NPIA
National Policing Improvement Agency

Digest

March 2010

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

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

The Case law is produced in association with 

Disclaimer and Copyright details

This document is intended as a guide to inform organisations and individuals of current and forthcoming issues in the policing environment and NPIA cannot guarantee its suitability for any other purpose. Whilst every effort has been made to ensure that the information is accurate, NPIA cannot accept responsibility for the complete accuracy of the material. As such, organisations and individuals should not base strategic and operational decisions solely on the basis of the information supplied.

© - National Policing Improvement Agency 2010

All rights reserved. No part of this publication may be reproduced, modified, amended, stored in any retrieval system or transmitted, in any form or by any means, without the prior written permission of the National Policing Improvement Agency or its representative. **The above restrictions do not apply to police forces or authorities, which are authorised to use this material for official, non-profit-making purposes only.**

Copyright Enquiries: Telephone +44 (0)1256 602650
Digest Editor: Telephone +44 (0)1423 876663

NOT PROTECTIVELY MARKED

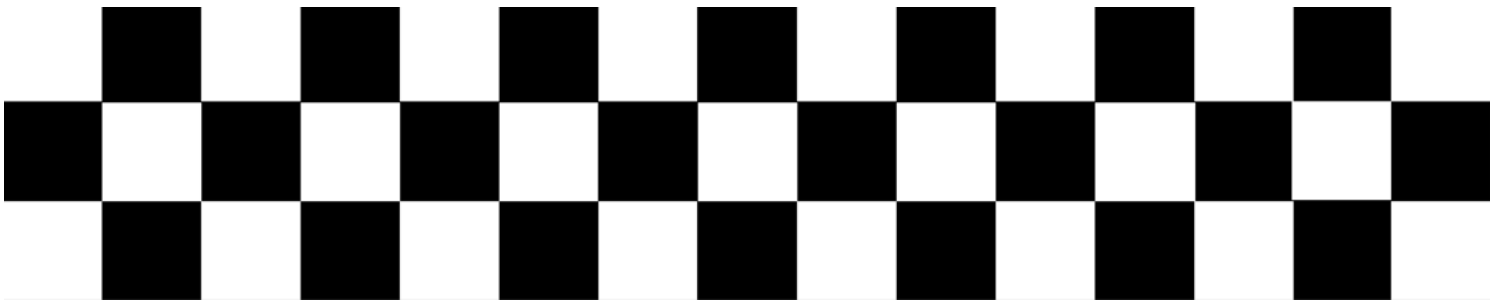
March 2010

Digest

Legal Services

Chief Executive Officer Directorate

www.npia.police.uk/digest



This edition contains a summary of new legislation and proposals and reviews of issues relating to policing practice including:

- The consultation on the draft Codes of Practice to the Equality Bill;
- The Terrorist Asset Freezing Bill;
- Ministry of Justice Circulars on the Coroners and Justice Act 2009, the Corporate Manslaughter and Corporate Homicide Act 2007 and the Penalty Notice for Disorder Scheme;
- The latest statistics on Police Service Strength in England and Wales;
- The latest IPCC 'Learning the Lessons' bulletin; and
- The launch of the 'Deaths in Custody' website on sharing good practice to prevent and reduce deaths in custody.

There are also a number of articles outlining recently published Government and Parliamentary reports and initiatives including:

- The Home Affairs Committee Report on the Home Office's Response to Terrorist Attacks;
- The Government Response to the policing of the G20 protests;
- Home Office guidance on a tiered approach to tackling young people drinking in public places;
- The Ministry of Justice report 'Are Juries Fair?';
- The Ministry of Justice report on mentally disordered offenders in England and Wales; and
- The launch of the Police Survivor Scheme.

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

© - National Policing Improvement Agency 2010

Contents

© - National Policing Improvement Agency 2010

© - National Policing Improvement Agency 2010

Consultations Launched on the Equality Bill Codes of Practice

The Equality and Human Rights Commission have launched three consultations on the draft Codes of Practice to the Equality Bill. The Codes have been based on the version of the Equality Bill which was brought forward from the Commons on 3 December 2009, and will be amended appropriately to reflect the version which will come into force when the Bill receives Royal Assent.

The consultations on the three draft Codes run until Friday 2 April 2010. The Codes relate to:

- Employment;
- Equal Pay; and
- Services, public functions and associations.

The Code of Practice on services, public functions and associations includes provisions defining what a 'public function' is, noting that law enforcement is a public function. It outlines examples specific to police officers in considering how a public function could interact with providing a service, and gives guidance on what constitutes 'unlawful discrimination in the exercise of a public function'.

Comment is invited on any or all of the draft codes, and consultation questionnaires have been produced which ask whether the codes are fit for purpose and clearly explain the new obligations and rights under the law.

The draft Codes of Practice and consultation questionnaires can be found at http://www.equalityhumanrights.com/legislative-framework/equality-bill/equality-bill-codes-of-practice-consultation/

© - National Policing Improvement Agency 2010

NPIA Consultation on Senior Leadership Programme

The NPIA have arranged a series of themed consultation days designed to gain feedback from under-represented groups in the community about the new Senior Leadership Programme, to ensure it meets customer and stakeholder needs. The objectives of the consultation process are to:

- Obtain the views of stakeholders, potential practitioners and the community, from under represented groups;
- Identify any adverse impact of the programme to any section/s of the community and/or practitioners from under-represented groups; and
- Provide key stakeholders, potential practitioners and the community with information and a platform to voice their opinions on the new programme.

Consultation day themes include Race, Religion and Belief and Disability.

For further information, or to express an interest in attending one of the consultation days, please contact the NPIA Consultation Lead, Kul Verma on kul.verma@npia.pnn.police.uk

© - National Policing Improvement Agency 2010

The Terrorist Asset-Freezing Bill

On 5 February 2010 the Government published a draft of the Terrorist Asset-Freezing Bill ('the Bill') to make provision for imposing financial restrictions on certain persons suspected of involvement in terrorist activities.

The purpose of the Bill is to give effect in the United Kingdom to United Nations Resolutions as detailed below.

Resolution 1373/2001 includes a requirement that Member States of the UN must prevent the financing of terrorist acts and prohibit their nationals and those within their territories from making funds, financial services or economic resources available to such persons.

Resolution 1452/2002 introduces exemptions to prohibitions on making funds, financial assets or economic resources available to permit payments necessary to meet basic humanitarian needs and payments necessary to meet extraordinary expenses.

Regulation 2580/2001 implemented measures in the European Union against certain persons and entities with a view to combating terrorism.

Her Majesty's Treasury ('the Treasury') implemented 3 specific orders to give effect to the resolutions, and on 4 February 2010 the Supreme Court decided that one of the orders made went beyond the limits of the powers conferred on it and quashed the Order, requiring an Act of Parliament to give the Treasury the powers to implement its obligations under the UN resolutions.

Temporary provisions

The Government will be introducing the Bill as permanent asset-freezing legislation in Parliament with the intention that this permanent legislation will be passed and enter into force before the end of 2010. The Terrorist Asset-Freezing (Temporary Provisions) Act 2010 ('the Act') came into force 10 February 2010 and makes provision for the temporary validity of the UN Terrorism Orders, reinstating the Government's terrorist asset-freezing regime until 31 December 2010 (or until the Bill is enacted) and gives retrospective legal authority for financial institutions and any other persons to maintain existing freezes from the date the Order was quashed, to when the temporary Act came into force.

Designated persons

Clause 2 contains a power which allows the Treasury to designate a person for the purposes of the Bill, to allow financial restrictions to apply to those persons and designated persons included in a list provided for by European Community Law. The List is made up of persons put forward for inclusion by a 'Competent Authority' in a Member State on the basis that the Authority has taken relevant steps (for example, to prosecute for a terrorist offence or freeze assets domestically) against that person.

The Treasury must have reasonable grounds for suspecting that the person is or has been involved in terrorist activity (or is owned or controlled directly or indirectly by, or is acting on behalf or at the direction of, such a person) and

© - National Policing Improvement Agency 2010

can only designate such a person if they consider that it is necessary for the purpose of protecting members of the public from terrorism that financial restrictions should be applied in relation to the person.

Clauses 7 to 11 set out the main consequences of being a designated person and creates a number of offences when dealing with funds or economic resources belonging to a designated person or making funds, financial services or economic resources available to them or for their benefit.

Owned, held or controlled by a designated person

Clause 7 makes it an offence for a person to deal with funds or economic resources owned, held or controlled by a designated person if the person who is dealing knows, or has reasonable cause to suspect, that the funds or economic resources in question are owned, held or controlled by a designated person.

Making funds or financial services available

Clause 8 makes it an offence for a person to make funds or financial services available (directly or indirectly) to a designated person if the person making the funds or financial services available knows, or has reasonable cause to suspect, that the funds or financial services were being made available (directly or indirectly) to a designated person.

Clause 9 makes it an offence for a person to make funds or financial services available to any person for the benefit of a designated person if the person making the funds or financial services available knows, or has reasonable cause to suspect, that the funds or financial services were being made available for the benefit of a designated person.

The main difference to clause 8 is that clause 9 relates to the making available of funds or financial services to third parties but which are for the benefit of, or give rise to a benefit to, the designated person. Clause 9 is only engaged if the designated person obtains, or is able to obtain, a significant financial benefit.

Making economic resources available

Clause 10 makes it an offence for a person to make economic resources available (directly or indirectly) to a designated person if the person making the economic resources available knows, or has reasonable cause to suspect that the economic resources were being made available (directly or indirectly) to a designated person and the designated person would be likely to exchange the economic resources, or use them in exchange, for funds, goods or services.

Clause 11 makes it an offence for a person to make economic resources available to any person for the benefit of a designated person if the person making the economic resources available knows, or has reasonable cause to suspect, that the economic resources were being made available for the benefit of a designated person.

As with clause 9, clause 11 relates to the making available of economic resources to third parties but which are for the benefit of, or give rise to a

© - National Policing Improvement Agency 2010

benefit to, the designated person and is only engaged if the designated person obtains, or is able to obtain, a significant financial benefit.

Circumventing the prohibitions

A further offence would be created by clause 13, which makes it an offence if a person knowingly and intentionally participates in activities, the object or effect of which is (whether directly or indirectly) to circumvent or enable or facilitate the contravention of the prohibitions in clauses 7 to 11 of the Bill.

Penalties under clause 7, 8, 9, 10, 11 or 13

A person guilty of any of the offences under clause 7, 8, 9, 10, 11 or 13 is, on conviction on indictment, liable to a maximum of 7 years' imprisonment or to a fine or to both or, on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or to both.

Confidentiality

Confidentiality is contained in clause 6. If the Treasury considers that disclosure of the designated person should be restricted, then a person who is provided with information or who obtains such information must not disclose it except with lawful authority. A person commits an offence if they disclose the information without lawful authority, unless the person does not know, and has no reasonable cause to suspect, that the information is to be treated as confidential.

Exceptions

There are also exceptions to the offences which would allow the financial institutions to credit a frozen account with funds that were due, whether it was interest on the account or payment due under contracts, so long as they were concluded or arose before the account was frozen.

Clause 14 provides that persons may take any actions which would otherwise breach the prohibitions in clauses 7 to 11 of the Bill if they do so under authority of a licence granted by the Treasury. Two further offences are created in relation to the licence.

The first is that a person commits an offence who, for the purpose of obtaining a licence, knowingly or recklessly provides information that is false in a material respect, or provides or produces a document that is not what it purports to be. The second licence offence is committed by a person who purports to act under the authority of a licence but who fails to comply with any conditions included in it.

Penalties under clause 6 or 14

A person guilty of an offence under clause 6 (confidential information) or clause 14 (licences) is liable, on conviction on indictment, to not more than 2 years' imprisonment or to a fine or to both or, on summary conviction, to imprisonment not exceeding 6 months or to a fine not exceeding £5,000 or to both.

© - National Policing Improvement Agency 2010

Reporting obligation

There is a reporting obligation in clause 15 on relevant institutions if they know or suspect that a relevant person is a designated person, or has committed an offence either under the confidentiality clause or clauses 7 to 14. If the institution fails to comply with this requirement it would be committing an offence. A relevant institution includes those authorised under the Financial Services and Markets Act 2000 to carry on a regulated activity (as defined under section 22 of that Act), and Money Exchange bureaux.

Request for information

Clause 16 would give the Treasury the power to request information from a designated person concerning funds and economic resources owned, held or controlled by or on behalf of the designated person, or any disposal of such funds or economic resources, whether the disposal occurred before or after the person became a designated person.

