NPIA
National Policing Improvement Agency

Digest

JULY 2008

CASELAW Police News Diversity
LEGISLATIONPOLICE NEWS
POLICE NEWSLEGISLATION
DIVERSITYCriminal Justice

The Digest is produced monthly by the Legal Services Department of the NPIA. The Digest is an environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing. In producing the Digest, information is included from Governmental and quasi-governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

This month the state opening of Parliament for the new session was announced to take place on 3 December 2008. Elsewhere in Parliament the Counter Terrorism Bill was approved in the House of Commons with the controversial 42 day pre-charge detention being narrowly voted through and a new bill proposing the removal and destruction of certain DNA profiles was presented to the House.

This issue also reports on a new consultation launched by the Government on reforming the law in relation to bail and murder and new proposals announced to make all obscene images of children illegal including drawings and computer generated images.

This month sees the publication of a couple of big reports/reviews. Firstly the Serious Organised Crime Agency has published an unrestricted version of the UK Threat Assessment of Serious Organised Crime and secondly a major review on how to better engage communities in the fight against crime has been published by the Cabinet Office. The latter review contains 32 proposals which aim to reduce crime and these have been summarised in the article.

There have also been several reports on policing which cover areas such as police accountability, maintaining public confidence and a report suggesting a politicisation of the police is putting policing by consent at risk.

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

Case law in association with lawtel From Sweet & Maxwell

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TUC and CBI Report: Diversity in the Workplace

A joint report by the CBI and the TUC has revealed that firms who take steps to improve diversity in the workplace can earn real business benefits. The report, entitled 'Talent not Tokenism', suggests that the potential rewards of diversity are significant, stating that an organisation that recruits its staff from the widest possible pool will unleash talent and develop better understanding of its customers. It goes on to say that the companies who employ people on the basis of their abilities and potential, regardless of sex, race, age, disability, sexual orientation or religion will benefit in ways which include:

- Higher morale and productivity, improved retention rates and lower recruitment costs;
- Better understanding of customers' needs and greater insight to reach untapped markets;
- Help in addressing skills shortages.

The report shows that promoting diversity in the workplace does not need to be expensive or time consuming but recognises that it requires a commitment from the top to trigger a change in culture and attitude. It contains a dozen case studies featuring businesses of all sizes, including Arriva, IBM and GlaxoKlineSmith. The studies illustrate how companies ranging from small family-run firms to multinationals, have improved their workplace diversity and the advantages in doing so.

The report can be viewed in full at
http://www.tuc.org.uk/extras/talentnottokenism.pdf

National Launch of DWP Public Information Film to Tackle Mental Health Discrimination in the Workplace

A new public information film has been launched by the Department of Work and Pensions which aims to challenge employer assumptions about mental health. The film, which will air across national television over the coming months, reveals that Florence Nightingale had a history of mental illness, yet went on to make a phenomenal contribution to British medicine.

The film supports the existing Employ ability campaign which encourages employers to take a more open minded approach to recruitment. The campaign is being widely rolled out across the country, with regional road shows taking place and extensive advertising through billboard posters and newspaper adverts.

Initial feedback from employers on the Employ ability campaign has been positive with them admitting that the campaign challenged their attitudes and assumptions and would encourage them to recruit more disabled people and those with long-term health conditions.

For more information on either the film, or the Employ ability campaign, visit
http://www.dwp.gov.uk

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Conference on Diversity

Kent Police is hosting a diversity conference on 24 July at the Ashford International Hotel. The conference, entitled 'Beyond the Rhetoric', is aimed at Chief Officers and police authority chairs, partner agencies, the Home Office and the National Policing Improvement Agency.

The aim of the conference is to:

- Explore the reasons for embracing diversity and equality;
- Share good practice that has already been adopted within the police service;
- Highlight why equality and diversity is placed at the heart of policing.

Speakers at the conference, which will also include breakout sessions run by Kent Police, include:

- Sir Ronnie Flanagan;
- Sir Bert Massie - Her Majesty's Chief Inspector of Constabulary;
- Steve Otter - Chief Constable of Devon and Cornwall, ACPO lead on race and diversity;
- Carol Stewart - Chair of the Kent Independent Advisory Group.

Following assessment by Her Majesty's Inspectorate of Constabulary, Kent has received an "excellent" status for race and diversity, one of only two forces to do so.

Conference for Combating Anti-Semitism

The Foreign Commonwealth Office (FCO) has announced that in February 2009 it will be co-hosting the first ever conference for the Inter-Parliamentary Commission for Combating Anti-Semitism.

The newly formed Inter-Parliamentary Coalition for Combating Anti-Semitism brings together parliamentarians from around the world. The first conference will be a chance to discuss the work in fighting Anti-Semitism with an international audience and to share knowledge and best practice.

Minister for Europe, Jim Murphy MP said:

"The conference will be an opportunity to not only share our experience with international partners and learn from others but also to add political impetus to the ongoing fight against Anti-Semitism."

The Foreign and Commonwealth Office works closely with the All Party Parliamentary Group to encourage parliamentarians around the world to show leadership in combating Anti-Semitism.

More information on the Government's work on Anti-Semitism can be found in its year-on progress report at
http://www.official-documents.gov/uk/document/cm73/7381/7381.pdf

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Disabled Road Users Asked How Journeys Could be Improved

The Highways Agency has asked disabled road users to give feedback on how their journeys can be improved. With more and more services available to help people before and during their journeys along motorways and major A roads, the Highways Agency wants to make sure that it is improving the advice and experience for all road users on its network.

The Agency therefore attended the national Mobility Show on 12-14 June attended by over 20,000 visitors, many of whom have a disability, are carers or from an organisation that supports people with disabilities.

This is another move of forward action in relation to giving traffic officers better diversity training to ensure that they understand the needs of disabled road users.

Back in 2007 the Agency ran an event in partnership with the Disabled People's Network which helped the agency better understand the issues disabled customers face when they breakdown on the motorways. This information went on to reshape the guidance for traffic officers who monitor and patrol the network.

It is hoped that feedback from the roadshow will further improve understanding of the issues faced by disabled road users.

For more information about the Highways Agency's Disability Equality Action Plan please see http://www.highways.gov.uk/aboutus/18738.aspx

Managing the Impacts of Migration

The Government has announced a range of actions it plans to take in relation to managing migration so as to maximise the benefits for the country whilst minimising the negative impacts. The full range of the Government's work in this area has been brought together in 'Managing the Impacts of Migration: a Cross Government Approach' which was published on 11 June.

The report examines the local impacts of migration on communities and services and sets out the Government's programme of current and future work to support local government and its partners in maximising the benefits of migration.

Amongst the proposals are:

- A £12 million programme of improvements in the way migration data is collected;
- A fund to help all local services manage the transitional impacts of migration;
- Tougher penalties on those that exploit vulnerable workers and undercut the minimum wage.

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In managing migration the Government has focussed on 5 key areas:

- Strengthening our borders by creating a single borders force with new powers to target those coming into the country illegally. ID cards for all foreign nationals and a new points based system to select those most able to make a positive contribution to the UK.
- Changing the way in which the number of migrants coming into the country is recorded and recording where they settle. Working with the Office of National Statistics and local governments to get the most accurate and up to date information to then produce 3 year funding settlements for local governments to manage migration in their localities.
- Providing funding to help manage the transitional impacts of migration such as building the capacity of local service providers. This could include improving mapping of communities, English language training and interpretation services. Money for this funding would be raised through increases in certain fees for immigration applications.
- Protecting workers who have come to this country to live and work and who have the right to be treated fairly. This will mean taking action against unscrupulous employers who knowingly employ illegal workers and those who undercut the minimum wage and exploit vulnerable migrants. There will also be a sector by sector enforcement of the National Minimum Wage starting with the hotel industry.
- Promoting integration to ensure that migrants are part of strong cohesive communities. The Government framework includes guidance on where translation is appropriate, greater emphasis on English language learning, information packs for migrants, citizen days and work to tackle misconceptions of migrants that can lead to tensions.

Managing the Impacts of Migration: A Cross Government Approach can be found at
http://www.communities.gov.uk/publications/communities/migrationimpact

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DNA Database (Removal of Samples) Bill

Jenny Willott MP has presented a Bill to the House of Commons which proposes the removal of certain DNA profiles from the national DNA database. The Bill will require removal and destruction of the profiles of people who:

- Have not been convicted or cautioned, unless accused of a violent or sexual offence;
- Are children under 16, unless guilty of a violent or sexual offence.

The second reading of the Bill is to be 17 October 2008. Information on the progress of the Bill can be found at http://services.parliament.uk/bills/2007-08/dnadatabaseremovalofsamples.html

Counter Terrorism Bill

The House of Commons approved a provision in the Counter Terrorism Bill to extend the number of days terrorist suspects can be detained before they are charged. The controversial provision to extend the pre-charge detention limit from 28 to 42 days was narrowly voted through by the House of Commons on 11 June 2008 after a number of safeguards were written into the Bill to ensure that the detention power is not abused. Investigators would need this extra time only for the most complex of terrorism plots involving enormous amounts of evidence.

The Home Secretary, Jacqui Smith said that the government was determined to give the police the powers they need to tackle terrorism and the government would continue to press these important measures when the Bill continues its passage through the House of Lords.

The Bill is now progressing through the House of Lords where it is due to have its second reading on 8 July 2008.

ACPO have stated that the Government proposals are designed to address the risk they have been alerting them to. They continue to state that it is possible to foresee circumstances in the future under which the current 28 day limit will prove insufficient.

Citizens' Bills

Douglas Carswell Conservative MP is introducing a Bill which aims to help the public bring in new laws that they see important. He criticised the House of Commons procedures stating that 'we have a fundamentally out-of-date parliamentary system'.

Under Mr Carswell's '10 minute rule bill' members of the public could table their own legislation, then attempt to gain support for their measure and six with the most signatures would be included in the Queen's Speech and automatically given a second reading.

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There would obviously be rules in place to prevent the 'fantastical and the frivolous' but Mr Carswell's ultimate aim is to allow people a direct say in what members of Parliament vote on and debate. Therefore MP's would be forced to consider issues that matter to ordinary voters.

The Bill has not yet been presented to parliament.

HOC 12/2008
Amendments to the Flexible Salary Sacrifice Scheme

This circular details the amendments made to the Flexible Benefit Salary Sacrifice Scheme for police officers. Details of the amendments are laid down in Police Negotiating Board (PNB) Circular 08/02, which is attached to HOC 12/2008.

The salary sacrifice scheme allows an officer to exchange part of their substantive salary (basic annual salary) for a form of non-cash benefit. Officers can voluntarily elect to convert part of their substantive salary into either one or both of the non-cash benefits. The non cash benefits are:

- Loans to purchase bicycles to travel to work.
- Childcare - The definition of childcare includes childcare vouchers, workplace nurseries or other employer provided childcare (defined as childcare where the employer engages with a commercial nursery or approved child carer to provide care for the children of employees).

Where a salary sacrifice is agreed the basic annual salary is reduced, rather than there being a regular monthly deduction from the gross substantive salary. This will allow the sacrifice to be legitimate for HM Revenue and Customs purposes.

Occupational sick pay and statutory and occupational maternity pay will be calculated on the revised salary.

Once entered into, only in exceptional circumstances can an officer withdraw from the scheme before the expiry of the time for which it applies.

The PNB Circular states that Police Regulations and Determination and the Police Pension Regulations should be amended accordingly where necessary (however the advice in the PNB Circular is only advisory until approved by the Secretary of State for the Home Department).

The PNB Circular also states that:

- The Home Computing initiative has been withdrawn following section 61 of the Finance Act 2006, which omits section 320 of the Income Tax (Earnings and Pensions Act) 2003.
- Salary sacrifice schemes are subject to special legislation. Therefore, any advantages to an officer in respect of lower levels of national insurance or income tax cannot be guaranteed.

For more information please see HOC 12/2008 at:
http://www.knowledgenetwork.gov.uk/HO/circular.nsf/79755433dd36a66980256d4f004d1514/f4a16687d455c8f58025746500370c9c?OpenDocument

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Tougher Penalties for Waste Crime

The Department for Environment, Food and Rural Affairs has launched a consultation about ways to target those who illegal dump waste.

Suggested proposals on which views are sought include giving Local Authorities and the Environment Agency new powers to stop, search and instantly seize vehicles suspected of being involved in fly-tipping and other waster offences.

Other proposals include:

- Increasing the fine for duty of care and waste carrier offences from £5,000 to £10,000.
- Making it an offence to provide false and misleading information on a waste carrier application form and for failure to inform the Environment Agency of changes to registration details.
- Provide funding for a national or regional awareness raising campaign.
- Update guidance to make it easier for businesses to comply with the controls.
- Taking steps to ensure that producers and the public have up to date and accurate information in their area.

To view the consultation document please see
http://www.defra.gov.uk/corporate/consult/waste-controls/

Consultation on reforming the law in relation to Bail and Murder

On 11 June the Lord Chancellor and Secretary of State for Justice, Jack Straw published a written ministerial statement announcing the publication of a consultation paper. The Consultation Paper, entitled 'Bail and Murder' was published on 17 June and will essentially look at the ways in which courts make bail decisions in murder cases.

The aim of the consultation is to look at ways to help the courts target custody as precisely as possible on those cases where there is a risk of harm to the public. It acknowledges that the making of bail decisions in murder cases is a balancing act between respecting the individual's right to liberty on the one hand, and protecting the public on the other.

The consultation follows a number of recent cases of crimes committed by murder suspects whilst on bail. One case of note was that of Garry Weddell, the Scotland Yard Inspector who killed his mother-in-law while on bail for the murder of his wife. He later killed himself. In light of such cases, the consultation asks whether the rules governing the enforcement of bail conditions and the grant of bail to suspects charged with murder should be revised.

The consultation paper sets out a number of ways of helping the courts to strike the correct balance and views are sought on whether the Government should go ahead with the proposals.

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The consultation team are requesting responses to the following questions:

- Is any change to the law governing bail necessary?
- Should the statutory test be amended along similar lines to Section 25 of the Criminal Justice and Public Order Act 1994?
- Should courts be required to have regard to the fact that the defendant is accused of murder?
- Should courts be required to have regard specifically to whether further offending is likely to cause physical or mental injury?
- Should the considerations listed in paragraph 9 of Schedule 1 to the Bail Act 1976 also apply to decisions to remand defendants in custody for their own protection?
- Should there be any limitation on the right of the Crown Prosecution Service to make representation against the grant of bail after a defendant has been convicted?
- Should the CPS be encouraged to make greater use of their right of appeal against bail post conviction?
- Are there any circumstances in which it would be appropriate for the CPS to seek a custodial remand post-conviction where it is clear that the offender will not be sentenced to imprisonment?
- Should bail hearings following arrest for breach of bail in respect of all defendants charged with murder be heard in the Crown Court, if possible by the same judge?
- Alternatively, should such hearings take place in the Crown Court where the judge making the original grant of bail so directs?
- Should such arrangements extend to manslaughter or other grave offences such as rape?
- Should courts be made aware of local police practices regarding the monitoring of bail conditions, so that these can be taken into account in determining the adequacy of bail conditions?
- Do you think it is appropriate for courts to impose conditions that must be met by the police (or others) before the defendant is released on bail?
- Do you think that feedback would be of any use, and if so how could it be achieved?

