Digest

MAY 2007

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

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

This edition contains articles summarising the Governments proposals in respect of its reform of the Home Office and the creation of a Ministry of Justice, its policy on Security, Crime and Justice and its recently published action plan to isolate, prevent and defeat violent extremism, particularly within Muslim communities. Also included is a summary of the Conservative party's proposals to reform the police service in England and Wales.

Articles this month also cover provisions in The Education and Inspections Act 2006 relating to school discipline, behaviour and exclusion that came into force in England on 1 April 2007, as well as updated guidance on truancy sweeps that impact on policing.

Details of a number of consultations are also covered including, employment dispute resolution, non-photographic visual depictions of child sexual abuse, the Blue Badge scheme, and electronic delivery of motor insurance certificates.

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

Case law in association with

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 2007

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 Editorial Team: Telephone: +44 (0)1423 876664

DIVERSITY 5
Report on the Meaning of Public Authority under the Human Rights Act 1988 5
Report on the Impact of the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003 5
Government Response to the All-Party Parliamentary Inquiry Report on Anti-Semitism 6

TRAINING AND DEVELOPMENT 8
National Training Noteworthy Practice 8

EMPLOYMENT 9
HOC 14/2007 Amendments to Determinations of the Secretary of State under the Police Regulations 2003 9
Consultation on Resolving Disputes in the Workplace 11

LEGISLATION 13
Education and Inspections Act 2006 - School Discipline, Behaviour and Exclusion Provisions 13
HOC 11/2007 Section 62 of the Violent Crime Reduction Act 2006 16
HOC 12/2007 Violent Crime Reduction Act 2006 (Commencement No 2) Order 2007: Firearms Measures 16
HOC 13/2007 The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 19
Mental Capacity Act Code of Practice 22

GOVERNMENT AND PARLIAMENTARY NEWS 23
Changes to Home Office Responsibilities and Creation of a Ministry of Justice 23
Government Policy Review on Security, Crime and Justice 25
Interim Report of the Conservative Party Police Reform Taskforce 27
Cross-Government Action Plan on Sexual Violence and Abuse 31
Consultation on the Possession of Non-Photographic Visual Depictions of Child Sexual Abuse 33
Plans to Tackle Violent Extremism 34
Consultation and Strategic Review of the Blue Badge Disabled Parking Scheme 36
Consultation on Electronic Delivery of Certificates of Motor Insurance 38
Updated Truancy Sweep Guidance 38
Housing Benefit Sanctions for Anti-Social Behaviour 39
House of Commons Transport Committee Report on the Government's Motorcycling Strategy 40
Drug Facilitated Sexual Assault 41
Consultation on Independent Prescribing of Controlled Drugs by Nurse and Pharmacist Independent Prescribers 42
Inspection of HMRC's Handling of Human Intelligence Sources 43
Vehicle Speeds in Great Britain 2006 43
Fall in Re-Offending Rates for Adults 44

© - National Policing Improvement Agency 2007

CRIMINAL JUSTICE SYSTEM 45
Extension of Prosecutor Charging for HM Revenue and Customs 45
Report on the Impact of Mentoring on Re-offending 45

POLICE NEWS 46
HMIC Thematic Report of Police Contact Centres' Contribution to Incident Management 46
Home Office Counting Rules 48
Revised Practice Advice on Part 4 of the Anti-Social Behaviour Act 2003 (Police Powers to Disperse Groups) 50
Practice Advice on Intelligence-Led Policing 50
Police Precepts 50
Guide on Dealing with Problem of Bank Robbery 50
Guide on Dealing with Thefts of and from Cars on Residential Streets and Driveways 51

NEWS IN BRIEF 52
Increase in Online Child Abuse Images 52
Report into UK Drugs Policy 53
Statistics on Drug Misuse in England and Wales 2007 54

CASE LAW 55

EVIDENCE AND PROCEDURE 55
Voluntary Intoxication Does Not Automatically Remove Capacity to Consent to Sexual Intercourse 55
Delay in Reporting Rape did not Prejudice the Defendant 57
Guidance on Extended Sentences under the Criminal Justice Act 2003 58
Magistrates' Have Discretion to Hear Further Evidence 60

CRIME 62
Proceeds from Cheating the Revenue Amounts to Criminal Property 62

TRAFFIC 64
De Minimis Deviation from Traffic Signs Regulations Insufficient Reason to Overrule Speeding Conviction 64
Service under the Road Traffic Act 1988 not Effected by Poor Quality of Document 65

STATUTORY INSTRUMENTS 68

© - National Policing Improvement Agency 2007

Report on the Meaning of Public Authority under the Human Rights Act 1998

The Joint Committee on Human Rights has published a report into the meaning of public authority under the Human Rights Act 1998. The Committee says that there has been little evidence of progress in the last three years to close the gap in human rights protection arising from the narrow interpretation of meaning of public authority, which issue was identified in the Joint Committee's previous report on this matter in 2003-04.

The Committee acknowledges the interventions made by the Government in cases in order to seek to persuade the courts to adopt a more functional interpretation of the meaning of public authority, but concludes that this strategy has so far proved unsuccessful, with both the High Court and the Court of Appeal so far refusing to depart from the analysis in the Leonard Cheshire case.

The Committee makes a number of further recommendations to bring about a solution, which it says is now a matter of some urgency, including an urgent review of the impact of the existing Guidance, which should be revised to incorporate practical, accessible advice to all commissioning bodies.

The report can be found in full at

http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/77/77.pdf

Report on the Impact of the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003

The Advisory, Conciliation and Arbitration Service (Acas) has published its research results on the impact of the Sexual Orientation Regulations and the Religion or Belief Regulations 2003 since their introduction.

Findings in the report show that workplace discrimination allegations regarding sexual orientation were dominated by claims of bullying and harassment, including name calling, threats and physical assaults.

Equally, religion and belief in employment tribunal (ET) claims included many instances of bullying or harassment. But another key theme was claims stemming from difficulties over working hours, time off or leave to follow religious practices, promotion or retirement and workplace dress codes.

Other findings in the report show:

- Between January 2004 and September 2006, 470 individuals brought ET claims where the main allegation concerned discrimination on grounds of sexual orientation (DSO) and 461 brought cases where discrimination on

grounds of religion or belief (DRB) was the main claim. Two thirds of claims were brought by men.

- In some instances, allegations regarding religion or belief overlapped with perceived race discrimination. 66% of religion or belief ET claims included allegations of race discrimination as a secondary jurisdiction.
- From the ET claimant's perspective, workplace grievance procedures, where they exist, were found to be an unsatisfactory arrangement for resolving their complaints.
- Getting help from an adviser or representative was perceived as especially important in these cases. Where parties were not represented, they lacked confidence in dealing with the opposing party and handling their claim. Lack of money was a significant barrier frustrating claimants' attempts to fund advice representation.

The report can be found at

http://www.acas.org.uk/media/pdf/d/j/SORB_summaries_1.pdf

Government Response to the All-Party Parliamentary Inquiry Report on Anti-Semitism

The Government has issued its response to the All-Party Parliamentary Group report on Anti-Semitism, which was published on 7 September 2006. The report made a number of recommendations, including improved reporting and recording of anti-Semitic attacks; a crackdown on anti-Jewish activity on university campuses; and improved international co-operation to prevent the spread of racist material online.

The response outlines new work that it is being undertaken in respect of some of the recommendations.

In relation to improving the recording, reporting and dealing with anti-Semitic incidents, it states that:

- The Home Office is now working with the police to identify, nationally, better and more consistent ways of collecting and managing data on hate crimes, including anti-Semitic incidents and crimes, which should be in place by 2008-09.
- Local Crime and Disorder Partnerships are encouraged to make it easier for victims and witnesses to report hate crime.
- The Home Office is piloting a 24-hour helpline to encourage people to report in the Yorkshire and Humberside region.
- The Crown Prosecution Service (CPS) is looking at the reasons for anti-Semitic incidents not resulting in prosecution, and will examine incitement to racial hatred prosecutions. The CPS is currently working with criminal

 © - National Policing Improvement Agency 2007

justice system partners on how best to take these recommendations forward.

The full Government response to the Report of the All-Party Parliamentary Inquiry into anti-Semitism can be read online at:

www.official-documents.gov.uk/document/cm70/7059/7059.asp

The All-Party Parliamentary Inquiry report can be found at

http://www.thepcaa.org/

© - National Policing Improvement Agency 2007

National Training Noteworthy Practice

Following the identification of a need for a central networking function of training practice during the 2006 Baseline Peer Review process, Her Majesty's Inspectorate of Constabulary (HMIC) has set up a facility on its website which offers visitors the opportunity to research and share details of noteworthy practice used by police forces throughout the UK. The facility is intended to increase knowledge and decrease time spent identifying repeat practices.

It currently contains details on:

- Police Authority (PA) Engagement & Management Groups
- Policies & Risk Assessment
- Stakeholder, Customer & Client Relationships
- Training Needs Analysis (TNA)
- Staffing & Structure
- Improvement Plans & Prioritisation
- Partnerships & Collaboration
- Training Design
- E-Learning
- Monitoring Implementation
- National Costing Model (NCM) & Budgets
- QA & Evaluation
- Staff & Customer Surveys
- Measuring Operational Impact

The facility and documents can be found at

http://inspectorates.homeoffice.gov.uk/hmic/ptd/noteworthy/noteworthy-practice.pdf

© - National Policing Improvement Agency 2007

HOC 14/2007
Amendments to Determinations of the Secretary of State under the Police Regulations 2003

Home Office Circular 14/2007 issues amendments to the Secretary of State's Determinations under the Police Regulations 2003, which cover changes to police officer pay and conditions of service, as agreed by the PABEW and PNB during 2003 to 2006.

The amendments to the Determinations revoke and replace relevant Determinations currently in force. The main changes include:

Annex B

- Regulations changes were made to abolish fixed term appointments (FTAs) for ACCs and Commanders and provide for FTAs for DCCs and CCs and equivalent London ranks for a maximum period of 5 years with extensions by agreement with the police authority and individual. The amendments to the determination take account of these changes. These changes were published in PNB Circular 05/2004 and confirmed by the Secretary of State in HOC 36/2004.

Annex C, R, & S

- Reflecting changes to the Maternity and Parental Leave Regulations 1999, the subsequent police regulation changes and improved maternity, parental and adoption leave and support arrangements. These changes were published in PNB Circulars 01/2003 and 05/2006, and confirmed by the Secretary of State in HOC 29/2003 and 01/2007 respectively.