This would also allow the Treasury to make a request to any person in or resident in the United Kingdom to provide information for the purpose of monitoring compliance, detecting evasion or obtaining evidence of the commission of an offence in the Bill. The request can also be used in establishing the nature and amount or quantity of any funds or economic resources owned, held or controlled by or on behalf of a designated person or for the benefit of a designated person. The Treasury may also request information to establish the nature of any financial transactions entered into by a designated person.

If a person fails to comply with a request for information, clause 18 would make it an offence if, without reasonable excuse, a person refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made. Knowingly or recklessly giving any information or producing any document which is false in response to such a request, destroying, mutilating, defacing, concealing or removing any document or otherwise wilfully obstructing the Treasury is also an offence.

Penalties under clause 15 or 18

A person guilty of an offence under clause 15 (failure by relevant institutions to comply with reporting obligations) or 18 (failure to comply with request for information) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding £5,000 or both.

The draft of the Terrorist Asset-Freezing Bill is available at http://services.parliament.uk/bills/2009-10/terroristassetfreezingtemporaryprovisions.html

© - National Policing Improvement Agency 2010

Ministry of Justice Circular 2010/02: Coroners and Justice Act 2009 Key Provisions Commenced on 1 February 2010

Further to the enactment of the Coroners and Justice Act 2009, the Ministry of Justice have published Circular 2010/02 which provides information on the key provisions of the Act which came into force on 1 February 2010 by way of the Coroners and Justice Act (Commencement No. 3 and Transitional Provisions) Order 2010.

Section 59: Encouraging or assisting suicide (England and Wales)

The Suicide Act 1961 is amended by Section 59 of the Coroners and Justice Act (the 2009 Act) by the creation of a single offence which replaces the substantive offence of aiding, abetting, counselling or procuring suicide under Section 2 of the 1961 Act as well as the offence of attempting to commit the Section 2 offence. Ministry of Justice Circular 2010/03 (covered on page 15) covers this offence in more detail.

Section 72: Conspiracy

Section 72 of the 2009 Act extends the law of conspiracy by amendment to Section 1A of the Criminal Law Act 1977 which sets out the conditions for the offence of "conspiracy to commit offences outside the United Kingdom." This change widens the scope of the first condition which previously applied only to agreements to pursue a course of conduct that would involve an act or event intended to take place in a country or territory outside the United Kingdom. This condition will now be satisfied where the act or event is intended to take place outside England and Wales and therefore will include acts or events in Scotland or Northern Ireland.

This amendment applies to any conspiracy entered into from 1 February 2010. The consent of the Attorney General must be sought for any prosecution under Section 1A.

Section 112: Admissibility of evidence of previous complaints

Under Section 120 of the Criminal Justice Act 2003 certain previous statements of witnesses in criminal proceedings are admissible as evidence in particular circumstances. Section 112 of the Coroners and Justice Act 2009 amends Section 120(7) with the effect that, provided the other criteria set out therein are met, it is no longer the case that a statement which consists of a complaint by the victim of the alleged offence must be made as soon as could reasonably be expected after the conduct alleged. The witness must however give oral evidence in the proceedings so that cross-examination of the subject matter of the statement is possible.

Exclusion of such evidence remains open to the court under the general discretion to exclude hearsay evidence (Section 126 of the Criminal Justice Act 2003) or the discretion to exclude prosecution evidence which would have such an adverse effect on the fairness of proceedings that it ought to be excluded (Section 78 of the Police and Criminal Evidence Act 1984).

This amendment applies to all offences and takes effect in relation to trials or hearings commenced on or after 1 February 2010.

© - National Policing Improvement Agency 2010

Section 114: Bail - Risk of committing an offence causing injury

Schedule 1 to the Bail Act 1976 is amended so that bail may not be granted to a defendant charged with murder unless the court is of the opinion that there is no significant risk that the defendant would commit an offence that would be likely to cause physical or mental injury to another person, if released on bail.

Section 114 also amends paragraph 9 of Schedule 1 to the 1976 Act with the effect that in considering the question of bail with regard to any imprisonable offence triable in the Crown Court, where the court is satisfied that there are substantial grounds for believing that the defendant would commit an offence while on bail, it must consider the likely physical or mental injury such further offending would cause to another person.

Section 115: Bail - Decisions in murder cases to be taken by Crown Court judge

Under Section 115, the decision to grant bail to a defendant charged with murder (including those charged with murder and other offences) may only be made by a Crown Court judge.

Section 140: Appeals against certain confiscation orders

Under an amendment to Section 11 of the Criminal Appeal Act 1968, where a successful appeal by the defence results in a confiscation order being quashed, the Court of Appeal may direct the Crown Court to consider whether a new order should be made and, if so, what form it should take. Any new order made must not be more severe than the previous one. This applies to any appeals that were pending on 12 November 2009.

Sections 149 and 150: Legal Aid

Section 149 amends the Access to Justice Act 1999 so as to confer an express power to pilot civil schemes under the Community Legal Service (CLS), akin to that previously provided under Section 184 regarding pilot schemes under the Criminal Defence Service.

Section 150 amends Schedule 2 to the Access to Justice Act 1999 to clarify those legal services which may not be funded as part of the CLS.

Sections 173, 174 and Schedule 20: Data protection

Section 173 inserts Section 41C into the Data Protection Act (DPA) 1998 placing a duty on the Information Commissioner to produce a code of practice regarding the exercise of functions in connection with the issuing of assessment notices.

Sections 52A-52E are inserted into the DPA 1998 by Section 174 which place a duty on the Information Commissioner to produce, issue and keep under review a code of practice in relation to the sharing of personal data.

Paragraphs 1-3 of Schedule 20 amend certain provisions of the DPA 1998 regarding the registration of data controllers.

Ministry of Justice Circular 2010/02: Coroners and Justice Act 2009 (Provisions Commencing on 1 February 2010) is available at http://www.justice.gov.uk/publications/docs/circular-02-2010-coroners-justice-act.pdf

© - National Policing Improvement Agency 2010

Ministry of Justice Circular 03/2010: Encouraging or Assisting Suicide: Implementation of Section 59 of the Coroners and Justice Act 2009

The Ministry of Justice has published a circular on Section 59 of the Coroners and Justice Act 2009 ('the 2009 Act'), which came into force on 1 February 2010. Section 59 amends section 2 of the Suicide Act 1961; replacing the separate offences of aiding, abetting, counselling or procuring suicide and attempting to aid, abet, counsel or procure suicide with a single offence. The language used to describe the offence has also been modernised in order to improve public understanding of the law in this area. The changes follow growing public concern over links between suicide and the internet, particularly with regard to internet sites promoting suicide and suicide methods. While the existing law was sufficient to tackle such sites, a report published in March 2008, entitled 'Safer Children in a Digital World', recommended that the law on harmful and inappropriate material, such as suicide websites, should be investigated to see if it could be clarified.

Prior to the changes, the law on suicide was made up of two offences. The first was the offence under section 2 of the Suicide Act 1961 of aiding, abetting, counselling or procuring suicide or a suicide attempt. For that offence to be committed an intention to commit the offence was required, and the person assisted or encouraged by the defendant's conduct must either have attempted to, or actually committed suicide. The second offence, under section 1(1) of the Criminal Attempts Act 1981, was an attempt to commit an offence contrary to section 2 of the Suicide Act. To commit an offence under this section, the defendant had to do an act that was more than merely preparatory, however no actual suicide or suicide attempt needed to occur as a result. In addition, there was no requirement to show that actual assistance was given and therefore conduct that was capable of assisting or encouraging suicide, and was intended for that purpose, was enough for the offence to be committed.

Section 59 of the 2009 Act does not alter the scope of the law and does not make anyone liable to prosecution who was not liable before. It instead simplifies the law, covering the behaviour caught by both section 2 of the Suicide Act 1961 and Section 1(1) of the Criminal Attempts Act 1981 with a single offence. Following the changes, a person commits an offence under Section 2 of the Suicide Act 1961 if he/she does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and the act was intended to encourage or assist suicide or an attempt at suicide. An offence will be committed whether or not a suicide or an attempted suicide occurs and as the law previously stated, the conduct does not need to be aimed at a specific person or group or people. There does however need to be intent, and in line with the previous law, the act must be done with the intention to encourage or assist the suicide or attempted suicide of another person. Doing an act capable of encouraging or assisting suicide, such as providing information about suicide through the internet, is not in itself an offence, unless it is done with the intention to encourage or assist a suicide or a suicide attempt.

© - National Policing Improvement Agency 2010

Section 59(4) inserts two new sections into the Suicide Act 1961. Section 2A elaborates on what constitutes an act capable of encouraging or assisting suicide and Section 2B states that a reference to an act includes a reference to a course of conduct. In light of the changes, Section 1 of the Criminal Attempts Act 1981 has been amended so that it no longer applies to offences committed under section 2 of the Suicide Act 1961. It remains a requirement that no proceedings are to be instituted for an offence under section 2 of the Suicide Act, except by or with the consent of the Director of Public Prosecutions.

The full Ministry of Justice Circular can be accessed at http://www.justice.gov.uk/publications/docs/circular-03-2010-assisting-encouraging-suicide.pdf

Ministry of Justice Circular 2010/04: Commencement of Section 10 (Publicity Orders) Corporate Manslaughter and Corporate Homicide Act 2007

The Ministry of Justice published Circular 2010/04 on 9 February 2010 announcing the commencement of Section 10 ('publicity orders') of the Corporate Manslaughter and Corporate Homicide Act 2007 on 15 February 2010.

Most of the provisions of the Act came into effect on 6 April 2008. The offence of corporate manslaughter applies to companies, organisations, police forces and government bodies when the way activities are managed by the organisation causes a death and amounts to a gross breach of a relevant duty of care. An organisation that is found guilty of the offence can have an unlimited fine imposed on it; a remedial order requiring it to address the failures causing the death; and from 15 February 2010, a 'publicity order.'

A publicity order under Section 10 is an order that the court can make in respect of organisations convicted of corporate manslaughter. The publicity order can require an organisation to publicise:

- The fact that it has been convicted of the offence;
- Specified particulars of the offence;
- The amount of any fine imposed; and
- The terms of any remedial order made.

The order must also specify the period in which its requirements are to be met and may require the convicted organisation to supply the relevant enforcement authority with evidence that those requirements have been complied with. A failure to comply with the publicity order is itself an offence, punishable by fine.

The Ministry of Justice Circular 2010/04 is available at http://www.justice.gov.uk/publications/docs/circular-04-2010-corporate-manslaughter-corporate-homicide-act.pdf

© - National Policing Improvement Agency 2010

The full text of Section 10 of the Corporate Manslaughter and Corporate Homicide Act 2007 can be found at http://www.opsi.gov.uk/acts/acts2007/ukpga_20070019_en_1#pb4-l1g10

Bills before Parliament 2009/10 - Progress Report

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

Public Bills

- **Bribery Bill** - this Bill received Third Reading in the House of Lords on 8 February 2010 and was presented to the House of Commons on 9 February 2010. The date for a Second Reading debate is yet to be confirmed;
- **Crime and Security Bill** - the Second Reading debate for this Bill took place on 18 January 2010. The Bill has now been referred to a Public Bill Committee on 26 and 28 January and 2, 4, 9, 23 and 25 February 2010;
- **Equality Bill** - this Bill was originally laid before Parliament in the 2008/09 session and progressed as far as the committee stage. A carry-over motion to the 2009/10 session was agreed by the House of Commons on 13 May 2009. Line by line examination of the Bill took place during the sixth day of the committee stage on 10 February 2010. The discussion covered amendments to clauses 148 to 157 of the Bill. The report stage, further line by line examination of the Bill, is scheduled for 2 March 2010;
- **Human Rights Act 1998 (Meaning of Public Authority) Bill** - this Bill was presented to Parliament on 6 January 2010 for the First Reading. The Bill will be on the Order Paper for a Second Reading debate on 5 March 2010;
- **Powers of Entry etc. Bill** - this Bill was started in the House of Lords and received Second Reading on 15 January 2010. Committee stage is yet to be scheduled;
- **Terrorist Asset-Freezing (Temporary Provisions) Bill** - this Bill received Royal Assent on 10 February 2010. Further information on this can be found in the article on page 9;
- **Video Recordings Bill** - this Bill received Royal Assent on 21 January 2010.

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

© - National Policing Improvement Agency 2010

Home Affairs Committee Report on The Home Office's Response to Terrorist Attacks

On 2 February 2010 the Home Affairs Committee (HAC) published a report on the Home Office's Response to Terrorist Attacks (the "Report"). The Report focuses on areas of the Home Office's counter-terrorism strategy, the use of certain legal tools, counter-terrorism funding and parliamentary scrutiny.

