR and speed enforcement.

Forces are now requested to review their current use of the screens. The review should look for any process or technical changes that would ensure their use meets the DfT guidance without significant impact on the benefits to policing.

The full briefing advice is available at
http://www.npiaextranet.pnn.police.uk/microsite/mobile_data/contribution_mobile_data/documents/MIP001-0000-MDT_Briefing_2-251109-v0_7.pdf

New Statistics Show Reduction in Violence at Football Grounds

22 December 2009 the Home Office published the latest report on 'Statistics on Football-Related Arrests and Banning Orders Season 2008-09'. The Home Office Minister David Hanson announced that football-related arrests for violence had dropped by 5% last season.

The latest statistics for the 2008/09 season included:

- 3,752 arrests were made at domestic and international matches in England and Wales, down 2% on the year before;
- There were 1.18 arrests per game;
- No arrests at 67% of all international and domestic football matches;
- The number of football banning orders on 10 November 2009 was 3,180 which represented 956 new orders imposed in the last year; and
- 92% of individuals whose banning orders have expired are assessed by police as no longer posing a risk to football disorder.

The full statistical report 'Football-Related Arrests and Banning Orders for Season 2008/09' which includes a full break-down by club can be found at http://www.homeoffice.gov.uk/documents/football-arrests-08092835.pdf?view=Binary

PNLD Relaunch Online 'Ask the Police' Facility

The Police National Legal Database (PNLD) is currently relaunching their free 'Ask the Police' website. There is a bank of around 700 questions that the police are most frequently asked by the public which can be found on the website. The online facility is supported by the Police Service nationally. It is part of a national initiative to enhance customer satisfaction by assisting the public to find solutions to everyday problems that can affect the quality of their lives.

The free-to-use and easy-to-navigate website offers a range of answers and useful contacts. Each police force has a direct link to 'Ask the Police' from their main website. The facility is designed to help to release precious time in police call centres and police stations by freeing up resources to be re-allocated to frontline policing.

PNLD, authors of the legal database, created the 'Ask the Police' website, and are leading the national promotion to raise public awareness of the service. PNLD would like to encourage police staff and officers to join in this campaign to empower the public to find the answers they need and to help to increase customer confidence and satisfaction levels across the country.

A spokesperson for 'Ask the Police' said "The range of questions is comprehensive, covering a wide range of subjects from road traffic to harassment and public order. New questions are being continually added and

we are encouraging the public to submit any questions they may have to the editors of the website who will consider them for inclusion nationally."

The 'Ask the Police' website can be found at https://www.askthe.police.uk/default.mth

Custody Email Network Sharing Information and Best Practice

On 1 July 2009 Bedfordshire Police launched a new 'Free' secure communications system called the 'Custody Email Network' aimed at custody managers and staff. This was the third in a series of three networks launched by Bedfordshire Police, the others include the CJS Email Network (Criminal Justice matters), and the CAU Email Network (vehicle collision matters).

Six months after its launch, the Custody Email Network is now used by every force in England, Wales, Northern Ireland, Scotland, Isle of Man and Guernsey. Other participants include the National Policing Improvement Agency, the Royal Military Police and the Ministry of Defence Police. The network has assisted with reducing costs and improving time-management for participating forces.

Further information regarding the Custody Email Network is available from David Wilson by telephone on +44 (0)1234 716341 or via email at Dave.wilson@bedfordshire.pnn.police.uk

Scotland's Annual Report 2008/09 on the Policing Performance Framework Published

HM Inspectorate of Constabulary for Scotland (HMICS) published on 20 January 2010 the second annual report on the Scottish Policing Performance Framework 2008/09. The report highlighted three areas of policing performance where improvements were required.

The three areas to be improved are:

- **User Focus**
  The report states that more work needs to be done by forces in capturing the experiences and views of victims. The latest survey figures show that although the majority of respondents are confident in their force's general abilities, confidence levels are nevertheless relatively low on a number of key activities including preventing crime, responding quickly to calls and catching criminals. (Further inspection work in relation to the service provided to victims of crime will be carried out by HMICS in the coming year).
- **Working with partners in the criminal justice system**
  In seeking the outcome of more effective justice, the report highlights the numbers of cases where proceedings were not taken and where there was insufficient evidence. Attention is also drawn to the varying use and conformity rates across forces of Anti-social Behaviour Fixed Penalty Notices and Formal Adult Warnings.

- **Police personnel**
  While inroads have been make in reducing sickness absence rates, there continues to be a difference between the police officer and police staff rates, with police staff being consistently higher. The report states that this finding merits further investigation.

The Scottish Policing Performance Framework Annual Report 2008/09 can be found at http://www.scotland.gov.uk/Publications/2010/01/14104924/0

Operation of Terrorism Act 2000 in Northern Ireland Statistics Published

The Northern Ireland Office released on 17 December 2009 their Research and Statistical Bulletin 10/2009 entitled 'Northern Ireland Statistics on the Operation of the Terrorism Act 2000: Annual Statistics 2008'. The bulletin provides key Northern Ireland specific Terrorism Act 2000 statistics for the calendar year 2008.

The main points reported by the latest Research and Statistical Bulletin during 2008 are:

- There were 59 designated cordons under section 33;
- Under section 37, Schedule 5, there were 108 premises searched under warrant by the Police Service of Northern Ireland;
- There were 150 persons detained under section 41 of the Act, 125 (83%) of whom were held for 48 hours or less;
- There were 24 applications for extensions of detention, all of which were granted;
- 28 persons were charged with 60 offences including 6 persons charged with murder, 20 firearms offences and 4 explosives offences;
- 6 persons were charged with 7 Terrorism Act offences including 3 for possession for terrorist purposes, 2 offences under section 15 (fundraising) and 2 offences for membership;
- There were 54 requests to have someone informed of detention, all of which were granted immediately;
- There were 148 requests for access to a solicitor, 147 of which were granted immediately;
- Under section 44, there were 6,922 persons, and 6,016 vehicles stopped and searched during 2008;
- Under section 80, of the 28 persons sentenced for a scheduled offence none had committed the offence during a period of remission from prison;
- There was 1 requisition order and 5 de-requisition orders made during 2008; and
- Compensation payments (including solicitors' and loss assessors' fees and Agency payments) totalled £129,689.

The full Research and Statistical Bulletin 10/2009 'Northern Ireland Statistics on the Operation of the Terrorism Act 2000: Annual Statistics 2008' is available at
http://www.nio.gov.uk/2009_-northern_ireland_statistics_on_the_operation_of_the_terrorism_act_2000__annual_statistics_2008.pdf

APA Praises Police Authorities' Financial Reporting

On 17 December 2009 the Association of Police Authorities (APA) publicly praised the performance of police authorities across England and Wales following publication of a report by the Audit Commission. The report entitled 'Auditing the accounts 2008/09: Local authorities' showed that every police authority met or exceeded expectations in financial reporting.

APA Chair Rob Garnham said "The APA is delighted with the performance of all police authorities in the Audit Commission's financial reporting audit. This means that every police authority has met or exceeded the expectations of the Audit Commission's Use of Resources Framework, despite the changes to the auditing arrangements this year, which represent the setting of a higher bar and more ambitious expectations of the way that resources are used. This is a significant achievement for police authorities, and one that deserves much credit."

The report also indicated that all accounts were produced in a timely fashion, with the result that no police authority has been named for falling short of expectations about quality or timeliness.

The full report 'Auditing the accounts 2008/09: Local authorities' can be found at
http://www.audit-commission.gov.uk/SiteCollectionDocuments/Downloads/AuditingTheAccounts200809LocalGovernment.pdf

ESRC Report States Police Service Facing Unprecedented Challenges Amid Global Recession

On 21 December 2009 the Economic and Social Research Council (ESRC) published 'What is policing for? Examining the impact and implications of contemporary policing intervention' which highlights the views of experts presented during a Public Policy Seminar series organised by the ESRC in collaboration with the Scottish Institute for Policing Research, The Police Foundation and the Universities' Police Science Institute.