Annex E

- In line with Working Time Regulations changes defining 'night working', additional periods of working time, and compensatory rest periods when rosters are changed. Under Regulation 7 of the Working Time Regulations, a night worker should be given the opportunity of a free health assessment before undertaking night work. In addition the PNB agreed that it is good practice for all police members to be given the opportunity of a free health assessment regardless of whether police members are night workers. These changes were published in the PNB 2001/2 and confirmed by the Home Secretary in HOC 21/2002.

Annex F

- Changes to reflect the pay awards from 2003 to 2006. These changes were published in PNB Circulars 10, 12 and 13 of 2003; 14, 15 and 17 of 2004; 9, 10 and 11 of 2005; 6, 7 and 8 of 2006. The PNB Circulars were confirmed by the Secretary of State in HOCs 41/2003, 51/2004, 41/2005 and 38/2006 respectively.

© - National Policing Improvement Agency 2007

Annex G

- Provision for time off in lieu for part-time officers who work additional hours. This change was published in PNB Circular 04/19.

Annex I

- Provision to appropriately award Assistant Chief Officers or higher ranks who are on temporary promotion. This change was published in PNB Circular 04/05 and confirmed by the Secretary of State in HOC 36/2004.

Annex O

- Entitlement to time off in lieu or to time off and pay for officers whose scheduled holidays are cancelled, and for payment in lieu of leave on termination of service. These changes were published in PNB circulars 03/15 and 04/19.
- Increase in annual leave for federated ranks. These changes were published in PNB Circular 04/08 and confirmed by the Secretary of State in HOC 30/2004.

Annex OO

- Provision for members to take a career break. These changes were published in PNB Circular 00/16 and confirmed by the Secretary of State in HOC 4/2001.

Annex U

- Increases to motor vehicle allowance rates up to 1 April 2006 and to dog handler's allowance up to 1 September 2006. These changes were published in PNB Circulars 06/4 and 06/6 and confirmed by the Secretary of State in HOC 38/2006.

Annex V

- Discretion for the chief constable to reimburse expenses in connection with the disposal of an officer's former home where he rents his home to tenants. This change was published in PNB Circular 06/3 and confirmed in HOC 10/2006.

The Circular can be found in full at

http://www.circulars.homeoffice.gov.uk

 © - National Policing Improvement Agency 2007

Consultation on Resolving Disputes in the Workplace

The Department of Trade and Industry has published a consultation paper which sets out a package of measures for taking forward the recommendations of the Gibbons review of employment dispute resolution in Great Britain (March 2007).

Suggested measures being considered to help resolve more disputes successfully in the workplace include:

- Repealing the Employment Act 2002 (Dispute Resolution) Regulations 2004 and the corresponding Sections of the Employment Act 2002, and examining any consequential changes to other areas of law.
- Providing clear guidelines on good practice for resolving disputes, building on the work currently being done by Acas.
- Providing encouragement to follow good practice in resolving disputes, which could include penalties for those who make little or no attempt to resolve their dispute before an employment tribunal hearing.
- Inviting employer and employee organisations and others to develop guidelines for using alternative dispute resolution and to promote its use to their members.

Measures being considered to help employers and employees to resolve disputes beyond the workplace include:

- Providing a new advice service on dispute resolution accessible by telephone and internet.
- Providing a new, swift way to settle straightforward monetary disputes without the need for employment tribunal hearings.
- Encouraging earlier conciliation in appropriate cases and removing the fixed conciliation periods which place time limits on Acas' duty to conciliate employment tribunal claims.

The consultation paper also contains a number measures to make the employment tribunal system simpler and cheaper, including:

- Simplifying employment tribunal forms.
- Considering unifying time limits and the grounds for extension.
- Improving procedure and encouraging more active case management.
- Simplifying management of multiple-claimant claims.
- Improving the handling of weak claims and vexatious claimants.
- Considering when chairs should sit alone in employment tribunals.

© - National Policing Improvement Agency 2007

The consultation closes on 20 June 2007. The Government has stated that it proposes to pilot any new approach prior to national introduction.

The consultation paper and associated documents can be found at

http://www.dti.gov.uk/consultations/page38508.html

 © - National Policing Improvement Agency 2007

Education and Inspections Act 2006 - School Discipline, Behaviour and Exclusion Provisions

The Education and Inspections Act 2006 (Commencement No 3 and Transitional Provisions and Savings) Order 2007 brings in to force numerous provisions in the Education and Inspections Act 2006 (SI 935/2007).

This article covers the provisions relating to school discipline, behaviour and exclusion that came into force in England on 1 April 2007. These provisions will sit alongside other provisions, i.e. Sections 45, 46 and 48 of the Violent Crime Reduction Act 2006 which come into force on 31 May by virtue of SI 858/2007 (see November 2006 and March 2007 editions of the *Digest*).

The Order brings into force Sections 88 to 96 of the Education and Inspections Act 2006, which relate to school discipline, behaviour and exclusion. They establish a statutory power to enforce school discipline and more specific measures relating to excluded pupils and parental responsibility for the behaviour of children. These provisions also re-enact other existing legal provisions on the responsibilities of governing bodies for discipline and determination by the head teacher of a behaviour policy.

Section 88 sets out the responsibilities of a governing body for discipline. It requires the governing body to ensure that the school pursues policies to promote good behaviour and sets out requirements on how to do so.

Section 89 defines the responsibilities of the head teacher for establishing and maintaining a behaviour policy for the school. It requires head teachers to draw up and publicise a discipline policy for their school, for example by bringing it to the attention of pupils, parents and staff at least once a year.

Essential elements of this policy are strategies to tackle bullying, racial and sexual harassment and the school's policy on detention. It is reviewed during inspections and should:

- Promote self-discipline and proper regard for authority among pupils.
- Encourage good behaviour and respect for others.
- Ensure pupils' standard of behaviour is acceptable.
- Regulate students' conduct.

Section 90 defines 'disciplinary penalty' as a penalty imposed on a pupil by any school at which education is provided for him, where his conduct falls below the standard which could reasonably be expected of him because (for example) he fails to follow a school rule or an instruction given by a member of staff. The reference to any school at which education is provided for a pupil is intended to cover both the school a pupil normally attends and any other school he attends, for example for a particular course.

© - National Policing Improvement Agency 2007

It also makes it clear that 'conduct' includes conduct off school premises and where the pupil is not under the control or charge of staff (so far as that is reasonable); and includes conduct which consists of a failure to comply with a disciplinary penalty previously imposed.

Section 91 specifies the conditions that make lawful the imposition of a disciplinary penalty on a pupil at any school at which education is provided for him. It also makes it clear that nothing in this section legitimises corporal punishment.

Section 92 specifies the conditions that make the detention of a pupil outside school sessions lawful.

Section 93 enables a member of staff to use such force as is reasonable in the circumstances for the purpose of preventing a pupil from doing, or continuing to do, any of the following:

- Committing any offence.
- Causing personal injury to, or damage to the property of, any person (including the pupil himself).
- Prejudicing the maintenance of good order and discipline at the school or among any pupils receiving education at the school, whether during a teaching session or otherwise.

This Section applies to a person who is, in relation to a pupil, a member of the staff of **any** school at which education is provided for the pupil, therefore allowing for situations where, for example, a pupil is receiving education at a school other than the school which he normally attends. It may be exercised only where:

- The member of the staff and the pupil are on the premises of the school in question.

or

- They are elsewhere and the member of the staff has lawful control or charge of the pupil concerned.

'Offence' includes anything that would be an offence but for the operation of any presumption that a person under a particular age is incapable of committing an offence.

Section 94 protects staff against civil or criminal liability where a lawfully confiscated item is retained or disposed of.

Section 95 defines 'member of staff' as any teacher who works at the school and any other person who, with the authority of the head teacher, has lawful control or charge of pupils at the school. This may include members of the support staff of a school. It would also include unpaid volunteers who are put in charge of pupils (for example on an educational visit). The section also

 © - National Policing Improvement Agency 2007

specifies that 'possessions', in relation to a pupil, include any goods over which he appears to have control.

Section 96 repeals the legislation that Sections 88 to 95 replace.

The Order also brings into force Section 165 of the Act, which inserts a new Section 85C into the Further and Higher Education Act 1992 and extends the power to use reasonable force to members of staff at institutions within the further education sector, in order to prevent a student at the institution from committing an offence, causing personal injury, damaging property or doing something that prejudices discipline at the institution.

The Department for Education and Skills has produced guidance aimed at helping schools understand their overall legal powers and duties as regards establishing a school-behaviour policy and disciplining pupils. It also provides more specific advice on certain key sanctions (detention and confiscation). The guidance can be found at

http://www.teachernet.gov.uk/wholeschool/behaviour/schooldisciplinepupilbehaviourpolicies/

It is expected that further provisions in the Education and Inspections Act 2006 are to be brought into force in September 2007. It is expected that these provisions will include those in Sections 97 to 111 of the Act, which relate to parenting contracts and parenting orders, excluded pupils and the issue of penalty notices and school attendance. It will also amend police and PCSO powers in respect of dealing with truants (see article on page !!!!!).

The DfES is currently consulting on a revised version of its exclusion guidance, with a view to publishing a new edition in July 2007 in advance of the new legal provisions coming into force in September 2007. Strictly speaking, many of the new arrangements are subject to Parliamentary approval as Ministers have not yet laid the necessary regulations before Parliament; this is expected to happen in June 2007. The consultation document can be found at

http://www.dfes.gov.uk/consultations/conDetails.cfm?consultationId=1458

A copy of the Act can be found at

http://www.opsi.gov.uk/acts/acts2006/20060040.htm

HOC 11/2007
Section 62 of the Violent Crime Reduction Act 2006

© - National Policing Improvement Agency 2007

HOC 11/2007
Section 62 of the Violent Crime Reduction Act 2006

This Home Office Circular advises about the provisions in Section 62 of the Violent Crime Reduction Act 2006 which came into force on 6 April 2007 by virtue of SI 858/2007 (see March *Digest*).

Section 62 widens the categories of persons who can be proceeded against under the Mobile Telephones (Re-programming) Act 2002 by amending Section 1(1) of that Act, creating offences of offering or agreeing to change or interfere with the unique device identifier (IMEI number) of a mobile phone, either directly, or through a third party. These offences are not dependent on re-programming actually taking place, meaning that the police will not have to provide evidence that an individual actually reprogrammed the phone, just that they offered or agreed to do so. It is envisaged that this will lead to more effective police operations and prosecutions, and a real crackdown on re-programming.

The offence is triable either way and is punishable on conviction on indictment by up to 5 years' imprisonment or a fine or both. The offence is punishable on summary conviction by up to 6 months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000) or both. It should be noted that on commencement of Section 282 of the Criminal Justice Act 2003, the maximum sentence of imprisonment on summary conviction shall be increased from 6 months to 12 months in England and Wales.