Coordinating an immediate response

One strand of the Government's counter-terrorism structure is the Civil Contingencies Committee, informally known as "COBRA" (an acronym of "Cabinet Office Briefing Room A" where the strategy group supposedly meets). It is normally chaired by the Home Secretary or Prime Minister and brings together various elements from different departments and intelligence agencies to "supply support and make sure that in real time, everybody is working on the same information picture".

COBRA is reactive, temporary and ad hoc and formed in the immediate aftermath of an attack for a specific purpose and for a specific period. It is chiefly responsible for the production of the Commonly Recognised Information Pattern (CRIP). The CRIP helps ensure that after an attack everybody involved in counter-terrorist activity is sharing information and working from the same information.

Sir Ian Blair suggested to the HAC that the frequency of COBRA meetings, especially after a major emergency, was unpredictable and there was the possibility that recalling COBRA at the wrong time would interfere with the work of operational staff and could prevent decisions taken being filtered through organisations. He recommended a more standardised arrangement, with the first meeting held immediately after the event, and then further meetings every two hours.

Mr Andy Hayman, the ex-Assistant Commissioner for Specialist Operations at the Metropolitan Police, raised problems with the timings of COBRA meetings. He suggested that if meetings were too frequent or not on a prescribed schedule, the need to share the decisions taken in the main COBRA made it possible that the focus would be on servicing meetings and as a result, nothing would be achieved.

The Report recommends that as far as possible a fixed schedule of regular meetings be maintained. Participants in COBRA meetings need to feed back the results of the main meeting and implement emergency plans. The Report notes that there is a danger, without a relatively fixed schedule, that COBRA gets in the way of this and actively hinders the operational response.

The Report also states that it is imperative that key actors, especially Ministers who will be taking major decisions, experience a full "COBRA simulation" before facing a real-life incident and recommends that in future, participation in such exercises becomes a key part of Ministerial life.

Aside from the timing of meetings and participation in exercises, the Report praises COBRA for being as good a system as possible for coordinating information after a terrorist attack.

© - National Policing Improvement Agency 2010

The policing structure

The Report discusses the creation of a "supra-regional" body, such as a National Terrorist Agency and concludes that in creating such a body, it carries the risk of breaking the vital link with local communities. Despite creating regional Counter Terrorism Units, which may allow for an increase in the skills and expertise available to disrupt and prevent attacks happening, the HAC suggests that this expertise will be rendered useless without adequate information gathered from within local communities.

A further recommendation is put forward to enshrine in statute the primacy of the Metropolitan Police Service in counter-terrorism operations, as many forces already rely on the Metropolitan Police for operational support. The Report suggests that a relatively minor change in the law would greatly clarify lines of accountability and responsibility without affecting the immediate operational response.

The admission of intercept evidence

Britain is one of the few countries which completely prohibits the admission of intercept material and the Report strongly recommends that the Government introduces legislation allowing the admission of intercept evidence in court.

The Report discusses how other states have adopted the use of intercept evidence without compromising the work of their security agencies, showing that a way can be found without impacting on security services too adversely. It suggests that the apparent unwillingness of security agencies to approach the matter in a constructive manner is attributable as much to institutional inertia and a deeply felt cultural reflex as to insurmountable technical barriers.

The HAC acknowledges that in many cases the need to maintain national security outweighs the benefit of admitting intercepted material in court but notes that this will not be the case in every situation. The Report suggests that there are no good reasons for completely disallowing even the possibility of admitting intercept evidence in court.

Control orders

On 10 June 2009 the House of Lords decided that imposing a control order on an individual without disclosing the reason for it, was unlawful under Article 6 of the European Convention on Human Rights. The Report considers that control orders no longer provide an effective response to the continuing threat. It also acknowledges from recent case law that the legality of the control order regime is in serious doubt and it is fundamentally wrong to deprive individuals of their liberty without revealing why. It also suggests that the security services should take recent court rulings as an opportunity to rely on other forms of monitoring and surveillance.

Counter-terrorism funding

The Report states that over the last ten years, annual funding on the security services has increased by 250%, from £1 billion to approximately £3.5 billion. This increase in police counter-terrorism funding has led to there now being 7,700 police officers engaged in counter-terrorism and protective security

© - National Policing Improvement Agency 2010

across the country; with 3,000 of these engaged directly with what the public perceive to be counter-terrorism. As well as staff, this increase in police funding has gone towards establishing the regional counter-terrorism units and counter-terrorism intelligence units.

The HAC is pleased that budgets for both counter-terrorism policing and the security services have increased substantially, but raises some concerns with the dedication of counter-terrorism funding and the auditing mechanisms. It is concerned that the Government is suggesting that counter-terrorism policing can be detached from other areas of police work and as a result, specialist counter-terrorism units lose the link in the local communities.

The Report raises concerns that oversight of the police's counter-terrorism budget is provided by a committee of the Association of Police Authorities and suggests that the Intelligence and Security Committee or the newly-formed Joint Committee on the National Security Strategy would be better suited than a committee of the Association of Police Authorities to take responsibility for providing Parliamentary oversight of all counter-terrorism spending and that this Committee should Report to the House on a regular basis.

Parliamentary scrutiny

The inquiry discovered many examples of a lack of dynamism when it comes to the implementation of useful counter-terrorism reforms. An example of this is the Parliamentary Committee on the National Security Strategy which was first proposed by the Prime Minister in October 2008. It was not until 13 January 2010 that this Committee was actually established. The Report questions why this process has taken over a year to complete and suggest that it shows a lack of urgency on the Government's part.

On 22 January the Joint Terrorism Analysis Centre raised the United Kingdom's threat level from "substantial" to "severe". The Home Secretary said that this change was not related to a specific threat but was based on a wide range of factors. The statement announcing the decision did not contain specific information about the effect this change would have on the work of the security services and how this decision will affect the public. The Report asks that the changes in the threat level should be explained to Parliament at the earliest practicable opportunity and Ministers should seek to explain their decision in front of a Parliamentary Committee. As well as announcing the change in the threat level, as far as possible Ministerial statements should include how this change will impact on the public.

Conclusion

The Report concludes that during the inquiry, suggestions for reforms to the counter-terrorism structure were rebuffed with claims that "it works well at the moment", or "the benefits are not yet proven". The HAC felt that the remarks gave the impression that a degree of institutional inertia had set in and those involved in counter-terrorism may be willing to settle for existing sub-optimal solutions, rather than proactively reforming to meet ever-changing threats.

The full text of the report is available at
http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/117/117i.pdf

© - National Policing Improvement Agency 2010

The Cost of Policing Football Matches: Government Response to Home Affairs Committee Report

In July 2009 the Home Affairs Committee published its report, *The Cost of Policing Football Matches*. The government's response has now been published.

The government has endorsed the Committee's support for the police to seek full recovery of costs within a certain footprint area of the ground.

The government has also supported the Committee's call for collaborative working on this issue and the Home Office minister David Hanson has made efforts to meet with the chairman of the Football Association.

The government suggests that the revised guidance on this area, which is currently being produced by ACPO, should offer clarification and greater detail on the nature of the costs that the police will seek to recover.

The full response can be found at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/339/339.pdf

Home Office Release Latest Statistics on Police Service Strength in England and Wales

Home Office Statistical Bulletin 03/10 entitled 'Police Service Strength England and Wales, 30 September 2009' was published on 28 January 2010. The bulletin is an interim mid-year update to the annual police service strength publication which contains finalised figures as well as further explanation and detail.

The main points included:

- There were 144,833 police officers (full-time equivalents) in England and Wales on 30 September 2009;
- This total includes 144,353 police officers in the 43 police forces of England and Wales and 480 officers seconded to central services;
- An additional 2,686 officers represent the British Transport Police across England and Wales;
- Police officer numbers for the 43 English and Welsh forces have increased by 2,121 or 1.5% compared with September 2008 and have increased by 583 or 0.4% compared with March 2009;
- Police staff numbers for the 43 English and Welsh forces stand at 80,322 (full-time equivalents), an increase of 2,350 or 3.0% compared with September 2008, and an increase of 1,026 or 1.3% compared with March 2009;
- There were 16,814 full-time equivalent police community support officers, or PCSOs, in the 43 English and Welsh police forces on 30 September 2009, a rise of 6.8% since September 2008, and an increase of 1.9% since March 2009;

© - National Policing Improvement Agency 2010

- The total number of Designated Officers (Section 38, excluding PCSOs) in England and Wales was 3,064 (full-time equivalents), an increase of 39.9% since September 2008, reflecting the continued increasing trend to employ specialist officers in investigation, detention and escort roles. This allows police officers to spend more time on frontline policing activities;
- The number of Traffic Wardens in England and Wales on 30 September 2009 has decreased by 10.2% to 449 (full-time equivalents) compared with September 2008, reflecting the continued expansion in the role played by local authorities in parking control; and
- Additionally, there were 14,516 special constables in the 43 forces of England and Wales, an increase of 0.4% since September 2008, and an increase of 1.9% since March 2009.

The full Home Office Statistical Bulletin 03/10 entitled 'Police Service Strength England and Wales, 30 September 2009' is available at http://www.homeoffice.gov.uk/rds/pdfs10/hosb0310.pdf

House of Commons Home Affairs Committee Publish Police Strength in England and Wales

On 26 January 2010 the House of Commons Home Affairs Committee (HAC) published their fifth report into Police Service Strength.

The main points raised in the report included:

Police Strength and Budgets

- There was a 4.8% increase in police officers and a 15.5% increase in police staff employed across the service between 2004 and 2009;
- 13 forces out of 43 reported an overall decrease in officer numbers between 2004 and 2009, ranging between -0.9% to -7%;
- Three forces reported a rise in officer numbers of over 10%;
- Ten forces reported an increase in staff numbers of over 25%;
- In the last financial year, officer numbers rose by 2.9% across the service and staff numbers by 3%;
- 71% of police budgets is spent on police salaries and 16% on pensions, meaning that in total almost 88% is spent on the workforce;
- Central funding to the police service increased by 19% in real terms between 1997/98 and 2008/09;
- The police national grant is expected to increase by 2.7% in 2010/11; and
- The future is more uncertain: the Association of Police Authorities estimates that forces may be able to manage a 5% cut in overall spending without reducing uniformed staff budgets; a 10% cut on the other hand would be likely to require forces to reduce these budgets by £260 million, or 5,800 officers.

© - National Policing Improvement Agency 2010

Mergers

The Government's new voluntary merger exploration fund of £500,000 is a good first step, but is a drop in the ocean given the costs involved in setting up a merger. For example, the potential merger between Bedfordshire and Hertfordshire would be likely to cost £20m.

Police National Grant

One of the major barriers some forces face in maximising their resources is the current distribution of the police national grant. The Government is committed to reviewing this issue by 2011. The entire means by which money is allocated to forces should be reviewed.

Council Tax Capping

Local police authorities should have the discretion to raise funds according to their needs, provided this is done in consultation with stakeholders including local residents and local authorities.

The full report can be found at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/50/5002.htm

Renewal of Control Order Legislation and Publication of Carlile Report

On 1 February 2010 a draft order to renew legislation relating to control orders was laid before Parliament by the Home Secretary. Control orders are used as a tool to deal with suspected terrorists who cannot be prosecuted or deported.

The Fifth Annual Report of the Independent Reviewer Pursuant to Section 14(3) of the Prevention of Terrorism Act 2005 on the operation of control orders legislation by Lord Carlile was also published on the same date. The report includes his analysis of the viability of the control orders regime in light of the House of Lords' judgment in June 2009, as requested by the Home Secretary.

In his report Lord Carlile concludes that:

- "As the independent reviewer of terror legislation, it is my view and advice that abandoning the control orders system entirely would have a damaging effect on national security."
- "There is no better means of dealing with the serious and continuing risk posed by some individuals."
- "I have considered whether control orders can or should be replaced by something else, or even renamed. I have been unable to find, or devise, a suitable alternative for the important residue of cases that cannot be dealt with by prosecution..."

Additionally, a post-legislative assessment memorandum on the 2005 Prevention of Terrorism Act was laid before Parliament on 1 February 2010. This forms part of the Government's post-legislative scrutiny process which is

applied to all Acts of Parliament passed after 2005. The document reiterates the Home Secretary's support to the control orders regime as a means of protecting the public.

The Fifth Report of the Independent Reviewer Pursuant to Section 14(3) of the Prevention of Terrorism Act 2005 is available at http://security.homeoffice.gov.uk/news-publications/publication-search/prevention-terrorism-act-2005/response-lord-carlile-5th-report.pdf

The Memorandum to the Home Affairs Committee Post-Legislative Assessment of the Prevention of Terrorism Act 2005 has also been published. A more detailed article on this Memorandum will be included in next month's *NPIA Digest*.