The consultation period will run until 12 September 2008.

The consultation and details on how to respond can be found in full at http://www.justice.gov.uk/publications/cp1108.htm

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Serious Fraud Office's Low Conviction Rate

A written Ministerial statement was released on 10 June concerning the Serious Fraud Office (SFO).

Former New York Prosecutor Jessica de Grazia had been commissioned in March 2007 by the then Attorney General, Lord Goldsmith, and former Director of the Serious Fraud Office, Robert Wardle, to review the working practices of the Serious Fraud Office.

To support her review Ms de Grazia compared the SFO with two prosecutor's offices in the USA and looked in detail at the internal workings of the SFO. She also looked at external factors which she saw as having an impact the effectiveness of the SFO.

The report pointed to the SFO's five-year average conviction rate of 61% which was down from 82% four years earlier. In contrast many prosecutors in the USA have rates consistently in excess of 90%.

At the heart of the problem the report identified the pre-trial disclosure rules in which 'the law encourages the defence to engage in a war of attrition in order to derail a prosecution through an abuse of process application…'

However the Attorney General does not agree with the conclusion that the way to address disclosure concerns is to return to the position prior to the Criminal Procedure and Investigations Act 1996. It has however accepted many recommendations from the review including consulting on proposals for a framework of plea negotiation in fraud cases.

The full ministerial statement can be found at
http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080610/wmstext/80610m0001.htm

New Guidance on CRB Checks for Volunteers

New guidance was published by the Cabinet Office on 4 June in relation to CRB checks for volunteers. The guidance aims to help organisations that use volunteers to be clear about when they do and don't need to carry out Criminal Records Bureau check on those volunteers.

People volunteering or working with children or vulnerable adults are sometimes legally required to have a CRB check. A decision about clearance must be made for volunteers whose contact with vulnerable people will be limited or if that person has very recently been checked for a different role.

The guidance should work as part of the risk management process alongside other safeguards such as interviewing, training and taking references.

The guidance aims to cut unnecessary red tape as it also gives advises organisations on when they don't need to carry out a CRB check on their volunteers. This comes in response to concerns by the voluntary sector that potential volunteers can be put off is they are asked to undergo CRB checks without good reason.

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The Guidance on CRB checks and volunteers is available at http://www.cabinetoffice.gov.uk/~media/assets/www.cabinetoffice.gov.uk/third_sector/OTS_CRB%20pdf.ashx

Government Launches First Ever National Service Framework for Female Offenders

The Government has launched a framework which sets out a national strategy for delivering services to female offenders. The National Service Framework for Women Offenders builds on the commitments made by the Government in its response to the Corston Report issued in March 2007. It does so by setting strategic aims and objectives on how to meet the needs of women offenders and establishes high level service expectations, both through the reducing of re-offending pathways and for the delivery of statutory services.

The headline aim is to ensure that women who come into contact with the criminal justice system are treated appropriately so as to protect the public and reduce re-offending, whilst also meeting their specific and individual needs. To do this, the framework suggests that they must:

- Reduce the number of women coming through the criminal justice system;
- For women who are sentenced, ensure that their needs are met in the community wherever possible;
- For women who are sentenced to custody, ensure that the facilities are appropriate to their needs.

The framework will be used by all commissioners and providers who have a responsibility for delivering services and will be used as a basis for specifying the exact size, cost and nature of provision in order to deliver upon these priorities.

Women currently make up around 6% of the total prison population, an increase of 94% between 1996 and 2006. This, the report claims, isn't because there are more women offenders, or because the offences committed are more serious, but is because courts are more frequently issuing custodial sentences for women who commit less serious offences.

The framework will be supported by the publication of an updated version of the National Probation Service 'Good Practice Guide on Delivering Effective Services for Women Offenders in the Community'. The guide, along with the recently published Prison Service Gender Specific Standards, provides more detailed operational guidance for prison and probation staff delivering services for women on the ground.

The National Service Framework for Women Offenders can be viewed in full at http://noms.justice.gov.uk/news-publications-events/publications/strategy/NSF-Women-08

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Proposals to Make All Obscene Images of Children Illegal

Justice Minister Maria Eagle has announced that all images of child sexual abuse, including drawings and computer generated images will be illegal. The new proposals will see that offenders holding such images will face charges and up to three years in prison.

The proposals were announced as part of the Government's response to a public consultation on the possession of non-photographic visual depictions of under-age children engaging in sexual activity. The new proposals aim to close the loophole on paedophiles circumventing the law by using computer technology to manipulate real photographs or videos into drawings or cartoons.

The minister made clear that the proposals were not about criminalising art or pornographic cartoons more generally but about targeting images of child sexual abuse.

Possession of child pornography is unlawful and the distribution or sale of material is illegal under the Obscene Publications Act but it is not yet a criminal offence to possess drawings and computer generated images of child abuse. The new proposals seek to redress that and create a new criminal offence of possessing drawings and computer generated images of under-age children in sexual activity.

The consultation can be found at
http://www.justice.gov.uk/publications/non-photographic-depictions.htm

£12.5 Million to Prevent Radicalisation and Extremism

The Home Secretary, in conjunction with the Communities Secretary and the Secretary of State for Children, Schools and Families, have launched new guidance to help and support police, local authorities, schools, and community groups tackle violent extremism and prevent radicalisation. The 72-page document highlights the need to support mainstream voices and encourage positive role models in order to build resilience towards extremist ideology.

To support this new initiative the Home Office is providing an extra £12.5 million in 2008/09. The funds will be targeted at institutions working to counter terrorism, and at those most vulnerable to radicalisation. New schemes will include:

- Extending police led multi-agency projects to identify and support those at risk of being targeted by violent extremists;
- Working with young people whose previous contact with the criminal justice system has left them vulnerable to extremist views;
- Working in prisons to tackle vulnerability to radicalisation amongst offenders;
- Funding grassroots projects that help communities deal with extremist residents.

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This new initiative aimed at the prevention of radicalisation is one element of the government's four pronged approach contained within its counter terrorism strategy. The strategy, known as 'Contest', also includes the pursuit of terrorist offenders and disrupting threats, protecting national infrastructure and borders, and preparing for a terrorist incident as part of the strategy.

The Home Secretary also announced the 24 forces that will benefit from additional police resources announced earlier this year. The specially trained officers will work with local community police teams to build links with communities to counter terrorist activity.

For further details please see
http://press.homeoffice.gov.uk/press-releases/terror

First Roadshow to Tackle Honour-Based Violence

Following the success of the national Honour Network Helpline which was launched earlier this year and run by the charity Karma Nirvana (covered in May's *Digest* at page 39), the first in a series of roadshows has been launched by the Government to tackle honour-based violence.

Leicester City Football Club was the first to host the roadshow on 4 June to raise awareness in affected communities. The roadshow was attended by the Police, the Crown Prosecution Service, Leicester NHS Trust and local charities and aimed to increase understanding of the problem of honour-based violence, share best practice from across the country and help those suffering from such violence to have the confidence to come forward and report their concerns to police.

Home Officer Minister Vernon Coaker stated at the launch that this was part of a 'cross government action plan to tackle honour-based violence which includes forced marriage, honour killings and female genital mutilation'.

ACPO and the other Criminal Justice Service agencies are involved in the development of the plan which aims to improve the response of police and other agencies to all forms of honour-based violence and ensure that victims are encouraged to come forward with the knowledge that they will receive the help and support they need.

The roadshows were announced in February as part of the Government's Tackling Violence Action Plan which set out crime fighting priorities over the next three years of which tackling honour-based violence is one.

Further roadshows will be taking place over the next couple of months in Cambridge, Birmingham, Manchester, York, Cardiff and London.

For more information on the charity which runs the national helpline please see
http://www.karmanirvana.org.uk

The Tackling Violence Action Plan can be found at
http://www.homeoffice.gov.uk/documents/violent-crime-action-plan-08/violent-crime-action-plan-180208

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Parliament to Have Greater Role in Appointments Process for Key Public Sector Posts

The Government has published a list of sixty key public sector appointments which will be subject to increased scrutiny through pre-appointment hearings by Parliamentary select committees. The move comes in response to the Liaison Committee's report, 'Pre-appointment Hearings by Select Committees'. The posts will include those which play a key role in protecting the public's rights and interests and where the post holder needs to show professional independence from Government. Among those that will undergo this process for the first time are:

- HM Chief Inspector of Education, Children's Services and Skills;
- HM Chief Inspector of Constabulary;
- HM Chief Inspector of Prisons;
- Health Service Commissioner for England;
- Chair of the Committee on Standards in Public Life;
- Chair of the Food Standards Agency;
- Chairs of the utility regulators;
- The Information Commissioner.

As part of the process, Parliamentary select committees will take evidence from the Government's candidates for key positions, before they are appointed. In line with the Government's commitments to increasing openness and transparency, these hearings will be held in public and reports of the hearings will be published in full.

The posts affected by the proposals can be found in the Government's response to the Liaison Committee's report 'Pre-appointment hearings by Select Committees' at http://www.parliament.uk/liaisoncom

Consultation on Titan Prisons Launched

The Government has launched a consultation on the development of three Titan prisons, upholding a commitment made by ministers in the Prisons Policy Update released in January. Plans to construct the 2,500 capacity units were announced last year following Lord Carter's review of prisons, in which he recommended that 10,500 additional places be made available. While the new prisons will be considerably larger than the likes of Wandsworth, currently the largest prison in England and Wales (holding 1,416 male inmates on average), the Government is adamant that they will not be 2,500 bed warehouses. Instead they will be divided up into mid-size units, each capable of housing between 200 and 500 inmates and will be designed to provide prisoner accommodation to an appropriate standard, which deliver good value for money and which maximize opportunities. The strategy remains that the most dangerous and serious offenders should be in prison, with less serious offenders

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rehabilitated in the community where possible. In support of this, the Government announced in March of this year, an extra £40 million to further support the probation service in developing community sentences.

The consultation document outlines how the development of Titan prisons will achieve the recommendations set out in Lords Carter's review, and in particular invites comments and views on the following:

- Are the principles set out in the paper sufficient to inform the development of a strategic approach to the prison estate?
- How should we join up services, including between custody and community, to deliver integrated, end-to-end officer management to each segment?
- How should we segment the offender population particularly the prison population in order to best protect the public, reduce re-offending, deliver value for money and align supply and demand?
- Where should different segments be located when they are in custody and what should happen to them when they are there?
- How do we efficiently commission these services, so that they are both integrated and cost effusive?

The consultation will run for a total of 12 weeks, until 28 August 2008, and can be accessed at http://www.justice.gov.uk/publications/cp1008.htm

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Planned Changes to the Youth Justice System

It has been reported that a shake up of the youth justice system is being planned.

The main proposed change is the creation of new, local authority run "children's trusts". They would have responsibility for tackling youth crime, including local youth offending teams. The new trusts would:

- Bring together all services for children and young people in a local area;
- Provide help and support to children in trouble, with education, accommodation, family counselling and supervision, as well as criminal justice interventions;
- Ensure a more welfare orientated and early intervention approach to dealing with children in trouble.

A feasibility plan is currently being drawn up to see if the children's trusts could take over responsibility for managing under 18's now locked up in Prison Service-run young offender institutions such as privately run secure centres and local authority secure centres. This currently costs £45,000 for each place and there are 2,430 under 18's in Prison Service-run young offender institutions.

The announcement comes at the same time as the publication of a report by the Centre for Crime and Justice Studies, entitled 'Ten years of Labour's youth justice reforms: an independent audit'. The report makes an assessment of the Government's youth justice reforms. Key findings include:

- **Youth justice spending** - Since 2000-2001 spending on youth justice by the Youth Justice Board (YJB) and the statutory agencies that contribute to Youth Offending Teams (YOT) budgets has increased in real terms by 45%. Excluding probation, youth justice has received the largest real terms increase of all the main criminal justice agencies.
- **Youth crime** - Targets have been missed with self-reported youth offending remaining stable. All the expenditure and activity to reduce youth crime has had no measurable impact.
- **First time entrants** - Attempts to reduce the number of children who receive a youth justice disposal for the first time is proving a demanding task against a background of increasing numbers of children being drawn into the youth justice system.
- **Arrest to sentence** - Speeding up the time from arrest to sentence was an early priority and targets were met ahead of schedule but more recently performance has been mixed.
- **The use of custody** - Despite commitments made by the YJB to reduce the number of children locked up performance is currently deteriorating with numbers increasing by 8% since March 2005 against a target of a 10% reduction.

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- **Re-offending** - The targets have all been missed with the latest figures showing little progress. The government has been beset with problems in setting, revising and failing to hit its reconviction targets for children.
- **Meeting needs: accommodation; education, training and employment; substance misuse; mental health** - Nearly all the targets set relating to each area of need have not been met. This suggests that the multi agency make up of YOTs is not necessarily working as well as was hoped and are not necessarily as impressive as is often claimed. There are also significant reasons for questioning the value of the targets in providing a meaningful assessment of progress.

The report can be found in full at
http://www.crimeandjustice.org.uk/youthjusticeaudit.html

Gangs and Group Offending Guidance for Schools

The Youth Justice Board have published a guidance document for schools which details how close relationships between police, children's agencies and the youth offending service can help schools to save young people from slipping into more serious group offending gangs.

The guidance covers the following areas:

- Understanding the issues relating to gangs; what does 'gang' mean and what are the characteristics; establishing whether gangs are a problem in that particular area.
- Recognising issues for individual schools such as what signs to look for around the school site.
- Preventing the impacts of gangs and group offending on schools, including working with partners such as the police.
- What legal powers are available to schools to help tackle incidents with individual pupils or groups of pupils?
- Working with pupils already in the criminal justice system.

The guidance also includes a range of supporting documents for schools and case studies.

The full guidance document can be downloads at
http://www.teachernet.gov.uk/docbank/index.cfm?id=12639

UK Threat Assessment

The Serious Organised Crime Agency (SOCA) published on 6 June an unrestricted version of the UK Threat Assessment of Serious Organised Crime 20008/9. Drawn from a restricted version that is produced each year based on intelligence from a wide range of sources and intended for law enforcement agencies and wider government use; the report describes the threats posed to the UK by serious organised criminals.

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The key findings of the assessment are:

- **Criminal Business Structures** - most people involved in organised criminal activity affecting the UK are British Nationals and the most serious of those criminals are involved in more than one area of criminal activity. Most activities require a certain amount of collaboration and infrastructure and this is what lies behind the formation of organised crime groups and networks.

- **Firearms** - the majority of recorded firearms offences in England and Wales are linked to street gangs. Since 2006 firearms are being seized in larger quantities and there has been an increase in the number of converted weapons.

- **Cocaine** - there is increasing evidence of cocaine being shipped across the Atlantic to West Africa for transportation to Europe. This may be due to successful law enforcement action preventing transatlantic vessels which conceal cocaine travelling directly to Europe. There is also evidence of heavily adulterated cocaine being sold to some customers on the streets whilst selling higher purity cocaine to more affluent buyers. Thus there is an emerging two-tier market.

- **Heroin** - At least 90% of the UK's heroin supply comes from opiates originating in Afghanistan. There is evidence of poppy cultivation rising and that some opiates are being stockpiled, wither to regulate price or because of over-production.