The Circular can be found in full at

http://www.circulars.homeoffice.gov.uk

HOC 12/2007
Violent Crime Reduction Act 2006 (Commencement No 2) Order 2007: Firearms Measures

This Home Office Circular advises of the commencement on 6 April 2007 of certain provisions in Part 2 of the Violent Crime Reduction Act 2006, relating to firearms, these being Sections 30, 31 and 35. (See SI 858/2007 in March *Digest*).

The Criminal Justice Act 2003 introduced a mandatory minimum sentence for anyone convicted of unlawful possession, etc. of certain prohibited weapons under Section 5 of the Firearms Act 1968. The intention was that anyone charged with another offence involving the relevant prohibited weapons (for example, possession of a firearm with intent to injure) would also be charged and prosecuted for unlawful possession of that weapon, thereby attracting the minimum sentence. However, following a case in 2005 in which this did not happen and an offender escaped the minimum sentence, the Government was

 © - National Policing Improvement Agency 2007

asked to apply the minimum sentence specifically to other serious firearms offences in order to simplify the charging process.

Section 30 achieves this by applying the minimum sentence provisions in Section 51A of the 1968 Act to the following offences in that Act:

- Section 16 possession of firearm with intent to injure.
- Section 16A possession of firearm with intent to cause fear of violence.
- Section 17 use of firearm to resist arrest.
- Section 18 carrying firearm with criminal intent.
- Section 19 carrying a firearm in a public place.
- Section 20(1) trespassing in a building with firearm.

The minimum sentence will apply to these offences only where the weapon (or ammunition) used was one to which the minimum sentence provisions already apply, i.e. one falling under Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or Section 5(1A)(a) of the 1968 Act.

Section 31 makes it an offence for anyone to sell or transfer an air weapon by way of trade or business unless they are registered with the police as a firearms dealer under Section 33 of the 1968 Act. The commencement order only brought Section 31(3) of the 2006 Act into force and only for the purposes of Sections 33 to 39 and other specified parts of the 1968 Act, in order to allow retailers to apply for registration and to enable the police to consider such applications.

The Circular advises that police forces may wish to co-ordinate applications for registration and the entry of dealers in the register with the coming into force of the remainder of Section 31, which will be subject to another commencement order. Forces will be further advised when this has been made.

Agreement has been reached between the Home Office, ACPO and ACPOS that security requirements for dealers trading only in air weapons should be normally equivalent to level 1 from the "Firearms Security Handbook 2005".

In accordance with Section 58(2) of the 1968 Act, it is not necessary to be registered as a dealer where sales or transfers involve only antique air weapons which are kept as curiosities or ornaments.

The Home Office is of the view that any air weapon manufactured before 1939 should normally be regarded as an antique for these purposes. This advice applies only in these very limited circumstances and does not apply to assessing whether other firearms are antiques under Section 58(2), where the existing guidance in chapter 8 of "Firearms Law, Guidance to the Police 2002" should be used.

© - National Policing Improvement Agency 2007

Section 31(2) of the 2006 Act requires dealers to keep a register of air weapon transactions. Regulations amending the Firearms Rules 1998 to specify what details a dealer must enter into the register are being prepared and will be published separately.

Section 35 introduces controls on the purchase and sale of cap-type primers designed for use in metallic ammunition for a firearm, including empty cartridge cases incorporating such primers. Previously, such component parts of ammunition were not covered by firearms legislation and criminals were found to be exploiting this legal loophole.

Section 35 makes it an offence to sell these items unless the purchaser:

- Is a registered dealer;
- Sells by way of trade or business either primers or empty cartridge cases incorporating primers;
- Produces a certificate authorising him to possess a firearm of a relevant kind (i.e. a firearm other than a shotgun, an air weapon or a firearm chambered for rim-fire ammunition) or ammunition for such a firearm;
- Is a duly authorised Crown servant;
- Shows he is entitled under an enactment to possess a firearm or ammunition of a relevant kind without a certificate;
- Shows he has authority to purchase primers on behalf of another certificate holder; or
- Is authorised by regulations to purchase primers. (This is a contingency provision and to date no regulations have been made).

Section 35 also makes it an offence to buy, or attempt to buy, primers unless the purchaser meets the same criteria.

The definitions used in Section 35 mean that it does not apply to blank ammunition, shotgun primers or to percussion caps for muzzle-loading firearms.

Offences under Section are triable summarily only. On summary conviction an offence is punishable with a maximum penalty of six months imprisonment or a £5,000 fine, or both.

The Circular can be found in full at

http://www.circulars.homeoffice.gov.uk

 © - National Policing Improvement Agency 2007

HOC 13/2007
The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007

This Home Office Circular provides guidance on the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007, which came into force on 6 April. The Circular:

- Explains the changes made following the commencement of Section 26 of the Violent Crime Reduction Act 2006.
- Provides guidance on the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007.
- Explains that drinking byelaws can no longer be introduced to address anti-social alcohol misuse behaviour.

Designated Public Place Orders (DPPO's) can be made by local authorities under Section 13 of the Criminal Justice and Police Act 2001 to help the police deal with the problem of alcohol misuse in a public place. Once a public place is designated, the police have the power to require individuals in that place to stop drinking alcohol and to surrender any alcohol and any opened or sealed containers they may have.

Section 14 of the Criminal Justice and Police Act 2001 provides that legitimate business premises within that public place that have licences to sell or supply alcohol do not form part of the designated public place.

In relation to DPPO's, the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 serve two main purposes:

Firstly they make amendments in response to the enactment of Section 26 of the Violent Crime Reduction Act 2006, which came into force on 6 April.

Section 26 amends Section 14 of the Criminal Justice and Police Act 2001 to provide that certain licensed premises within a designated public place which were previously excluded from that place for the purposes of the 2001 Act are only excluded when alcohol is being sold or supplied on those premises and for 30 minutes following any such period. At all other times the premises will be subject to the terms of the DPPO. The premises in question are those for which a local authority holds a premises licence and those for which another person holds a premises licence but which are occupied by or managed by or on behalf of such an authority. Other business premises within the public space that have licences to sell or supply alcohol will continue to be excluded from a designated public place. The effect of the changes can be seen through the following example:

- A DPPO introduced by a local authority would not apply in the area covered by the local authorities premises licence while alcohol sales are taking place.

- The DPPO would re-apply to the area covered by the local authorities premises licence once the alcohol sales ceased and after the expiry of a 30 minutes grace or wind-down period after the last sales have been completed.
- In effect there would be a temporary suspension of the area of the designated public place that is covered by the local authority's premises licence.
- Legitimate business premises within the public place that have licences to sell or supply alcohol (e.g. pubs and clubs etc) will continue to be excluded from a designated public place at all times by virtue of Section 14 of the CJPA.
- The Regulations also consolidate, with amendments, and repeal the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001. They set out the following requirements that local authorities will need to comply with from 6 April when designating a public place.

Consultation

Prior to making a designation order Regulation 3(1) requires local authorities to consult with:

- The police. It is also necessary to consult with the police for any area near to the area to be designated if the local authority believes they may be affected by the designation.
- Any parish or community council in whose area the public place is to be designated. It is also necessary to consult the local authority and parish or community council for any area near to the area to be designated if the local authority believes they may be affected by the designation.
- Each premises licence holder, club premises certificate holder or other premises user in respect of premises in the public place to be designated which may be affected by the designation.
- Owners or occupiers of any land that may be identified in a designation order.

When consulting with these parties the local authority must describe in writing what effect the DPPO will have in relation to the following type of premises (listed in Regulation 3(3)(b)) in the public place: premises with a premises licence, for example pubs, supermarkets, off-licences etc; premises where the local authority holds the premises licence, which authorises the sale of alcohol, or occupies or has managed on its behalf a premises subject to a premises licence authorising the sale or supply of alcohol; premises with a club premises certificate; places that are within the curtilage of premises with a premises licence or club premises certificate; premises that are the subject of a Temporary Event Notice; and premises permitted for the sale or consumption

© - National Policing Improvement Agency 2007

of alcohol under Section 115E of the Highways Act 1980 (highways related issues).

Local authorities are under a duty to consider any representations received as a result of consultation - Regulation 4.

Publicity

Before introducing a DPPO, under Regulation 5 local authorities are under a duty to publish a notice in a local newspaper stating the proposed designated place; place proposed to be identified; the effect of an order being made in relation to that place, any premises within that place for which there is in force a premises licence authorising the sale or supply of alcohol where either the premises licence is held by the local authority or the premises license is held by another person but the premises are occupied by a local authority or managed on behalf of the local authority; inviting representations as to whether or not an order should be made. Regulation 6 stipulates that no order shall be made until at least 28 days after the publication of the notice.

After the order has been made the local authority must publicise the details of the area to be designated in a newspaper in its area. The notice must specify the place which has been identified in the order; the effect of the order in relation to that place, including the effect that order will have at particular times in relation to each category of premises in the public place); identifying any premises within that place for which there is in force a premises licence authorising the sale or supply of alcohol and where either the premises licence is held by the local authority or the premises licence is held by another person but the premises are occupied by a local authority or managed on behalf of a local authority and must indicate the date on which the order will take effect.

Signage

Regulation 8 requires local authorities to erect signs to ensure that the public are made aware that restriction on public drinking may apply. The sign must also set out that each category of premises listed in Regulation 3(3)(b) do not form part of a designated public place, or where relevant, that they do not form part of a designated public place at particular times. Individual premises, including Local Authority licensed land, do not need to be identified in the signage

Temporary Events Notice (TEN)

A DPPO would apply to a premise in respect of which there is a TEN if the TEN was issued for entertainment only or late night food. However, a DPPO would not apply to a premise in respect of which a TEN for alcohol sales has been given at times when alcohol is being supplied and for 30 minutes thereafter

© - National Policing Improvement Agency 2007

Notification to the Secretary of State

All local authorities must send a copy of any designation order to the Secretary of State as soon as reasonably practicable after it has been made. This is to ensure that the public have full access to information about designation orders and for monitoring arrangements.

Drinking Byelaws

The HOC also reminds local authorities that byelaws to restrict public drinking ceased to have effect following the implementation of Section 15 of the Criminal Justice and Police Act 2001, on 1 September 2006. The problem of anti-social alcohol misuse should now be dealt with using the powers under section 13 of the Criminal Justice and Police Act 2001.

The Circular can be found in full at

http://www.circulars.homeoffice.gov.uk

Mental Capacity Act Code of Practice

The Code of Practice for the Mental Capacity Act (covered in February *Digest*) has completed its Parliamentary passage and has now been formally issued for information and guidance. It provides guidance and information on how the Act will work on a day to day basis for anyone who works with or cares for people who lack capacity, including family, friends and unpaid carers. It also provides guidance on the criminal offence.