House of Commons Home Affairs Committee Publish Government Response to Policing of G20 Protests

The Home Affairs Committee has published the Government's response to the recommendations contained in the House of Commons Home Affairs Committee's Report 'Policing of the G20 Protests', which was published on 29 June 2009. It follows an interim response, published in October last year and builds on the HMIC Report 'Adapting to Protest, Nurturing the British Model of Policing' and the Policing White Paper 'Protecting the Public: Supporting the Police to Succeed'; both published in November.

In the detailed response, the Government welcomes the Report and agrees with the Committee's assessment of G20 as a 'remarkably successful operation'. The Government also agrees that key lessons should be learnt from G20 and other recent policing operations and is committed to working with the police and other stakeholders to ensure those lessons are learnt.

The Government's response focuses on five areas:

- Relations with the Media;
- Communications between the Protesters and Police;
- Use of Containment;
- Use of Force; and
- Use of Tasers.

The full response can be accessed at http://www.publications.parliament.uk/pa/cm200910/cmselect/cmhaff/201/201.pdf

© - National Policing Improvement Agency 2010

Latest IPCC Learning the Lessons Bulletin Published

The Independent Police Complaints Commission (IPCC) have published the 'Learning the Lessons' Bulletin 9 (February 2010). The bulleting focuses on call handling and addresses issues which have arisen in previous bulletins. The learning is developed from investigations conducted by the IPCC and includes detail of key questions that should be asked by forces when faced with similar issues.

Among the issues featured in this bulletin are:

Dealing with misrouted calls

In relaying a call to the relevant force a call handler missed digits from the contact phone number.

Following up with callers

A call handler did not understand a term used by a caller to describe a location, when officers could not find the area the caller was not contacted for further information.

Deciding a call is a hoax

A man called to report a man's body hanging from a tree near a supermarket, police could not find the man as the wrong supermarket was checked. As the caller left no name and the body was not found the call was treated as a hoax, in fact the caller was reporting his own suicide and his body was later found near another supermarket outlet.

Using resources available

A woman called police to report an aggressive drunk in her house, which was graded as requiring a response within 90 minutes due to the caller knowing the man and the decision made that the caller did not sound as though the situation was urgent. Due to the grading a blanket call for available officers was not made, police attended two hours after the call by which time the woman had been raped.

Ability to alert supervisor

A call handler dealing with a call from a man who stated he was going to kill himself had no ability to contact a supervisor without disrupting the call.

Assessing risk before incident is closed

A caller rang to report a phone call from a colleague who threatened to commit suicide, having made threats to do so before. Police could not find the colleague and closed the incident log without carrying out a risk assessment. The man was later found dead.

Recurring issues highlighted in the bulletin are:

- The crucial importance of information - getting information, recording information and passing information on;

© - National Policing Improvement Agency 2010

- Recognising and recording risk;
- Using resources effectively;
- The value of supervision; and
- Working with others.

The bulletin can be found at
http://www.learningthelessons.org.uk/learningthelessons_bulletin9.pdf

A Tiered Approach to Tackling Young People Drinking Alcohol in Public Places

The Home Office has published guidance on the application of the new offence of persistently possessing alcohol in a public place. This offence is contained in Section 30 of the Policing and Crime Act 2009, which came into force on 29 January 2010.

The offence makes it illegal for a person under the age of 18 to be in possession of alcohol in a relevant place on 3 or more occasions within a period of 12 consecutive months. A person guilty of this offence is liable on summary conviction to a fine not exceeding level 2 (£500) on the standard scale.

This guidance sets out the steps that should be taken to deter young people from drinking and possessing alcohol in public places, including engagement with the parents or guardians of the young person. It sets out that a different response will be required depending on the circumstances:

- Where police are dealing with a one-off instance of public drinking, interventions such as confiscating the alcohol, using discretion to take the person to their home, or giving a Direction to Leave, along with referrals to targeted local services are appropriate;
- For a repeat instance which may be linked to anti-social behaviour, interventions such as Acceptable Behaviour Contracts, along with support for the young person through treatment provision should be considered;
- For persistent and problematic cases of public drinking the new offence should be considered and it may be appropriate to seek and Anti-social Behaviour Order on conviction.

The new offence will only apply to this last group.

The full report can be found at
http://www.crimereduction.homeoffice.gov.uk/crimereduction054.htm

© - National Policing Improvement Agency 2010

IAP Launch Deaths in Custody Website

On 3 February 2010 the Independent Advisory Panel (IAP), part of the Ministerial Council on Deaths in Custody, launched a new website. The Independent Advisory Panel is part of a three-tier Ministerial Council on Deaths in Custody, along with the Ministerial Board and the Practitioner and Stakeholder Group. The Ministerial Council is funded by the Ministry of Justice, Department of Health and the Home Office.

The IAP provides independent advice to ministers on deaths in state custody. This advice covers deaths which occur in any of the following situations:

- Prisons;
- In or following police custody;
- Immigration detention;
- The deaths of residents of approved premises; and
- The deaths in hospital of those persons detained under the Mental Health Act 1983.

The new website includes details about panel members, meetings, lessons learned from deaths in custody and guidance on preventing and reducing deaths. Lord Toby Harris, the Chair of the IAP said "The IAP is committed to consulting and engaging with a wide range of stakeholders in order to collect, analyse and disseminate relevant information about deaths in custody and the lessons that can be learned from them."

The aim of the IAP is that as the website develops it will be used as a resource for those working within the different custodial sectors to share good practice and learning on preventing and reducing the number of deaths in custody.

Further information is available from
http://iapdeathsincustody.independent.gov.uk/

© - National Policing Improvement Agency 2010

Policing and Crime Act 2009: Provisions Relating to the Proceeds of Crime Commenced on 25 January 2010

Further to the enactment of the Policing and Crime Act 2009 (the 2009 Act) on 12 November 2009 certain provisions concerning the Proceeds of Crime came into effect on 25 January 2010 by way of the Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) Order 2009.

Section 51: Recovery of expenses etc.

Section 51 amends Section 55 of the Proceeds of Crime Act 2002 (POCA 2002) with regard to the remuneration of and expenses of management and enforcement receivers (see Sections 48-51 POCA 2002 for appointment and powers). This amendment enables members of the Crown Prosecution Service and Revenue and Customs Prosecution Office as well as accredited financial investigators and members of staff of other departments and public bodies, as set out in new Section 55(8), to deduct their expenses from sums recovered in satisfaction of a confiscation order when they are appointed as receivers. Section 51 also makes similar provision for Northern Ireland.

Section 61: Payment of compensation

Section 61 of the 2009 Act adds to the list of enforcement authorities that are liable to pay compensation to individuals whose property has been affected by the enforcement of confiscation legislation in certain circumstances, as set out in Section 72 of POCA 2002. Section 61 adds SOCA to the list of enforcement authorities set out in Section 72(9) as well as certain bodies that have accredited financial investigators on their staff.

Section 62: Limitation

Section 62 of the Act increases the limitation period for the civil recovery of property received through unlawful conduct from 12 to 20 years, by amendment to sections 27A(2) and 27B(2) of the Limitation Act 1980. This will apply to causes of action which accrued before the commencement of this section, but not if those causes of action were time-barred by the previous 12 year limitation period.

Section 62 makes equivalent provision to the legislation applicable to Scotland and Northern Ireland.

Section 64: Detention of Seized Cash

Section 64 of the 2009 Act amends Section 295(2)(a) of POCA 2002 to extend the period for which seized cash may be detained from 3 to 6 months. The maximum period for which cash may be detained remains at two years from the date of the first order.

The Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) Order 2009 is available at http://www.opsi.gov.uk/si/si2009/uksi_20093096_en_1

The Policing and Crime Act 2009 can be found at http://www.opsi.gov.uk/acts/acts2009a

© - National Policing Improvement Agency 2010

UK Statistics Authority to Review Barriers to Trust in Crime Statistics

The UK Statistics Authority has published an interim monitoring report on the public's perception of crime reporting. 'Overcoming barriers to trust in crime statistics' looks at the need to build trust in UK official crime statistics. The Home Office is responsible for publishing crime figures in England and Wales, and while there have been improvements in the reporting, there continues to be public criticism of the statistics and mistrust in how they are used and quoted. The report recognises that this may reflect a wider mistrust of official information, however it highlights two factors which are specific to crime statistics; the existence of two major data sources, namely police recorded crime figures and the British Crime Survey, and the difficulty in ensuring consistent recording across the 43 police forces.

According to the British Crime Survey, crime in England and Wales is at present relatively stable, however the perception of the public is that crime is increasing and official statistics cannot be trusted. The aim of the ongoing review by the Statistics Authority is to identify the barriers to trust in crime statistics, review the steps already taken to overcome these barriers and to make recommendations where appropriate. The interim report makes a number of draft recommendations, such as the publication of a regular commentary on trends and patterns in crime by the National Statistician, and an increase in the amount of Home Office and National Policing Improvement Agency (NPIA) guidance to police forces on communicating statistical information to the public. The report also recommends that there should be an independent and transparent oversight of the production of crime statistics, in order to maximise public confidence. The Statistics Authority invites views on these draft recommendations, prior to the completion of the full report which is due for publication in the spring.

The full interim report can be accessed at http://www.statisticsauthority.gov.uk/reports---correspondence/reports/overcoming-barriers-to-trust-in-crime-statistics--england-and-wales---interim-report.pdf

Anti-Money Laundering: Future Supervisory Approach Consultation

On 9 February 2010, the Office of Fair Trading (OFT) launched their consultation paper 'Anti-Money Laundering: Future supervisory approach'.

The consultation, which is due to run from 9 February to 9 May 2010, is primarily aimed at organisations representing estate agents and consumer credit lenders who are supervised by the OFT, representatives of Local Authority Trading Standards Services, the Department for Enterprise, Trade and Investment in Northern Ireland, other anti-money laundering supervisors and bodies interested in anti money laundering such as the Serious Organised Crime Agency (SOCA).

© - National Policing Improvement Agency 2010

The consultation paper outlines options for the OFT's future approach as a supervisory body under the Money Laundering Regulations 2007 (the Regulations) including their powers relating to registration, monitoring and enforcement, penalties and fee structures.

The Regulations came into force on 15 December 2007 and implement the Third Anti Money Laundering Directive. Before December 2007, businesses supervised by the OFT had to comply with the Money Laundering Regulations 2003 and did not have a supervisor.

Prior to the Regulations, the OFT operated an interim compliance monitoring regime, but this has being deemed inappropriate and the OFT is now consulting on a long term and more appropriate model for the monitoring and enforcement activities which they carry out.

The OFT has a statutory duty under the Regulations to effectively supervise compliance with measures imposed by the Regulations by:

- Estate agents - those businesses engaged in estate agency work as defined by section 1 of the Estate Agents Act 1979;
- Consumer credit financial institutions (CCFIs) - those businesses either:
  - Engaged in consumer credit lending requiring a standard licence which are not authorised by the Financial Services Authority (FSA) or;
  - Supervised by HM Revenue and Customs (HMRC) as a money service business.

The purpose of the consultation is to ensure that the OFT is an effective Supervisory Authority and to:

- Build the OFT's longer term approach to monitoring compliance and enforcement; and
- Decide on the most appropriate structure for funding the OFT activity.

The consultation covers four main areas:

- Identifying those who have not registered with the OFT;
- Monitoring and enforcement;
- Penalties; and
- Future fee structures.

The main emphasis in the consultation is on working with business to raise compliance levels through the provision of advice and guidance to business. The OFT hopes to develop a co-ordinated approach through collaboration with the SOCA, police forces and other supervisors where they will react to adverse intelligence rather than seek it out.

The consultation does not revisit the decision to require businesses to register in detail but seeks input regarding:

- How to identify firms which have not registered;

© - National Policing Improvement Agency 2010

- What action to take against those who do not register; and
- Whether online payment and registration systems are desirable.

The consultation seeks advice on the extent to which the penalties for non compliance are used, and whether the use of a risk based enforcement approach is appropriate. The OFT believes that a key tool to help identify those who have not registered is to publish a Register, since it is already a requirement that supervised businesses registered before 31 January 2010.

Those who fail to register commit an offence, and may either be liable to a civil financial penalty, or could be prosecuted for the offence, for which they may be liable:

- On summary conviction, to a fine not exceeding the statutory maximum; or
- On conviction on indictment, to imprisonment for a term not exceeding two years, to an unlimited fine or to both.

The AML supervisory regime has to be self funding and therefore businesses are expected to pay the costs of their supervision. The consultation seeks advice on funding methods and how the Regulations may impose charges:

- On applicants for registration;
- On relevant persons supervised by that authority;
- In respect of each of the premises at which a person carries on (or proposes to carry on) business.