- **Organised Immigration Crime** - Many Eastern European traffickers, who trade mainly in Eastern European victims are now buying victims from criminal associates who have trafficked them from other source countries. The groups are mainly small in size unlike larger South-East Asian groups who control their victims at all stages of their ordeal. Most of the victims work in the sex industry across the UK and tend to come from Eastern Europe, the Balkans, China, South East Asia and Africa. This in turn tends to reflect the nationality of the traffickers.

- **Non-Fiscal Fraud** - Serious organised criminals are actively involved in many kinds of fraud against large companies such as payment card crime, telesales and call centre crime (persuading customers to purchase worthless stock etc.) and mortgage fraud. Some of the profits from these frauds go on to finance other serious criminal activity.

In response to the above identified threats to the UK there has been much SOCA action which in the last year has included:

- Worldwide operations leading to the seizure of 400 illicit firearms and 23,000 rounds of ammunition;

- Seizures with national and international partners of almost 90 tonnes of class A drugs and over 60 tonnes of precursor chemicals;

- Successful action at home and abroad against gang trafficking and exploiting illegal immigrants from Afghanistan, Pakistan and Romania;

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- Seizure of thousands of fake financial instruments destined for the UK at a potential value of nearly £8 million as part of an international initiative against mass marketing fraud.

The unrestricted UK Threat Assessment is available at http://www.soca.gov.uk

Passenger Name Records

The House of Lords European Union Committee have accepted the effectiveness of Passenger Name Records (PNR) data in combating terrorism but have insisted that the information should only be used in the fight against serious and clearly defined crimes.

Home Office Minister, Meg Hillier, provided confidential evidence to the Committee which proved that when used in conjunction with data from other sources, PNR data can significantly assist in the identification of terrorists.

The Committee have been considering an EU initiative for the use of PNR data by all Member States. However the Lords have insisted that it should only be used in the case of clearly defined crimes, including terrorism. They have specified that the legislation should avoid broad terms such as 'organised crime' and 'serious crime' which could lead to an expansion of the offences covered and include minor crimes.

The Committee stated that for PNR data to continue to be of use against terrorism it is vital that all EU Member States share the data they hold on passengers. This could be undermined if the Government pushes further than our European partners want in extending the use of PNR data. The Government are therefore encouraged by the Committee to work with other Member States to agree on the legislation and the appropriate data protection safeguards.

The report by the committee can be found at
http://www.parliament.uk/parliamentary_committees/lords_s_comm_f.cfm

Tackling Problem Premises

The Home Office Minister, Vernon Coaker, and the Licensing Minister, Gerry Sutcliffe, met with senior representatives of the police and the local authority on 5 June 2008. The summit was convened to discuss how existing powers can be used more effectively to tackle problem behaviour and alcohol related crime and disorder in pubs, bars and retail outlets.

The discussions focused on:

- Sharing knowledge about effective measures for tackling problem behaviour;
- Making full use of local knowledge held by the police and trading standards officers to identify and target premises known to be either selling alcohol to children or that are a source of disorder;
- Putting into practice a new yellow card and red card system. A yellow card would put the problem premises on immediate probation together with

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tough sanctions and a red card would mean the immediate loss of the licence;

- Making full use of powers contained in the Licensing Act 2003, including the ability to review a licence as soon as problems occur, increased fines for breaches of the law, and the ability to apply a range of conditions on licence holders.

The key points identified at the summit will be used to inform a series of regional workshops in the coming months. The workshops, aimed at local enforcement and licensing practitioners, will encourage more consistent and effective use of licensing powers and other interventions and identify the range of tools and powers available to tackle problem premises and alcohol related crime and disorder.

The summit follows a report evaluating the impact of the Licensing Act, published in March by the Department for Culture Media and Sport (covered in April 2008 *Digest*). The report concluded that authorities are not always using the considerable powers granted by the Act to take enforcement action to deal with irresponsible behaviour. The report also identified a number of immediate actions for the government, including encouraging the imposition of tougher sanctions on those found to be breaching their licensing conditions; supporting the police to identify problem hotspots and restrictions on business for those in breach of licensing conditions by the introduction of a new yellow and red card alert system.

The summit coincides with the coming into force of Alcohol Disorder Zone (ADZ) legislation. The Local Authorities (Alcohol Disorder Zones) Regulations 2008 will allow local authorities and the police to designate localities as alcohol disorder zones. ADZs are intended as a measure of last resort to enable local authorities and the police to tackle high levels of alcohol related nuisance or disorder in a specified zone.

The full text of the Regulations can be found at
http://www.opsi.gov.uk/si/si2008/uksi_20081430_en_1

Plans to Release Prisoners Early

The Ministry of Justice have announced plans to release about 550 non-violent and non-sexual offenders from jail early, under provisions in the Criminal Justice and Immigration Act 2008. Jails have been instructed to automatically release the offenders halfway through their sentence, instead of waiting until the two-thirds point. Jails have been warned that failure to do so would constitute unlawful detention. The offenders will be released over a period of 14 months, with the possibility of further releases using the same measures.

Please see SI 2008/1466 on page 69 for more information.

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Report on the Resources, Staffing and Workload of the Probation Service

A report published by the Centre for Crime and Justice Studies claims that the Probation Service faces a budget and staffing crisis. The report, entitled 'Probation Resources, Staffing and Workloads 2001-2008' was commissioned by NAPO (the trade union and professional association for family court and probation staff) and written and researched by Dr Mark Oldfield and Dr Roger Grimshaw.

The study was based on interviews with probation staff and analysis of financial and workforce statistics. It looked into the funding and workload of the Probation Service and concluded that despite a 21% real term increase in budget, the service is in crisis caused by shortages of qualified front line staff and increase in caseload.

The main findings include:

- Probation caseloads have increased by 23% between 2002 and 2006, and by 47% since 1997;
- There is a vacuum in knowledge about how much needs to be spent to meet increases in workload caused by rising numbers of community orders;
- New work taken on by the Probation Service has proved to be far more complex, time-consuming and staff-intensive than work traditionally performed by the Service;
- Frontline probation staff grew by 21% between 2002 and 2006. However, growth was concentrated among senior and management grades, as well as the less qualified Probation Service Officers. The number of fully qualified and trainee Probation Officers fell by 9%;
- The recently announced £40 million for implementing community orders in place of short prison sentences is unlikely to compensate for the impact of long term and continuing budget reductions;
- Since 2001, the Probation budget has grown by 21% in real terms. However, in recent years it has declined, by 9% in 2005-2006 and 2% in 2006-2997. The Government plans further year on year budget reductions of 3% per year for the next 3 years;
- The ratio of offenders to qualified Probation Officers increased by 28% between 2002 and 2006, from 31 offenders per Officer to 39;
- The research estimates that qualified Probation Officers worked nearly 30,000 unpaid hours in 2006, equivalent to one extra hour per day per officer;
- Budgetary concern and fears have been expressed by many of the probation areas that are responsible for local probation services.

The report can be found in full at
http://www.crimeandjustice.org.uk/probationspending.html

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Parole Board Business Plan

The Parole Board has published it Business Plan for 2008/2009. The plan:

- Sets out the aim, objectives and targets of the parole board over the next 12 months;
- Details how the board will manage the changing nature of its work and workload.

The Business plan is based on the knowledge that changes brought in the Criminal Justice Act 2003 have led to a reduction in the number of determinate sentence cases considered by the Board. A further reduction is expected following the implementation of the Criminal Justice and Immigration Act 2008. This new Act is likely to mean a projected drop in the number of determinate sentence recalls that will be referred to the Board.

In contrast, it is felt that all other areas of work will increase. Projections of the likely increases include:

- The number of indeterminate IPP sentences dealt with by paper review is projected to increase from 125 in 2007/08 to 350 in 2008/09;
- Those dealt with by oral hearing are projected to increase from 500 to 1,075;
- The number of lifer oral hearing reviews is expected to increase from 1,600 to 1,700.

The strategic aims laid down in the Board's corporate plan are:

- **Aim 1** - To make risk assessments which are rigorous, fair and timely with the primary aim of protecting the public and which contribute to the rehabilitation of prisoners where appropriate.
- **Aim 2** - To demonstrate effective and accountable corporate governance by maintaining strong internal control, setting clear objectives and managing corporate risk, and to deliver best value by optimum use of resources.
- **Aim 3** - To promote the independent of and public confidence in the work of the Board whilst effectively managing change.

For more information please see
http://www.paroleboard.gov.uk/news/business_plan_2008_09/

Board Members Announced for the Independent Safeguarding Authority

The new 10 Board Members of the Independent Safeguarding Authority (ISA) have been announced. The Board will be responsible for ensuring that all decisions of the ISA are steered by guidance from the relevant minister or sponsoring department; ensuring that staff operate to the highest ethical and professional standards and will take on the decision making role in complex or difficult cases.

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As reported in the May edition of the *Digest*, the ISA will go live in October 2009. Before then the Board will be tasked with defining the criteria for barring individuals from working with children and vulnerable adults.

The appointments followed a publicly advertised recruitment process and the new members have been selected for their wide ranging expertise in work with vulnerable people and those who abuse them.

The Chairman of the ISA is Sir Roger Singleton CBE and the Chief Executive is Adrian McAllister. The new Board members are:

- Dr Valerie Brasse;
- Dr John Belcher, CBE;
- Richard Black OBE;
- Donald Findlater;
- Tom Davis;
- Mehmuda Mian Pritchard;
- Professor Don Grubin;
- Debbie Ariyo;
- Moira Murray;
- Peter Withers.

For more information of the ISA please see
http://www.isa-gov.org/default.aspx

Tough Sanctions to Tackle Knife Crime

Anyone over the age of 16 caught in possession of a knife can now expect to be prosecuted on the first offence rather than cautioned. The new sanctions, aimed at sending a clear message that carrying knives is not acceptable, form part of a series of measures aimed at tackling knife crime.

Those under 16 who commit offences without aggravating factors can still expect to receive a caution, together with a referral to a knife education scheme. In addition their parents will be notified and may be given parenting orders. If they re-offend they are likely to be prosecuted.

Justice Minister Supports Community Sentences to Cut Crime

The Ministry of Justice has launched a new document outlining the impact of strong community punishment stating that tough community sentences have a real impact on reducing crime and preventing offenders from re-offending.

The new report launched by Justice Minister David Hanson MP, is called 'Community Sentencing - Reducing Re-offending, Changing Lives'. It shows how

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such punishments for less serious offenders work in the battle against crime and claims that putting offenders through tough community sentences can be more effective in reducing re-offending than a short spell in prison.

The minister is also commencing a series of regional discussions on sentencing policy and to highlight how as the report says, community sentences play a key role in cutting re-offending.

Mr Hanson said:

"[Prison] is not necessarily the best route for less serious offenders who may lose their job, their accommodation and their family ties after a short period of imprisonment. Avoiding these issues cuts the likelihood of re-offending on release, and in doing so cuts crime."

He went on to say that:

"For many offenders community sentences are more effective in cutting re-offending than short term prison sentences and we need to ensure than the public have confidence that this is fact."

The debate will therefore be taken out for discussion in local communities.

The Government committed £40 million in March to ensure Magistrates have tough community sentences at their disposal and an additional investment of £13.9 million over the next 3 years to fund 6 new intensive alternatives to custody projects. The piloting of such schemes and the provision of more rigorous non-custodial regimes were recommended in the Carter Review which was published at the end of last year and covered in January 2008's issue of the *Digest* at page 39.

The full report of 'Community Sentencing- Reducing Re-offending, Changing Lives' can be found at http://www.justice.gov.uk

Consultation Guideline for First-Time Breaches of ASBOs

The Sentencing Guidelines Council (SGC) has proposed that courts dealing with breaches of Anti-Social Behaviour Orders should impose sentences that first and foremost reflect the level of harassment, alarm or distress caused by an offender.

The Consultation Guideline identifies 3 levels of behaviour involved in breaches:

Adult Offenders Where Use of Violence or Intimidation

- The most serious cases, in which first time adult offenders use violence or intimidation, make significant threats or target individuals or groups in a way that provokes fear of violence, should attract a custodial sentence of up to 2 years;
- The Guideline advises that sentences can be increased if the offender has a history of disobedience to court orders, if the breach was made shortly after the original order or if the offender targets the same person that the original order was made to protect;

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- A lengthy interval between the breach and the order being made could however mitigate the sentence.

Adult Offenders Where No Harassment, Alarm or Distress Caused

- For less serious cases where no harassment, alarm or distress is caused such as drunkenness, begging or ignoring bans on the use of public transport; the SGC proposes the use of a community order.

Young Offenders aged 16 or 17

- Where offenders are aged 16 or 17 the court can impose a community punishment order involving unpaid work up to a maximum of 240 hours or a community rehabilitation order which can last between 6 months and 3 years which will involve attendance on programme to address offending behaviour;
- In cases where a custodial sentence is unavoidable in the court's opinion, the starting point should be 4 months detention.

The Guidance emphasises that the first principle of sentencing for a breach of an order is to achieve the purpose of the original order, i.e. to protect the public from behaviour which is likely to cause harassment, alarm or distress. The courts must also enforce their orders to reassure the public that offenders are dealt with properly.

The Consultation Guideline is available at
http://www.sentencing-guidelines.gov.uk

Consultation on Extending the British Crime Survey to Cover Under 16's

A consultation has been launched by the Home Office to seek views on the proposal to extend the coverage of the British Crime Survey (BSC) to cover under 16's.

The BCS is a survey of approximately 47,000 adults living in private households in England and Wales. The survey asks people about their experiences and perceptions of crime and crime related topics.

However, the BCS was criticised in 2006 for excluding crimes committed against under 16's, people living in institutions or communal establishments, people living on the streets and businesses.

It is following this criticism, and the conclusion of a feasibility study into the inclusion of under 16's in the BCS, which has lead to this consultation.

The Home Office is proposing to extend the BCS to cover under 16's and hopes to introduce this in January 2009. However, before this can take place the Home Office have requested views on the following questions:

What should be the lower age limit for the survey and why?

- It was initially recommended that the survey covers children aged 10 and above.

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- Early development work, however, suggests that 11 might be a better age as 10 year olds have more difficulty focusing and answering questions and are less likely to have experience of victimisation.
- We are now only considering including children aged 11 to 15 in the survey.

What additional crime-related topics should the survey cover and why?

- We are anticipating an interview of about 20 minutes long.
- Most of the interview will be questions on personal victimisation.
- There is some scope for additional topics, such as preconceptions and contact with the police, feelings of safety and experiences of bullying.
- Views are welcome on which topics should be covered and why.

How should the estimates of personal victimisation be treated and reported?

- Questions designed for adults will need to be adapted in order for them to be relevant to and understood by children.
- This may make direct comparisons between child and adult victimisation problematic.
- Views are required on whether we should aim to combine estimates from the children's sample with the main adult sample, or whether they should be reported separately.

Is there interest in providing estimates for other sub groups?

- Should we investigate the use of different age groups, for example estimates for 11-18 years old.

The consultation period will run until 8 August. Responses should be sent to BSCinfo.rds@homeoffice.gsi.gov.uk

It is proposed that a document will be published summarising responses to the consultation in the Autumn.

For more information on the consultation and alterative ways to respond, please see
http://www.homeoffice.gov.uk/rds/pdfs08/bcs-consultation-0508.pdf

'Engaging Communities in Fighting Crime'

A major review on how to better engage communities in the fight against crime has been published. The review, entitled 'Engaging Communities in Fighting Crime' was headed by Louise Casey, the former head of the Government's Respect Task Force. It follows an eight month, in-depth study, during which around 15,000 members of the public, along with front line staff, were canvassed to give their views on what more can be done to improve the ways that crime-fighting agencies and the public work together to reduce crime.