It can be found at

http://www.dca.gov.uk/legal-policy/mental-capacity/mca-cp.pdf

© - National Policing Improvement Agency 2007

Changes to Home Office Responsibilities and Creation of a Ministry of Justice

The Government has announced a number of structural changes which affect in particular the Home Office and the Department of Constitutional Affairs.

The structural changes are intended to deal with two main issues:

- Reshaping counter-terrorism structures, by strengthening the role of the Home Secretary and the capabilities of his Department in facing the terrorist threat.
- Creating a Ministry of Justice.

Although these two issues are linked by timing, the rationale for making each change is distinct. Following this reorganisation, the core responsibilities of Ministers and Departments will be as follows:

Home Office

- Office for Security and Counter-terrorism.
- Policing.
- Crime Reduction and Drugs Strategy.
- Serious and Organised Crime.
- RESPECT and Antisocial Behaviour.
- Border and Immigration Agency.
- Identity and Passport Service.

Home Office Objectives are to focus on public protection and security by:

- Reducing risk to the public from terrorists.
- Reducing crime, especially organised and drug-related crime.
- Making people feel safer in their homes and local communities.
- Securing our borders, reducing immigration abuse, and boosting the UK economy by sustained and effective management of migration.
- Safeguarding identity.

The Office for Security and Counter-Terrorism will take on overall responsibility for the CONTEST strategy, reporting through a new Ministerial Committee on Security and Terrorism. This new Ministerial Committee subsumes the current Defence and Overseas Policy (International Terrorism) Committee and the counter-radicalisation aspects of the Domestic Affairs Committee's work. It will meet regularly to share information on security issues, and be chaired by the Prime Minister, with the Home Secretary normally acting as deputy chair. Other ministers, such as the Foreign Secretary and the Secretary of State for Communities and Local Government, will deputise as appropriate.

A national security board, chaired by the Home Secretary, will also meet weekly to study threats to the UK. Representatives of the intelligence and security agencies, the police, key Whitehall departments and the Cabinet Office will attend. The Home Office will provide the secretariat. Operational responsibility for counterterrorism operations will remain with the police and security agencies, whose reporting lines are unchanged.

A subcommittee focusing on counter-radicalisation, chaired by the Secretary of State for Communities and Local Government, will also be set up.

A research, information and communications unit will also be created within the Home Office to support the Government in its approach to managing the terrorist threat to the UK and winning the battle for hearts and minds.

The responsibilities of the Foreign and Defence Secretaries, or other ministers, or the strategic and operational reporting lines of any of the security and intelligence agencies are affected by these changes. The Cabinet Office will retain its role supporting the Prime Minister on national security and counter-terrorism.

These security and counter-terrorism changes have immediate effect.

Ministry of Justice

- Existing functions of the Department for Constitutional Affairs.
- National Offender Management Service, including the prison and probation services.
- Criminal Law and Sentencing Policy.
- Sponsorship of relevant inspectorates and Non Departmental Public Bodies, including the Prison Service, Parole Board, Youth Justice Board.

The creation of the Ministry of Justice will take place on 9 May. The Ministry will take over the staff and responsibilities of the Department for Constitutional Affairs and the National Offender Management Service (NOMS), including the prison and probation services, and have lead responsibility for criminal law and sentencing. Its key objectives will be to:

- Protect the public from dangerous offenders.
- Reduce re-offending through common sense custodial and non-custodial penalties.
- Provide access to justice for all, especially the most vulnerable.
- Uphold people's rights.
- Deliver democracy and constitutional reform.

The existing National Criminal Justice Board and the Office for Criminal Justice Reform will be continued. Although based in the Ministry of Justice, they will continue to work trilaterally between the Ministry of Justice, the Home Office and the Attorney General's Office.

 © - National Policing Improvement Agency 2007

A new Cabinet Committee on Crime and the Criminal Justice System, chaired by the Prime Minister, will be set up to decide Government policy in respect of criminal law and sentencing.

Attorney General's Office

- Existing functions remain, including superintendence of the prosecuting authorities and other existing criminal justice responsibilities.

Responsibility for the Crown Prosecution Service and the other prosecuting authorities will remain with the Attorney General, who has a statutory duty to superintend them.

Further details on the changes and associated links can be found at

http://www.homeoffice.gov.uk/about-us/news/announce-future-home-office

Government Policy Review on Security, Crime and Justice

The Government has published a policy document, 'Building on Progress: Security, Crime and Justice', containing its ideas for dealing with crime and criminals over the next 10 years. The document is the final product of a series of papers prepared for the Policy Review Ministerial Working Group on Security, Crime and Justice. It sets out progress, key challenges and future options for building on the Government's policy approaches to crime, security, immigration and cohesion. It looks at three themes:

- Prevention of crime.
- Detection and enforcement.
- Reforming the criminal justice system.

Prevention of crime

The Government proposes to tackle further the underlying causes of crime, especially through better targeting and use of preventative interventions and the more systematic identification and use of the most effective rehabilitation programme. Particular focus will be on people suffering from mental health conditions or drug addiction, using risk-based assessments to identify such individuals and intervening to tackle the factors that can drive offending.

Proposals also include looking at identifying and intervening with at-risk children as early as possible, targeting the most prolific offenders, and designing out crime.

Detection and enforcement

The Government proposes new powers and enhancements to existing powers to tackle crime, including in particular powers to recover criminal assets. To this end the Government proposes to establish a Home Office-led programme

to ensure that existing powers in the Proceeds of Crime Act 2002 are exploited to the full. It also intends to introduce further powers to recover criminal assets, including:

- Making the full recovery of proceeds from criminal activity a standard principle of criminal sentencing.
- Introducing a radically stripped-down confiscation proceeding for low-value cases, perhaps through a new 'criminal benefit order'.
- Looking at an 'administrative' approach to the seizure of cash.
- Introducing new, non-case seizure and forfeiture powers, including: allowing the police to seize and forfeit movable non-cash assets and possibly extending to all non-cash assets (lifestyle property like jewellery, plasma TVs and laptops) up to £100,000.
- Extending or removing the time limit for seizing assets through civil recovery.
- Extending the use of tax powers against criminal assets.
- Increasing the number of asset-sharing agreements with other countries.

The paper also contains a number of policy recommendations to improve crime detection and law enforcement by making greater use of new technology, including:

- Expanding the use of the most cost-effective crime detection technologies.
- Making greater use of more sophisticated CCTV and more advanced detection of weapons and explosives.
- Facilitating much more powerful analysis of key databases.
- Providing more police officers with fast mobile access to databases that will speed investigations.
- Creating a set of safeguards and measures to protect the rights and liberties of law-abiding citizens in response to the use of evolving technologies.

Reforming the criminal justice system

The policy document finds that criminal justice agencies have improved performance in some areas over the past decade, largely as a result of the CJS reforms to date. But it goes on to say that the agencies have yet to deliver a major step-change in performance and that greater joint working would help increase efficiency in procedures and improve overall effectiveness. To this end the Government intends to focus policy on a number of areas, including reducing bureaucracy.

As a result of the key challenges identified in the document during the policy review, the Government is to set up a review of policing, which will explore four key issues:

 © - National Policing Improvement Agency 2007

- Reducing bureaucracy.
- Mainstreaming Neighbourhood Policing.
- Local accountability.
- Effective use of resources.

The review will be led by Sir Ronnie Flanagan, HM Chief Inspector of Constabulary, and will report by the end of 2007.

The document sets out specific steps that the Government is to take to reform criminal justice workforces, including:

- Working with the Association of Chief Police Officers (ACPO) to improve workforce efficiency and ensure an efficient mix of warranted officers and civilian staff, which the document identifies as a specific need to address.
- Reducing the number of performance measures, increasing joint targets for police and crime reduction partners, and further increasing the prominence of measures of the satisfaction of citizens with, and their confidence in, the police.

The report is available in full at

http://www.homeoffice.gsi.gov.uk and http://www.number10.gov.uk

Interim Report of the Conservative Party Police Reform Taskforce

The Conservative Party has published an interim report from the Party's police reform taskforce. The report contains a number of proposals to reform the police service in England and Wales. The Party is now seeking views from police officers, experts and the public on these proposals and has set up a dedicated website, http://www.policereform.com/ through which views are invited.

The report is not a statement of Conservative Party policy, which is yet to be agreed. It does not contain specific spending pledges, but does argue that money currently spent on policing could be spent much better.

The paper suggests that four key reforms are needed.

Firstly, it suggests that the structure of the police needs to be changed to enable police forces to provide excellent protective services while enhancing and sustaining community policing.

It argues that neither a national police force, regional forces or the status quo are viable models of policing for the future. But proposes two models based on the current 43 forces that it suggests would be viable, these being:

- Locally accountable forces, with stronger local accountability, matched with effective leadership from the centre to drive collaboration, ensuring

both the development of community policing and an enhanced ability to deal with serious crime.

- Locally accountable forces with stronger local accountability, focusing principally on level 1 crime, with a new Serious Crime Force (SCF), answering to the Home Secretary, assuming responsibilities for most of the protective services currently delivered by the 43 forces, in particular serious and organised crime and major crime.

The report also suggests that a national Serious Crime Force could also:

- Lead or support major incidents, civil contingencies and major public order incidents.
- Utilise its large pool of officers by sending them into any area needing assistance with a major incident or crime.
- Incorporate the Serious Organised Crime Agency and deal with all cross-border and organised criminality.
- Deal with counter-terrorism.

The report suggests that if a Serious Crime Force did not have the remit of dealing with counter-terrorism, that this should be dealt with by a separate counter-terrorist force or agency.

Secondly, the report suggests that the police workforce must be reformed to ensure that it is flexible, well-trained and highly motivated, with a diverse range of skills and expertise; and that forces provide value for money.

The paper discusses several different areas in relation to workforce reform, including pay, conditions of service, pensions, recruitment, training, leadership and promotion.

Some of the proposals put forward for discussion in the paper include:

- A review of overtime payments, evaluated in terms of operational effectiveness and recruitment and retention, as well as efficiency. It does comment that David Cameron has said that overtime payments should be reduced in return for higher basic salaries.
- The creation of a new rank of senior constable, which would attract better pay than the rank of constable and be open to officers who have acquired the accredited skills necessary to deal with the additional responsibilities. It is suggested that this would be an alternative career path to taking up a leadership or management post.
- The introduction of fixed-term appointments (FTAs) for BCU commanders. The task force did consider the Sheehy report's recommendation of moving from tenure to FTAs for all ranks, but has stated its intention not to pursue this, as it accepts the concerns that this could harm recruitment and retention.