In the booklet, seminar speakers draw on the latest research findings to offer their answers to crucial questions such as:

- How responsive should policing be to community priorities and concerns?
- Can and should the police solve more crime? and
- What is the role for policing in securing economic and social well-being?

The police service faces a host of new challenges but also opportunities in the wake of the 9/11 and 7/7 terrorism attacks and the global economic downturn. Dr Timothy Brain, Chief Constable of Gloucestershire said "In many respects policing has never been stronger. It has emerged from the racial, political and social tensions of the 1980s and 1990s, and is delivering historically low levels of recorded crime. And yet all this achievement now hangs in the balance. First there is the threat of the deepening recession, then over-centralisation. Closely allied to centralism is bureaucracy. The final threat is that of politicisation. Times change; the police service must change. How the service should change is now the crucial question."

Professor Robin Williams of Durham University said "The use of forensic science, particularly DNA profiling, is now increasingly central to contemporary policing because it contributes to efforts to arrive at the truth amidst conflicting stories from victims, witnesses and suspects. However, some recent studies point to the dangers of misplaced confidence in many claims to scientific 'certainty' in the application of forensic technologies and their effective uses for crime control."

At the same time, police officers face the pressure of quantitative targets and league tables allied with budgetary constraints, and what Sally Burke, Chief Superintendent in South Wales Police, refers to as the "perception gap" the fact that crime has been reduced significantly over the last decade, yet the fear of crime has not as most people do not believe the reported figures. But as Nigel Fielding, Professor of Sociology at the University of Surrey concludes "Police efforts can never fully meet the public's feelings of insecurity, which vary considerably. The police have to decide priorities, and that is, ultimately, a question of discretion."

The full report 'What is policing for? Examining the impact and implications of contemporary policing interventions' is freely available on request by email to knowledgetransfer@esrc.ac.uk

The full press release can be found at http://www.esrc.ac.uk/ESRCInfoCentre/PO/releases/2009/december/police.aspx

Hate Crime Report Shows Rise in Prosecutions

On 16 December 2009 the Crown Prosecution Service (CPS) published its annual Hate Crime Report for 2008/09 which shows convictions for hate crime has risen by 8% to 82% in four years. The report shows that progress has been made in the prosecution of all types of hate crimes, racist and religious aggravation; homophobic, transphobic; and disability hate crimes.

The key facts of the annual report 2008/09 include:

Hate crime

- In the four years ending March 2009, over 49,200 defendants were prosecuted for hate crimes;
- The conviction rate rose from 74% in 2005/06 to 82% in 2008/09;
- Guilty pleas increased from 64% to 69%;
- The majority of defendants across the hate crime strands were men;
- Data on victim demographics are less complete and remain under development. However, where gender is known, men formed the largest proportion of victims across all strands, at 68% of the total;
- The most commonly prosecuted offences were those against the person and public order offences (43% and 40% of the total respectively); and
- 75% of hate crime defendants were identified as belonging to the 'White British' category, and 79% were categorised as 'White'.

Racist and religious crime

- In the four years ending March 2009, over 45,200 defendants were prosecuted for crimes involving racist or religious crime;
- Convictions rose from 74% in 2005/06 to 82% in 2008/09;
- Guilty pleas increased from 64% to just under 70%; and
- 85% of defendants were men.

Homophobic and transphobic crime

- In the four years ending in March 2009, over 3,400 defendants were prosecuted for homophobic or transphobic crimes;
- Over the same period, convictions rose from 71% to 81%;
- Guilty pleas increased from 58% to 67%; and
- 86% of defendants were men.

Disability hate crime

- In the two years ending March 2009, 576 defendants were prosecuted for disability hate crime; and
- In 2008/09 76% of cases resulted in conviction. There were 299 cases successfully prosecuted in 2008/09 compared to 141 in 2007/08.

Keir Starmer QC, said "Being targeted because of your race, religion, sexuality or disability is a profoundly isolating experience and one we will prosecute wherever possible. People from all communities have a legitimate right to expect protection from the prejudice and discrimination that are at the root of hate crime."

The second annual Hate Crime Report 2008/09 is available at http://www.cps.gov.uk/publications/equality/

Home Office Publishes Latest Quarterly Update on Crime in England and Wales

The Home Office published the latest statistical bulletin 'Crime in England and Wales: Quarterly Update to September 2009' on 21 January 2010. This bulletin was released along with the 'Homicides, Firearm Offences and Intimate Violence 2008/09: Supplementary Volume 2 to Crime in England and Wales 2008/09' and for the first time, rolling 12 month statistics at police force area level are being published alongside the quarterly bulletin. These statistics cover a range of recorded crime offence groups and British Crime Survey (BCS) findings on confidence and perceptions.

The Policing and Crime Minister, David Hanson MP said "The figures showed that across the country burglary, robbery and violence were all down and, overall, police recorded crime had reduced by 8%. I'm very pleased to see that confidence in the police and councils is increasing and the number of people worried about high levels of anti-social behaviour has fallen to 15% the lowest on record."

The main points of the bulletin include:

- Based on British Crime Survey interviews in the year to September 2009, the overall level of crime is stable compared with the year ending September 2008. The number of crimes recorded by the police fell by 8% for the period July to September 2009 compared with the same quarter a year earlier;
- BCS interviews showed the risk of being a victim of crime fell from 23% to 22% compared with the previous year. This figure is historically low;
- Compared with the year ending September 2008, BCS household crime showed a decrease of 8%, mainly due to a fall of 12% in vandalism. There was no change in the level of personal crime as estimates of all BCS personal crime categories (violence, theft from the person and other personal theft) remained stable;
- There were falls in all the police recorded crime offence groups for July to September 2009 compared with the same period in 2008, with the exception of sexual offences (which increased by 5%). Notable falls included:
  - Offences against vehicles by 20%;
  - Criminal damage by 11%;

- Robbery by 9%;
- Burglary by 8%;
- Although other theft offences showed a 5% fall, within this category there were increases of 7% for both theft from the person and theft of pedal cycles.

- BCS burglary remained stable based on interviews in the year ending September 2009 compared with the previous year. For the period July to September 2009, both police recorded domestic burglaries and other burglaries fell by 8%;
- Police recorded robberies fell by nine per cent overall; those involving knives or sharp instruments decreased by 16% over the same period;
- There was a 3% rise in firearm offences recorded by the police in July to September 2009, compared to the same period in 2008;
- There was a significant reduction in the proportion of people with a high level of perceived anti-social behaviour compared with the previous year (from 17% to 15%) with five of the seven indicators making up the composite index showing reductions; and
- BCS interviews in the year to September 2009 showed that 50% of people agreed that the police and local agencies were dealing with the antisocial behaviour and crime issues that mattered in their area, compared with 46% in the year to September 2008.

The Home Office Statistical Bulletin 'Crime in England and Wales: Quarterly Update to September 2009' can be found at http://www.homeoffice.gov.uk/rds/pdfs10/hosb0210.pdf

The 'Homicides, Firearm Offences and Intimate Violence 2008/09: Supplementary Volume 2 to Crime in England and Wales 2008/09' is available at http://www.homeoffice.gov.uk/rds/pdfs10/hosb0110.pdf

The rolling 12 month statistics at police force area level can be found at http://www.homeoffice.gov.uk/rds/pdfs10/hosb0210pftabs.xls

Tackling Violence against Women and Girls: New Guide to Good Practice Communication

The Government Equalities Office has released online guidance to communications and a toolkit in order to support and inform government communication in the area of violence against women and girls (VAWG).

This is the first guidance of its kind on this topic and it is designed to support communication and support activity around the cross-government VAWG strategy 'Together We Can End Violence against Women and Girls'.

The online guidance 'Tackling Violence against Women and Girls: A Guide to Good Practice Communications' is available at http://www.equalities.gov.uk/pdf/297847%20Tackling%20Violence%20women%20hyperlinked_V3.pdf

New Report on Government Policies Towards Children, Young People and Crime

The Centre for Crime and Justice Studies published the first in a series of three papers which form part of their contribution to the Transition to Adulthood Alliance established by the Barrow Cadbury Trust. The first paper entitled 'Risky people or risky societies? Rethinking interventions for young adults in transition' was published in December 2009.