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The starting point of the review is that without public action, support and confidence, the police and other criminal justice agencies cannot make communities safer. However, for the public to achieve this they need to see and experience services that tackle crime effectively, give them confidence and back them up.

The report looks at five broad areas:

1. Putting victims, witnesses and other law abiding citizens first.
2. Fighting crime and delivering justice for communities.
3. A new approach to crime statistics.
4. The citizens' role in tackling crime.
5. Freedoms and accountability.

In total, the review contains 32 proposals which aim to reduce crime, create safer communities and increase public confidence.

Proposal 1: To address the absence of a strong public voice on crime, the Government should go further than its current stated intention to appoint a commissioner for Victims and Witnesses, by appointing a Public Commissioner on Crime. The Commissioner should have a broad remit to champion the public's concerns about neighbourhood crime and justice within Government. In addition they should have specific responsibilities for driving up the levels of support offered to victims and witnesses.

Proposal 2: Proceeds from the Victims Surcharge should be used to directly support victims and witnesses of crime:

- to finance projects that support victims that currently struggle for funding; and
- to establish a Victims' Compensation Fund, allowing victims to receive compensation ordered by a court in full at the time the court order is made, stopping the current prolonged contact a victim has to have with the offender.

Proposal 3: The provision of automatic eligibility for special measures around anonymity (beyond those that currently exist for children and victims of sex crimes) should be introduced for victims and witnesses who are:

- vulnerable - for example through old age or disability, in the same way that special measures are justified for children; and/or
- in fear of intimidation or reprisal and where wider impact on the community is particularly high (for example in cases of gang, gun and knife crime or persistent anti-social behaviour).

Proposal 4: Her Majesty's Court Service should introduce arrangements to ensure separate seating arrangements for victims' families attending court.

Proposal 5: The Victims' code and the Witnesses' Charter should be widened to cover civil proceedings where these are linked to defined acts of crime, like domestic violence, or anti-social behaviour.

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Proposal 6: The Government should, together with the 43 police authorities and forces in England and Wales, provide a local police commitment in every neighbourhood, based on the ten approaches identified by the public in this review. This should focus on the delivery of all local police activities, not just on the service provided by the Neighbourhood Policing Team. The commitments should be put in place in each area by the beginning of 2009.

Proposal 7: The Government should ensure on behalf of the public that standardised approaches to Neighbourhood Policing are adopted by all forces by the beginning of 2009 to improve public awareness, familiarity and confidence. From our discussions with the public during the review, we suggest that these should focus on:

- agreeing a single name and identity for Neighbourhood Policing Teams where several currently exist - we favour 'Neighbourhood Policing Teams';
- using a single name for local public engagement meetings on crime - we favour 'PACT' (Police and Communities Together) - in partnership with local government and other criminal justice agencies, and applying approaches that are based on key good practice principles for public engagement; and
- providing monthly common and comparable local information via Neighbourhood Policing and PACT meetings, including feedback on action taken on crime and neighbourhood problems and what has happened to any criminals convicted for local crimes.

Proposal 8: The Government should ensure that the following action is taken with regard to Police Community Support Officers (PCSOs):

- Maximum abstraction rates should be set for PCSOs as a condition of ring-fenced funding allocations to police forces.
- Powers to detain and to issue Fixed Penalty Notices for disorder should be added to the standard set of powers and duties that apply to all PCSOs.
- Standard PCSO uniforms and equipment should be adopted nationally.

Proposal 9: Local authorities and police forces should consider establishing structures that ensure closer local working of Neighbourhood Policing, wider neighbourhood management and council services and other criminal justice services, by:

- establishing strategic Neighbourhood Crime and Justice Co-ordinators in every Crime & Disorder Reduction Partnership area;
- nominating a local authority officer as a Neighbourhood Policing Team liaison person for every team for all joint action and tasking needed to resolve neighbourhood problems and feedback to the public; and
- ensuring that at every Neighbourhood Policing public meeting (PACT - Police and Communities Together), local authority officers are present to ensure that problems raised by the public - from litter to pot holes, to activities for youngsters, to crime - can be resolved in one forum.

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Proposal 10: The Government should continue with its interventions where poor parenting is putting children at risk of getting involved in crime and anti-social behaviour. However, it should go further by ensuring that these arrangements are publicised locally so that everyone in the community knows what action will be taken with parents and children when a child is:

- excluded from school;
- persistently truanting;
- found out on their own late at night;
- found drinking or using drugs;
- found behaving anti-socially or committing crime; or
- where parents themselves are involved in drugs or crime.

These circumstances should trigger a formal response co-ordinated by the local authority that gets help to the family.

Proposal 11: Building on the work that the Department for Children, Schools and Families is already pursuing in 50 local authorities that cover the country's most deprived areas, the government should ensure that, by Summer 2009, there are youth activities available where needed on Friday evenings in those 50 areas and that, more broadly, future capital investment in youth facilities across the country is dependent upon local authorities being able to demonstrate an ongoing commitment to adequate youth provision being available on Friday evenings.

Proposal 12: Her Majesty's Court Service should provide greater information to the public on cases, sentencing decisions and what happens to offenders, on a regular and much more consistent basis.

Proposal 13: Community Justice pilots should be expanded and refocused on the key elements outlined in the justice proposals above and below - especially visible Community Payback and greater feedback to the community, through Neighbourhood Policing, on results of court cases.

Proposal 14: Wherever currently community sentences are being carried out under the title of 'unpaid work' this should be changed to 'Community Payback', the work should be more visible and demanding, not something any member of the public would choose to do themselves, and the local community should receive information about it and who is doing it. A deadline should be set by the Government for this transformation.

Proposal 15: The Government should consider contracting out from the Probation Service the running of Community Payback and, in future, Community Payback should be delivered to new agreed standards that reflect proposal 14 above so that it is visible, demanding and the public know about it.

Proposal 16: The Government should implement a new Community Punishment that requires offenders to carry out Community Payback as above - visible and demanding - but with increased loss of personal time/liberty through greater intensity and frequency of hours. For example, if an offender is in

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employment, they would be required to undertake work several nights each week and at weekends or, if out of work, 5 days a week.

Proposal 17: An order to undertake Community Payback should be made at the same time a sentence is given, rather than having to adjourn and wait for a presentence report to assess suitability for work. The assessment should still take place and, in the small minority of cases where the offender is subsequently found to be unsuitable for work, the order should be reviewed.

Proposal 18: Probation Officers should have the power to extend the number of Community Payback hours to be served where breaches occur, without the need to refer back to court. The extra hours added should be double the number missed or not complied with fully. That power and the consequence for non-compliance with an order should be spelled out clearly when the sentence is first imposed.

Proposal 19: Neighbourhood Policing Teams should become the 'face' of engagement and communication with local communities on crime and justice as a whole, and should be given the necessary support to achieve this. At local meetings with the police, local authority and public (PACT - Police and Communities Together meetings) the following should be given priority:

- A discussion of the community's priorities for the police and local authority with feedback on what action has taken place since the previous meeting.
- Feedback to the community on crimes brought to justice including, for example, work completed in the area as part of Community Payback, information on court cases and the sentences handed down for key crimes that have been of particular concern to the community.
- Opportunities for the public to have a say on the work that should be conducted in the local community under Community Payback.

Proposal 20: Government should consider extending existing duties to co-operate on crime and related areas to all relevant agencies, with the intention that the public receive a seamless service.

Proposal 21: Government should ensure that 'community engagement' activities are rationalised. Police authorities, local authorities, the Crown Prosecution Service, magistrates and others should work together to ensure they are not separately asking the same questions of the same community at different times about what they want in relation to crime, policing and justice.

Proposal 22: The Statistics Authority or another independent organisation should be given full responsibility for producing the national crime statistics and trends. As part of a role in restoring public trust in national crime statistics, the Statistics Authority or another independent body should draw up a public protocol on responsible use of crime statistics and invite politicians of all parties, the media, and interest groups to publicly sign up to it.

Proposal 23: By the beginning of 2009, local monthly crime information should be published to include local information about action being taken to tackle crime, contact telephone numbers and e-mail addresses for local police teams, minimum standards of service the police are committed to delivering in the

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neighbourhood, how to complain if dissatisfied, opportunities to meet local police teams and influence their priorities, and details of crimes committed, with feedback on what sentences offenders have received.

Proposal 24: The Government and/or the Statistics Authority should consider what more could be done to develop a more dynamic and interactive website that maps local crime information and allows the public to compare levels of crime and the performance of criminal justice services in their area with other like areas, along the lines of web-based services already available for the health service.

Proposal 25: The Government should consider ensuring that every household receives information in a 'Crime Watch' style that outlines their role in tackling crime, what the police and other local agencies should be providing to them, how they can hold those agencies to account, how particular crime problems can be resolved and where to go if they want to get more involved locally.

Proposal 26: The Government should develop a new and major training programme that can equip community groups and citizens to play a stronger role in tackling crime - a type of 'Community Crime Fighters' umbrella organisation - based on successful capacity building programmes to empower tenants and other community groups, like those run at the National Communities Resource Centre.

Proposal 27: Local authorities should consider what financial support they can offer in support of 'Community Crime Fighters' that help to tackle crime and neighbourhood problems, including award schemes that offer small grants to groups that Neighbourhood Policing Teams identify for outstanding achievements in reducing crime and the fear of crime.

Proposal 28: In its forthcoming Policing Green Paper and White Paper on Empowerment, the Government should encourage local public funding to be allocated to neighbourhood and community groups to help tackle community safety problems using participatory budgeting and community kitties.

Proposal 29: A senior police officer, working directly to the Policing Minister, should be given responsibility for reducing the number of police forms in use and for introducing new methods to reduce bureaucracy in all police forces, holding them to account for any bureaucracy that keeps officers away from frontline duties. The Policing Minister should publish progress reports detailing activity and results on a quarterly basis.

Proposal 30: Combined with a dramatic reduction in its approach to targets, monitoring, assessments and intervention, the Government should ensure that, in its place, an overriding measure of public confidence is used, with performance reported to the public at ward, local authority (Crime & Disorder Reduction Partnership), force and national levels.

Proposal 31: In its forthcoming White Paper on community empowerment, the Government should consider what steps can be taken to give the public proper redress where crime and neighbourhood problems are not tackled effectively in their communities and, as part of this, should ensure that the 'Councillor Call for Action' on crime and disorder is introduced forthwith.

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Proposal 32: The Government should ensure that Her Majesty's Inspectorate of the Constabulary is sufficiently robust in providing the necessary advice on the performance of local police services to enable the Home Secretary to hold them to account on behalf of the public for reductions in crime and improvements in public confidence.

The conclusion of the report is that radical change is needed to engage the public further in tackling crime. The proposals will feed into the government's policing green paper which will be published shortly. In its response to the review, the government has announced a number of practical steps that it will take to improve neighbourhood policing in England and Wales. The steps include:

- Increasing the visibility of community sentences so offenders 'pay back';
- Providing local crime data and online maps;
- Investing in a new team of community champions;
- Setting national minimum standards for neighbourhood policing;
- Dedicating funding for community safety.

To ensure that changes happen quickly, Louise Casey will take on the role of Neighbourhood Crime and Justice Adviser and as which she will work to improve neighbourhood policing across the country.

The full review, 'Engaging Communities in Fighting Crime', along with summary and responses, can be viewed at http://www.cabinetoffice.gov.uk/crime.aspx

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Police Lose Pay Challenge

The High Court has handed down its judgement on the Police's Judicial Review application. As reported in the May and June 2008 editions of the *Digest*, the Police Federation had launched a High Court challenge to the Government's decision to effectively limit their pay award this year to 1.9%. This followed the Home Secretary's announcement on 6 December 2007 of a 2.5% increase to the pay of Police Officers for 2007, but that it should be implemented on 1 December 2007, rather than 1 September 2007.

On 10 June 2008, Lord Justice Keene and Mr Justice Treacey ruled in favour of the Home Office's decision not to backdate a 2.5% increase to the pay award for police. The judges decided that the Home Secretary had not acted ultra vires (beyond her powers) or otherwise unlawfully in making her decision of 6 December 2007. The application for judicial review was accordingly refused.

In making their judgment, the judges rejected the Police Federation's argument that police forces around the country had a legitimate expectation that they would receive the full 2.5% increase as recommended by the independent arbitration tribunal. Lord Justice Keene said that the only legitimate expectation the police had, that the Home Secretary would not lightly set aside a recommendation made by the tribunal, had not been frustrated. He ruled that the Home Secretary had reasons which she was entitled to regard as being of greater weight than the arbitration tribunal award and she had explained those reasons with sufficient clarity.

The judgment recognised that police officers are in a difficult position over pay because they are denied the right to strike. While in its place there is the negotiating and arbitration machinery the outcome of these processes is not binding on the decision maker, the Home Secretary. The judges said it was not a matter for the court to determine if that is a satisfactory situation.

Following the judgment, the Home Secretary, Jacqui Smith said that she stood by her decision because it was important to ensure that pay settlements are affordable and consistent with government pay policy. She said she wanted to work closely with the Police Federation to discuss this year's pay deal and that she would be pushing for a multi- year deal from 2008 to ensure pay certainty for police officers in the future.

The Police Federation and chairman of the Staff Side of the Police Negotiating Board, said that they were very disappointed with the decision. However, they will not be appealing the High Court ruling.

ACPO said that it was time to look to the future and aim to restore confidence in the process for arriving at a fair annual pay award.

The full judgment can be found at
http://www.polfed.org/Judicial_Review_Decision_Doc_100866.pdf

Please also see the case summary on page 61.

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Civitas Report - The Public and the Police

Politicisation of the police is putting policing by consent at risk, according to a new report released by independent think-tank, Civitas. In the Report, entitled 'The Public and the Police', Harriet Sergeant discusses how the police forces in Britain have been made to put Government targets ahead of serving the public. Police performance is measured by 'sanction detections', the term used for offences detected or cleared by charging someone, issuing a penalty notice, or alternatively giving them a caution if they admit the offence, have no previous record and have not recently received a penalty notice. Under Section 5 of the Public Order Act 1986, police can arrest a person for using 'threatening, abusive or insulting words or behaviour within the hearing or sight of a person likely to be caused harassment, alarm or distress'. The section is primarily used for public order offences, however the report suggests that since the introduction of 'sanction detections' police are more frequently using the section for minor, or what the report refers to as innocuous crimes.

The report discusses what constitutes a 'sanction detection', suggesting, for example, that arresting a child for chalking on the pavement gets a sanction detection, but the work spent in tracking a missing child does not. It also reports that a child stealing a mars bar earns the officer the same as a murder, even though the murder requires a much greater amount of police time. The report accuses the police forces of being slow to respond to calls, often slack about follow up, and unwilling to tackle anti-social behaviour, despite being more lavishly funded and staffed than at any time in history.

In its response to the report, the Police Federation agreed that officers were struggling to bring some common sense to a target driven culture, saying that the report highlights issues that they have long voiced concerns about. Paul Mckeever, Chairman for the federation, said that the vicious circle of chasing targets further alienates the police from the majority of law-abiding people. A spokesman for the Home Office however, said that the Government's crime strategy was designed to free up the police so that they are able to focus on serious crimes and local priorities.