© - National Policing Improvement Agency 2007

- The introduction of a less rigid and more staggered police pension system. This issue is still being looked at by the taskforce and its conclusions and recommendations are expected to be published in the final report.
- Keeping the technical examination in OSPRE 1, but replacing the OSPRE 2 procedure, possibly by an in-force selection process.
- The setting of minimum national training standards, with training courses of a sufficient standard being available. The taskforce does comment that chief officers should continue to have some discretion over training but be required to adhere to the minimum national standards.
- Building on the recommendations set out in the May 2003 project report of the Police Leadership Development Board, by improving senior officer training and selection at the police leadership academy at Bramshill by offering students clear procedures and methods to assist them in leadership, with a combination of guidance, theory and doctrine of leadership being part of their career development.
- Creating a national cadre of senior officers, which would include all those of ACPO rank, and possibly superintendents (so that BCU commanders are included) who can be deployed across forces and responsibilities.
- Allowing experienced and skilled professionals to enter a police force at a rank above constable, provided that they can demonstrate the necessary skills that that the police require.

Thirdly, the report calls for a reform of the system which it comments 'ties the police's hands'. It suggests that forms and process which do not help the police to deliver a better service to the public should be eliminated. Central direction and targets should be replaced by locally accountable leadership and priority setting. Specific proposals include:

- Scrapping the 'stop and account' form.
- Returning charging discretion to the police for a wider range of minor offences.
- Extending the police 'family' with a new cadre of part-time paid police reservists.
- Re-evaluating the business case for PCSOs, their performance and costs, so as to ensure that they can be deployed effectively in the future.
- Using volunteers to help to staff new kinds of community police stations which could exist on shared premises with other community facilities.
- Using commercial security firms for duties such as managing crime scene guarding, cordon duties, pursuing people who jump bail, monitoring 'at risk' prisoners and carrying out security checks.

© - National Policing Improvement Agency 2007

It is proposed that the cadre of Police Reserve Officers (PROs) would:

- Be paid for their time and could also receive an annual income tax rebate to offer a further incentive to join.
- Be required to work a set minimum number of hours each month, above the current 16 hours but ultimately at the discretion of chief constables.
- Operate under a standardised grading structure that would be decided by national agreement.
- Receive enhanced training across all forces, with new opportunities being provided to train on the job.
- Be given expanded opportunities to specialise in different areas of policing and crime reduction as individual forces see fit.
- Form an integral part of neighbourhood policing teams in the future.
- Continue to be more representative of the community they serve than regular police officers and would appeal especially to younger recruits.

The fourth key reform suggested in the report relates to police accountability for performance as well as for conduct. It calls for the police to be made more accountable to local communities at neighbourhood level, local command level, and at the strategic force level. It proposes:

- That elected police commissioners should replace police authorities. They would appoint and dismiss chief constables, set their own targets for the force, make their own policing plans and control their own budgets.
- Replacing Crime and Disorder Reduction Partnerships with less bureaucratic, more effective, more visible and accountable local community safety partnerships, who would be co-ordinated by, and answer to a locally elected commissioner. It also suggests that elected commissioners could be given a much wider remit in the criminal justice system than just the police, by putting them in charge of the local criminal justice board.
- Setting up an independent inspectorate to replace Her Majesty's Inspectorate of Constabulary, which would report to Parliament as a whole as opposed to the Home Office. Its duties would include monitoring standards but also acting in part as an economic regulator.

The report calls for the scrapping of central targets for the police, stating that targets should be set locally and that police performance should be assessed against them using three simple factors:

- Crime reduction - measured by overall crime and supported by a weighted detection rate, though this will be given less importance than crime levels. This would be the prime measure.

 © - National Policing Improvement Agency 2007

- How safe the general public feel - measured by robust and independently conducted attitudinal surveys.
- How satisfied victims and witnesses are when they come into contact with the police - also measured by attitudinal surveys.

The taskforce also recommends that crime figures and the British Crime Survey should also be conducted completely independently of the Home Office.

The report can be found in full at

http://www.conservatives.com/pdf/policereform.pdf

Cross-Government Action Plan on Sexual Violence and Abuse

The Government has published an Action Plan to deal with all forms of sexual violence and abuse, both recent and historic. The plan has been drawn up from work conducted by six Government departments: the Home Office, the Department of Health, the Department for Constitutional Affairs, the Crown Prosecution Service, the Department for Education and Skills and the Department for Communities and Local Government. It sets out the measures that are already underway, together with those planned over the next year to deliver the Government's three key objectives on sexual violence and abuse, which are to:

- Maximise prevention of sexual violence and abuse.
- Increase access to support and health services for victims of sexual violence and abuse.
- Improve the criminal justice response to sexual violence and abuse.

In relation to the police, the Action Plan sets out a number of the recommendations which were made in the 'Without Consent' inspection report published by Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate (see article in February *Digest*) that it intends taking forward in 2007/08.

All forces will be asked to produce action plans to implement the recommendations of the inspection, including:

- Establishing review processes for the investigation of rape, and monitoring the quality of these reviews through dip sampling.
- Using specially trained officers to support and interview adult victims of sexual offences and gather evidence. As part of this, forces are expected to: review Specially Trained Officer (STO) call-out lists and rotas to ensure that they are up to date, are meeting need and are regularly maintained; formally monitor the deployment of STOs to ensure that workload is equitable and all STOs have the opportunity to engage in the work and

© - National Policing Improvement Agency 2007

maintain their skills; review STO supervisory structures to ensure that line-management responsibility for STOs is clearly defined.

- Issuing guidance to first response officers on the action to be taken when attending a report of a rape, including taking an initial account from a victim in line with the ACPO Guidance on Investigating Serious Sexual Offences.
- Auditing of rape 'no crimes' within routine auditing processes, to ensure that all 'no crimes' are sustainable and compliant with the Home Office Counting Rules.

For its part, the Government states that it will:

- Assist police forces with the development and delivery of their action plans through advice and visits from a central Home Office/ACPO sexual offences support team.
- Introduce procedures for monitoring performance data on serious sexual offences, both by Local Criminal Justice Boards and by central Government.
- Work with ACPO on the development of specialist training and occupational standards on sexual offences, for police roles ranging from specially trained officers up to senior investigators, building on the Guidance for Investigating Serious Sexual Offences published in 2005 and including content on vulnerable and hard to reach groups.
- Work with ACPO on a review of forensic physicians in sexual offence cases, with a view to producing guidance aimed at driving up standards and increasing the availability of female forensic physicians. This will include the importance of sending all prosecution evidence to the forensic physician where their expert opinion is being sought and including them in a case conference with police, prosecutor and counsel.
- Continue Operation Advance.
- Work with ACPO on the delivery of training across the country for child abuse specialist investigators, including training on dealing with historic child abuse.
- Introduce a police performance management framework to ensure the effective investigation of child abuse, including childhood sexual abuse.

Some of the other key points that the Government intends to take forward from the Action Plan include:

- Expanding the network of Sexual Assault Referral Centres (SARCs) so that by the end of 2008 there should be around 40 SARCs.
- Developing a series of national service guidelines on effective interventions relating to sexual abuse, domestic violence, rape and sexual

© - National Policing Improvement Agency 2007

assault and sexual exploitation in prostitution, pornography and trafficking.

The Action Plan can be found in full at

http://www.homeoffice.gov.uk/documents/Sexual-violence-action-plan?view=Binary

The Action Plan is supported by an implementation guide that sets out the roles and responsibilities of key delivery agencies and partnerships for work on sexual violence and abuse.

It includes actions and measures specific to adult sexual violence, and to childhood sexual abuse, as well as some actions relevant to both adults and children. Some of the local delivery partners in the guide are responsible only for work involving children and young people (such as Local Safeguarding Children Boards, and Youth Offending Teams) whereas others will have responsibilities for both adults and children (such as the police, or health services). Tables in the guide include a column to identify which actions and measures are relevant to adults, children, or both.

In respect of funding of the implementation of the actions and measures, the guide states that this should be done within existing local funding arrangements, but does offer some suggestions as to how to develop indicators on sexual violence and childhood sexual abuse which will enable funds to be allocated towards implementing the Action Plan. The guide can be found in full at

http://www.crimereduction.gov.uk/sexualoffences/finalimplementationguide.doc

Consultation on the Possession of Non-Photographic Visual Depictions of Child Sexual Abuse

A consultation paper seeking views on options to deal with the growing concerns about non-photographic visual depictions of child sexual abuse, i.e. computer generated images (CGIs), drawings, animation, etc, has been published jointly by the Home Office, Northern Ireland Office and the Scottish Executive.

Under current legislation, it is an offence to possess indecent photographs (including videos) and pseudo-photographs of children. However, it is not an offence to possess non-photographic visual depictions of child sexual abuse.

The paper makes the point that these graphic and explicit depictions of sexual abuse of children could reinforce inappropriate feelings towards children and that their circulation and possession should be prohibited. It also highlights the fact that, due to the advancement of technology, photographs of real

© - National Policing Improvement Agency 2007

children being abused can be manipulated into cartoons or other depictions which are not covered under current legislation and that such images, particularly those in a cartoon format, could easily be obtained for use to help groom victims.

The paper contains three suggested options in respect of the issue:

- Option 1 - Extend the definitions in the Protection of Children Act 1978, Protection of Children (NI) Order 1978 and the Civic Government (Scotland) Act 1982 which refer to indecent photographs and pseudo-photographs of a child under 18 to include for example "any visual representation", in order to cover cartoons, drawings, CGIs, etc.
- Option 2 - Create new free-standing offences of possession of any non-photographic visual depiction/representation of child sexual abuse. Such offences would have a higher threshold of indecency than those for the current offences of possession of indecent photographs, videos and pseudo-photographs of children which have been deemed to include 'sexual posing'. Such offences would also include provision for the forfeiture and destruction of such images by the police.
- Option 3 - Do nothing.

The preferred option of the authors of the consultation is Option 2. The closing date for responses to the consultation is 22 June 2007. The consultation documents can be found at

http://www.homeoffice.gov.uk/documents/cons-2007-depiction-sex-abuse

Plans to Tackle Violent Extremism

The Department for Communities and Local Government has published a new action plan entitled 'Preventing Violent Extremism - Winning hearts and minds'. The plan aims to step up Government work with Muslim communities in order to isolate, prevent and defeat violent extremism. It has been published in response to a study claiming that traditional religious leadership needs a new approach to counter radicalisation and better connect with young people.