The OFT invites opinions on whether the fees should they be capped, and if so, at what level as well as the potential for the use of flat fees or turnover based fees. It was identified that there will be an element of 'polluter pays' with regards the financial penalties as these monies will be used to fund the regime although this approach is unlikely to come into effect in the early stages of the OFT's supervisory role.

The full report 'Anti-Money Laundering: Future supervisory approach consultation' can be found at
http://www.oft.gov.uk/shared_oft/consultations/oft1157con.pdf

Scottish Crime and Justice Survey 2008/09: Drug Use Released

On 26 January 2010 Scotland's Chief Statistician published the 'Scottish Crime and Justice Survey 2008/09: Drug Use'. The report presents statistics on adults' experiences of illicit drug use in Scotland since the age of 16. The survey covers self-reported use of illicit drugs in the last month (i.e. the month prior to the survey interview), the last year (i.e. the year prior to the survey interview) and ever (i.e. at some point in respondents' lives). The report also examines the frequency of drug use, perceived dependency on drugs, access to drugs, polydrug use and the age of first use of illicit drugs amongst adults in Scotland.

© - National Policing Improvement Agency 2010

The main findings of the 2008/09 survey include:

Prevalence of illicit drug use in Scotland

- 25.6% of adults reported taking one or more illicit drugs at some point in their lives, even if it was a long time ago;
- 7.6% of adults reported having used one or more illicit drugs in the last year, i.e. the 12 months prior to interview;
- 4.4% of adults reported using one or more illicit drugs in the last month, i.e. the month prior to interview;
- Cannabis was the drug adults most commonly reported that they had used. 22.9% of adults reported that they had taken cannabis at some point in their lives, 6.2% reported using cannabis in the year prior to interview, and 3.5% reported using cannabis in the month prior to interview;
- Stimulants were the second most commonly reported used drugs:
  - Amphetamines - 7.5%;
  - Ecstasy - 7.2%;
  - Cocaine - 6.6%; and
  - Poppers - 6.5% at some point in their lives.
- In the year prior to interview and in the month prior to interview, cocaine was the next most commonly used drug after cannabis (2.7% of adults reporting use in the year prior to interview and 1.2% in the month prior to interview);
- Men reported higher levels of illicit drug use than women. 31.3% men reported taking one or more illicit drug at some point in their lives compared with 20.4% women;
- 11.1% men reported using one or more illicit drug in the year prior to interview compared with 4.3% of women. 6.7% of men compared with 2.4% of women reported use of one or more illicit drug in the month prior to interview;
- Similar proportions of 16-24 year olds (41.3%) and 25-44 year olds (40.3%) reported that they had used illicit drugs at some point in their lives;
- Reported use of illicit drugs in the year prior to interview and the month prior to interview was higher for 16-24 year olds (23.5% in the last year and 13.3% in the last month) than for 25-44 year olds (10.1% in the last year and 6.0% in the last month) Comparing self-reported drug use in 2008-2009 and 2006; and
- The proportion of adults who reported they had taken an illicit drug in the year prior to interview or the month prior to interview was the same in Scotland as it was in England and Wales.

© - National Policing Improvement Agency 2010

Being offered drugs

- 13.7% of adults reported that someone had offered to give or sell them at least one illicit drug in the year prior to interview;
- Of those who had used at least one illicit drug ever, almost 29.6% reported using at least one drug in the year prior to interview;
- 81.2% of those who had used any illicit drug in the year prior to interview had used cannabis in that time; and
- 58.4% of those who had used any illicit drug in the year prior to interview had also done so in the month prior to interview.

Access to drugs

- 87.6% of adults who had used drugs in the month prior to interview reported that it was easy to get hold of the drug they used most often in that period, including 48.6% who claimed it was very easy.

Polydrug use (i.e. mixing drugs with other drugs or alcohol)

- 35.3% of adults who had used at least one illicit drug in the month prior to interview reported some kind of polydrug use; and
- 70.6% of those who had mixed the drug they used most often in the month prior to interview with any other drug, had mixed cannabis with other drugs, reflecting the predominance of cannabis as the drug used most often in the last month.

Further information on the Survey can be found at
http://www.scotland.gov.uk/News/Releases/2010/01/26102911

© - National Policing Improvement Agency 2010

Ministry of Justice Publish Research Paper 'Are Juries Fair?'

In February 2010, the Ministry of Justice (MoJ) published the research paper 'Are Juries Fair?'

The research employed a multi-method approach and included:

- A case simulation study in which 41 juries involving 478 actual jurors at court decided a single case in a controlled setting;
- Large-scale quantitative analysis of the outcomes of 551,669 charges against defendants in all Crown Courts in England and Wales from 1 October 2006 to 31 March 2008; and
- Post-trial survey of 668 jurors in 62 cases.

The research focused on seven fundamental questions relating to juries, including their role and decision making process, their consistency, their understanding of the law and how they may be affected through new media such as the internet. Linked to this was an examination as to whether factors such as defendant ethnicity, offence type, court, severity of offence or number of charges in a trial had any correlation to jury verdicts.

Overall, the research found that juries in England and Wales were found to be fair, effective and efficient.

The key findings of the research were:

All-White juries and Black and minority ethnic (BME) defendants

- BME defendants are consistently more likely than White defendants to plead not guilty;
- All-White jury verdicts showed no tendency to convict a Black or Asian defendant more than a White defendant;
- White jurors serving on racially mixed juries had similar patterns of decision-making for White, Black and Asian defendants;
- White jurors serving on all-White juries did not racially stereotype defendants as more or less likely to commit certain offences based on race; and
- The proportion of BME defendants in all Crown Courts is greater than the proportion of BME groups in the local population.

Appearance of jury fairness

- Concerns about the appearance of jury fairness are most likely to arise in courts where all-White juries try substantial numbers of BME defendants or try White defendants accused of racial crimes against BME victims.

Scope and effectiveness of jury trials

- A sworn jury reaches a verdict by deliberation on 89% of all charges;
- A jury will convict on almost two-thirds (64%) of all charges presented to them;

© - National Policing Improvement Agency 2010

- 59% of all charges result in a guilty plea by a defendant; and
- Juries are rarely discharged (less than 1% of sworn juries).

Jury conviction rates

- The highest conviction rates relate to offences which have the strongest direct evidence against a defendant;
- Non-fatal offences against the person are least likely to result in a jury conviction compared with drugs and theft offences;
- Homicide-related offences have some of the lowest jury conviction rates (threatening to kill 36%, manslaughter 48%, attempted murder 47%); and
- Juries are not primarily responsible for the low conviction rate on rape allegations.

Misconceptions about jury verdicts in certain courts

- There were no courts with a higher jury acquittal than conviction rate;
- Serious offences such as attempted murder, manslaughter, and GBH have lower jury conviction rates than rape; and
- Jury conviction rates for rape vary according to the gender of the complainant.

Juror comprehension of judicial directions

- There is no reason for judicial instructions to be overly complex;
- Jurors' ability to understand legal directions is a crucial element in the proper functioning of the jury decision-making process;
- Only 31% of jurors actually understood the directions fully in the legal terms used by the judge;
- Younger jurors were better able than older jurors to comprehend the legal instructions from the judge;
- A written summary of the judge's directions on the law given to jurors improved their comprehension of the law;
- The judiciary should implement the Auld recommendations for issuing jurors with written *aide memoires* on the law in all cases; and
- Jurors should be issued with written guidelines clearly outlining the requirements for serving on a trial, the value of the juror's role.

Jury deliberations and impropriety

- Out of 196 jurors, 48% said they either did not know or were uncertain what to do if something improper occurred in the jury deliberating room; and
- 67% felt they should be given more information about how to conduct deliberations.

© - National Policing Improvement Agency 2010

Media reporting of jury trials and juror use of the internet

- Jurors serving on high profile cases were almost seven times more likely to recall media coverage than jurors serving on standard cases;
- In high profile cases, jurors recalled media reports of their cases from a range of media outlets;
- 20% of jurors who recalled media reports of their case said they found it difficult to put these reports out of their mind while serving as a juror; and
- More jurors said they saw information on the internet than admitted looking for it on the internet.

Conclusions

- The research should lay to rest any lingering concerns that racially balanced juries are needed to ensure fairness in trials of BME defendants or racial offences;
- The finding that all-White juries do not discriminate is an extremely important conclusion, which is highly reliable;
- Although the Auld Review and the Runciman Commission recommended the use of racially balanced juries, they acknowledged that they did so in the absence of reliable research on the impact of race on jury decision-making in this country;
- It is crucially important that jurors are provided with the most effective tools to carry out that responsibility;
- The judiciary and HMCS should consider issuing every sworn juror with written guidelines clearly outlining the requirements for serving on a trial; and
- HMCS should ensure that court users understand why all-White juries may be trying BME defendants or White defendants in racially motivated crimes.

Justice Secretary Jack Straw said:

"The jury system is working, and working well. The study's findings on the fairness of jury decisions, including for people from black and minority ethnic backgrounds, will help to maintain public confidence in juries and the jury system.

But we cannot allow complacency about the justice system. We will carefully consider the recommendations for helping jurors do their job to the best of their ability."

The full MoJ research report can be found at
http://www.justice.gov.uk/publications/docs/are-juries-fair-research.pdf

© - National Policing Improvement Agency 2010

Ministry of Justice Release Statistics of Mentally Disordered Offenders for 2008 in England and Wales

On 29 January 2010, the Ministry of Justice released their Statistics Bulletin of Mentally Disordered Offenders in England and Wales for the year 2008.

The information in the bulletin summarises information about mentally disordered offenders admitted to, detained in or discharged from hospitals in England and Wales between 1998 and 2008 under mental health legislation with the specific focus on restricted patients (offenders ordered to receive hospital treatment and made subject to restrictions).

Key points included:

- There were 3,937 restricted patients detained in hospital at the end of 2008, up 1% on 2007 and the highest figure for the last decade, although the increase in 2008 has been the smallest since 2002;
- Of these restricted patients, 477 were female, and 3,460 were male;
- There were 1,501 admissions of restricted patients to hospital in 2008, up 3% on 2007;
- The number admitted under restricted hospital orders increased slightly compared to 2007 figures from 333 to 343 (or 23% of total admissions);
- Transfers from prison accounted for between 18% and 25% of the total detained restricted patient population between 1998 and 2008. In 2008, the figure was 24%;
- The number transferred from prison to hospital increased compared to 2007, to 926 (or 62% of total admissions);
- Transfers from prison accounted for 62% of all admissions of restricted patients to hospital in 2008. This represents a 2% increase on the previous year, although this is still among the lowest percentages for the previous 10 years;
- There were 1,255 discharges/disposals of restricted patients of whom 499 (or 40%) were discharged into the community in 2008. Of the 499 discharges into the community 407 were conditional discharges which represented 82% of those discharged into the community;
- 190 restricted patients were recalled to hospital after a conditional discharge, down 10% on 2007;
- 1,500 patients were discharged for the first time between 1999 and the end of 2006. Seven per cent of matched cases (those located on the PNC), re-offended within two years of discharge and of those released and matched, 2% re-offended for violent and sexual offences; 1% for grave offences.

The full Ministry of Justice Statistics Bulletin 'Statistics of Mentally Disordered Offenders 2008 England and Wales' is available at http://www.justice.gov.uk/about/docs/mentally-disordered-offenders-2008.pdf

© - National Policing Improvement Agency 2010

Ministry of Justice Circular 2010/01: Criminal Justice and Police Act 2001 (s1-s11) Penalty Notice for Disorder Scheme

The Ministry of Justice published Circular 2010/01 on 22 January 2010. The circular relates to sections 1-11 of the Criminal Justice and Police Act 2001 and the Penalty Notice for Disorder (PND) Scheme.

Legislative Reform Order - Revocation of the Prescribed Form of the PND

On 6 January 2010, Parliament approved the Legislative Reform Order which repeals the requirement that penalty notices for disorder must be in a form prescribed by regulations made by the Secretary of State. This means that police forces are now free to re-design their tickets to meet their own operational requirements, including electronic issue.

Under the order, section 3 (3) (a) and (4) of the Criminal Justice and Police Act 2001 have been repealed and the following regulations revoked:

- Penalties for Disorderly Behaviour (Form of Penalty Notice) Regulations 2002 (SI 2002/1838);
- Penalties for Disorderly Behaviour (Form of Penalty Notice) (Amendment) Regulations 2004 (SI 2004/3169);
- Penalties for Disorderly Behaviour (Form of Penalty Notice) (Amendment) Regulations 2005 (SI 2005/617); and
- Article of the Courts Act 2005 (Consequential Provisions) No.2) 2005 insofar only as it applies to paragraph 200 of the Schedule to that Order.