The press release from Civitis on the report can be read in full at http://www.civitas.org.uk

ACPO Announces New Procurement Strategy

A new procurement strategy is to be put in place which aims to improve efficiency in the spending of police forces and to secure better value for the £2 billion currently spent annually on goods and services. The strategy sets out principles and targets for procurement that support a collaborative approach between forces.

The six clear principles of the strategy, as highlighted by Dr David Horne, ACPO lead on procurement, are as followed:

- increasing further police procurement capacity and capability;
- securing further supplier competition and price leverage;

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- shaping requirements and specifications;
- developing techniques and practices to reduce costs and risks;
- reducing procurement overheads and the costs of acquisition; and
- promoting sustainability and supporting diversity in procurement.

Benefits have already been seen in a new framework for the supply and fit of police vehicle tyres, which show significant savings when compared with current arrangements. Delivery of the strategy will be monitored by ACPO, with support from the NPIA. The procurement performance of individual forces will continue to be monitored by police authorities and Audit Commission inspections.

Bluetooth Crime Prevention

Cambridgeshire Police's launch of its new crime prevention tool has shown to be an early success. The Bluetooth technology allows police to send messages to hundreds of peoples' mobile phones.

The community safety unit has 5 boxes which can send out messages to all mobile phones within a 100-metre radius. The boxes have been placed in busy clubs and bars and people with a Bluetooth capability on their phone will receive a note asking them if they wish to accept a message from Cambridgeshire Constabulary. The message which can be refused is for information only. One of the messages read "Don't advertise your phone to thieves: keep it safe, keep it hidden. Register it at http://www.immobilise.com "

In its first weekend a total of 612 messages were sent and accepted. Only 99 texts were refused. The success of the scheme so far is set to pave the way for more messages with managers at the venues where the boxes were placed suggesting that future messages could include information on how to get home safely.

Further information can be found at http://www.cambspolice.uk and http://www.immobilise.com

Griffin Has Landed At Gatwick Airport

Gatwick has become the first airport to join Project Griffin, a police initiative to protect the UK's cities and communities from the threat of terrorism.

As part of the project, the police will build on existing relationships with airport workers to ensure everyone feels confident in recognising and reporting suspicious activity and behaviour. Project Griffin awareness days will be held for staff which will focus on crime and counter terrorism issues, specifically as they relate to the day to day running of the airport. The training provided through the project will be in addition to the basic security training that all employees receive.

Developed by the City of London Police, Project Griffin brings together and coordinates the resources of the police, emergency services, local authorities, business and private industry. Its primary mission is to engage, encourage and

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enable members of the community to work in partnership with the police to deter, detect and counter terrorist activity.

To find out more about Project Griffin visit http://www.projectgriffin.org.uk/

New Guidance to be published on Command and Control

The NPIA's Operational Policing Practice team is in the process of producing new Guidance on Command and Control. This relates to the management and direction of policing resources, for example, in response to a major incident. The existing approach to command and control varies greatly across the service, however recent reports into the Stockwell shooting in July 2005 and the Pitt Review into the summer 2007 floods have emphasised the need for a more consistent approach.

The Guidance will set out general principles of command and control, the command structure and the command and control model for the police service. The draft document is currently being revised to take into account feedback already received. Further consultation with stakeholders will follow before it is returned to ACPO for approval. The final document is to be published by the end of the year.

Colleagues involved in any project that may impact this piece of work, or would like to discuss the guidance, are advised to email Simon Newman or contact him on 01480 334595.

New Police Website for Kids

A new website has been developed by Cumbria Constabulary to help the police to engage with young people and to encourage them to communicate with the police.

The 'Cops4Kids' website is designed to appeal to children by including puzzles, competitions and cartoon characters. The site aims to:

- Provide interesting facts about policing in the County;
- Give advice on staying safe on the roads, safe use of the internet and stranger danger;
- Provide information about the Respect Campaign to educate young people about their role and responsibility in helping to build a safer local community;
- Give useful links to sites for advice on beating bullying;
- Act as an educational tool for schools to raise children's awareness of the police service;
- Give regular updates on various campaigns and competitions designed for children and schools.

The site can be reached by logging into http://www.cumbria.police.uk/ and clicking on the Cops4kids icon.

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Scotland: New Police Officers

The first cohort of additional police officers to be recruited to the Scottish police force has completed their training. At a passing out parade at Tulliallan Police College the Justice Secretary, Kenny MacAskill, said that the government was committed to delivering a more visible police presence on the streets and in communities.

In January 2008, the Finance Secretary, John Swinney, committed an extra £40 million over the next three years to fund the recruitment of 1,000 additional police officers by 2010-11. The announcement of additional central funds came after lobbying by the Scottish Police Federation, supported by independent research which concluded that expenditure on policing in Scotland was the lowest in the United Kingdom.

150 additional police officers have been recruited in 2007-08, a further 450 additional officers will be recruited by the end of the 2008-09 financial year, 200 additional officers in 2009-10 and 200 in 2010-11.

Police Federation Posts

The following people have been elected as members of the Joint Committee of the Police Federation of England and Wales:

- Chairman - Paul McKeever;
- General Secretary - Ian Rennie;
- Treasurer - David Moore;
- Vice-Chairman - Simon Reed;
- Deputy General Secretary - Steve Smith;
- Deputy Treasurer - Martyn Mordecai.

Report on the Circumstances of Crime, Neighbourhood Watch Membership and Perceptions of Policing

The Home Office Statistics department has released a Statistical Bulletin entitled 'Circumstances of crime, Neighbourhood Watch membership and perceptions of policing: Supplementary Volume 3 to Crime in England and Wales 2006/2007'. The statistics provide supplementary information on crime figures in England and Wales. They are based on data from the British Crime Survey.

Some of the main findings include:

Circumstances of Crime

- 74% of domestic violence incidents took place around the home.
- Two third of incidents of stranger violence happened in the street or a pub or club.

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- In relation to violent incidents, 51% of offenders were believed to be aged between 16 and 24 years.
- 25% of burglaries occurred when a door was not locked and in 7% of burglaries the offender(s) used a key.
- Mobile phone ownership continues to rise but only 2% of owners have experienced a theft.
- Children and young adults comprise a large proportion of all victims of mobile phone theft.

Neighbourhood Watch

- 19% of home owners were members of Neighbourhood watch, whereas only 9% of social renters and 10% of private renters were.
- Householders in rural areas were more likely to be members (21%) than those in urban areas (15%).
- Overall 16% of households belonged to a Neighbourhood Watch Scheme in 2006/07. This is a decline from figures in 2000 (27%).

Perceptions of the Police

- 40% of people had some type of contact with the police in the previous 12 months.
- Only 10% of people had been stopped by the police in a vehicle.
- 3% of people had been stopped by the police while on foot.
- 81% of those people stopped were satisfied with the way the police dealt with the matter.
- 83% of people thought that their local police would treat them with respect if they had contact with them.
- 61% of people thought that their local police would treat everyone fairly regardless of who they were.
- Only 41% of people thought that the local police could be relied upon to deal with minor crime and only 47% thought they would be there when they were needed.

For more information please see the bulletin in full at
http://www.homeoffice.gov.uk/rds/pdfs08/hosb0608.pdf

Police Staff to Patrol Youth Courts

Dedicated police community support officers are to patrol Youth Courts in London as part of Operation Blunt 2, the police response to the number of fatal stabbings of teenagers in the capital. A number of victims and witnesses in these cases have been reluctant to testify in court due to fear of harassment and reprisals on the day.

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Forces Criticised for Public Spending on Public Relations

Research has shown that police forces in the UK are spending almost £40 million a year on public relations and marketing.

Spending has increased on marketing and it is claimed that this has occurred since the Home Office began measuring the performance of forces against public perceptions of crime. Senior officers have insisted that most marketing is aimed at crime prevention and providing accurate information to inform the public. Others have said that the rise in cost is due to a huge expansion in neighbourhood policing and therefore investment has been needed to ensure effective and targeted communication with communities. In some forces some of the expenditure has been met by recovered money under the Proceeds of Crime Act 2002.

The research came about as a result of a request under the Freedom of Information Act 2000 which asked all forces in the UK to submit their spending on PR and marketing.

The results, published in the Times by journalist Heather Brooke, have been heavily criticised as spin doctoring and news management. Brooke herself commented that the police are paid to fight crime not manage the public's perception of crime.

The article and the figures it produced can be found at
http://www.timesonline.co.uk

IPPR Report on Police Accountability

The Institute for Public Policy Research (IPPR) has published a new report that argues for the police to be made more accountable to the communities they serve in order to improve performance and become more responsive to local people. The report entitled 'A New Beat: Options for More Accountable Policing' says that despite record levels of funding, performance has not improved and public satisfaction rates are lower than in the past. One of the reasons indicated is that police forces are insufficiently accountable to local people and that police management and governance is weak.

The proportion of people who say the police do a 'good or excellent' job fell from 64% in 1996 to 48% in 2005. Whilst people who have been victims of crime in the last year rate the police lower than those who have not been a victim. Only 41% of victims say the work the police do is 'good or excellent' compared to 52% of non-victims. The report claims that this decline in satisfaction is related to a perceived decline in traditional community policing. When asked what the police should do more of 59% of participants in the research said they would like to see more foot patrols, followed by 36% saying they would like to see more community policing.

The report states that Home Office targets intended to increase force accountability have failed to improve performance in key areas and have made policing even less responsive to local needs and circumstances. It identifies an accountability deficit at the local level where police authorities are weak, remote

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and unaccountable, while elected local government has no effective say in setting local policing priorities. As a result say IPPR, there are insufficient pressures to improve performance and police forces are not responsive enough to local needs and priorities.

The Government has already announced it is considering introducing 'directly elected representatives' to oversee police forces. But IPPR argues that elections at force level are not the only option and that the Government should consider others like giving powers to local councils to oversee policing.

Some of the recommendations outlined by IPPR to increase accountably include:

- Introducing directly elected police commissioners;
- Having directly elected police authorities;
- Giving local authorities greater influence over community policing;
- Introducing directly elected mayors and giving them powers to hold the police to account;
- Introducing elected police boards.

The report says that a single approach will not work because of regional variations and so the government should allow different models of police accountability to operate in different areas. According to the report whichever option is chosen the new policing bodies should be given real powers to set police priorities, have some control over budgets, and powers over the appointment of local police commanders if they are to be effective.

The report can be found in full at http://www.ippr.org/publicationsandreports/

Scotland: Productivity of Police Officers

A report published by Her Majesty's Inspectorate of Constabulary for Scotland (HMICS) recommends a number of actions to improve the monitoring of the productivity of police officers. These will provide chief constables with an opportunity to improve how performance management and tasking is conducted at operational level, as well as how priorities and objectives are communicated and used.

The 'Productivity of Police Officers report' recommends:

- The Scottish Policing Performance Framework be incorporated into public performance reports and used as a basis for reporting to police authorities/ boards;
- Forces encourage the use of accurate and timely performance information with a focus at team and individual level;
- Development of clear tasking processes under the National Intelligence Model;
- Training provided to Inspectors and Sergeants is reviewed and developed;

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- The new national objective driven personal development review system is adopted, in its entirety, by all forces;
- That a common methodology for activity analysis, focusing on management and performance information is agreed;
- Preparatory work for the new Common Performance Management Platform is implemented without delay.

The Assistant Inspector of Constabulary for Scotland, Malcolm R Dickson said that one of the major achievements in Scottish policing in recent years had been the creation of a common Scottish Policing Performance Framework. This is an agreed set of indicators which can be used to measure and understand performance with the intention that policing will continue to improve for the benefit of the public.

Her Majesty's Inspectorate of Constabulary for Scotland is responsible for inspecting the eight Scottish police forces and five police services.

The report published in May 2008 can be found at
http://www.scotland.gov.uk/Publications/2008/04/29142805/0

'Answering to you: Policing in the 21st Century'

A radical reform of the way police are held to account is needed to maintain the confidence of the public, according to local government leaders in a report published on 9 June 2008. Billed as the Local Government Association's own 'green paper' on police accountability, the report sets out reforms to the tripartite model which the association believes would substantially improve the accountability of police forces to the areas that they serve. In total, there are 12 components of the reformed tripartite structure that the Local Government Association proposes:

- Changing the Home Secretary's responsibilities for local policing;
- The merging of police authorities and local authorities, so local police accountability is exercised through local authorities;
- The introduction of community safety charters between the local authority and its local community, against which the local authority and the local police can be held to account by local people;
- The creation of Community Safety Finance Account's in local authority budgets to safeguard spending on policing and community safety functions;
- The consideration and debate by councils of Community Safety Finance Accounts in their own right during the budget setting process;
- Merged police and local authorities to set up the strategic context of police budgets, and to be able to amend that context as necessary;
- Local authorities to play a role in collaboration with chief constables in the police workforce modernisation agenda;

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- The Basic Command Unit (BCU) commanders are to be given fully devolved budget responsibility, with existing BCU funds to be given to CRPs/CSPs to commission services from their BCU commander;
- The concept of chief constables' operational independence to be replaced by operational responsibility;
- BCUs are to become more accountable to the communities they serve through:
  - an increase in the number of BCUs, with their size dictated by their local policing functions;
  - their boundaries coterminous as much as possible with local authority boundaries;
  - BCU commanders to be subject to oversight from local authority scrutiny committees through the introduction of the provisions in the Police and Justice Act; and
  - local authorities to be given a role in the appointment and dismissal of BCU commanders.
- For neighbourhood policing to become a mainstream police activity;
- The establishment of Safer Ward Partnerships to bring local ward councillors and neighbourhood policing teams together to tackle crime at street level; and for ward councillors to become local community safety champions for their wards, in the interim through the introduction of the Councillors Call for Action provisions in the Local Government and Public Involvement in Health Act 2007.

The association believes that this reformed tripartite structure would lead to local police forces which are one again anchored in the communities they serve. They also feel that as a result communities would feel they were involved in the policing in their area and that greater trust would see innovative initiatives at a local level, between the police and the communities, to cut crime and produce safer streets for all.

'Answering to you: policing in the 21st century' can be accessed in full at http://www.lga.gov.uk/lga/core/page.do?pageId=695192

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New THINK! Drink Driving Campaign

New radio adverts, posters and beer mats, along with a TV and cinema campaign are to emphasise the lasting impact of drink driving in the £1.6m summer THINK! campaign.

The campaign aims to increase awareness of the legal implications of a drink driving conviction, by highlighting that a drink driving conviction stays on driving licences for 11 years. It notes that such a conviction carries with it a social stigma, which this campaign aims to reinforce, and can adversely affect job prospects.

More information on the campaign can be found at
http://www.thinkroadsafety.gov.uk/campaigns/drinkdrive/drinkdrive.htm

Alcohol Banned on London Transport

Boris Johnson, the new Mayor of London, has banned drinking alcohol on London buses, trams and the Underground (including the Docklands Light Railway) in an effort to cut crime and reduce anti-social behaviour. This has been achieved by altering the 'rules of carriage' to prevent people from carrying opened bottles, cans or other containers containing alcoholic drink on public transport. Existing bye-laws will be used to further enforce the rule. At present passengers caught breaching this rule will be removed from the train or bus. From 1 June 2009 a breach of this rule will be a criminal offence.