The plan sets out a range of actions by which the Government will work with mainstream Muslim organisations to tackle violent extremism. The actions, which are divided into four key strands, result from consultation with Preventing Extremism Together working groups, local communities, academics, theologians and government departments.

The four strands outline the following proposed actions:

© - National Policing Improvement Agency 2007

Strand 1 - Promoting shared values

- Broaden the provision of citizenship education in supplementary schools and madrassahs. The Department pledges to support the National Resource Centre for Supplementary Schools, in partnership with the Department for Education and Skills, key educational partners and representatives from the Muslim community, to develop a plan to collate and roll out good practice guidance nationally by summer 2007.
- Ensure the more effective use of the education system in promoting faith understanding. The Department for Education and Skills is currently working to improve the way in which issues such as faith and culture are addressed through the National Curriculum. Further education colleges will be encouraged to support faith needs, with activities such as Faith Awareness Weeks.
- Pledge to do more to promote equality of opportunity.

Strand 2 - Supporting local solutions

- The Department will work with local communities, particularly Muslim communities, to deliver local solutions.
- Support for local authorities to work with their communities in tackling violent extremism. A pledge of £6 million to fund work in around 70 local authorities across the country to tackle violent extremism.
- Increase the number of forums on extremism and Islamaphobia - support local authorities to deliver at least 40 local forums by April 2008.
- Support the development of 'tackling violent extremism roadshows' which seek to provide practical steps for people to respond to the challenges in their own communities. Provide additional funding to support a series of events across the country over the next year.
- Build on existing work with universities - issue guidance to higher education establishments to assist them in supporting students vulnerable to violent extremism.

Strand 3 - Building civic capacity and leadership

- Fundamentally rebalance engagement towards those organisations which uphold shared values and reject and condemn violent extremism. The Government is giving priority to those leadership organisations actively working to tackle violent extremism, supporting community cohesion and speaking out for the vast majority who reject violence.
- Strengthen the role that women play within their communities. Fund a range of local initiatives aimed at enabling women to play a part in tackling violent extremism. Support the publication of a good practice guide by Autumn 2007.

© - National Policing Improvement Agency 2007

- Organises a series of roundtables with academics, theologians and community leaders to stimulate debate on this issue and gain understanding of why women are sometimes not allowed access.
- Promote links between Muslim communities in the UK and overseas to develop joint projects to support the promotion of shared values and to tackle violent extremism.

Strand 4 - Strengthening the role of faith institutions and leaders

- Work with the Charity Commission to raise standards of governance in mosques. Provide funding of £600,000 to establish a Faith and Social Cohesion Unit within the Charity Commission to support this work.
- Deliver a new fully accredited Continuous Professional Development Programme for Faith Leaders with the aim of developing the skills of imams and Muslim chaplains as effective community leaders. The Department for Education and Skills will support the development of an accredited programme from September 2007.
- Establish a framework of minimum requirements for all imams engaged by the state by early 2008.

The Department for Communities and Local Government will report annually on progress made in relation to each of the proposed actions.

The action plan can be found in full at

http://www.communities.gov.uk/pub/401/PreventingviolentextremismWinningheartsandminds_id1509401.pdf

Consultation and Strategic Review of the Blue Badge Disabled Parking Scheme

As part of its review of the Disabled Persons' Parking Badge Scheme (known as the Blue Badge scheme), the Department for Transport (DfT) has published draft regulations for consultation, which covers England only.

The Disabled Persons (Badges for Motor Vehicles) (England) (Amendment) Regulations 2007 contain provisions to:

- Introduce a new category of eligibility for children under the age of two, who, because of their specific medical conditions, need to travel with bulky medical equipment and be able to access that equipment quickly, or need to be able to use the vehicle for treatment or to travel to a place for treatment.
- Revoke the spent eligibility criteria relating to people supplied with a vehicle at public expense (known as the Invalid Vehicle Scheme (IVS) or 'blue trike' scheme).

© - National Policing Improvement Agency 2007

- Allow for badges to be issued for a period of less than three years (currently badges can only be issued for three years) to people who are awarded the Higher Rate Mobility Component of the Disability Living Allowance (HRMCDLA) for less than three years. This removes the current anomaly where someone receiving HRMCDLA but whose disability lasts for less than three years could still be enjoying Blue Badge concessions beyond the period of their benefit. (Current badges on issue will not be recalled).
- Change the current criterion for the issue of badges to people with severe congenital disabilities in both arms who drive a vehicle regularly and are unable to operate, or have considerable difficulty operating, all or some types of parking meters or pay and display equipment. Currently, this criterion requires an inability to turn a steering wheel by hand even if the wheel is fitted with a steering knob, but this excludes a number of people with severe congenital disabilities in both arms who are able to drive a vehicle without adaptations to the steering wheel.
- Introduce a hologram to the front of both individual and organisational badges for security purposes. During the changeover from orange to blue badges, the decision was taken that a hologram would provide little value to the overall security of the new blue badge as it would be laminated and subsequently placed behind a windscreen. However, with the introduction on 29 September 2006 of the power for police and parking enforcement officers to inspect blue badges, reinstatement of the hologram on the badge will now add value to security and help to reduce forgeries.
- Introduce additional wording ('Front - Display this side up') to both individual and organisational badges, to clearly identify the front of the badge. This is designed to help those badge holders who are failing to display their badges correctly and incurring parking fines as a result, because of confusion over which is the front of the badge.
- Revise the out-dated form of wording shown on the front of the badges ('Parking Card for People with Disabilities') to the clearer and more commonly used wording 'Parking Card for Disabled People'.

The intention of the DfT is to introduce these changes in 2007 by amending the regulations as proposed. The approved changes to the badge will be phased in as badges come up for renewal, or new applications are processed, over the period of 3 years that starts with the amendment regulations coming into force. This would be consistent with the phasing in of the Blue Badge (following the change from the orange badge) in April 2000.

The wider aspects of reform of the Blue Badge scheme will be subject to a separate strategic review which will report in September 2007. This will contribute to the formulation of a Blue Badge Reform strategy by April 2008.

Details of the consultation can be found at

http://www.dft.gov.uk/consultations/open/bluebadgescheme/

Consultation on Electronic Delivery of Certificates of Motor Insurance

The Department for Transport has published a consultation paper inviting comments on proposals to allow the electronic delivery of motor insurance certificates.

Part VI of The Road Traffic Act 1988 sets out statutory requirements for motor insurance.

Section 147 states that a policy of insurance shall be of no effect for the purposes of that part of the Act unless the insurer delivers to the policy holder, a certificate containing the prescribed details and in the prescribed form.

The view of the Department for Transport is and has been for some time when this question was previously raised in Parliament, that the certificate must be delivered by the insurer (or his agent) to the policy holder in a hard copy form, normally by post and electronic delivery is precluded.

This consultation seeks the views of all interested parties on whether the option for electronic delivery of certificates of motor insurance should be allowed. Following this consultation, the Secretary of State will consider whether to make an order under Section 8 of the Electronic Communications Act 2000 to allow electronic delivery. Under Section 8, the Secretary of State may modify legislation for the purpose of authorising or facilitating the use of electronic communications or storage for a number of specified purposes. These purposes include the doing of anything which is required to be done or evidenced in writing or otherwise using a document.

The deadline for reply to this consultation is 20 June 2007. The consultation paper can be found at

http://www.dft.gov.uk/consultations/open/electcertmotorins/

Updated Truancy Sweep Guidance

Section 8 of the Police and Justice Act 2006 was brought into force by virtue of SI 709/2007 (see March *Digest*). Section 8 inserts a new paragraph 4C into Schedule 4 to the Police Reform Act 2002. This new paragraph gives community support officers (if designated) the powers conferred on a constable by Section 16 of the Crime and Disorder Act 1998 (power to remove truant found in specified area to designated premises or to the school from which truant is absent). Police superintendents, or higher ranking officers, are responsible for specifying the areas and times that police officers/police community support officers can use the power.

© - National Policing Improvement Agency 2007

As a result of these recent changes, the Department for Education and Skills has amended its guidance on truancy sweeps for practitioners.

When in force, Section 108 of the Education and Inspections Act 2006 will make a further amendment to Section 16 to allow PCs and PCSOs to remove exclude pupils from a public place. As mentioned in the article on page 13 it is expected that this particular section will be brought into force in September 2007.

This will allow police to remove excluded pupils from a public place to a designated place. At the moment, police have the power to remove pupils who should be at school ('truants') from a public place to either their school or premises designated by the local education authority and notified to the police. The effect of this amendment would be to allow police to remove an excluded pupil from a public place to premises designated by the local education authority and notified to the police (for example the offices of the local education authority). The section also amends Schedule 4 to the Police Reform Act 2002 so as to enable community support officers to exercise the new power. The truancy sweep guidance will be further revised at that point.

The latest updated guidance can be found at

http://www.dfes.gov.uk/schoolattendance/truancysweeps/

Housing Benefit Sanctions for Anti-Social Behaviour

The Government has announced that a number of local authorities have been chosen to pilot a sanction of Housing Benefit linked to anti-social behaviour. The sanction is contained in Clause 31 of the Welfare Reform Bill and is part of the Respect programme. It would apply where a household has been evicted for anti-social behaviour and subsequently refuses to engage with rehabilitation services offered. It will give local authorities an additional tool for tackling anti-social behaviour in order to achieve a culture of self-respect, respect for others and respect for community.

The intention is to pilot the scheme for a period of two years (subject to the Bill receiving Royal Assent) in the following local authorities:

- Blackburn with Darwen Borough Council.
- Blackpool Borough Council.
- Dover District Council.
- Manchester City Council.
- New Forest District Council.
- Newham London Borough Council.
- South Gloucestershire Council.
- Wirral Metropolitan Borough Council.

© - National Policing Improvement Agency 2007

Details of the Welfare Reform Bill can be found at

http://www.publications.parliament.uk/pa/pabills/200607/welfare_reform.htm

House of Commons Transport Committee Report on the Government's Motorcycling Strategy

The House of Commons Transport Committee has published its report on its inquiry into the Government's 2005 Motorcycling Strategy. The terms of reference for the Committee's inquiry were to look at:

- Progress made by the Department so far in implementing the 2005 Motorcycling Strategy; and whether the Department is still on target to deliver the eight longer-term objectives by 2010.
- The changes to motorcycle licensing arrangements proposed in the Third Driving Licence Directive.
- What action the Government might take to reduce the risk posed by mini-motos, go-peds and other motorised two-wheelers which are not legal for road use.

The Committee found that overall, the targets set in the Strategy are sensible and it supports them. It found that many of the actions in the Strategy, including those with the 2007 deadline and those in the longer term, are on course to be completed on time.