The purpose of the paper was to explore the ideological and evidential basis for contemporary policy in relation to children, young people and crime, and its institutional and practice framework. The paper considered representative examples of current policy agendas and the intellectual underpinnings of those agendas.

The paper is divided into four sections:

- The first section examines government policy in relation to so-called 'risk factors' for crime and offending, using the Youth Crime Action Plan 2008 as the basis for discussion;
- The second section explores the intellectual underpinnings of current government policy, examining the work of David Farrington, one of the most influential figures in risk factor research;
- The third section offers some critical reflections on the political context for current risk-based policies, drawing in particular on the work of Derrick Armstrong; and
- The fourth section outlines a different way of conceptualising the problems brought to the fore by risk factor research, drawing on recent work by public health specialists.

The paper concluded that the risk-based approach to children and young people was overly reliant on a limited set of research questions and a misunderstanding of the research base. The result is that many of them have first come to the attention of government agencies as 'risky' children and young people who are then subjected to a range of 'early interventions' to divert them from crime. Many of which will place them into what the author considers to be "wasteful, counterproductive and prolonged interventions into their own lives and those of their families". The author also concludes that "Meanwhile the socially mediated risks and vulnerabilities they face and experience in their everyday lives are largely ignored. There is much talk of the risk posed by children and young people to others. There is much less consideration of the risky social arrangements that result in so many children and young people growing into a young adulthood marked by poverty, insecurity and mental distress."

The full report 'Risky people or risky societies? Rethinking interventions for young adults in transition' is available at
http://www.crimeandjustice.org.uk/opus1736/T2A1risk.pdf

Home Office Publish Drug Treatment Outcomes Research Study

On 14 December 2009 the Home Office published Research Report 26 'The Drug Treatment Outcomes Research Study (DTORS): Qualitative Study'. The report describes the findings from the qualitative study of the DTORS and was designed to update existing knowledge on the effectiveness of drug misuse treatment in England within the context of changing patterns of drug use and an expansion in criminal justice referrals using stakeholder and client perspectives.

The key findings include:

Treatment needs

The needs of treatment seekers in this research were seen as reflecting the set of pressures directly reinforcing their drug-taking behaviour. These pressures were: drug-taking rewards; physical need; cognitive dependence; the impacts of dependence; and underlying vulnerabilities.

Motivation to change

Some treatment providers and treatment users made the distinction between motivation that was just at the surface level and a 'deep' level of motivation. It was reported that 'surface'-level motivation could lead to positive short-term impacts but was seen as unlikely to lead to longer-term recovery.

Referral to treatment via the criminal justice system did not seem to affect treatment seekers' motivation positively or negatively.

Capacity for recovering from addiction

Some treatment seekers with considerable issues, such as childhood trauma, seemed able to address their dependence with limited input from service providers. Conversely, some people with fewer issues and who received much more help showed little change in their drug use. This indicated that treatment seekers had varying capacity to address their own problems or respond to help or treatment.

Impact of personal and local environment

The context in which treatment was taking place was seen as being able to either help or hinder change. Key factors included the level of drug taking in a participant's immediate environment; the presence of stressors in their life (particularly their housing situation); the presence or lack of a support network; and the attitude and approach of non-specialist services.

Response of service providers

The importance of key workers building trust with clients was emphasised by both treatment providers and treatment seekers. Barriers to engagement with treatment services identified by treatment seekers included waiting times and difficulties in maintaining engagement at transition points, such as leaving prison.

Barriers to assessment identified by treatment seekers included providers making inaccurate assumptions about the reasons behind their drug taking making them feel that the treatment being recommended was not appropriate.

Barriers to referral described by some service providers included a reluctance to refer clients between treatment services because of fear of loss of funding, and reports from some treatment providers that other services, such as mental health, did not want to accept clients while they were still using drugs.

Barriers to delivery described included service instability, high case loads, lack of training, and inexpert or insensitive delivery of interventions.

Problems with a lack of aftercare in some cases and negative attitudes among some service providers were also identified.

The range of positive and negative impacts from the increase in referrals through criminal-justice-system routes was recognised by service providers. The benefits were felt to include increasing the numbers in treatment of people who would otherwise not have accessed drug treatment; the negative impacts were felt to include treatment services being under resourced to cope with the additional high volume of clients.

Outcomes of contact with treatment providers

Five categories of outcome were constructed based on the accounts of treatment seekers. These were:

- Recovering;
- Stalled progress;
- Illicit substance replaced;
- Relapsed; and
- No change in original behaviour.

The key implications of the report are that:

- The findings highlight the complexity of drug treatment and are suggestive of the need for drug treatment to be sufficiently flexible to enable consideration of the range of pressures reinforcing an individual's dependency;
- A deep level of motivation on the part of the treatment-seeker was key to successful drug treatment; and
- A current challenge to service providers was responding comprehensively to clients' needs against a backdrop of increasing numbers and longer retention in drug treatment.

The full Home Office Research Report 26 'The Drug Treatment Outcomes Research Study (DTORS): Qualitative Study' can be found at http://www.homeoffice.gov.uk/rds/pdfs09/horr26c.pdf

Tackling the Demand for Prostitution: Assessment of Research Evidence Published

The Home Office published Research Report 27 entitled 'Tackling the demand for prostitution: a rapid evidence assessment of the published research literature' on 15 December 2009. The report is part of the Tackling Demand for Prostitution Review which aimed to assess what further action the Government and other agencies could do to reduce the demand for prostitution.

This research report included 181 studies from selected countries which met the inclusion criteria. The findings highlight the characteristics and motivations of those who procure sex, the contexts in which they procure sex, and 'what works' in tackling the demand for prostitution.

The report found that methodological difficulties plague research into clients of prostitutes. There are many gaps in the research and much of the evidence is weak or inconclusive, particularly with regard to 'what works' in reducing demand. It was also noted that prostitution is a policy domain for which the 'right' answer may not be determined solely by reference to the evidence. There are moral, political and other influences that need to be considered when tackling the demand for prostitution.

The key findings of the research include:

- Because of the often hidden and stigmatised nature of prostitution, it is very difficult to produce reliable and accurate estimates of the number of people who procure sex and estimates vary depending on the method of calculation;
- Suggested motivations for paying for sex include:
  - Desiring sexual variety;
  - Dissatisfaction with existing relationships;
  - Sexual gratification;
  - Loneliness, shyness or incapacities (mental and physical);
  - Having no other sexual outlet;
  - Being separated from a partner by travel; and
  - Curiosity, risk or excitement; to exercise control.
- Efforts to reduce demand seem to have mixed results, although the evidence is weak. It appears that the consequences of policy change are often hidden or practically immeasurable. Also, the risk of displacement threatens to negate any gains of enforcement activity by making prostitution an even more hidden and secretive enterprise;
- Although the evidence base is weak and largely inconclusive, the review highlights a number of interventions:

- Road management schemes in the UK, as part of a co-ordinated strategy, appear to reduce street prostitution at least in the short-term, but the impact on overall demand is unknown;
- Naming and shaming' tactics appear to offer potential in reducing demand, but there is a lack of robust evaluation of their impact, and of the consequences on family members;
- The research suggests that arrest of the client may be the single biggest specific deterrent, likely because of clients' fear of the informal ramifications of exposing their behaviour, but that the risk of arrest is so low that there is little, if any, general deterrence;
- Educative approaches, such as 'John schools', have demonstrated attitude change but have not changed behaviour; and
- In Sweden, criminalisation of demand appeared to coincide with a reduction in street prostitution although some findings suggest a decline in the working conditions of street prostitutes and an increase in size of the indoor market.

The review highlights the major gaps in the evidence base and that the evidence provided is largely weak and inconclusive. The authors state that given finite resources, policy makers need to decide whether they wish to tackle all demand (including buying sex abroad), all domestic demand, or the demand for street prostitution. That decision will have significant implications for the strategies adopted and resources needed in terms of policing and delivering.