Crime Mapping

A statement from the Information Commissioner's office has clarified that it is not against the proposed crime mapping which would be available on a publicly accessible website. It has stated however that any proposed information source would be under the jurisdiction of the Data Protection Act 1998 and therefore would need to be managed accordingly. It ultimately came down to a balance of risks and benefits.

The ICO recognises the benefits of crime mapping to help police forces to identify crime patterns and therefore to help plan the deployment of officers for example. However when considering making such information public the intended benefits should be thoroughly thought through and weighed against the potential privacy intrusion which could occur.

It is already proposed that the level of detail for each crime will be categorised into one of three levels. For example a domestic violence incident would only be indicated by street name. The ICO however stated that it feels these levels would require some refinement to avoid the risk that releasing information about a crime may lead some to infer the identity of the victim.

An independent review of data sharing in government is due to be released at the end of June and will deal with the issue of what can and can't be done with personal information. Unfortunately at the time of writing the review had not been published but will shortly be available at
http://www.justice.gov.uk/reviews/datasharing-intro.htm

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Information Leaflet on Dangerous and Banned Dogs

DEFRA have published a leaflet 'Control of Dogs, The Law and You', providing clear, concise and accessible information regarding the law on dogs which are dangerously out of control and dogs which are banned.

The leaflet outlines when a dog will be defined as 'dangerously out of control' and the penalties and sanctions available. It also explains the four types of dogs which are banned and details the offences that can be committed in relation to banned dogs.

A printable version of the leaflet can be found at
http://www.defra.gov.uk/animalh/welfare/domestic/ddogslawyouleaflet.pdf

Anti-Knife Campaign Launched

A new, Government led campaign has been launched in an attempt to tackle knife crime. The hard-hitting adverts, which will also be distributed through the radio, internet and mobile phones and will run for the next three years, were designed by a group of youngsters earlier this year. At a summit in April, teenagers from across England and Wales shared ideas about how to convince young people not to carry knives. They developed the concept of a series of stabbings that could have been avoided and created the adverts around that idea. They feature graphic images of real injuries inflicted by knives as well as simulated videos of knife attacks.

The main focus of the £3 million campaign is to make children aware that if they carry a knife, there is a greater chance of it being used against them. It will run alongside a series of adverts aimed at mothers which encourage them to talk to their children about knives.

For further details on the campaign, visit
http://www.itdoesnthavetohappen.co.uk

Identifying People Who Are Vulnerable in a Crisis - Guidance for Emergency Planners and Responders

The Cabinet Office has launched a new guidance document for emergency planners and responders. The guidance aims to help the development of local action plans for identifying groups of people who may be vulnerable in an emergency.

The guidance is based on current good practice from a number of organisations, and is primarily intended for those involved in local emergency planning for vulnerable groups, such as those within a Local Resilience Forum who have key leadership roles in the care of vulnerable people in an emergency.

The guidance outlines four key stages in establishing an emergency plan: building networks; creating lists of lists; agreeing data sharing protocols and activation triggers; and determining the scale and requirements.

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This guidance can be found at
http://www.ukresilience.gov.uk/news/~/media/assets/www.ukresilience.info/vulnerable_guidance%20pdf.ashx

Plans to Expand Immigration Detention Capacity

It has been announced that the UK Border Agency plans to expand its detention capacity by 60%. This expansion will include between 1,300 and 1,500 extra detention places in a new detention centre.

Currently there are two sites in contention to house the new centre: Bicester in Oxfordshire and Yarls Wood in Bedfordshire. Following planning procedures, one site will be chosen.

It is anticipated that the chosen site could be fully operationally within 2 years. It would be in addition to the new centre due to open next year near Gatwick Airport.

In addition to the proposed new centre, hundreds of new beds are being added at Harmondsworth Removal Centre, Dover and Oakington.

It is hoped that the extra spaces will help the Government to increase the number of deportation of illegal immigrants.

New Online Safety Centre for Children

The Child Exploitation and Online Protection (CEOP) Centre has launched a new online safety programme, Hector's World. Aimed at 5-7 year old children, the five animated episodes give 'safety first' advice, exploring issues such as personal information, trustworthiness and making positive choices online.

The animation is backed up by a series of free resources available to parents and children. The animations and resources can be found at
http://www.thinkuknow.co.uk

Wi-Fi in Courts

The Courts Minister has announced that most Crown and Combined courts in England and Wales now have Wi-Fi facilities in place.

The programme of installation, which has been funded by Her Majesty's Court Service and a percentage of the revenue generated by the operator, BT Openzone, follows a successful pilot across 8 courts.

Over the past 3 months, 67 courts have now been fitted with BT Openzone facilities which enable court users to use Wi-Fi in between court sittings. Special zones will be set up in numerous areas of the court, including, the advocates' assembly room, the jury assembly suite, witness waiting areas, public concourse and cafeteria.

Benefits of the new facilities include:

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- Enabling barristers and solicitors to utilise time between cases more effectively by providing wireless access to email, legal reference material and suitable office networks;
- The availability of high speed broadband internet will enable access to work, business and leisure pursuits in between court hearings for jurors, victims and witnesses;
- Journalists will be able to file their copies back to their officers in the event of major trials in the public interest.

Users of the new service can pay for the wireless broadband network in the courts by voucher or subscription purchased online. There are a range of tariffs available to meet the needs of occasional and frequent users.

For a list of courts in which Wi-Fi is available, and for further information, please see
http://www.hmcourts-service.gov.uk/cms/files/PN0208-WiFiNewsRelease.doc

Consultation on Tobacco Control Measures

The Department of Health have announced a consultation on the Future of Tobacco control. The aim of the consultation is to fuel debate around measures to stop people smoking and prevent young people starting to smoke.

The consultation is based upon four themes:

- Protecting children and young people from smoking;
- Further reducing smoking rates and health inequalities caused by smoking;
- Helping smokers to quit;
- Helping those who cannot quit.

Some of the proposals made in the consultation include:

- Removing the branding and logos from all cigarette packaging;
- Having a minimum pack size of 20. It is hoped that this wills top young people buying cigarettes;
- Restricting access to cigarette vending machines by young people - whether by barring vending machines altogether or through systems which only allow adult purchase;
- Restricting the display of tobacco products in shops, which may include putting cigarettes under the counter;
- Banning the advertising of smoking paraphernalia, such as cigarette papers.

The consultation can be found in full at
http://www.dh.gov.uk/en/Consultations/Liveconsultations/index.htm

First Office of Fair Trading Criminal Prosecution

Three UK businessmen were sentenced to imprisonment on 11 June for cartel offences. The sentences ranging from two and a half to three years are the first ever convictions for such offences since the Office of Fair Trading were given powers under the Section 188 of the Enterprise Act 2002. The businessmen were also disqualified from acting as company directors for periods of between 5 and 7 years.

The men pleaded guilty to dishonestly participating in a cartel to allocate markets and customers, restrict supplies, fix prices and rig bids for the supply of marine hose and ancillary equipment used by the oil and defence industries in the UK.

Search warrants under the Act were granted by the High Court and following further investigation by the OFT the men were arrested by the Metropolitan Police at Heathrow airport in December 2007.

For further information on the work against cartels and how give information of suspected cartel offences please see
http://www.oft.gov.uk/advice_and_resources/resource_base/cartels/rewards

Youth Alcohol Action Plan

A Youth Alcohol Action plan has been published jointly by the Department for Children, Schools and Families, the Home Office and the Department of Health, to address the problem of underage drinking. The evidence set out in the Action Plan shows the extent of the problem. While the proportion of young people who drink regularly has fallen, the consumption of alcohol by those who do drink has risen sharply. There is also a rising trend of young people drinking unsupervised in public places.

The Action Plan sets out the Government's five priorities:

1. Stepping up enforcement activity to address young people drinking in public places.
2. Taking action with industry on young people and alcohol.
3. Developing a national consensus on young people and drinking.
4. Establishing a new partnership with parents on teenage drinking.
5. Supporting young people to make sensible decisions about alcohol.

A number of measures are set out in the plan to deliver its objective of tackling young people's alcohol consumption. These include:

Stopping young people drinking in public places

- Give police the powers to disperse under-18s who are drinking and behaving anti-socially from any location;
- Extend the Directions to Leave power to include 10-15 year olds;

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- Extend alcohol arrest-referral pilots so that under-18s arrested for alcohol-related offences benefit from a brief intervention with a trained worker;
- Implement new legislation to make it an offence for under-18s to persistently possess alcohol in public places.

Taking action with industry

- Encourage voluntary test purchasing schemes;
- Encourage the wider use of Proof of Age Schemes;
- Working with industry to improve the Alcohol Social Responsibility Standards, with a view to making them mandatory.

Developing a national consensus on young people and drinking

- Conduct extensive consultation on the advice of the Chief Medical Officer;
- Issue guidelines on young people and alcohol;
- Establishing a new partnership with parents;
- Issuing guidance to parents regarding young people and alcohol;
- Extending Family Intervention Projects to include a focus on substance misuse;
- Encourage the police and other agencies to make greater use of Parenting Orders when a child or young person is caught persistently drinking in public places.

Supporting young people to make sensible decisions

- Launch a communications campaign about the risks of alcohol, particularly aimed at 11-15 year olds;
- Implement the actions arising from the review of drug and alcohol education in schools.

The action plan which was published in June 2008 can be found at http://www.dfes.gov.uk/publications/youthalcohol/pdfs/7658-DCSF-Youth%20Alcohol%20Action%20Plan.pdf

New Neighbourhood Watch Website Launched

A new Neighbourhood Watch website and a volunteers' toolkit have been launched, jointly funded by the Home Office and the Association of Chief Police Officers (ACPO). The toolkit is designed to provide support, training and guidance to around four million households that are currently members of a Neighbourhood Watch scheme. The launch of the two initiatives came during the second National Neighbourhood Watch Week, which ran from 16-20 June and focused on doorstep crime, anti-social behaviour and engaging young people.

The website is run by the Neighbourhood and Home Watch Network; a recently established group of Regional Neighbourhood and Home Watch representatives

who meet at national level across England and Wales. It will focus on the traditional roles of the Watch movement and provides a national platform from which they will embrace the Neighbourhood Policing agenda and continue to assist the police in crime prevention and public reassurance.

Further information can be found on the new National Neighbourhood Watch website; http://www.mynhw.co.uk

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Certain Use of Special Measures to Preserve the Identity of Witnesses can Render a Trial Unfair

R v DAVIS (2008)

HL (Lord Bingham of Cornhill, Lord Rodger of Earlsferry, Lord Carswell, Lord Brown of Eaton-under-Heywood, Lord Mance) 18/6/2008

Criminal Evidence - Criminal Procedure

Anonymity: Intimidation Of Witnesses: Right To Fair Trial: Special Measures For Witnesses: Witnesses: Witnesses In Fear Of Lives: Measures Taken To Hide Identity From Defence: Lawfulness Of Measures: Art.6 European Convention On Human Rights

Measures taken to preserve the anonymity of crucial witnesses in a criminal trial, which included preventing the asking of questions that might reveal their identity and allowing them to give evidence out of sight of the defendant and his legal advisers, hampered the conduct of the defence in such a manner and to such an extent that they were unlawful and rendered the trial unfair.

The appellant (D) appealed against the Court of Appeal's dismissal ((2006) EWCA Crim 1155, (2006) 1 WLR 3130) of his appeal against his conviction for murder. At D's trial, witnesses who identified him as the killer, and without whom he could not have been convicted, were accepted to be in fear of their lives were it to become known that they had given evidence against him. To protect their safety and to induce them to give evidence the trial judge ordered that each should give evidence under a pseudonym; their addresses, personal details and any particulars that might identify them should be withheld from D and his legal advisers; D's counsel should not be permitted to ask questions that might enable them to be identified; they should give evidence behind screens so that they could be seen by the judge and the jury but not by D; and their voices should be distorted for all but the judge and jury. The Court of Appeal rejected D's argument that those measures were contrary to common law and inconsistent with the European Convention on Human Rights 1950 art.6(3)(d), and it certified the question of whether it was permissible for a defendant to be convicted where the conviction was based solely or to a decisive extent upon the testimony of one or more anonymous witnesses. In addition, the court had to consider the lawfulness of the measures and their effect on the fairness of D's trial. The Crown submitted that (1) witness intimidation was a prevalent problem and in the instant case the witnesses would not have given evidence

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unless their identity was withheld from the defence; (2) as indicated in Scott (aka Morgan) v Scott (1913) AC 417 HL, the court's paramount object was to do justice and if, in order so to do, some adaptation of ordinary procedure was called for, that should happen so long as the overall fairness of the trial was not compromised; (3) the adoption of protective measures was supported by the decision in R v Taylor (Gary) Times, August 17, 1994 CA (Crim Div); (4) Strasbourg jurisprudence did not condemn the use of protective measures; (5) the defendant was protected from unfairness by the Crown's duty of disclosure.

HELD

(1) Threats of intimidation to witnesses and the challenges they posed to the trial system were not new but the common law had never responded by allowing witnesses to give evidence anonymously. When considering, in 1972, the problem of witness intimidation in Northern Ireland, the commission chaired by Lord Diplock regarded the common law principle as so fundamental that it was unable to recommend that legislation should be passed to interfere with it. In those circumstances it was not open to the House in its judicial capacity to make such a far-reaching inroad into the common law rights of a defendant as would be involved in endorsing the protective measures in the instant case.

(2) Scott addressed the principle that justice had to be administered in public, but recognised that there could be a departure from that rule in some circumstances. However, nothing in Scott was authority for the power of a court to abrogate a long-standing common law right directly bearing on the ability of a criminal defendant to defend himself, Scott not applied.

(3) Whilst Taylor was binding on the Court of Appeal, the reasons given to support that and other decisions were not sound. Support in authority was very slight; the court had given no reason for disregarding the judgments in Smith v Illinois 390 US 129 US Court and South Africa v Leepile 1986 (4) SA 187 0 which, to the extent that they reflected the common law, were relevant authorities; and there was a degree of inconsistency between the assertion that an accused had a fundamental right to see and know the identity of his accusers save in rare and exceptional circumstances, and the guidance given by the court for the exercise of its discretion in that respect, Taylor doubted, Smith and Leepile considered. By a series of small steps, largely unobjectionable on their own facts, the courts had arrived at a position that was irreconcilable with long-standing principle.

(4) While Strasbourg did not set its face absolutely against the admission of anonymous evidence in all circumstances, it did say that a conviction should not be based solely or to a decisive extent on anonymous statements, Doorson v Netherlands (1996) 22 EHRR 330 ECHR, Kostovski v Netherlands (A/166) (1990) 12 EHRR 434 ECHR and Ludi v Switzerland (A/238) (1993) 15 EHRR 173 ECHR considered. In any event, Strasbourg would not accept that the measures taken in the instant case satisfied the requirements of art.6. Not only was the witness evidence the sole or decisive basis on which D was convicted, but effective cross-examination was hampered.

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(5) The fairness of a trial should not largely depend on the Crown's diligent performance of its duties, and to decide whether the protective measures operated unfairly it was necessary to consider their impact on the conduct of the defence. D's defence, which went to the probity and credibility of the witnesses, was gravely impeded by his counsel's inability to explore who the witnesses were and the nature of their contact with D. Ultimately, the protective measures imposed hampered the conduct of the defence in a manner and to an extent that was unlawful and rendered the trial unfair.