The changes outlined above apply to both adult (16 years and over) and juvenile (10 - 15 years) schemes in England and Wales.

While penalty notices may be re-designed, they must still contain all the substantive requirements set out in section 3(3)(b) to (g) of the Act. The notice must:

- State the alleged offence, giving such particulars of the circumstances as are needed to provide reasonable information about it;
- Explain the 21 day suspended enforcement period;
- State the amount of the penalty;
- State where and to whom payment may be made; and
- Explain to recipients their right to trial.

PND recipients will not be disadvantaged by this change, given that they will continue to be provided with all the relevant information mentioned above, and particularly the 21 day suspended enforcement period during which a recipient can choose either to pay the penalty or opt to go to court.

© - National Policing Improvement Agency 2010

Disclosure of information about certain PNDs to third parties

Concerns have been raised that recipients of a PND are not made fully aware of the consequences of paying and of challenging the penalty notice. Information on potential disclosure to a third party such as a prospective employer is not provided on the penalty notice. The Information Commissioner has advised that while there is no legal requirement to do so, it would be good practice to include such information on the ticket and that, whenever possible, officers should draw this to the attention of the recipient. The Ministry of Justice urge forces to follow the advice set out in the circular.

PNDs for recordable offences, such as retail theft and cannabis possession, are registered on the Police National Computer (PNC). PNDs are not disclosed routinely, but may be as part of an enhanced criminal records check if deemed relevant to the application by the Chief Officer of Police. Detailed guidance to police forces on disclosure can be found in Section 15 of the existing PND operational guidance (latest version March 2005).

The Ministry of Justice will add disclosure information to the 'model' ticket template which will be included in revised PND operational guidance which they intend to issue later in 2010. But in the meantime, forces may wish to:

- Add the following to their tickets 'Penalty notices issued for recordable offences, such as retail theft, cannabis possession and being drunk and disorderly, are registered on the PNC and may be disclosed as part of an enhanced criminal records check, if deemed relevant. Information on disclosure together with a list of recordable offences can be found in the PND Operational Guidance'; or
- To issue a separate information sheet on disclosure to PND recipients including the full list of recordable offences.

The Ministry of Justice Circular 2010/01: Criminal Justice and Police Act 2001 (s1-s11) Penalty Notice for Disorder (PND) Scheme is available at http://www.justice.gov.uk/publications/docs/circular-01-2010-pnds.pdf

The PND Operational Guidance can be found at http://police.homeoffice.gov.uk/publications/operational-policing/penalty-notices-guidance/index.html

Criminal Procedure Rules 2010 Published

On 2 February 2010 the Ministry of Justice announced that the Criminal Procedure Rule Committee had produced the first consolidating edition of the Criminal Procedure Rules. The Criminal Procedure Rules affect all criminal courts in England and Wales - magistrates' courts, the Crown Court and the Court of Appeal (Criminal Division).

The purpose of consolidation is to ensure that the rules can be found in one authoritative edition, ensuring that the public can obtain an up-to-date paper copy of the rules and have confidence that they can easily see what is required of the participants in a criminal trial in England and Wales.

© - National Policing Improvement Agency 2010

The Statutory Instrument setting out these consolidating rules, the Criminal Procedure Rules 2010, was laid in Parliament on 29 January 2010. This instrument restates the Criminal Procedure Rules 2005 as currently in force, with fully updated footnotes; and where necessary introduces new rules, for example those required by recent changes in primary legislation such as the Coroners and Justice Act 2009.

The new rules will come into force on 5 April 2010, replacing the Criminal Procedure Rules 2005 and their eight amending statutory instruments.

The full Statutory Instrument 60/2010 'Criminal Procedure Rules 2010: guide for court users, staff and practitioners' can be found at http://www.justice.gov.uk/news/docs/crim-proc-rules-2010-guide.pdf

Scotland Publish 2008/09 Criminal Justice Social Work Statistics

The Criminal Justice Social Work Statistics for the year 2008/09 were published by Scotland's Chief Statistician on 9 February 2010. The bulletin provides statistics at a national level on activity relating to community penalties in Scotland.

The key findings of the report include:

- A total of 42,500 Social Enquiry Reports (including supplementary reports) were submitted by local authorities to the courts in 2008/09, up 1% from the 2007/08 total of 42,000;
- The number of Community Service Orders (excluding Probation Orders with a Requirement of Unpaid Work) increased by 4% in 2008/09 to 6,400. The number which were successfully completed increased by 16% from 3,800 in 2007/08 to 4,400 in 2008/09. In the same time period, the number of breach applications fell by 2% to 2,100;
- A total of 9,100 Probation Orders (including those with a requirement of unpaid work) were made in 2008/09, an increase of 4% compared to 2007/08. The number of successful completions of Probation Orders increased by 5% from 4,000 to 4,200 between 2007/08 and 2008/09. Over the same period, the number of breach applications increased by 19% from 3,400 to 4,100;
- In 2008/09, 4,300 Supervised Attendance Orders were made, a small fall from 4,400 in 2007/08. The number of successful completions increased by 42% from 1,700 in 2007/08 to 2,400 in 2008/09. In the same time period, the number of breach applications increased by 68% from 1,300 to 2,200;
- There were 752 Drug Treatment and Testing Orders made in 2008/09, up 25% from 601 in 2007/08. The total number of successful completions increased by 18% from 183 in 2007/08 to 215 in 2008/09. Over the same period, the number of breach applications increased only slightly from 209 to 218;

© - National Policing Improvement Agency 2010

- In 2008/09, the number of Statutory Throughcare cases commenced increased by 2% from 2,303 to 2,345. This consisted of a 17% increase in cases in the community and an 11% decrease in cases in custody;
- There were 2,440 individuals receiving Voluntary Assistance in 2008/09 a 12% increase on the 2007/08 figure of 2,175; and
- The number of bail supervision cases commenced fell from 729 in 2007/08 to 583 in 2008/09.

The full Statistical Bulletin 'Crime and Justice Series: Criminal Justice Social Work Statistics, 2008/09' is available at http://www.scotland.gov.uk/Publications/2010/02/08093702/0

© - National Policing Improvement Agency 2010

Policy Exchange Report 'A State of Disorder'

Policy Exchange, an independent think tank, has published it's report 'A State of Disorder: Moving Beyond the ASBO in tackling anti-social behaviour'. The report outlines problems that Policy Exchange have found with the Government's approach to tacking anti-social behaviour, including:

- A failure to understand the scale of the problem;
- A political desire to demonstrate progress instead of a desire to ensure that powers are effective;
- A lack of focus on victims;
- A lack of local leadership and a culture of buck-passing;
- A coercive central targeting regime, discouraging the police from prioritising anti-social behaviour;
- Ineffective targeting of 'the hardcore';
- A failure to engage the wider group of offenders; and
- A divorce between political rhetoric and the reality on the ground.

The report suggests that a new approach should be taken, based on the best available evidence of what works to reduce anti-social behaviour, to emphasise the importance of local leadership, reinvigorate policing, encouraging personal responsibility.

The report sets out how such an approach can be achieved, recommending that the following actions be taken:

- Directly-elected police commissioners should be introduced;
- Police officers should be freed from central direction;
- National roll-out of the Youth Conditional Caution and the Youth Restorative Disposal should take place;
- Longer tenure for Safer neighbourhood Teams should be encouraged;
- Police officers should be given complete discretion in deciding whether to investigate or prosecute members of the public who have stood up to low-level crime;
- The role of the Police Community Support Officer should be focused around anti-social behaviour;
- PCSOs should be allowed to use reasonable force to detain suspects;
- A cross-party commission should design and cost a voluntary National Civic Service programme, aiming to reduce anti-social behaviour and providing a 'rite of passage' for British teenagers;
- The Government should commit to an evidence-based approach.

© - National Policing Improvement Agency 2010

The full report can be found at
http://www.policyexchange.org.uk/images/publications/pdfs/A_State_of_Disorder_-_Feb__10.pdf

Campaign to Prevent Violence and Abuse in Teenage Relationships Launched

The Home Office has launched a new campaign which aims to tackle violence and abuse in teenage relationships. The campaign, targeted at 13-18 year olds, challenges the attitudes of teenagers towards violence in relationships and highlights the signs and consequences of abuse. Television adverts, directed by British director Shane Meadows, will form part of the campaign and pose the questions 'If you could see yourself would you see abuse?' and 'If you could see yourself would you stop yourself?' The campaign also includes printed and radio adverts, a dedicated website, an internet viral, education in schools and leaflets for healthcare professionals.

Home Secretary, Alan Johnson, said "We want to see young people in safe and happy relationships and this means tackling attitudes towards abuse at an early age, before patterns of violence occur. We hope this campaign will help teenagers to recognise the signs of abuse and equip them with the knowledge and confidence to seek help as well as understanding the consequences of being abusive or controlling in a relationship".

A recent survey by the NSPCC revealed that a quarter of girls and 18 percent of boys reported some form of physical partner violence, and nearly three quarters of girls and half of boys reported some form of emotional abuse in their relationships. The survey, entitled 'Partner Exploitation and Violence in Teenage Intimate Relationships' was published in September 2009, and was the first study in Great Britain to provide a detailed picture of the incidence and impact of teenage partner violence.

Funded by the Home Office and the Department of Health, the campaign is the first part of a long-term communications plan announced in the cross-government strategy: 'Together we Can End Violence against Women and Children'. The dedicated campaign website, 'This is abuse', can be accessed at http://thisisabuse.direct.gov.uk/

Home Office Take Battle Against Terrorism Online

The public will now be able to report suspected terror-related and violent extremist websites to the police, as part of a new scheme launched by the Home Office on 1 February 2010. A new webpage, set up on the government website Directgov, includes a form on which people can make an anonymous report to the police of any suspected terror-related and violent extremist websites. The report will be sent to a new national police team within the Association of Chief Police Officers (ACPO) Prevent delivery unit. If the website meets the threshold for illegal content, police officers will be able to exercise powers under section 3 of the Terrorism Act 2006 to have it removed.

© - National Policing Improvement Agency 2010

The public are encouraged to report illegal terrorism content such as bomb-making instructions, illegal violent extremist content such as speeches or essays calling for racial or religious violence and illegal hate content, which threatens or harasses a person or group of people because of their race, religion, sexual orientation, disability or gender identity. The webpage also gives advice on how to take steps to have online content removed, which although not illegal, causes upset or offense.

The new Directgov website on reporting hate, extremism and terrorism online can be accessed at
https://reporting.direct.gov.uk/

Police Survivor Support Scheme Launched

On 8 February 2010 the Home Office announced that families of police officers killed in the line of duty are to be given financial support through a new government-funded scheme to be run by the Police Dependants' Trust (PDT). Through the police survivor support scheme, families of officers who have been killed on duty will be given a one off payment of up to £20,000. The scheme is aimed at widows who have formed a new relationship and are therefore no longer eligible for the survivor pension.

The PDT has been providing financial support to the families of officers killed on duty for over 40 years, and the Home Office worked closely with the Trust, drawing on its experience of supporting former officers and their dependants, to develop the scheme. The formation of the police survivor support scheme fulfils a pledge made by former Home Secretary Jacqui Smith in May 2008 to support families left struggling financially. It has been established and funded until the end of March 2011, after which it will close.

Details of the police survivor support scheme can found at
http://www.pdtrustwidows.org/

Mobile Phone Anti-theft Devices Unveiled

Three prototype solutions for preventing mobile phone theft have been launched, inspired by a Home Office initiative to develop new ways of preventing mobile phone theft.

The i-migo is a device to be carried by the phone's owner. If the handset is taken out of a set range the device sounds an alert and locks the handset. The i-migo can also automate the back-up of any data stored on the device to prevent further loss.

The TouchSafe system uses Near Field Communications (NFC) technology to protect users using their phone's payment function, by owners carrying a small card with them that they touch on the phone every time they make a purchase to unlock the handset's payment function.

The 'tie' solution links handsets and the SIM chip so that other SIMs cannot be used on the handset should it be stolen.

© - National Policing Improvement Agency 2010

Home Office Minister Alan Campbell said: “As new technology creates new opportunities for the user it can also provide criminals with opportunities as well. I believe the solutions developed by this challenge have the potential to be as successful as previous innovations like Chip and Pin, which reduced fraud on lost or stolen cards to an all-time low, and would encourage industry to continue working with us and take them up”.