The full Home Office Research Report 27 'Tackling the demand for prostitution: a rapid evidence assessment of the published research literature' is available at http://www.homeoffice.gov.uk/rds/pdfs09/horr27c.pdf

Study Finds that Embarrassed Victims of Scams Want More Support

The Institute of Criminal Justice Studies at the University of Portsmouth published on 18 December 2009 a new research study undertaken by Dr Mark Button on behalf of the National Fraud Authority entitled 'A better deal for fraud victims: Research into victims' needs and experiences'. The report found that victims of spam emails, phishing, identity theft and fake lotteries feel embarrassed at being taken in and want better advice and support to avoid falling prey again.

The results of the largest survey of victims of fraud ever undertaken in the UK indicates that victims are distressed by what has happened to them and struggling to find support or even the right place to report the crime. The National Fraud Authority has announced that it is to launch a helpline for people wanting to report fraud and be given advice on how to avoid becoming a victim. Fraudsters steal an estimated £14bn from people a year in England and Wales and their profits are often used to fund more serious crimes including people and drug trafficking.

Dr Button said "Many fraudsters worked on the principle of 'pile them high, sell them cheap' by asking for small amounts of money from millions of people. One of the reasons they were so successful in netting billions of pounds a year was because many victims of scams think it's worth paying a small price to 'be in with a chance' if the scam turned out to be a genuine offer or prize. Many successful fraudsters keep and sell 'sucker lists' of those who have been gullible and handed over money to them in the past and then repeatedly target them with different scams in a variety of formats."

The research team quizzed the victims of four types of fraud:

- Scam emails (including the infamous Nigerian emails);
- 'Boiler room' scams (where fraudsters sell shares at inflated prices over the telephone);
- Identity fraud (where fraudsters open credit cards and take out loans in the victims' names); and
- Fraud against small businesses.

The Nigerian email scam alone persuades 70,000 people a year in England to part with an average £2,858 each, according to figures from the Office of Fair Trading.

The report authors recommended, among other things, that victims be offered tailored support including financial management, anger management and relationship support. They also suggested that laws could be reformed to allow the partners and relatives of victims greater scope to intervene where the victim was unable to take their own action.

The National Fraud Authority and the Association of Chief Police Officers are testing two new methods for supporting the victims of fraud. The first model seeks to improve the experience of those victims who report what has happened to them. The pilot will be trialled in the West Midlands and if successful, will be rolled out to the rest of England and Wales by the end of 2010.

The second model deals with the victim who is either unaware of or in denial about the fraud that has been committed against them. Aimed at chronic repeat victims of fraud, this model will seek to help carers and relatives protect a loved one targeted by fraudsters through better coordination between service organisations, police and local councils.

The full report 'A better deal for fraud victims: Research into victims' needs and experiences' is available at http://www.port.ac.uk/departments/academic/icjs/centreforcounterfraudstudies/CCFS%20News/title,106465,en.html

The National Fraud Authority fraud reporting helpline number is 0300 123 2040.

Report Published on the Relationship Between Rights and Responsibilities

On 16 December 2009 the Ministry of Justice published a report entitled 'The relationship between rights and responsibilities' ("the report") by Liora Lazarus, Benjamin Goold, Rajendra Desai and Qudsi Rasheed, all from the University of Oxford.

The report looks at the relationship between rights and responsibilities within the ongoing debate on a Bill of Rights and Responsibilities, focussing mainly on the central question of whether 'responsibilities can be incorporated into the existing human rights framework of the United Kingdom without jeopardising fundamental human rights safeguards'. In doing so, the report also considers the meaning of responsibility in the context of human rights, the distinction between responsibilities and duties and what problems arise in drawing a direct association between them.

The report identifies and focuses on three types of individual duties:

- Correlative (duties owed by individuals to each other);
- Rights limitations (duties owed by individuals to the state); and
- Non-correlative (freestanding duties).

An important distinction is drawn between duties that are a necessary logical product of a right (the correlative duties) and duties that are not. It further states that incorporating freestanding individual duties poses significant risks to the efficacy of rights protection and any 'enshrined' responsibilities must not be allowed to become preconditions for the exercise of human rights.

The report provides three main recommendations which are:

- There may be value in stating within any Bill of Rights and Responsibilities a general duty to respect the human rights of others. The duty could serve to reinforce the importance of rights and make clear that the exercise of these rights is constrained by the respect for the rights of others with an inferred duty to obey the law;
- Secondly, a preference that any statement about responsibilities should be general and rhetoric only and could be contained in the preamble, as there is little to be gained from incorporating lists of specific duties within the body of a Bill of Rights. The statement would be seen as educative and aspirational and also guard against any suggestion that the duty is directly enforceable against individuals; and
- Finally, failing this, if the duties are to be incorporated into the main body of the Bill, then precautions must be made to ensure that the duties are not directly enforceable.

The proposals made in the report seek to ensure that any attempt by future policymakers to entrench constitutional responsibilities will be framed by an active commitment to the protection of human rights. To protect against the possibility that the duties incorporated into a Bill of Rights and Responsibilities

will result in an unintentional erosion of human rights protection, the policymakers are advised to adopt a variety of explicit safeguards against rights becoming contingent on responsibilities, as this would present an opportunity to introduce new restrictions on human rights.

The report concludes that the best way to avoid any risks is to ensure that duties are based on and derived from rights and any debate on the role of responsibilities must have a commitment to the protection and advancement of fundamental human rights.

The full report 'The relationship between rights and responsibilities' is available at
http://www.justice.gov.uk/publications/docs/research-rights-responsibilities.pdf

Review of Cautions and 'On the Spot' Fines

On 14 December 2009 the Home Secretary, Alan Johnson and Attorney General Baroness Scotland launched a review of how cautions and 'on the spot' fines are used for serious crimes by the police and Crown Prosecution Service (CPS). The review follows recent reports that the police and CPS use out of court disposals to punish serious offences which should be dealt with by the courts.

Out of court disposals like cautions and 'on the spot' fines were intended to tackle low level crime and anti-social behaviour that is not considered serious enough to merit prosecution. The review will look at how the number of out of court disposals used by the police and the CPS has changed, the reasons for variations between areas and whether criminal justice agencies are complying with guidance on the use of out of court disposals. Evidence on the effectiveness of the disposals, the extent to which they are complied with and how effectively they are enforced will also be looked at in the review.

The Home Secretary said "Out of court disposals are an important tool for the police and can often be the most appropriate sanction when dealing with low level offences. However, it is vital they are used appropriately and consistently by police forces across the country. This review will provide a detailed picture of how they are being used, allowing us to ensure that out of court disposals are as effective and efficient as they should be".

The review will be led by the Office for Criminal Justice Reform and will report jointly to the Ministry of Justice, Home Office and the Attorney General's Office.

The full press release can be found at
http://www.justice.gov.uk/news/newsrelease141209b.htm

DPP Issues Guidance on Witness Anonymity

The Director of Public Prosecutions (DPP) issued guidance on witness anonymity in December 2009. The Coroners and Justice Act 2009 which came into force on 1 January 2010 replaces the Criminal Evidence (Witness Anonymity) Act 2008.

The revised guidance is to be read in conjunction with the Attorney General's Guidelines on The Prosecutor's Role in Applications for Witness Anonymity Orders. Those Guidelines and the DPP Guidance set out how Crown Prosecutors must deal with applications for anonymity under the 2009 Act, and associated matters. Crown Prosecutors must also have regard to Rule 29 of the Criminal Procedure Rules.

The full Director of Public Prosecutions Guidance on Witness Anonymity can be found at http://www.cps.gov.uk/publications/directors_guidance/witness_anonymity.html

Crime and Security Bill Provides New Support for UK Victims of Terrorism Whilst Overseas

The Justice Secretary, Jack Straw, announced on 19 January 2010 that a new scheme would enable victims of terrorist atrocities abroad to claim compensation. Previously, UK victims of terrorism committed outside the UK were ineligible for compensation. The 'Victims of Overseas Terrorism Compensation Scheme' is introduced as part of the Crime and Security Bill and will provide the innocent victims of foreign terrorist attacks financial compensation as an expression of public sympathy and in recognition that a British citizen has been a blameless victim.