It found that the Third European Driving Licence may not be the best possible permutation of staged access, believing that access to higher powered motorcycles should only come with experience. It calls on the Government to implement the scheme sensibly and to report back within a reasonable timeframe as to its effects.

On the issue of mini-motos, etc., it recognises the problems caused by the illegal use of such vehicles and makes a number of suggestions including:

- That the Government undertakes a review of enforcement against mini-motos to gauge whether police blitzes work to reduce anti-social behaviour in the longer term.
- That, provided that the cost and the administrative burden is not prohibitive, a registration scheme for off-road vehicles, which also includes powers for the police to seize any motorcycle or mini-moto without a registration, being driven anywhere, could be trialled in a large conurbation such as Manchester, with the results of such a trial being used to inform debate on a national scheme.
- That more programmes providing off-road facilities for young people to learn to ride motorcycles in a safe and controlled environment could be set up by local authorities.

© - National Policing Improvement Agency 2007

- That the Government consider including mini-motos as part of its Think! campaign on road safety.

It also makes a number of further recommendations to Government, including:

- That it commissions research on the viability of introducing speed limiters on motorcycles in order to stimulate a sensible debate of the options.
- That it undertakes an evaluation of the effectiveness of the voluntary register of motorcycle trainers within two years of it coming into force and, subject to its effectiveness, make it compulsory.
- Doing more work with industry with the aim of reducing emissions from motorcycles.

The report can be found in full at

http://www.publications.parliament.uk/pa/cm200607/cmselect/cmtran/264/264.pdf

Drug Facilitated Sexual Assault

The Advisory Council on the Misuse of Drugs (ACMD) has published a report, 'Drug Facilitated Sexual Assault'. The ACMD was first asked to look at the problem of drug facilitated sexual assault (DFSA), including rapes, in which drugs are mixed with alcohol, by the Home Office in January 2006. The report concludes that DFSAs are a significant problem in Britain and tend to fall into two different forms:

- Proactive drug facilitated sexual assault - which involves the covert or forcible administration of an incapacitating or disinhibiting substance, by an assailant, for the purpose of sexual assault.
- Opportunistic drug facilitated sexual assault - which involves sexual activity, by an assailant, with a victim who is profoundly intoxicated by his or her own actions to the point of near or actual unconsciousness, and thus lacks the capacity to consent.

Evidence presented to the ACMD tended to suggest that the most common weapon used in drug facilitated sexual assault, whether proactive or opportunistic, is probably alcohol.

It recognises the difficulty in ascertaining the actual number of incidents of DFSA, due to either victims failing to report the incident or, where victims have reported the incident, the difficulty in reliably detecting drugs in blood or urine due to the elapsed time between the incident occurring and samples being obtained.

The report contains a number of recommendations to help tackle date rape. These include:

© - National Policing Improvement Agency 2007

- The Home Secretary should seek advice from the Government's law officers as to whether the law could be strengthened in respect of providing protection against opportunistic drug facilitated sexual assault.
- The Association of Chief Police Officers, in consultation with the Forensic Science Service, should issue further advice to ensure that appropriate samples of blood and urine are obtained from potential victims of drug facilitated sexual assault, at the earliest possible time, using the 'early evidence kit' or other appropriate sampling techniques. In particular, this advice should emphasise that the collection of urine samples should not await the arrival of a forensic medical examiner. Advice on the collection of hair samples should also be included. All samples should be saved and tested for alcohol as well as drugs.
- The Department of Health (DH) should ensure that 'early evidence kits' are available in all Accident and Emergency Departments.
- The DH should also consider developing and disseminating guidance to staff in Accident and Emergency Departments and Sexual Assault Referral Centres, to improve the management of victims of alleged drug facilitated sexual assault.
- Drug facilitated sexual assault should be part of the British Crime Survey.
- Further efforts should be made to alert young people to the ways in which the risk of drug facilitated sexual assault can be minimised.

The ACMD has also announced its intention to report further on the potential for classification of two drugs, gamma-buterolactone (GBL) and 1,4-butanediol, which are not currently controlled but which were reportedly being used in date rape.

The report can be found at

http://www.drugs.gov.uk/324026/461229/ACMD_DFSA_Report__FINAL___13.pdf

Consultation on Independent Prescribing of Controlled Drugs by Nurse and Pharmacist Independent Prescribers

The Home Office, in consultation with the Department of Health and the Advisory Council on the Misuse of Drugs (ACMD), have published a consultation paper seeking views on proposals to expand the range of controlled drugs that can be prescribed independently by Nurse Independent Prescribers and to enable Pharmacist Independent Prescribers to independently prescribe controlled drugs. The closing date for responses is 15 June 2007. The consultation is available at

http://www.homeoffice.gov.uk/documents/cons-2007-indpres

 © - National Policing Improvement Agency 2007

Inspection of HMRC's Handling of Human Intelligence Sources

An edited version of a Her Majesty's Inspectorate of Constabulary (HMIC) inspection report into HM Revenue and Customs' (HMRC) handling of human intelligence sources has been published.

The report finds that HMRC's handling of Covert Human Intelligence Sources (CHIS) appears to be compliant with nationally accepted operating standards in regard to policies and structures, but does identify a number of issues around the registration of CHIS and the duty of care towards them. It also suggests that there is room for improvement in the alignment of CHIS with business needs, and risk assessment associated with them.

The report can be found at http://inspectorates.homeoffice.gov.uk/hmic/inspections/special/hrmc-intelligence.pdf?view=Binary

Vehicle Speeds in Great Britain 2006

The Department for Transport has published the national statistics of vehicle speeds in Great Britain in 2006, which looks at national compliance with speed limits.

The survey monitored speeds of different types of vehicles on various types of roads, at times when travel was not constrained by congestion or other road conditions.

Cars

- In built up areas with a speed limit of 30 mph, 49% of drivers broke the limit, compared to 72% in 1996. The results also showed that the proportion of drivers travelling faster than 35mph has halved from 37% in 1996 to 19% in 2006.
- In areas with a limit of 40 mph, 28% of drivers broke the limit, an increase of 4% on 2005 figures.
- Single carriage roads (60mph limit) had the lowest level of cars (11%) travelling over the speed limit.
- The highest level of cars travelling over the speed limit occurred on motorways (54%). The proportion travelling at more than 10mph above the 70 mph limit has fallen only slightly, from 19% to 17%.

Motorcycles

- Motorcyclists are much more likely than car drivers to exceed the limit by a wide margin. 25% of motorcyclists travelled at more than 80mph on motorways. In 30mph zones, one in 10 exceeded 40 mph and one in 50 rode above 50mph.

© - National Policing Improvement Agency 2007

Heavy Goods Vehicles

- 76% of HGVs broke the 40mph limit on non-built up single carriageway roads and 44% exceeded the speed limited on 30mph roads.

The Department for Transport has announced that further figures and details will be published in "Road Statistics 2006: Traffic, Speeds and Congestion", in July 2007.

The statistics can be found at

http://www.dft.gov.uk/pgr/statistics/datatablespublications/roadstraffic/speedscongestion/vehiclespeedsgb/statrelease06

Fall in Re-Offending Rates for Adults

The Home Office has published a report which analyses re-offending rates of adults (those over 18 at the date of sentence or on release from prison) over a two year period. The report, entitled 'Re-offending of adults: results from the 2004 cohort' covers offenders who were released from prison or commenced a community penalty in the first quarter of 2004 and shows a significant fall in the re-offending rates for adults.

Two types of re-offending were reviewed:

- Actual proven re-offending rates: the percentage of offenders who re-offended during a two year follow-up period, and who were subsequently convicted in court.
- Predicted proven re-offending rates: the estimated percentage of offenders who will re-offend, after changes in offender characteristics over time have been controlled for.

The report shows that between 2000 and 2004, the actual proven adult re-offending rate fell by over 2%, from 57.6% to 55.5%. The predicted proven re-offending rate was 58.8%, slightly lower than 2003 figures.

Overall, between 1997 and 2004, proven adult re-offending had been reduced by nearly 7% against what would be expected from the cohort statistics.

Results have been attributed to policies employed by the Government and the National Offender Management Service, who have adopted a holistic range of measures for adult offenders, including health interventions, education, work skills and housing provision.

A full copy of the report can be found at

http://www.homeoffice.gov.uk/rds/pdfs07/hosb0607.pdf

© - National Policing Improvement Agency 2007

Extension of Prosecutor Charging for HM Revenue and Customs

With effect from 3 April 2007, prosecutor charging has been extended to all cases investigated by HM Revenue and Customs (HMRC). This means that Revenue and Customs Prosecutions Office (RCPO) prosecutors will decide what and whether criminal charges should be preferred and against whom, decisions previously undertaken by HMRC investigators. RCPO will now provide Duty Prosecutors to give charging advice 24 hours a day, 7 days a week throughout the year, on the full range of HMRC cases.

The change brings the relationship between RCPO and HMRC fully into line with that between the Crown Prosecution Service (CPS) and the police.

Full guidance from the Director of the RCPO on the new arrangements has been published and can be found at

http://www.rcpo.gov.uk/rcpo/guidance/chargingguidance.pdf

Report on the Impact of Mentoring on Re-offending

Home Office Online Report 11/07 sets out the findings of a review which analysed a range of studies on mentoring, in order to assess how successful mentoring is in reducing offending. One of the main findings was that mentoring had a statistically significant positive impact on re-offending, with 7 of the 18 studies assessed in the review showing this. Overall, the results suggested that mentoring could significantly reduce subsequent offending by 4% to 11%. The review also found that:

- The mentoring programmes where the mentor and mentee spent more time together at each meeting and met at least once a week were more effective than others.
- Mentoring was only successful in reducing re-offending when it was one of a number of interventions given, suggesting that mentoring on its own may not reduce re-offending. Where behaviour modification, supplementary education and employment programmes were also involved, significant reductions in re-offending occurred.
- Longer mentoring programmes were not more effective, possibly because of the difficulty in recruiting high-quality mentors throughout the period that the individual was mentored.

The report can be found in full at

http://www.homeoffice.gov.uk/rds/pdfs07/rdsolr1107.pdf

© - National Policing Improvement Agency 2007

HMIC Thematic Report of Police Contact Centres' Contribution to Incident Management

Her Majesty's Inspectorate of Constabulary (HMIC) has published a thematic inspection report, 'Beyond the Call', which presents the findings of the second phase of its inspection of the end-to-end process of police contact management. This second phase focused on the contribution of police contact centres to delivering effective incident management and resolution.

The report highlights the importance of incident grading, proportionate response, clear resolution and capturing meaningful customer feedback.