© - National Policing Improvement Agency 2010

Case Law

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

A Series of Incidents Over Nine Months During A Volatile Relationship Was Not A 'Course of Conduct' For An Offence Of Harassment

R v JAMES DANIEL CURTIS (2010)

CA (Crim Div) (Pill LJ, Bennett J, Field J) 9/2/2010

Criminal Law

Course Of Conduct: Harassment: Putting People In Fear Of Violence: Series Of Incidents In Volatile Relationship: S.4(1) Protection From Harassment Act 1997: S.1 Protection From Harassment Act 1997: S.7 Protection From Harassment Act 1997

A series of six incidents, over the course of nine months during a volatile relationship where there had been aggression on both sides, did not constitute a course of conduct amounting to harassment for the purposes of the Protection from Harassment Act 1997 s.1 and did not form the basis of an offence under s.4(1).

The appellant (C) appealed against convictions for putting a person in fear of violence by harassment and causing danger to road users. C had been in a relationship with the complainant (B). In relation to the harassment count, B complained of six incidents that had happened over the course of nine months. Most of the incidents were assaults. B admitted that she had also behaved aggressively during some of the incidents. One incident consisted of C pulling the handbrake of a car B was driving, causing it to skid. That incident was also the subject of the count of causing danger to road users. C and B gave differing accounts of that incident. C argued that the evidence did not amount to an offence under the Protection from Harassment Act 1997 s.4(1), and that had the case been stopped on that count, it would have been necessary to discharge the jury on the causing danger to road users count because they had heard evidence unrelated to that count which may have unfairly prejudiced him.

HELD

The issue was whether C had pursued a course of conduct in relation to B which amounted to harassment of her. The judge's summing up had concentrated on whether there had been a course of conduct, or whether there

© - National Policing Improvement Agency 2010

had been no more than sporadic incidents, without reference to whether such a course of conduct amounted to harassment. Harassment was tormenting a person by subjecting them to constant interference or intimidation. The conduct had to be oppressive, unreasonable and unacceptable to a degree that would sustain criminal liability. It also had to be calculated to produce the consequences set out in s.7 of the Act, Thomas v News Group Newspapers Ltd (2001) EWCA Civ 1233, (2002) EMLR 4 and Majrowski v Guy's and St Thomas's NHS Trust (2006) UKHL 34, (2007) 1 AC 224 applied. Assessment of a defendant's conduct for the purposes of s.1 involved consideration of whether the conduct could be described as a course of conduct and whether that course of conduct amounted to harassment; the two limbs were interrelated in that an analysis of the course of conduct, including the frequency of acts, might throw light on whether it amounted to harassment, R v H (Gavin Spencer) (2001) 1 FLR 580 CA (Crim Div) considered. Although C's conduct had been deplorable and the incidents had been far from trivial, it could not be concluded that, in the course of a volatile relationship where there had been aggression on both sides, the six incidents over a nine-month period amounted to a course of conduct amounting to harassment within the meaning of the Act. The judge should have stopped the harassment case at the close of the prosecution. Even if he had been permitted to allow the case to continue, the verdict was unsafe because the jury had received no sufficient direction on the elements of the offence. The conviction on the second count was therefore also unsafe. That was a specific road traffic offence and C had been unfairly prejudiced by the jury considering it in the ill-conceived context of an offence under the Act. It had turned on an issue of credibility, and the jury's assessment of that had been unfairly affected by having heard evidence on unrelated issues that should not have been before it.

APPEAL ALLOWED

This Case Report was published with kind permission of Lawtel http://www.lawtel.com

Public Order Offence Committed Where Publication of Racially Inflammatory Material Was Through A Website Hosted in the United States

R v SIMON GUY SHEPPARD: R v STEPHEN WHITTLE (2010)

CA (Crim Div) (Scott Baker LJ, Penry-Davey J, Cranston J) 29/1/2010

Criminal Law

Possession Of Racially Inflammatory Material: Public Order Offences: Publication: Racial Hatred: Publication Of Racially Inflammatory Material: Publication On Internet: Web Server Based In United States: S.19 Public Order Act 1986: S.29 Public Order Act 1986: S.19(3) Public Order Act 1986: S.42 Public Order Act 1986: Public Order Act 1986

Where an offender had produced racially inflammatory material and posted it on a website hosted by a remote server in the United States, he could be tried in the United Kingdom because a substantial measure of his activities had

© - National Policing Improvement Agency 2010

taken place in the UK, as required by the test laid down in R v Smith (Wallace Duncan) (No4) (2004) EWCA Crim 631, (2004) QB 1418.

The appellants (S and W) appealed against convictions for possessing, publishing and distributing racially inflammatory material contrary to the Public Order Act 1986. W had written material which cast doubt on the existence of the holocaust and contained derogatory remarks about a number of racial groups. S had edited the material and uploaded it to a website which he had set up for the purpose of disseminating it. The website was hosted by a remote server located in California. Once posted on the site, the material was available to be viewed and downloaded in a number of countries including the United Kingdom. Some of the material was distributed in the UK in print form through the post. At trial the prosecution relied upon evidence from a police officer who had visited the site and downloaded the documents. The judge applied R v Smith (Wallace Duncan) (No4) (2004) EWCA Crim 631, (2004) QB 1418 and decided that the court had jurisdiction because a substantial measure of S and W's activities had taken place in the UK. The appellants submitted (1) the judge should not have applied the "substantial measure" test as offences concerning publication on the internet could only be heard in the jurisdiction where the web server was located; (2) "publication" under s.19 did not apply to material published on the internet as it was not "written material" within the meaning of s.29; (3) there could be no publication without sufficient publishees to constitute a section of the public as required by s.19(3).

HELD

(1) In considering whether there was any basis for not applying the "substantial measure" principle, the starting point was the terms of the 1986 Act. Section 42 provided that the provisions of the Act extended to England and Wales save for some limited exceptions which mainly related to Scotland and Northern Ireland. It did not assist in taking the case outside the jurisdiction principle in Smith. Section 42 was not a restriction of jurisdiction to England and Wales, rather, it set out the limitations as to its extent within England and Wales and was not determinative of the jurisdiction of the court. Further, the "substantial measure" test not only accorded with the purpose of the relevant provisions of the Act, it also reflected the practicalities of the instant case. Almost everything in the instant case related to the UK, which was where the material was generated, edited, uploaded and controlled. The material was aimed primarily at the British public. The only foreign element was that the website was hosted by a server in California, but the use of the server was merely a stage in the transmission of the material. There was abundant material to satisfy the "substantial measure" test, Smith applied.

(2) Section 29 said that "written material includes any sign or other visible representation". The word "includes" was plainly intended to widen the scope of the expression and the words were sufficiently wide to include articles in electronic form, such as the material disseminated by the website in the instant case.

(3) The submission that there could not be publication without a publishee was fundamentally misconceived. It was based on an irrelevant

 © - National Policing Improvement Agency 2010

comparison with the law of libel. The judge had been correct when he said that what the Crown had to show was that there was publication to the public or a section of the public in that the material was generally accessible to all, or available to, placed before, or offered to the public, and that could be proved by the evidence of one or more witnesses. The material in the instant case was available to the public despite the fact that the evidence went no further than establishing that one police constable had downloaded it, R v Perrin (Stephane Laurent) (2002) EWCA Crim 747 considered. The offences of displaying, distributing or publishing racially inflammatory material did not require proof that anybody had actually read or heard the material.

APPEAL DISMISSED

This Case Report was published with kind permission of Lawtel http://www.lawtel.com

© - National Policing Improvement Agency 2010

Caution Is Required When Admitting Hearsay Evidence When A Witness Of Primary Fact Is Available

R v (1) CW (2) T (2010)

CA (Crim Div) (Hooper LJ, Wyn Williams J, Recorder of Croydon) 29/1/2010

Criminal Evidence

Abuse Of Process: Calling Witnesses: Child Sex Offences: Hearsay Evidence: Jury Directions: Previous Convictions: Summing Up: Availability Of Witness Of Primary Fact: S.114(1)(D) Criminal Justice Act 2003: S.116 Criminal Justice Act 2003: S.101(1) Criminal Justice Act 2003

A cautious approach was necessary under the Criminal Justice Act 2003 s.114(1)(d) when consideration was being given to the admission of hearsay evidence when a witness of primary fact was alive and well and, on the face of it, able to give oral evidence to the court.

The appellants (W and T) appealed against their convictions relating to the sexual abuse of children. W was convicted of three counts of gross indecency with a child, one count of inciting a girl under the age of 16 years to commit incest, three counts of rape and one count of indecent assault. W's brother was convicted of 24 related counts on the same indictment. The victims were all W's children including two of his daughters, L and C. W's brother's girlfriend, T, was convicted of one offence of rape in that she assisted him in his rape of L. W had been acquitted of sexual offences against L in 1999. L made new disclosures of abuse in 2007 when she was 17 years old. The prosecution deliberately ensured that the new indictment related only to conduct which had been disclosed by L for the first time in 2007. At trial the judge allowed the prosecution to adduce hearsay evidence under the Criminal Justice Act 2003 s.114(1)(d) from C's adoptive mother (S) of disclosures made to S about W's conduct to C. S stated that she would not permit C to give evidence. It then emerged that C was prepared to give evidence but the judge maintained his view that the hearsay evidence should be admitted. The result was that C did not give evidence at trial but S did. W submitted that (1) the proceedings should have been stayed as an abuse of process as he had been acquitted of sexual offences against L in 1999; (2) the trial judge erred in law in permitting the prosecution to adduce hearsay evidence from S; (3) the trial judge was wrong to have admitted the facts of W's previous conviction for indecent assault. T submitted that (4) the case against her was not strong and she was improperly dragged down by the evidence of appalling abuse on the part of W and his brother.

HELD

(1) The allegations laid against W in 2008 were not the same allegations as those made against him at his trial in 1999. The 2008 indictment related to allegations founded solely on disclosures made after the conclusion of the trial in 1999. L's later disclosures were far more wide-ranging and were disclosures of very serious offences which had not previously been made. The trial judge's decision not to stay the proceedings as an abuse

© - National Policing Improvement Agency 2010

of process was not a decision which a reasonable trial judge could not reach.

(2) S's evidence supported the evidence given by L. It was common ground that S's evidence could not be admitted under s.116 of the 2003 Act. The judge had not sufficiently considered the issue of C's reliability or the difficulty that the defence had in effectively challenging S's evidence. The judge fell into error in failing to consider the relationship between s.114(1)(d) and s.116. Section 114(1)(d) was to be cautiously applied since otherwise the conditions laid down by Parliament in s.116 would be circumvented, R v Z (2009) EWCA Crim 20, (2009) 3 All ER 1015 applied. A cautious approach was necessary when consideration was being given to the admission of hearsay evidence when a witness of primary fact was alive and well and, on the face of it, able to give oral evidence to the court. That approach should be followed strictly where, as in the instant case, the witness of primary fact was an alleged victim of a serious crime. A proper application of the statutory criteria in s.114(2) and the principle in Z meant that S's hearsay evidence should not have been admitted. However, that error did not render W's conviction unsafe. There was a powerful case against W and he would have been convicted in the absence of S's evidence.

(3) The judge was correct to have admitted the fact of W's previous conviction and the facts relating to its commission under s.101(1) of the 2003 Act as it was relevant to W's propensity which was an important issue between the prosecution and the defence.

(4) The case against T was not a strong one. In the case of T the issue was not just one of credibility but of accuracy of recall after so many years. The judge failed to separate the narrow case against T into a separate compartment and highlight the inconsistencies in the evidence against her on her particular issues. T's submission on the risk that she was dragged down was well demonstrated by the manner in which the prosecution put their case which relied on her bad character as demonstrated by her supposed knowledge that her boyfriend was abusing children. Such an approach required considerable guidance for the jury who were given no directions on the matter. If the jury had been properly directed, the verdict might not have been the same. The verdict was therefore unsafe and was quashed.

FIRST APPELLANT'S APPEAL DISMISSED, SECOND APPELLANT'S APPEAL ALLOWED

This Case Report was published with kind permission of Lawtel http://www.lawtel.com

Completing the Address on an All Premises Warrant at the Time of Executing It Is Unlawful

R (on the application of (1) WAQAR BHATTI (2) SAIMA SADIQ (3) SOHAIL AKHTAR (4) MIDDLESEX COLLEGE LTD) v (1) CROYDON MAGISTRATES' COURT (2) COMMISSIONER OF POLICE OF THE METROPOLIS (3) SECRETARY OF STATE FOR THE HOME DEPARTMENT (2010)

DC (Elias LJ, Calvert Smith J) 3/2/2010

Criminal Procedure - Police

Defects: Police Powers And Duties: Search Warrants: Lawfulness Of Issue And Execution Of Search Warrants: Completion Of Address On Copy Of Warrant Issued To Occupier At Time Of Execution: Effect Of Non-Compliance With S.16(5) Police And Criminal Evidence Act 1984: S.8 Police And Criminal Evidence Act 1984: S.16(5) Police And Criminal Evidence Act 1984: S.15(1) Police And Criminal Evidence Act 1984: S.78 Police And Criminal Evidence Act 1984

A copy of a search warrant issued under the Police and Criminal Evidence Act 1984 s.8 had, on its face, to record the address being searched so that when the occupier was served with the copy he would know for certain that the warrant as issued did indeed cover his premises. The practice of the police to complete the address by hand as a warrant was executed was in breach of s.16(5) of the Act and rendered any entry, search and seizure illegal pursuant to s.15(1), thereby entitling an occupier to the return of any seized property.