The Victims of Overseas Terrorism Compensation Scheme will apply to designated terrorist acts that occur outside the United Kingdom and:

- Broadly mirror the existing domestic criminal injuries compensation scheme which compensates blameless victims of violent crime in England, Scotland and Wales who have no other recourse to compensation;
- As with the domestic scheme, compensation awards will be calculated according to a tariff based on the seriousness of the injury; and
- Eligibility for compensation will be limited to British victims and nationals of a member State of the European Union and European Economic Area with a sufficient connection to the UK.

The new statutory scheme will apply to any terrorist act that takes place on or after 18 January 2010. However, the Government also announced that there will be victims of overseas terrorist attacks in recent years who continue to face hardship as a result of the on-going consequences of a disability arising from the injuries they sustained. In recognition of this the Government will, alongside the introduction of the statutory scheme, provide assistance to eligible victims of overseas terrorist attacks since January 2002 who are in such a position. Details of this time-limited scheme will be announced later.

The full press release can be found at
http://www.justice.gov.uk/news/newsrelease180110a.htm

Conference: Drug and Alcohol Treatment for Young People

A DrugScope conference is to be held at Ort House Conference Centre, London, NW1 7NE on 24 February 2010. The conference entitled 'Drug and alcohol treatment for young people conference 2010' will provide an overview and assessment of current policy frameworks for young people's drug and alcohol treatment nationally and locally.

In the last few years there has been an expansion of specialist drug and alcohol services for young people however there is still a lot to learn about the provision of effective treatment for young people despite the guidance offered by adult services. Young people tend to have different kinds of substance misuse problems than adults and respond to different kinds of treatment.

This conference will consider:

- Which young people are now being referred for specialist drug and alcohol treatment, by whom and for what reasons?
- Is the balance right between providing specialist substance misuse services and working with young people through 'mainstream' children's services?
- What kinds of specialist help are available?
- What do we know about what works (and what doesn't)?
- What about transitions between young people's and adult services?

The aims of the conference are to:

- Provide an overview and assessment of current policy frameworks for young people's drug and alcohol treatment, nationally and locally;
- Examine the distinctive characteristics of drug and alcohol problems for young people, and the relationship to other problems (including physical and emotional problems, family issues, social exclusion and problems at school);
- Consider the evidence-base on what works in tackling substance misuse problems among young people, including the balance between specialist treatment and mainstream interventions, and the challenges of working with young people with complex needs; and
- Highlight and showcase innovative practice and provide opportunities to hear from and talk with people providing specialist drug and alcohol services for young people.

More information is available at
http://www.drugscope.org.uk/newsandevents/drugscopeevents/drugscope-youngpeopleevent-2010.htm

Conference: Criminal Justice in an Age of Austerity and Change

A conference is to be held on Wednesday, 10 March 2010 which will debate the future of criminal justice in an era of public spending cuts. It is to be jointly hosted by the Centre for Crime and Justice Studies, the Centre for Legal Research, University of the West of England, and the Centre for Criminal Justice in the Law School at the University of Warwick. The venue is yet to be decided.

The conference will address two main themes:

- Looking back - 13 years of New Labour's criminal justice policy and philosophy; and
- Looking ahead - the future of criminal justice in an era of public spending cuts.

To express an interest in attending this invite-only conference please email Simon Allen at simon.allen@kcl.ac.uk with your name, occupation, organisation and contact number.

Report on VOSA's Enforcement of Regulations on Commercial Vehicles Published

On 8 January 2010 the National Audit Office published its report on the Vehicle and Operator Services Agency's (VOSA) performance in enforcing the regulations on commercial vehicles in 2008/09. The report entitled 'Vehicle and Operator Services Agency: Enforcement of regulations on commercial vehicles' states that VOSA has increased the number of dangerous commercial vehicles that it removes from the roads from 28,900 in 2007/08 to 36,500 in 2008/09. However, the report indicated that VOSA could make better use of its resources and that the effectiveness of its roadside checks is constrained.

VOSA is meeting its annual targets to remove dangerous commercial vehicles and drivers from the road, but performance against targets varies widely between regions. The report states that VOSA relies heavily on roadside checks to enforce regulations, carrying out around 252,000 checks in 2008/09. VOSA's approach is more effective in targeting vehicles which do not comply with roadworthiness regulations but most accidents are caused by driver performance and driver behaviour. The police are responsible for enforcing road traffic laws and dealing with breaches but VOSA could use roadside checks and operator visits to educate drivers and operators about road safety. It does not have a comprehensive education programme for operators or drivers.

The full report 'Vehicle and Operator Services Agency: Enforcement of regulations on commercial vehicles' can be found at http://www.nao.org.uk/publications/0910/commercial_vehicles.aspx

IT System Claims to Identify Human Behaviour Patterns

A group of European researchers, coordinated by the Computer Vision Centre of Universitat Autònoma de Barcelona announced on 14 January 2010 that they have developed HERMES, which is a cognitive computational system designed to recognise and predict human behaviour. The group also believes that the system could be applied to include intelligent surveillance and accident prevention.

HERMES (Human Expressive Graphic Representation of Motion and their Evaluation in Sequences) analyses human behaviour based upon video sequences captured at three different focus levels:

- The individual as a relatively distant object;
- The individual's body at medium length so as to be able to analyse body postures; and
- The individual's face, which allows a detailed study of facial expressions.

HERMES is said to offer two important innovations in the field of computer vision which are:

- A description of, in natural language, movement captured by the cameras, through simple and precise phrases that appear on the computer screen in

real time, together with the frame number in which the action is taking place. The system uses an avatar to talk and describes this information in different languages; and

- The possibility to analyse and discover potentially unusual behaviour based on the movements it recognises and emit warning signals.

The full press release can be found at http://www.theengineer.co.uk/1000577.article?cmpid=TE01&cmptype=newsletter

Case Law

NPIA Digest will be featuring a monthly selection of Lawtel Case Reports to keep readers abreast of relevant developments in the law. Lawtel, part of Sweet & Maxwell, offers instant access to UK and EU case law, legislation and articles coverage, as well as a unique update service. For more information, or a free trial, please visit Lawtel's website at http://www.lawtel.com or call 0800 018 9797.

Secondary Party to Murder is Liable Due to Their Foresight of What the Principal Might Do, Not Foresight of What Principal's Intention Might Be

R v STARFIELD BADZA (2009)

CA (Crim Div) (Sir Anthony May (President QB), Langstaff J, Wyn Williams J) 15/12/2009

Criminal Law - Criminal Procedure

Intention: Joint Enterprise: Jury Directions: Murder: Summing up: Criminal Liability for Joint Enterprise: Secondary Party's Foresight of Principal's Possible Actions: Sufficiency of Directions to Jury

Where the principal committed an unlawful killing with the requisite intent for murder, a secondary party would be liable for murder on the basis of his foresight of what the principal might do, rather than his foresight of the intention with which the principal's act might be performed. Where a judge's directions to the jury had correctly encapsulated that critical element of foresight, the appellant's conviction for murder on the basis of his participation in a joint enterprise was not unsafe.

The appellant (B) appealed against his conviction for murder and, contingent upon the failure of that appeal, against sentence. B and his co-defendant (L), who were each aged 20, had been involved in a violent confrontation with the victim, at the conclusion of which he was stabbed to death. The wounds were consistent with a single attacker using a single knife. The preponderance of the evidence was that it was L who had the knife and who inflicted the fatal stab wounds. Both B and L were charged with murder. The case against B was that, if he had not himself done the stabbing, he was nevertheless guilty of murder because he had participated in a joint enterprise. B contended that he had not known L had a knife, nor where the knife had come from. The prosecution evidence was that B had known perfectly well that L had the knife from events that had taken place and words exchanged between him and L earlier in the evening. The judge gave directions of law to the jury relating to murder, manslaughter and joint responsibility, including that the essence of joint responsibility was that each defendant shared the intention to commit the offence and took some part in it, however great or small, so as to achieve that aim. He stated further that the question for the jury was whether the prosecution had proved that the defendant whose case they were considering

had unlawfully taken part in a joint attack on the victim, known that the other attacker had a knife, and known or realised that the attacker with the knife would or might use it to stab the victim and kill him or cause him really serious injury and that the defendant had intended that that should happen. Both L and B were convicted and sentenced to detention for life with a minimum term of 18 years. B contended that his conviction was unsafe because the judge's summing up to the jury was insufficient. He submitted that the judge had failed to give the jury any adequate help on specific issues arising from the law of joint enterprise, failed to sum up the evidence in a way that would help the jury determine the issues in the case, and failed to sum up the defence case. B further contended the element of agreement necessary for a joint enterprise was not present in his case as there was no evidence that he had seen or known what L was doing when he inflicted the fatal wounds, as he had himself been fighting with the victim. In respect of sentence, B contended that the minimum term of 18 years failed adequately to reflect his mitigation, in particular his age and good character, and a distinction which should have been made between him and L.