APPEAL ALLOWED

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Proceeds of Crime - Co-defendants to be Regarded as Receiving the Whole of the Proceeds where Money or Property was Received by One Defendant on Behalf of the Others

R v MARK GREEN (2008)

HL (Lord Bingham of Cornhill, Lord Phillips of Worth Matravers, Baroness Hale of Richmond, Lord Carswell, Lord Brown of Eaton-under-Heywood)

Criminal Procedure

Benefit From Criminal Conduct: Confiscation Orders: Conspiracy: Drug Trafficking: Money Laundering: Proceeds Of Crime: Conspiracy To Traffic Drugs: Proceeds Received By Several Co-Conspirators: Value Of Each Conspirator's Proceeds: S.2(2) Drug Trafficking Act 1994: S.4(1)(B) Drug Trafficking Act 1994: S.1(3) Drug Trafficking Act 1994

Where money or property was received by one defendant on behalf of several defendants jointly, each defendant was to be regarded as having received the whole of it for the purposes of the Drug Trafficking Act 1994 s.2(2).

The appellant (G) appealed against a decision of the Court of Appeal ((2007) EWCA Crim 1248, (2007) 3 All ER 751) upholding the making of a confiscation order against him under the Drug Trafficking Act 1994 s.2. G had been the principal directing mind behind a sophisticated conspiracy to obtain and distribute drugs and to launder the proceeds. Along with a number of fellow conspirators, he had pleaded guilty to three offences of conspiracy in connection with the scheme. Whilst the Crown calculated his benefit from the conspiracy to amount to some £10.5 million, G claimed that the figure was actually in the region of £4.8 million. In computing that sum he sought to deduct from the benefit received by him a proportion of the profits retained by two of his co-defendants. The judge made a confiscation order and in calculating the amount of the order he held that money retained by the two co-defendants was held by all three jointly as proceeds in which they were all fully interested. The Court of Appeal decided not to disturb the judge's decision to give credit to G for the amounts received by his co-conspirators and for the value of the proceeds they received.

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It did, however, certify a point of law of general public importance in the following terms: where any payment or other reward in connection with drug trafficking was received jointly by two or more persons acting as principals to a drug trafficking offence as defined in s.1(3) of the Act, whether the value of each person's proceeds of drug trafficking within the meaning of s.4(1)(b) of the Act included the whole of the value of such payment or reward. G submitted that the appropriate measure of benefit was the total value of the property actually received by him and that the sums received by his co-defendants should have been deducted from the amount specified in the confiscation order.

HELD

G's appeal could not succeed. For the reasons given by the Appellate Committee in R v May (Raymond George) (2008) UKHL 28, (2008) 2 WLR 1131, the decision of the Court of Appeal in that case, that where money or property was received by one defendant on behalf of several defendants jointly, each defendant was to be regarded as having received the whole of it for the purposes of s.2(2) of the Act, was correct, May followed.

APPEAL DISMISSED

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Where a Police Officer Restrained a Person, But Did Not At That Time Intend or Purport to Arrest Him, He Was Committing an Assault

FRASER WOOD v DIRECTOR OF PUBLIC PROSECUTIONS (2008)

DC (Latham LJ, Underhill J) 14/5/2008

Police - Criminal Law

Arrest: Assault: Assault On Constables: Intention: Offensive Behaviour: Police Officers: Restraint: Need For Intention To Arrest: S.24(2) Public Order Act 1986

Police officers committed a technical assault if they restrained a person but did not, at that time, have any intent or purport to arrest him.

The appellant (W) appealed by way of case stated against a dismissal of his appeal against conviction for two offences of assaulting police officers and one of threatening behaviour. Three police officers (C, D and B) attended a wine bar near to a public house where they had been advised that a customer (F) had smashed an ashtray. W, who fitted the vague description they had of F, left the premises. C took hold of W by the arm and asked if he was F, which W denied. D then took hold of W's other arm. Others then left the wine bar and spoke to W referring to him as F. By that time W was struggling with C, D and B and trying to pull away. In the ensuing struggle, W assaulted D and B. Owing to his behaviour, W was not informed of the reasons for his arrest at that time but was told as soon as reasonably practicable thereafter. C gave evidence at W's trial that when W came out of the wine bar he could not arrest him as he was not sure who he was, although he had a good idea it was F. He said that he took hold of his arm to detain him to confirm who he was. When others came out shortly thereafter, referring to him as F, he stated that his belief crystallised and gave him reasonable grounds to arrest W. W submitted that the findings of fact in the case stated did not permit the court to conclude that the distinction made by C in his evidence between detaining W and arresting him was mere semantics. The respondent DPP argued that C had reasonable grounds for suspecting that an offence, namely criminal damage, had been committed, and that W was the person who had committed it. Accordingly, he argued, the officers were entitled to arrest W pursuant to the Public Order Act 1986 s.24(2).

HELD

W's submission was well founded, Kenlin v Gardiner (1967) 2 QB 510 DC followed. Where a police officer restrained a person, but did not at that time intend or purport to arrest him, he was committing an assault, even if an arrest would have been justified. In the instant case, C did not intend or purport to arrest W when he restrained him and at no stage in the course of the fracas which resulted did he assert that he was arresting W. Had he or either of the other officers done so, before W struggled in order to obtain his release, the position would have been different. But the facts found did not support such a conclusion. The convictions were quashed.

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Section 76 Sexual Offences Act 2003 - Impersonating Another can be Deception as to the Nature and Purpose of the Act

R v STEPHEN DEVONALD (2008)

CA (Crim Div) (Leveson LJ, Hedley J, Sir Peter Cresswell) 18/2/2008

Criminal Law

Causing Sexual Activity Without Consent: Deception: Impersonation: Male Defendant Impersonating Young Woman Online: Inducing Victim To Masturbate In Front Of Webcam To Embarrass Him: Deception As To Nature And Purpose Of Act: S.76(2)(A) Sexual Offences Act 2003

There was no basis for overturning a conviction of causing a person to engage in sexual activity without consent in the case of a male defendant who had, with the object of embarrassing his victim, posed as a young woman, engaged in an online correspondence with the victim and persuaded him to masturbate in front of a webcam.

The applicant (D) applied for leave to appeal against his conviction of an offence of causing a person to engage in sexual activity without consent, having changed his plea to guilty following a ruling by the judge. The complainant (C) was a 16-year-old-boy who had been in a relationship with D's daughter. The relationship had broken down and, believing C to have treated his daughter badly, D sought to teach him a lesson by deliberately embarrassing him. D took on the persona of a young woman and began to correspond with C over the internet. He persuaded C to masturbate in front of a webcam, and the online exchanges between D and C supported the Crown's case that C had clearly masturbated for the sexual gratification of the young woman with whom he believed he was corresponding. The issue was whether C had consented to engage in masturbation. D submitted that the Sexual Offences Act 2003 s.76(2)(a) dealt with deception as to the act itself rather than as to the surrounding circumstances, and that C had well understood that the act in which he had engaged was a sexual one.

HELD

It was open to the jury to conclude that C had been deceived as to the purpose of the masturbation. It was difficult to see how the jury could have concluded otherwise than that C had been deceived into believing that he was indulging in sexual acts with, and for the sexual gratification of, a young woman with whom he was having an online relationship. D had over-focused on the phrase "nature of the act" in s.76(2)(a) of the Act. Whilst the nature of the act was undoubtedly sexual, its purpose encompassed rather more than the specific purpose of sexual gratification, R v Green (Peter Donovan) (2002) EWCA Crim

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1501 considered, R v Linekar (Gareth) (1995) QB 250 CA (Crim Div) distinguished.

APPLICATION REFUSED

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Meaning of "Breasts" for the Offence of Voyeurism

R v KEVIN BASSETT (2008)

CA (Crim Div) (Hughes LJ, Treacy J, Sir Peter Cresswell) 14/5/2008

Criminal Law

Breast: Changing Facilities: Privacy: Public Places: Statutory Interpretation: Voyeurism: Open-Plan Changing Rooms: Relevance If Nature Of Observation: Meaning Of "Breasts" For Purposes Of S.68(1)(A) Sexual Offences Act 2003: S.68(1)(A) Sexual Offences Act 2003: S.68 Sexual Offences Act 2003

In determining whether an offence of voyeurism had been committed, it was for the jury to decide on a case by case basis whether a person had a reasonable expectation of privacy, and the nature of the observation, as opposed to the purpose of the observation, might be relevant to that determination. The word "breasts" in the Sexual Offences Act 2003 s.68(1)(a) did not extend to the exposed male chest.

The appellant male (B) appealed against his conviction pursuant to the Sexual Offences Act 2003 s.67(1) for voyeurism of another man. B had taken a small video camera hidden in a bag with a hole in it into the men's changing room at a public swimming pool and had been seen either filming or intending to film a man who was in the shower and washing the hair of his three-year-old daughter, with whom he had been in the pool. The showers, although separated from each other by side panels, had no doors and were open to the general space of the changing room. There was no issue that B had observed the man, that his purpose was sexual gratification and that the man did not consent to being observed for sexual gratification. The issue at trial was whether the man had been "doing a private act" at the time, within the meaning of s.68. The judge had ruled that the man was doing a private act because he was in a place in circumstances which would reasonably be expected to provide privacy and because the word "breasts" in s.67(1) of the Act extended to the male chest. B submitted that (1) the judge had been wrong to find that the man had a reasonable expectation of privacy in an open-plan changing room; (2) the judge had wrongly construed the word "breasts".

HELD

(1) It was clearly possible to have a reasonable expectation of privacy without being wholly enclosed or wholly sheltered from the possibility of being seen, R v Christopher Swyer Unreported 0 considered. The judge had therefore been right to find that the absence of a door to the shower did not conclude the issue. The real question was the extent to which the expression

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"privacy" was relative. The layout of changing facilities varied from place to place, but unless they consisted almost entirely of separate wholly enclosed cubicles, it was normally inevitable that users must expect to be observed unclothed by other users of the facilities. No offence of voyeurism was committed if casual observation took place, even if the observer derived sexual gratification. The question whether the person observed had a reasonable expectation of privacy was one for the jury in each case, and was closely related to the nature of the observing in question. That might well mean that the question of expectation of privacy had an indirect link to the purpose of the observer. It was, however, clear that it was the nature of the observation rather than the purpose of the observation that might be relevant to the expectation of privacy. When directing the jury about the innocent and accidental glimpses that ordinary social life brings about, the judge ought to have qualified his direction by a reminder that the mere deriving of sexual gratification from observation could not alone create the necessary expectation of privacy, and that the nature of the observation rather than its purpose might be relevant.

(2) Section 68 of the Act was concerned to bring within the meaning of "private act" those parts of the body for which people conventionally expected privacy. It was clear that the intention of Parliament in using the word "breasts" was to mean female breasts and not the exposed male chest. That construction was supported by the plural use of the word, which was not in ordinary non-medical usage in the context of the male body, certainly not in the context of a statute dealing with sexual offences. The judge's direction as to the meaning of "breasts" in s.68(1)(a) of the Act was therefore erroneous.

APPEAL ALLOWED

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Police Pay - Home Secretary Must Consider Recommendations of the Police Negotiating Board But Are Not Bound to Follow It

(1) STAFF SIDE OF THE POLICE NEGOTIATING BOARD (2) JOHN FRANCIS v SECRETARY OF STATE FOR THE HOME DEPARTMENT (2008)

DC (Keene LJ, Treacy J) 10/6/2008

Police - Administrative Law

Discretionary Powers: Freedom Of Peaceful Assembly: Legitimate Expectation: Pay Rises: Police Authorities: Police Officers: Recommendation Of Police Negotiating Board: Secretary Of State's Departure From Recommendation: Art.11 European Convention On Human Rights: Reg.46 Police Regulations 2003: S.62(1) Police Act 1996

The Secretary of State for the Home Department, when deciding the level of pay award for police officers, was required to take into consideration the recommendation of the Police Negotiating Board or the Police Arbitration Tribunal, but was not bound to follow such a recommendation, and police officers had no legitimate expectation that she would do so.

The claimants (S) applied for judicial review of a decision of the defendant secretary of state not to implement in full at the recommended date a pay award for police officers. S were the Staff Side of the Police Negotiating Board and the secretary of the Staff Side, who at the relevant time was also the General Secretary of the Police Federation. The Police Negotiating Board could not agree about the level of pay increase for police officers so the matter was referred to the Police Arbitration Tribunal, whose recommendations had the status of recommendations of the board. The tribunal recommended an award of 2.5 per cent. The secretary of state accepted that award but decided not to implement it until three months into the relevant year, with the effect that there was an overall increase for the year of only 1.9 per cent. She stated that she had taken account of the tribunal's findings and reasoning, the need to ensure value for money and the best use of resources, affordability and Government policy. S submitted that (1) the legislative context of the Police Act 1996 s.62(1) indicated that Parliament's intention was that a recommendation by the board should not merely be taken into account by the secretary of state but should have great weight attached to it and be departed from only for cogent reasons; (2) given the constraints on industrial action by police officers, the compensatory principle established in relation to the European Convention on Human Rights 1950 art.11 required the secretary of state to abide by tribunal awards except in exceptional circumstances; (3) the actions and words of the secretary of state had given rise to a substantive legitimate expectation that a recommendation of the board or a tribunal award would only be departed from for reasons of serious national importance, or, as a minimum, that they would not be lightly departed from.

HELD

(1) Section 62(1) used the phrase "shall take into consideration any recommendation", words which classically were used in legislation to denote

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a generally wide discretion resting with the decision-maker, R (on the application of Munjaz) v Mersey Care NHS Trust (2005) UKHL 58, (2006) 2 AC 148 distinguished. The legislative context was quite different from that in Munjaz, in which the code of practice at issue had itself been laid before and approved by Parliament; no such process applied to recommendations of the Police Negotiating Board, Munjaz distinguished. A similar provision in an earlier statute had previously been found to entitle secretaries of state to reject a tribunal award, subject to questions of legitimate expectation, Police Association for Northern Ireland's Application, Re (1990) NI 258 0 considered. Section 62(1), and the similar wording in the Police Regulations 2003 reg.46, by themselves required no special weight to be given to a recommendation of the board.

(2) Sufficient compensatory measures had to exist when there was a ban on the right to join a trade union and to strike, but those existed, Ministry of Justice v Prison Officers Association (2008) EWHC 239 (QB), (2008) ICR 702 considered. Police officers had effective representation through the Police Federation, and they were represented on the board, with its independent chairman and its power to make recommendations to the secretary of state about pay. The compensatory principle did not require the secretary of state to accept such recommendations save in exceptional circumstances, and there had been no breach of Art.11(2).

(3) Well before the time of the decision under challenge it had become established that the legitimate expectation of police officers as to the board's recommendations or tribunal awards on pay was that they would be carefully considered, would not be lightly set aside and would only be departed from for good reasons. S had no entitlement to an expectation that reasons of grave or serious national importance would be required for such a departure. S's alternative position, that they had an expectation that a recommendation would not be lightly departed from, was correct but did not assist them. Even if the secretary of state was required to attach considerable weight to such recommendations, there might well exist countervailing factors relevant to his decision to which he attached greater weight. So long as they were relevant factors, the judgment as to how much weight should be attached to them was a matter for the secretary of state in accordance with normal public law principles. As a result, the relevant weight to be attached to the board's recommendation and to such other factors was likewise for the secretary of state to decide, subject to normal Wednesbury principles. When those other factors involved considerations of macro-economic policy the courts would be very slow to interfere, R v Secretary of State for Education and Employment Ex p Begbie (2000) 1 WLR 1115 CA (Civ Div) considered. It was open to the secretary of state to regard the factors she did as outweighing the tribunal award, were it to run from the recommended earlier date, and in so doing she did not breach any legitimate expectation possessed by S.