The claimants (B) applied, by way of judicial review, to challenge a number of search warrants and the manner in which they were executed. In the course of a police investigation into B's possible role in fraud and immigration offences, the first defendant magistrates' court had granted the second defendant police three "all premises" search warrants, pursuant to the Police and Criminal Evidence Act 1984 s.8, giving them the right to search properties relating to or occupied by each of the named claimants. The police officers who executed the warrants had provided copies of the warrants to each occupier, but the copies did not include on their face the addresses in question. Instead, a separate page was attached which included an empty box in respect of the premises searched stating "to be completed by officer", which the officers completed by hand at the time of the search. Documents and material were seized from B as a result of the searches. B challenged the legality of the warrants and sought the return of all property seized by the police together with damages. B contended that the failure of the copy warrants to show on their face that the address in question was authorised to be searched by the magistrate who had issued the warrant amounted to a breach of s.16(5) of the Act which rendered the entry, search and seizure illegal pursuant to s.15(1), so that their property had to be returned. B submitted that the police had Draconian powers of entry and search and Parliament had required them to leave clear and unambiguous documents as to the authority by which they carried out those actions, so that a householder could be satisfied that the warrant as issued did indeed give authority for his premises to be searched.

© - National Policing Improvement Agency 2010

The police contended that the procedure they had adopted in B's case reflected the general practice in pursuance of existing Home Office guidance, and that by completing the address on the copy at the time of the search a householder was thereby notified that his home was authorised to be searched. The police argued that, even if the warrants had been executed unlawfully, that did not mean that B's property, which might amount to evidence of a serious criminal offence, ought to be returned, as there was some ambiguity over the scope of s.15(1) and whether procedural non-compliance rendered entry, search and seizure or the warrant itself unlawful.

HELD

(1) The schedule including the address of the premises to be searched was a crucial and integral part of the warrant. The authenticity of a warrant should not depend on the word of the police, R v Chief Constable of Lancashire Ex p Parker (1993) QB 577 QBD applied. Whilst the police officers in the instant case had acted in good faith and in accordance with guidance, that guidance was wrong and the officers had acted unlawfully. The police's operational requirements did not justify rewriting statutes. Where a condition on the exercise of the power to search had been imposed, such as in s.16(5), it had to be exercised fully. Where a copy of a warrant failed to specify the address, the householder could not be satisfied that their property had been authorised to be searched, and the requirements of s.16(5) were not satisfied, R (on the application of Redknapp) v Commissioner of the City of London Police (2008) EWHC 1177 (Admin), (2009) 1 WLR 2091 applied. There had been a clear breach of s.16(5) in the instant case.

(2) It was plain from the wording of s.15(1) that procedural non-compliance rendered entry, search and seizure unlawful, Parker and R v Chief Constable of Warwickshire Ex p F (1999) 1 WLR 564 DC applied, Fisher v Chief Constable of Cumbria Unreported July 29, 1997 CA (Civ Div) not followed. The material seized from B had to be returned. Any other issues concerning the admissibility of criminal evidence could be looked at pursuant to s.78, and the police might obtain a further, lawful warrant. The question of damages due to B would be remitted to a judge of the Queen's Bench Division for determination.

APPLICATION GRANTED

This Case Report was published with kind permission of Lawtel http://www.lawtel.com

© - National Policing Improvement Agency 2010

SI 60/2010 The Criminal Procedure Rules 2010

In force **5 April**. These Rules replace the Criminal Procedure Rules 2005 and introduce new procedure rules regarding investigation anonymity orders, witness anonymity orders and appeals against recognition of a foreign driving disqualification.

SI 115/2010 The Video Recordings (Labelling) Regulations 2010

In force **26 January**. These Regulations specify the labelling requirements for video recordings. Selling or offering to supply video recordings which do not satisfy these requirements is an offence under section 13 of the Video Recordings Act 1984.

SI 123/2010 The Regulation of Investigatory Powers (Covert Human Intelligence Sources: Matters Subject to Legal Privilege) Order 2010

In force **18 February**. This Order repeals and replaces SI 3404/2009 (covered in the February 2010 edition of the *NPIA Digest*). It sets out further requirements that must be met when specified uses of a Covert Human Intelligence Source are to be authorised under section 29 of the Regulation of Investigatory Powers Act 2000.

SI 125/2010 The Policing and Crime Act 2009 (Commencement No. 3) Order 2010

In force **various dates**. This Order brings into force a number of provisions of the Policing and Crime Act 2009.

Provisions coming into force on **29 January**:

- Section 10 (police officers engaged on service outside their force etc.);
- Section 11 (police equipment);
- Section 12 (police procedures and practices);
- Section 13 (police facilities and services);
- Section 28 (selling alcohol to children);
- Section 29 (confiscating alcohol from young persons);
- Section 30 (offence of persistently possessing alcohol in a public place);
- Section 31 (directions to individuals who represent a risk of disorder);
- Section 32 (mandatory licensing conditions relating to alcohol);
- Section 33 (individual members of licensing authorities to be interested parties);
- Section 79 (security planning for airports) in relation to England, Wales and Scotland only;
- Section 80 (policing at airports) in relation to England, Wales and Scotland only;

© - National Policing Improvement Agency 2010

- Section 83 (monitoring application);
- Section 97 (criminal records: applications);
- Section 110 (partial exemption for SCDEA from Firearms Act 1968);
- Section 112(1) (minor and consequential amendments and repeals and revocations) insofar as it relates to Part 4 and Part 5 of Schedule 7;
- Section 112(2) (minor and consequential amendments and repeals and revocations) insofar as it relates to Part 3 and Part 7 of Schedule 8, and the provisions of Part 8 of Schedule 8 specified below;
- Schedule 4;
- Schedule 6 in relation to England, Wales and Scotland only;
- Part 4 and Part 5 of Schedule 7;
- Part 3, Part 7 and Part 8, insofar as it relates to repeals in the Police Act 1997 and the Criminal Justice Act 2003, of Schedule 8.

Section 84 comes into force for the purposes of making regulations on **29 January**. Section 1 (duty of police authorities in relation to public accountability) comes into force on **15 March**.

SI 127/2010 The Crime and Disorder Act 1998 (Youth Conditional Cautions: Code of Practice) Order 2010

In force **25 January**. This Order brings into force the "Code of Practice for Youth Conditional Cautions for 16 & 17 year olds" laid before Parliament on 8 July 2009. This document can be found at http://www.official-documents.gov.uk/document/other/9789999098137/9789999098137.asp

SI 129/2010 The Domestic Violence, Crime and Victims Act 2004 (Commencement No. 13) Order 2010

In force **1 February**. This Order brings into force the following provisions of the Domestic Violence, Crime and Victims Act 2004:

- Section 48 (Commissioner for Victims and Witnesses), section 49 (general functions of Commissioner) and section 50 (advice);
- Section 51 (restrictions on exercise of functions);
- Section 52 ("victims" and "witnesses");
- Section 53 and Schedule 9 (authorities within Commissioner's remit); and
- Section 54 (disclosure of information), so far as it is not already in force.

SI 130/2010 The Football Spectators (2010 World Cup Control Period) Order 2010

In force **22 February**. This order specifies the period beginning on 1 June 2010, and ending when the last match of the 2010 FIFA World Cup is due to be played, as a control period under the Football Spectators Act 1989. This

© - National Policing Improvement Agency 2010

allows powers under that Act to be exercised during that period, such as the summary powers to detain and refer a person to court with a view to making a banning order.

SI 133/2010 The Criminal Justice Act 2003 (Conditional Cautions: Code of Practice) Order 2010

In force **25 January**. This Order brings into force the "Revised Code of Practice for Conditional Cautions - Adults" laid before Parliament on 8 July 2009. This document can be found at http://www.official-documents.gov.uk/document/other/9789999098144/9789999098144.asp

SI 145/2010 The Coroners and Justice Act 2009 (Commencement No. 3 and Transitional Provision) Order 2010

In force **various dates**. This Order brings into force a number of provisions of the Coroners and Justice Act 2009.

The provisions coming into force **immediately before 1 February** are:

- Section 142 (Commissioner for Victims and Witnesses);
- Section 178 (repeals), so far as it relates to the repeals specified in sub-paragraph (c); and
- In Part 5 of Schedule 23 (miscellaneous criminal justice provisions), the repeals relating to:
  - The Superannuation Act 1972;
  - The House of Commons Disqualification Act 1975;
  - The Northern Ireland Assembly Disqualification Act 1975; and
  - The Domestic Violence, Crime and Victims Act 2004.

The following provisions come into force on **1 February**:

1. Section 35 (Chief Coroner and Deputy Chief Coroners).
2. Section 59 (encouraging or assisting suicide (England and Wales)).
3. Section 60 (encouraging or assisting suicide (Northern Ireland)).
4. Section 61 (encouraging or assisting suicide: information society services).
5. Section 72 (conspiracy).
6. Section 112 (admissibility of evidence of previous complaints).
7. Section 114 (bail: risk of committing an offence causing injury).
8. Section 115 (bail decisions in murder cases to be made by Crown Court judge).
9. Section 118(2) (provision about the Sentencing Council for England and Wales), so far as it relates to the provisions specified in paragraph 23.

© - National Policing Improvement Agency 2010

10. Section 140 (appeals against certain confiscation orders (England and Wales)).

11. Section 141 (appeals against certain confiscation orders (Northern Ireland)).

12. Section 149 (Community Legal Service: pilot schemes).

13. Section 150 (excluded services: help in connection with business matters).

14. Section 153 (statutory instruments relating to the Legal Services Commission).

15. Section 173 (assessment notices), so far as it inserts section 41C (code of practice about assessment notices) of the Data Protection Act 1998.

16. Section 174 (data-sharing code of practice).

17. Section 175 (further amendments of the Data Protection Act 1998), so far as it relates to the provisions specified in paragraph 24.

18. In section 177 (consequential etc. amendments and transitional etc. provisions):

    (a) subsection (1) (minor and consequential amendments), so far as it relates to the provisions specified in paragraph 25; and

    (b) subsection (2) (transitional, transitory and saving provisions), so far as it relates to the provisions specified in paragraph 26.

19. Section 178 (repeals), so far as it relates to the provisions specified in paragraph 27.

20. Section 180 (effect of amendments to provisions applied for purposes of service law).

21. Schedule 8 (Chief Coroner and Deputy Chief Coroners).

22. Schedule 12 (encouraging or assisting suicide: providers of information society services).

23. In Schedule 15 (the Sentencing Council for England and Wales):

    (a) paragraphs 1 to 4, 6 and 9; and

    (b) paragraphs 5, 7 and 10, for the purposes of making appointments.

24. In Schedule 20 (amendments of the Data Protection Act 1998), paragraphs 1 to 3 (data controllers' registration).

25. In Schedule 21 (minor and consequential amendments):

    (a) paragraphs 53 to 61 (suicide); and

    (b) paragraphs 74 to 78 (bail).

© - National Policing Improvement Agency 2010

26. In Schedule 22 (transitional, transitory and saving provisions):

(a) paragraph 7 (Chapter 1 of Part 2 transitional provision);

(b) paragraphs 8 to 11 (suicide);

(c) paragraph 25 (evidence of previous complaint);

(d) paragraph 28 (provision in respect of the Sentencing Council for England and Wales); and

(e) paragraph 39 (confiscation orders).

27. In Schedule 23 (repeals):

(a) in Part 2 (criminal offences), the repeals relating to the Suicide Act 1961 and to the Criminal Justice Act (Northern Ireland) 1966; and

(b) Part 6 (legal aid), so far as it is not already in force.

Transitional provisions are also commenced by this Order.

SI 207/2010 The Sexual Offences Act 2003 (Prescribed Police Stations) Regulations 2010

In force **26 February**. This Order lists the police stations in England, Wales and Northern Ireland which are 'prescribed' for the purposes of section 87(1)(a) of the Sexual Offences Act 2003. The previous Regulations prescribing this are revoked (SI 722/2009).

© - National Policing Improvement Agency 2010

NPIA
National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate

Telephone 01423 876663
www.npia.police.uk