HELD

(1) Where the principal committed an unlawful killing with the requisite intent for murder, a secondary party would be liable for murder on the basis of his foresight of what the principal might do, rather than his foresight of the intention with which the principal's act might be performed. Knowledge of the principal's possession of an obviously lethal weapon would usually be very relevant to the secondary party's foresight of what the principal might do, R v Rahman (Islamur) (2008) UKHL 45, (2009) 1 AC 129 applied. The directions given by the judge had been correct in law and encapsulated the critical element of foresight. Moreover, those directions had come logically in the course of the judge's summing up and could not be said to have given the jury no help in relating the various strands of the evidence to the questions of law which arose. Further, the judge had indicated B's case as advanced in the course of his summing up.

(2) The prosecution had had to prove both that B foresaw that L might use his knife to kill someone in a fight intending to kill him or cause him really serious harm, and that that had occurred in the course of a relevant common enterprise in which B participated. The jury had to identify the relevant common enterprise. The judge had failed to indicate to the jury the possible case that the prosecution had failed to eliminate the possibility that there was no relevant common enterprise if B had fought with the victim on his own and if L had stabbed him spontaneously without agreement or encouragement by B. Although the judge had erred in failing to put that case to the jury, it was entirely unrealistic on evidence which the jury had to have accepted. The judge's error in that respect did not, therefore, render B's conviction unsafe.

(3) It was L who had had the knife throughout and used it on the victim. That justified a distinction between the two defendants in respect of sentence so as to bring B's minimum term back towards the 15 year starting point. B's sentence appeal would, therefore, be allowed to the extent of reducing his minimum term to 16 years.

APPEAL AGAINST CONVICTION DISMISSED, APPEAL AGAINST SENTENCE ALLOWED

Admission of Remorse Not Relevant in Determining Honest Belief in Self-Defence

DEWAR v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Collins J, Silber J) 15/1/2010

Criminal Law

Apologies: Honest Belief: Self-Defence: Appropriate Test for Honest Belief: Relevant Factors in Application of Test: Relevance of Later Expression of Regret or Apology: Criminal Justice and Immigration Act 2008

An admission of remorse as to an act of violence or an apology to an individual who had been struck were irrelevant to a consideration of whether the person who made the statements had held an honest belief that he was acting in self-defence when he committed the act of violence.

The appellant (D) appealed by way of case stated against a decision of a Crown Court upholding his conviction for assault. D had been standing on the touchline watching a football match in which his 15-year-old son was playing, when he observed a couple of yards from where he was standing, an adult player (S) kick out at D's son in a significant way following a sliding tackle by D's son. After being kicked, D's son remained curled up on the ground whilst S stood over him. D instantly ran over and punched S once in the face, cutting his lip. D later apologised to S for striking him and expressed his regret for having done so. He was later convicted of assault occasioning actual bodily harm and S was bound over to keep the peace. The Crown Court determined that the sole issue was whether D had acted in self-defence of his son and it held that he had not. The questions posed for the opinion of the High Court were whether the Crown Court was entitled to (i) conclude, on the basis of D's evidence that his decision to intervene was not a conscious one, that he acted aggressively and did not honestly believe it was necessary to use force in defence of his son; (ii) consider the degree of force used in relation to the first limb of the self-defence test, bearing in mind that the degree of force used was more commonly applicable only to the second limb of the self-defence test; (iii) take into account that D struck S, and did so from behind instead of pulling or pushing him away from his son; (iv) find that D had given an unqualified apology to S and that such an unqualified apology coupled with D's state of mind following his act was evidence that he did not honestly believe that it was necessary to act in defence of his son; (v) find on the evidence as whole that D did not honestly believe that it was necessary to use force in defence of his son.

HELD

(1) No. The test for self-defence was a two-limbed one with, essentially, the first limb being a consideration of whether an individual had an honest belief that he was acting in self-defence and secondly, if so, whether the force used was reasonable. In the circumstances, it was inconceivable that the fact that D indicated that he had had no conscious decision in his mind at the time that he acted pointed towards his having no honest belief that he was acting in self-defence. In judging an honest belief it was important to note that the courts, in considering whether an individual had acted in self-defence, considered whether he had acted instinctively, as D had done, as an important factor as to whether that individual had held an honest belief.

(2) No. The degree of force used went towards the second limb of the self-defence test and not the first, Palmer (Sigismund) v Queen, The (1971) AC 814 PC (Jam) applied.

(3) No.

(4) No. The fact that D had later regretted his actions showed no more than that D was a decent person who had acted on the spur of the moment when he believed that his son was at risk but later regretted having had to use force; the use of force was something which any person might regret. Further, the Crown Court's decision that D gave an unqualified apology was a surprising finding, given that S's evidence clearly indicated that he believed that D had acted in self-defence of his son and had apologised for his actions to D. In any event it was entirely unreasonable for the Crown Court to rely on D's apology as showing that he did not have an honest belief that he had acted in self-defence.

(5) No. On the evidence as whole it could not be said that D did not have an honest belief that he had acted in self-defence of his son.

(6) It was appropriate to quash the Crown Court's decision and, in the circumstances, remit the matter with an order to acquit.

(7) (Per curiam) The instant case stated had failed to set out the facts found by the Crown Court, but had instead set out the evidence that was before it. In stating a case for the opinion of the High Court, a court should not set out the evidence that was laid before it unless the issue raised by the case stated was whether the decision reached by the court was one that no reasonable court could have reached on the evidence before it. The instant case was not whether the Crown Court's decision was reasonable on the evidence, but whether the approach adopted by it to self-defence was erroneous.

(8) (Obiter) Whilst the instant case related to an act that had occurred before the provisions contained in the Criminal Justice and Immigration Act 2008 pertaining to self-defence came into force, the Act did not make a great deal of difference to the defence of self-defence.

APPEAL ALLOWED

Guidance Given on Evidential Value of DNA Evidence

R v (1) DAVID REED (2) TERENCE REED: R v NEIL GARMSON (2009)

CA (Crim Div) (Thomas LJ, Kitchin J, Holroyde J) 21/12/2009

Criminal Evidence

DNA Evidence: DNA Samples: Expert Evidence: Fresh Evidence: Murder: Rape: Sexual Offences: Transferability of DNA: Match Probability

The court expressed its opinion as to the reliability, admissibility and evidential value of low template DNA, primarily that obtained using the low copy number (LCN) process. It concluded that such DNA could be used to obtain profiles capable of reliable interpretation if the quantity of DNA that could be analysed was above the stochastic threshold.

The appellants (R and D) appealed against convictions of murder and the appellant (G) appealed against convictions of various offences of kidnapping, rape and sexual assault. At the trial of R and D it was the Crown's case that they had killed the victim by stabbing him several times. Two pieces of plastic were found near the body which the Crown contended were two separate knife handles. One had cellular material matching the DNA profile of R and the other the DNA profile of D. One piece of plastic fitted the blade of a knife which was found in a drain at the victim's address. Evidence was given by an expert (X) on the primary transfer of the cellular material by direct contact and secondary transfer by another person. X gave evidence that it was highly unlikely that R and D had innocently touched the knives at some stage and that someone else had brought the knives to the victim's address. X also gave evidence that it was unrealistic that R and D had passed their DNA to someone else who then transferred it to the pieces of plastic. In G's case DNA evidence was found on four items belonging to the victim; on a tampon string, from a lip swab, the front of her knickers and on her trousers. G was identified by a DNA profile taken from a subsequent victim in a similar offence. At his trial experts gave evidence as to match probabilities. R and D sought to adduce fresh evidence on DNA and the scope of evidence that could be given about transferability. R and D submitted, inter alia, that, in the circumstances, the possibilities through which the material came to be transferred should not have been enumerated as there were too many variables. G sought to admit fresh evidence to show that the expert at trial had erred in calculating the match probabilities as he had wrongly failed to discount the foreign alleles.