APPLICATION REFUSED

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Decision of Police Authority to Require a 30 Plus Scheme Officer to Retire was Amenable to Judicial Review

R (on the application of TIMOTHY HODGSON) (Claimant) v SOUTH WALES POLICE AUTHORITY (Defendant) & NATIONAL POLICING IMPROVEMENT AGENCY (Interested Party) (2008)

QBD (Admin) (Wyn Williams J) 4/6/2008

Police - Administrative Law - Employment

Compulsory Retirement: Judicial Review: Police Officers: Decisions Under Reg.A19 Police Pensions Regulations 1987: Amenability To Judicial Review: Reg.19 Police Pensions Regulations 1987

The decision of a police authority to invoke the Police Pensions Regulations 1987 reg.A19 and require a police officer of retirement age serving with a police force through a non-statutory scheme known as the 30+ Retention Scheme to retire was amenable to judicial review.

The claimant police officer (H) applied for judicial review of the decision of the defendant police authority to require him to retire from service as a police officer. H had applied to the police authority, under a non-statutory scheme known as the 30+ Retention Scheme, to be retained for five years as a police officer after the date on which he was eligible to retire with maximum pension benefits having completed 30 years' service as a police officer. The criteria for joining the scheme were that the loss of the police officer would impact on the operational effectiveness of a police force, and the police officer had specialist skills, knowledge and experience which, despite succession planning, would remain difficult to replace in the short term. H was accepted into the scheme, subject to an annual review at which the police authority could exercise its power under the Police Pensions Regulations 1987 reg.A19 not to renew his appointment if it were not in the general interests of efficiency. By the date of his annual review his line manager and his divisional commander supported his retention. The chief superintendent however was of a contrary opinion. He notified H that he would not be retained as he did not fulfil the criteria of the scheme and required him to retire in accordance with reg.A19. Issues arose as to whether (i) the decision taken by the police authority to invoke reg.A19 and insist upon H's retirement was susceptible to judicial review; (ii) the police authority correctly interpreted reg.A19 as meaning that it had to have regard to the general interests of efficiency of the police force when making its decision; (iii) the police authority acted lawfully in the circumstances.

HELD

(1) The decision of the police authority requiring H to retire was amenable to judicial review. It was common ground that the dismissal of a police officer as a consequence of disciplinary process was a decision that was susceptible to judicial review. There was no sensible reason why a decision that forced retirement upon a police officer should not be similarly regarded, R v Cleveland Police Authority Ex p Rodger Unreported July 9, 1998 QBD and R v Kent Police Authority Ex p Godden (1971) 2 QB 662 CA (Civ Div) applied. Further, the instant case differed from previous authority as it

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involved H's dismissal in the sense that he was being forced to retire, and the decision was not personal to H as it involved the application of general policy to a number of police officers within the scheme as it touched upon wide-ranging issues relating to the efficiency of the police force as a whole, R (on the application of Tucker) v Director General of the National Crime Squad (2003) EWCA Civ 2, (2003) ICR 599 distinguished.

(2) The police authority had correctly interpreted reg.A19 when making its decision. The words of reg.A19 had to be read in the light of the Regulations as a whole and the statutory enabling legislation. Accordingly the phrase "general interests of efficiency" was addressed to efficiency or effectiveness of the police force as a whole and could not sensibly be confined to a meaning that would require the police authority to simply consider the efficiency or effectiveness of a particular officer.

(3) The police authority had acted unlawfully in the circumstances. A necessary incidence of the finding that the police authority's decision was susceptible to judicial review was that H had the right to be heard about any proposed decision to force him to retire before it was made. The complete absence of any procedure whereby H could make representations about the proposed decision to make him retire before it was made and the failure to seek representations from H rendered the decision to require him to retire unlawful.

APPLICATION GRANTED

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Interpretation of Section 18 PACE - Premises Must be Owned or Occupied by the Arrested Person, Reasonable Belief of Such is Not Enough

RIAZ KHAN v COMMISSIONER OF POLICE OF THE METROPOLIS (2008)

CA (Civ Div) (Pill LJ, May LJ, Moses LJ) 4/6/2008

Police - Human Rights - Legislation

Police Powers And Duties: Reasonable Belief: Right To Respect For Private And Family Life: Search And Seizure: Statutory Interpretation: Reasonable Belief That Premises Owned Or Occupied By Arrested Person: Lawfulness Of Search: Literal Interpretation Of S.18(1) Police And Criminal Evidence Act 1984: S.18(1) Police And Criminal Evidence Act 1984: S.32 Police And Criminal Evidence Act 1984: S.8 Police And Criminal Evidence Act 1984: Serious Organised Crime And Police Act 2005: S.3(1) Human Rights Act 1998: European Convention On Human Rights: Art.8 European Convention On Human Rights

The Police and Criminal Evidence Act 1984 s.18(1) was not to be interpreted so as to make a search lawful where a police officer had a reasonable belief that the premises searched had been owned or occupied by the arrested person; if there had been no occupation or control of the premises by the suspect the search would be unlawful.

The appellant police commissioner appealed against a decision of the judge that a police search of the home of the respondent (K) had not been conducted lawfully. Following his arrest, a suspect (M) had given false details to the police, including K's home address as his own. Purporting to act under the Police and Criminal Evidence Act 1984 s.18(1), police officers entered and searched K's home in the middle of the night despite K's objections and the presence of members of his family. Nothing relevant to the investigation of M was found. K issued proceedings against the commissioner. The judge found that the requirements of s.18 of the 1984 Act had not been met, as there was no evidence that M had ever owned or occupied K's premises, so that the police search had not been lawful. K was awarded damages for trespass. The commissioner contended that s.18(1) of the 1984 Act should be interpreted to make a search lawful where a police officer had a reasonable belief that the premises had been owned or occupied by the arrested person. It was submitted that a literal interpretation of s.18 of the 1984 Act was unworkable, as the police could never be sure of a property's ownership or occupation when the decision to search it needed to be made.

HELD

There was no justification for reading s.18 of the 1984 Act otherwise than in accordance with its plain words. Premises had to be occupied or controlled by the person under arrest if a search under s.18 of the 1984 Act was to be lawful, and the absence of those requirements was not unimportant or irrelevant. Other powers of entry were available to police under s.32 of the 1984 Act, or by obtaining a search warrant under s.8 of the 1984 Act. Both of those sections referred to the necessity for "reasonable belief", and its omission from s.18(1) of the 1984 Act had not been accidental. Further, Parliament had

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revised the operation of powers under the 1984 Act and made certain amendments to it by the Serious Organised Crime and Police Act 2005, but it had not taken the opportunity of qualifying the requirements of occupation and control in s.18(1). Further, under the Human Rights Act 1998 s.3(1), the 1984 Act had to be read in a way that was compatible with an individual's rights under the European Convention on Human Rights 1950, and giving the words in s.18(1) of the 1984 Act their ordinary meaning accorded with the right to respect for private and family life under art.8 of the Convention. The judge had, accordingly, been correct in his conclusion.

APPEAL DISMISSED

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SI 2008/1325 The Serious Organised Crime and Police Act 2005 (Commencement No. 13) Order 2008

In force **1 June 2008**. This instrument brings into force Section 170 of the Serious Organised Crime and Police Act 2005 (powers of courts-martial etc. to issue warrants of arrest in respect of witnesses).

SI 2008/1326 The Gambling Act 2005 (Commencement No. 8) Order 2008

In force **20 May 2008**. This Order brings into force the following provisions of the Gambling Act 2005, but only in so far as they apply to large and small casinos and large and small casino premises licences:

- Section 7(5)(b) to (d), (6) and (7), regarding the classification of different categories of casino;
- Sections 159 to 165, which relate to applications for premises licences in relation to categories of casino (these sections are already in force except in relation to these categories);
- Section 175, which limits the number of each category of casino premises licence which may have effect at any time, and limits the circumstances in which an application may be made for a provisional statement in respect of a casino;
- Section 204, which relates to applications for a provisional statement (this is already in force except in relation to casinos);
- Schedule 9, which makes provision about the treatment of applications for casino premises licences and provisional statements.

SI 2008/1327 The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008

In force **20 May 2008**. This Order specifies the licensing authorities which may issue large and small casino premises licences, and provides that only one such licence issued by each licensing authority may have effect at any time.

SI 2008/1330 The Categories of Casino Regulations 2008

In force **20 May 2008**. These Regulations specify how a casino is to be classified, for the purposes of the Gambling Act 2005, as a large casino, a small casino, or as below the minimum size for a licensed casino.

The classification is determined by the size of the combined floor area of the parts of the casino used for providing facilities for gambling, as follows:

- A casino with a combined floor area of equal to or above 1,500 square metres, but less than 3,500 square metres is a large casino;
- A casino with a combined floor area of equal to or above 500 square metres, but less than 1,500 square metres is a small casino;
- A casino with a combined floor area of less than 500 square metres is below the minimum size for a licensed casino.

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SI 2008/1332 The Road Traffic Offenders (Prescribed Devices) Order 2008

In force **16 June 2008**. This Order prescribes a type of speed detection device for the purposes of Section 20 of the Road Traffic Offenders Act 1984, allowing the Secretary of State to approve types of these devices so records produced from them can be adduced in evidence for certain road traffic offences.

The Order permits the uses of devices which record the time it takes for a vehicle to travel between two points on a road by manual activation and which are capable of measuring the distance of those two points by means of the odometer pulses of the vehicle to which they are fitted.

SI 2008/1340 The Civil Enforcement of Parking Contraventions (County of Wiltshire) (District of West Wiltshire) Designation Order 2008

In force **16 June 2008**. This Order designates the District of West Wiltshire as a civil enforcement area and a special enforcement area for the purposes of the Traffic Management Act 2004. The Order applies to the district except for the A303 and all roads (other than highways) situated on land owned by the Secretary of State for Defence.

SI 2008/1406 The Crime and Disorder (Prescribed Information) (Amendment) Regulations 2008

In force **23 June 2008**. These Regulations update the references to the National Incident Category List and the Home Office Notifiable Offences list found in the Schedule to the Crime and Disorder (Prescribed Information) Regulations 2007, as a result of amendments to both document. The new definitions will apply from the information period starting on 1 April 2008.

SI 2008/1407 The Violent Crime Reduction Act 2006 (Commencement No. 6) Order 2008

In force **5 June 2008**. This Order brings into force Part 1 of Chapter 2 (Sections 15 to 20) of the Violent Crime Reduction Act 2006. This chapter provides for the designation of alcohol disorder zones by local authorities.

SI 2008/1424 The Criminal Justice Act 2003 (Commencement No. 21) Order 2008

In force **9 June 2008**. This Order brings into force Section 29(1) to (3), (5) and (6) (new method of instituting proceedings) and Section 30 (further provision about the new method) of the Criminal Justice Act 2003. The sections are brought into force only for the purposes of criminal proceedings instituted by a public prosecutor within the meaning of section 29(5)(a) of that Act, which allows a police force or person authorised by a police force to institute criminal proceedings by issuing a written charge and requisition in a magistrates' court. The sections are brought into force for proceedings before a magistrates' court sitting in one of the following areas:

- Chester;
- Crewe;
- Macclesfield;

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- Northwich;
- Runcorn;
- Warrington;
- Widnes.

SI 2008/1426 The Mutilations (Permitted Procedures) (England) (Amendment) Regulations 2008

In force **3 June 2008**. These Regulations apply to England only and amend the Mutilations (Permitted Procedures) (England) Regulations 2007, which specify the procedures to which the offences in Section 5(1) and (2) of the Animal Welfare Act 2006 (offences of carrying out, causing, or permitting prohibited procedures) do not apply. The new permitted procedures are wing and web tagging, neck tagging and web notching of farmed ducks, and, in the case of sheep and goats, embryo collection or transfer by a surgical method, laparoscopic insemination, and ovum transplantation (including collection) by a surgical method. The Regulations also amend who may carry out a permitted procedure.

SI 2008/1430 The Local Authorities (Alcohol Disorder Zones) Regulations 2008

In force **5 June 2008**. These Regulations provide for local authorities to impose a charge on some alcohol licence holders in an Alcohol Disorder Zone (ADZ) to pay for additional enforcement services required to tackle alcohol related nuisance and disorder. The Regulations also provide for a framework to apportion the charge between premises, exemptions and discounts from the charge and consultation and review of the ADZ.

SI 2008/1466 The Criminal Justice and Immigration Act 2008 (Commencement No. 1 and Transitional Provisions) Order 2008

In force **9 June 2008**, some transitional provisions. This Order brings into force Section 26 (release of certain long-term prisoners under Criminal Justice Act 1991) and related provisions of the Criminal Justice and Immigration Act 2008. Section 26 imposes a duty on the Secretary of State to release certain long-term prisoners at the halfway point of their sentences. This duty does not apply to prisoners who:

- Were serving their sentences when the 1991 Act was commenced and whose release arrangements are governed by paragraph 8 of Schedule 12 to that Act;
- Have committed certain offences under the Terrorism Act 2000, the Anti-Terrorism, Crime and Security Act 2001 or the Sexual Offences Act 1956.

The Order also specifies the calculation of the release date for certain repatriated prisoners.

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SI 2008/1497 The Protection of Children and Vulnerable Adults and Care Standards Tribunal (Children's and Adults' Barred Lists) (Transitional Provisions) Regulations 2008

In force **2 July 2008**. These Regulations make provision about the proceedings of the Tribunal established by Section 9 of the Protection of Children Act 1999 and deal with the conduct of proceedings of the Tribunal under Section 4 of the Safeguarding Vulnerable Groups Act 2006. These proceedings are appeals against decisions of the Independent Barring Board not to remove a person from the children's or adult's barred list, or to include a person in the children's barred list pursuant to Articles 2(6), 3(2) or 4(6) of the Safeguarding Vulnerable Groups Act 2006 (Transitional Provisions) Order 2008.

SI 2008/1513 The Civil Enforcement of Parking Contraventions (England) General (Amendment) Regulations 2008

In force **3 July 2008**. These Regulations amend the Civil Enforcement of Parking Contraventions (England) Regulations 2007. The Regulations provide that references in those Regulations (except Regulation 6) to a 'civil enforcement officer' shall include parking attendants appointed under Section 63A of the Road Traffic Regulation Act 1984. This only applies in relation to parking contraventions in a civil enforcement area outside greater London relating to a parking place provided or authorised under section 32(1)(a) or (b) of the Road Traffic Regulation Act 1984. The Regulations also disapply, in relation to those contraventions, the requirement that a penalty charge may only be imposed on the basis of a record given by an approved device or information given by a civil enforcement officer as to conduct observed by that officer.

SI 2008/1518 The Civil Enforcement of Parking Contraventions (The Borough Council of Dudley) Designation Order 2008

In force **7 July 2008**. This Order designates the Borough Council of Dudley as a civil enforcement area for parking contraventions and a special enforcement area for the purposes of Part 6 of the Traffic Management Act 2004.

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