HELD

(1) It was essential for the court to exercise a firm degree of control over the admissibility of the type of evidence in the instant case. The evidence of the possibilities and the evaluation had to be clearly set out in full in the terms in which it was to be given. Where there was a challenge to its admissibility, the court had to rule on the issue of admissibility in advance, or at the outset of the trial. In R and D's case it was clear that an evaluation could and should have been given. The striking fact about the case was that the DNA of R and D was present on the plastic. There was sufficient in the scientific research for a view to be expressed on the

circumstances in which there could be a secondary transfer. Accordingly, an expert could give admissible evidence evaluating the possibilities by reference to the known mechanisms of primary and secondary transfer, the observations at the scene of the crime and the other agreed facts. The evidence of X was put forward in such a way so as to make clear that she was expressing her evaluation of probabilities. X's evidence was admissible. In the case of R and D the fresh evidence was not admitted. There was nothing in the fresh evidence that was not available at the time of trial. Further, the evidence of X was admissible and a decision was made at trial not to call experts who were at that time advising R and D to challenge the evidence put forward by X. As the challenge to the admissibility of X's evidence had failed the decision not to call evidence could not be revisited. Accordingly, it was not in the interests of justice to admit the fresh evidence simply on the basis that, if it had been called, it might have affected the decision of the jury.

(2) The summing up could not be faulted. R and D's defence was fully and fairly put before the jury. There was a strong case against R and D and their convictions were safe.

(3) In relation to G the fresh evidence was evidence that could have been given at trial if G had wished to rely on it. Accordingly, the fresh evidence would not be admitted.

(4) When summing up in the case of G the judge properly directed the jury on all issues relating to DNA and also emphasised the limitations of the DNA evidence in the context of the trial as a whole. The judge had fairly directed the jury as to the significance of the match between G's profile and the foreign alleles found in the DNA profile derived from the victim's knickers and trouser waistband. The jury were left in no doubt that the reason the expert had not calculated a match probability was because he could not assess the significance of the match beyond the conclusion that it did not exclude G. The judge had fairly summarised the evidence when summing up and had given the jury considerable general guidance. The summing up was comprehensive and unimpeachable.

APPEALS DISMISSED

A Car is a Public Place for the Purposes of the Prevention of Crime Act 1953

R v THOMAS MELLOR ELLIS (2010)

CA (Crim Div) (Dyson LJ, Swift J DBE, Sweeney J) 12/1/2010

Criminal Procedure - Criminal Evidence - Criminal Law

Bad Character: Cars: Credibility: Highways: Jury Directions: Offensive Weapons: Propensity: Public Places: Credibility of Offender: Failure to Adequately Warn Jury About Use of Bad Character Evidence: S.1(1) Prevention of Crime Act 1953

A conviction for having an offensive weapon without lawful authority or reasonable excuse was safe, notwithstanding certain omissions in the judge's directions to the jury, as the case against the offender was overwhelming. An application for permission seeking to add a ground that a car was not a public place within the Prevention of Crime Act 1953 s.1(1) was rejected.

The appellant (E) appealed against his conviction for having an offensive weapon without lawful authority or reasonable excuse. E also applied for permission seeking to add a further ground of appeal. E had been stopped by the police whilst he was driving a car on a public highway. On the backseat of his car was an open extendable police baton and on the floor of the car was a pair of handcuffs. E also had in his pocket what appeared to be a police warrant card. The prosecution's case was that the baton was an offensive weapon. E initially alleged that the items had been left by a friend. He later claimed that the items had been used in a sexual role play with his previous partner and that he had decided to dispose of the items in a secure bin and, therefore, he had a reasonable excuse for having the baton. The prosecution was allowed to adduce E's bad character, which consisted of offences of deception and forgery and lies told in interviews in relation to those offences. The trial judge directed the jury that they could take the bad character evidence into account when deciding whether E was telling the truth in respect of the offence of having an offensive weapon. E submitted that (1) the judge had failed to direct the jury that the mere fact that he had lied in the past and the mere fact that he had committed offences in the past did not mean he had lied or committed an offence on the instant occasion; (2) the jury were not reminded of the fact that the previous offences had been committed some five years earlier and there was no intervening dishonesty. E sought permission to rely as an additional ground of appeal on the argument that a car was not a public place within the Prevention of Crime Act 1953 s.1(1) as it was a place with its own defined boundary from which the public could be excluded.

HELD

(1) E's submissions had some force. The judge should have warned the jury that they should not conclude that E had been untruthful in the account that he gave merely because he had been untruthful on earlier occasions. The judge should have also warned the jury that they should not leap to conclusions that E had committed the instant offence merely because he

had committed offences previously. However, those omissions did not render the convictions unsafe. The explanation given by E was incredible and lacked credibility and the case against him was overwhelming.

(2) The judge had reminded the jury of the fact that the previous offences had been committed some five years earlier and there was no intervening dishonesty. The judge's direction could not be criticised.

(3) E was in possession of a baton which was in a public place. The fact that he was in a car made no difference to where he was. The application for permission in respect of that ground was, therefore, rejected.

APPEAL DISMISSED, APPLICATION REFUSED

Right of Entry Without Warrant Limited to Apprehension that Something Serious is Otherwise Likely to Occur on Premises

SYED v DIRECTOR OF PUBLIC PROSECUTIONS (2010)

DC (Collins J, Silber J) 13/1/2010

Police

Assault on Constables: Police Officers: Police Powers and Duties: Powers of Entry: Police Constables Acting in Execution of Duty: Appropriate Test for Police to Exercise Right to Enter Premises by Force Without Warrant: S.17 Police and Criminal Evidence Act 1984: S.89 Police Act 1996: S.17(1)(E) Police and Criminal Evidence Act 1984

The right of police officers to enter premises by force without a warrant, pursuant to the Police and Criminal Evidence Act 1984 s.17, was limited to cases where it was apprehended that something serious was otherwise likely to occur or had occurred on the premises. The application of a test of "concern for the welfare of someone within the premises" was too low and was not sufficient to justify entry within the terms of s.17, so that police officers who had entered premises on that basis were not acting in the execution of their duty.

The appellant (S) appealed by way of case stated against his conviction for assaulting a constable in the execution of his duty. Two police officers had attended S's house following a telephone call from a neighbour reporting a disturbance. When they arrived there was no sign of a disturbance. They spoke to S who informed them that he had had a verbal argument with his brother. When the police enquired further, S became evasive and tried to end the conversation. The officers explained that they had a right to enter the premises pursuant to the Police and Criminal Evidence Act 1984 s.17 if they were in fear for the welfare of persons within the house. S did not accept that the police had a right to enter. He spat in one officer's face and head butted the other. S was charged with an offence contrary to the Police Act 1996 s.89.

The magistrates convicted S, having found that given his evasiveness, concern for the welfare of people in the property was sufficient to meet the requirements of s.17 of the 1984 Act, so that the police were entitled to enter by force. The question for the determination of the High Court was whether the magistrates' court could properly have concluded that the police were acting in the execution of their duty in purporting to act under s.17 and use force to enter where, inter alia, (i) there was no sign that anyone at the property had sustained any injury; (ii) there were no complaints of injuries or visible signs of damage or complaint of damage from the occupants; iii) S's explanation that there had been a verbal argument was not contradicted; and (iv) the officers had no information to say that that was not the case.

HELD

It was plain from the wording of s.17, in particular s.17(1)(e), that Parliament had intended that the right of entry by force without warrant should be limited to cases where it was apprehended that something serious was otherwise likely to occur or had occurred on the premises. That included a degree of apprehension of serious bodily injury, Baker v Crown Prosecution Service (2009) EWHC 299 (Admin), (2009) 173 JP 215 applied. The test applied in the instant case, that of concern for the welfare of someone within the premises, was not sufficient to justify an entry within the terms of s.17(1)(e). That was too low a test. When entering S's house the police officers had therefore not been acting in the execution of their duty and, whilst S's behaviour might have been improper, the charge against him was incorrectly laid. The answer to the question raised was in the negative and S's conviction could not stand.

APPEAL ALLOWED

The Circumstances in Using a Police Vehicle to Hinder Escape Must be Able to Justify Risk of Injury to Suspect

MICHAEL HENRY v THAMES VALLEY POLICE (2010)

CA (Civ Div) (Pill LJ, Arden LJ, Smith LJ) 14/1/2010

Negligence - Personal Injury - Police - Road Traffic

Breach of Duty of Care: Contributory Negligence: Driving: Motorcycles: Police Officers: Road Traffic Accidents: Police Car Driven Close to Motorcycle Following Pursuit: Risk of Injuring Motorcyclist Dismounting: Standard of Reasonably Skilful and Careful Driver

A police officer had driven negligently by driving his car too close to a motorcycle to allow the motorcyclist to dismount safely.

The appellant (H) appealed against a decision dismissing his claim for damages for personal injury. Two policemen in a marked police car had followed H's motorcycle when he was returning home from a social event in the early hours of the morning. The officers formed the view that H was speeding and, at times, driving dangerously. They lit up the flashing blue light on their vehicle and flashed the headlights to indicate that H should stop. He did not do so but continued to his home. He drove into the grounds of his home through a gate and stopped. One police officer got out and spoke to H, instructing him to switch the motorcycle's engine off and dismount. The officer driving the police car brought it close to the motorcycle to impede H's escape if he tried to run away. As the car moved forwards alongside the motorcycle, H dismounted. Exactly what happened was not clear but H somehow came into contact with the offside front of the vehicle. He fell to the ground and his right lower leg became trapped by the front offside wheel and he suffered quite severe injuries. The judge held that H had stumbled into the front right hand tyre of the police car and injured himself; the officer driving went too close to the motorcycle but that error of judgment was not negligent. H submitted that there was no evidential basis for the judge's conclusion that H had stumbled into the offside tyre and injured himself; given that all that H had done was to dismount in a normal way the police car must have come too close and negligently so; there were no exceptional circumstances which justified using the car as a means of trapping H; the officer driving should have appreciated that H was about to dismount.

HELD

(Pill LJ dissenting)

(1) There was no evidential basis for the judge's finding that H stumbled into the tyre and injured himself. The only conclusions available on the evidence were that H's right leg came into contact with the police car as he swung it over while dismounting or that he was struck by the car just after he had dismounted but while he was still holding on to his motorcycle.

(2) The police officer was entitled to bring the car into a position where it would impede an escape if one was attempted but not to do so in such a manner or to such an extent as would create any foreseeable risk of injury to H. In some circumstances, such as where a dangerous suspect was at large, an officer might be justified in using a car as a trap or barrier even though that might create a risk of injuring the suspect. But those circumstances were not present in the instant case.

(3) The judge's finding that the officer driving did not realise that H was going to dismount was not open to him on the evidence. He clearly did realise that. Further, having realised that, it was incumbent on him to allow H sufficient room to dismount in safety.

(4) Thus the judge had made at least two errors as to the evidence: first, H did not stumble into the wheel of the car; he simply dismounted. He had not moved away from his motorcycle; he was still in contact with it. Second, the finding that the officer driving did not realise that H would dismount was untenable; the officer actually expected him to do so. Those errors were of such significance that the judge's decision was undermined and had to be reconsidered.

(5) It was entirely reasonable for the officer to use the vehicle as a means of hindering H's escape provided that that did not create a risk of injury. Bearing in mind that the circumstances were not such as could justify the taking of any risk as to H's safety and bearing in mind that it was foreseeable and foreseen that H would dismount, the car was not driven with reasonable skill and care. The car was so close to the motorcycle that some part of it, either the front wing or the front offside wheel, came into contact with H. The officer misjudged the amount of space that he needed to leave for H to dismount in safety. That driving, when objectively considered, fell below the standard to be expected of a reasonably skilful and careful driver.

(6) H behaved culpably and foolishly in seeking to evade the police once he knew that they wished him to stop and in particular in failing to surrender to them outside the gate leading into his property. He was 60 per cent to blame and his damages should be reduced accordingly.

APPEAL ALLOWED

SI 3404/2009 The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Matters Subject to Legal Privilege) Order 2009

In force **1 February 2010**. This Order sets the requirements that must be met when a Covert Human Intelligence Source is to be authorised under section 29 of the Regulation of Investigatory Powers Act 2000 to:

- Obtain matters subject to legal privilege;
- Provide access to any matters subject to legal privilege to another person; or
- Disclose matters subject to legal privilege.

For police forces the approving officer is an ordinary Surveillance Commissioner, who must be given notice before such an authorisation is granted or renewed. The Order states the information which must be given in the notice. The authorisation must not be granted or renewed until the approving officer has approved it, and written notice of the decision has been given to the person who notified the approving officer. Authorisations granted or renewed by police shall have effect for 3 months.

SI 31/2010 The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010

In force **6 April 2010**. These Regulations prescribes the maximum monetary penalty which the Information Commissioner may impose on a data controller under section 55A of the Data Protection Act 1998 as £500,000. Section 55A allows the Information Commissioner to give a data controller who has committed a serious contravention of the data protection principles a monetary penalty notice.

SI 34/2010 The Proscribed Organisations (Name Changes) Order 2010

In force **14 January 2010**. This Order requires that the following names are to be treated as another name for the proscribed organisations Al-Ghurabaa and The Saved Sect:

- Al Muhajiroun (ALM);
- Call to Submission;
- Islam4UK;
- Islamic Path; and
- London School of Sharia.

As such the organisations are treated as if they were all proscribed under Schedule 2 to the Terrorism Act 2000, and so the offences in sections 11 to 13 of the Terrorism Act 2000 which relate to proscribed organisations apply to membership of, support for and wearing the uniform of these groups.

SI 36/2010 The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2010

This SI is made to enable the UK to ratify the Second Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters (Cmnd 5603 of 2002). The SI does not come into force until the first day of the month following the expiry of three months after the date on which the UK deposits an instrument of ratification of this Convention with the Secretary General of the Council of Europe. At present this date is unknown.

The Order designates Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Israel, Montenegro, Serbia and Switzerland as participating countries under the Crime (International Co-operation) Act 2003 to enable the Secretary of State to:

- Facilitate a witness in the UK giving evidence in overseas proceedings by telephone;
- Facilitate the transfer of a UK prisoner to a participating country to assist with an investigation;
- Facilitate the transfer of an overseas prisoner to the UK in order to assist with an investigation.

Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Israel, Montenegro and Serbia are also designated as participating countries to allow certain processes such as written charges and requisitions regarding criminal proceedings to be served overseas otherwise than by post. Switzerland is not included in this list as it is already a participating country in this respect.

SI 52/2010 The Policing and Crime Act 2009 (Commencement No. 2) Order 2010

In force **25 January 2010**. This Order brings into force sections 98, 99 and 101 of, and Part 9 of Schedule 8 (and section 112(2) so far as relating to that Part) of the Policing and Crime Act 2009. Section 98 allows officers of Revenue and Customs to require people entering or leaving the UK to produce travel documents on request. Section 99 allows such officers to search for criminal cash, such as the proceeds of crime. Section 101 prohibits the import and export of false identity documents, documents issued or obtained in contravention of the laws of the country in which they were issued or obtained, and identity documents intended for use to establish a false identity or address.

SI 64/2010 The Legislative Reform (Revocation of Prescribed Form of Penalty Notice for Disorderly Behaviour) Order 2010

In force **13 January 2010**. This Order repeals the requirement that penalty notices for disorder must be in a form prescribed by regulations. The information which must be included on a penalty notice for disorder and the amount of the penalty which may be issued has not changed.

Notes

NOTES