To help forces build on progress that has been achieved since the publication of the first phase report, 'First Contact', and to help to address issues identified in the second phase, it makes a number of recommendations and suggestions.

It calls on police forces to implement the following recommendations:

Within 6 months

- Adopt and implement fully the national incident grading criteria set out in the National Call Handling Standards, supplemented, where appropriate, by their own local response times.
- Establish and publish standard processes to gather relevant information at the first point of contact; and agree with customers the appropriate means and timescale for providing timely, meaningful information and feedback on the progress of incidents.
- Ensure that front-line supervisors have access to relevant support and training, to ensure that the impact of their proactive leadership on overall service delivery is enhanced.
- Basic command unit commanders and heads of contact centres should be jointly accountable for incident management, making it an integral part of their commitment to providing customer service. This should be reinforced through the force's personal development review process.
- Take the earliest opportunity to explain options whereby part or all of the contact centre service could be delivered or procured collaboratively.
- Use a selection procedure for contact centre staff that tests the full range of skill sets and competencies for all roles.
- Provide all contact centre staff with effective, relevant induction, refresher and regular ongoing training, tailored to the needs of their role.
- Review their fleetmap on a regular basis to gain full benefit from Airwave capability and functionality, in collaboration with neighbouring forces, to support core policing duties and business continuity.

© - National Policing Improvement Agency 2007

Within 12 months

- Develop local measures to support or explain Policing Performance Assessment Framework data and to gauge which part of the customer experience is good, and why. Customer satisfaction information should be used to improve performance.
- Adopt a single corporate incident management model, which is championed at chief officer level.
- Operational supervisors should ensure that information on patrolling officers' availability status is accurate and up to date, in order to achieve the force's organisational objectives.
- Use staffing models for contact centres and patrolling officers, to ensure that resources involved in incident response and management are effectively aligned to demand.
- Monitor the impact of contact centre abstraction rates and adopt robust processes to manage abstractions.
- Ensure that dispatch or control staff use Airwave radio-speak standards developed by the National Policing Improvement Agency (NPIA) and then test them for competency as part of their personal development reviews.

It recommends that the NPIA, through the National Contact Management Programme, should implement the following recommendations:

Within 6 months

- Further develop the existing centralised repository for good practice in contact centre management, ensuring that the element of incident management is incorporated.

Within 12 months

- Further develop the National Call Handling Standards suite of performance indicators to incorporate incident management, thus providing complete contact management information.
- Develop a national contact management strategy, building on the National Call Handling Standards, 'First contact', 'Beyond the call' and HMIC baseline assessments, and covering all aspects of police contact management.

In addition, it suggests that the NPIA and the Association of Chief Police Officers, supported by the national forum introduced following the recommendations of 'First contact', should within 12 months:

- Collate and use good practice from regional fora, which should include incident management and call-handling practices and be developed into national customer service standards.

© - National Policing Improvement Agency 2007

- Work together to develop a business case to enable forces to procure the technology needed to share data with each other and with other agencies.

The report, which is 147 pages long, can be found in full at

http://inspectorates.homeoffice.gov.uk/hmic/inspections/thematic/btc/

Home Office Counting Rules

The latest version of the Home Office Counting Rules (HOCR) has been published by the Research Development and Statistics Directorate (RDS) of the Home Office.

There have been a number of changes made to the HOCR, which came into force on 1 April, including:

- A new annex D entitled 'Evidence Based Crime Recording'. This annex aims to provide additional clarification in relation to offences against the State. A list of State-based offences will be produced and presented at the next HOCR Working Group and, once approved, incorporated into the on-line version of the HOCR. The 'Principal Crime Look-up Table' (previously Annex D) becomes Annex E.
- Criteria for recording crimes relating to covert operations has been added to Section A of the General Rules. This allows for crimes to be recorded immediately following the conclusion of an undercover operation if the complexity, or potential compromise, of the investigation means compliance with the general principles for recording crime is not possible. In the case of covert operations, the general principle is that one crime should be recorded per offender, or group of offenders, per incident.
- A revised Crime Detections section, as a result of feedback from forces. This includes the changes: the basic detection principle "sufficient evidence to charge" has now been incorporated within each method of detection; non sanction detections will only be recognised for indictable only offences that specifically relate to D1 (Offender dead) or D6 (Crown Prosecution Service decide not to prosecute).
- A new way of reporting and recording cheque and plastic card offences. This is intended to significantly reduce the bureaucratic burden on the police and has been supported by ACPO and the finance industry.

The new system for recording certain types of fraud, i.e. cheque, plastic card offences or on-line bank account fraud, came into force on 1 April 2007. The general principle will be that:

- Financial institutions will encourage customers (both personal and business) to report cheque, plastic card or on-line bank account fraud to them rather than the police in the first instance.

© - National Policing Improvement Agency 2007

- Fraud reported to the financial institution will then only be reported to the police if they are satisfied that there is a reasonable chance of a suspect being brought to justice through a police investigation.
- Offenders caught committing by police will be dealt with as though reported to police by the financial institution concerned.

Account holders attempting to report cheque, plastic card or online bank account fraud offences at police stations should be asked in the first instance if they have been specifically told to do so by their financial institution. If they have not they should be told to contact their financial institution who will deal with the account holder. It is necessary to record a crime related incident at this point.

If the financial institution wishes an account holder to report the crime to the police direct, it will give the account holder a reference number to give to the police, either in the form of a letter or verbally. In this case, the account holder will be asked to report it to their local police, who must then record a crime related incident.

Financial institutions reporting cheque, plastic card or online bank account fraud to police will give the case or cases to the force area based on the following set of principles, which are listed in order of priority; and it is only when a principle cannot be achieved or is not known that the next principle will apply:

- 1st - The police force area covering the location of the fraudulent operation.
- 2nd - The police force area with the greatest number of individual usages.
- 3rd - The police force area where the first offence was committed.
- 4th - The police force area where the victim is located.

These rules overrule those within General Rules Section G Location of Crime.

From 1 April, the Home Office will use figures on card fraud from APACS, the UK trade association for payments and for those institutions that deliver payment services to customers.

Each force has Force Crime Registrar who is responsible for the integrity of crime data in compliance with the Home Office Counting Rules. Queries or concerns with the Counting Rules should be directed in the first instance to individual Force Crime Registrars.

The HOCR can be found in full at

http://www.homeoffice.gov.uk/rds/countrules.html

© - National Policing Improvement Agency 2007

Revised Practice Advice on Part 4 of the Anti-Social Behaviour Act 2003 (Police Powers to Disperse Groups)

Revised Practice Advice on Part 4 of the Anti-Social Behaviour Act 2003 (Police Powers to Disperse Groups) has been published. It contains recent changes and references to court cases from 2005-06 that have provided further judicial guidance to the legislation and replaces the 2005 edition of the practice advice. This guidance document is produced for police officers who may be charged with the responsibility for dealing with such a situation. It is based on the experiences of a number of forces that have pioneered this legislation across the country and takes into account the Home Office Circular 004/2004. It can be found at http://www.genesis.pnn.police.uk/genesis/Doc/0/SIQNCJ4QB49KLCLCSKID90MTCD/ASBA_2nd_edition.pdf

Practice Advice on Intelligence-Led Policing

A practice advice document which gives an introduction to intelligence-led policing has been published. The document is designed as a quick reference guide for staff to give them an understanding of intelligence-led policing processes that they will require as part of their day-to-day duties. This includes team leaders/managers who have a key role ensuring that staff are fully briefed on their specific responsibilities. Staff involved in specialist intelligence roles may find the publication useful as an aide-memoir. The document can be found at http://www.genesis.pnn.police.uk/genesis/Doc/0/TFUBGAMUB7H4V9N4TKGFNVAO66/IntelLed_Policing.pdf

Police Precepts

In a written ministerial statement on 29 March on council tax, the Minister for Local Government, Phil Woolas, stated that the Government has decided not to exercise its capping powers in 2007-8, due to the fact that the average council tax increase in England in 2007-8 is 4.2% which is in line with the Government's expectation of an average increase of less than 5%. The effect is that no local authorities, including police authorities, will be capped.

Guide on Dealing with Problem of Bank Robbery

The U.S. Department of Justice's Office of Community Oriented Policing Services has published a new guide in its Problem-Oriented Guides for Police Problem-Specific Guides Series, on the subject of bank robbery.

The guide begins by describing the problem of bank robbery and reviewing the factors that increase its risks. It then identifies a series of questions to help

© - National Policing Improvement Agency 2007

analyze a local bank robbery problem. Finally, it reviews responses to the problem of bank robbery as identified through research and police practice.

The guide can be found at

http://www.cops.usdoj.gov/files/ric/Publications/e03071267.pdf

Guide on Dealing with Thefts of and from Cars on Residential Streets and Driveways

The U.S. Department of Justice's Office of Community Oriented Policing Services has published a guide in its Problem-Oriented Guides for Police

Problem-Specific Guides Series, on the subject of theft of and from cars in residential neighbourhoods. It describes the problem and reviews factors that increase its risks. It identifies a series of questions to help in analysing local problems. It also reviews possible responses to the problem and what is known about these from evaluative research and police practice. The scope of the report is limited to thefts and residentially parked cars. It does not cover other crime types or other locations.

The guide can be found at

http://www.cops.usdoj.gov/files/ric/Publications/e0207158_web.pdf

© - National Policing Improvement Agency 2007

Increase in Online Child Abuse Images

The Internet Watch Foundation (IWF) has published its 2006 Annual Report. The IWF is an internet industry-funded, incorporated charity which is authorised in the UK to operate an internet 'hotline' for the public and IT professionals to report their exposure to potentially illegal content online.

The report reveals that the severity of online child abuse content is increasing, with a four-fold rise in images depicting the most severe abuse, such as penetrative and sadistic sexual activity, reflecting an apparent growth in demand for purchasing more severe images, and with nearly 60% of commercial child abuse websites selling child rape images.

It also reports that although the UK has virtually eradicated the hosting of potentially illegal online child abuse content within its virtual borders, attempts to deal with online services distributing abusive images of children across borders are particularly difficult. It says there is an urgent need for more cooperation on an international basis to track their movements across different jurisdictions until a prosecution can be instigated.

Key figures in the report show that in 2006:

- 31,776 reports were processed by IWF 'Hotline' (34% increase on 2005).
- 80% victims in all the 'uniform resource locators' (URLs) (individual images) confirmed to be abusive are female.
- 91% of victims in URLs confirmed to be abusive appear to be under 12 years old.
- Child abuse images (commercial and non-commercial) of levels 4 and 5 (the most severe) increased from 7% in 2003 to 29% in 2006, of all confirmed abusive URLs.
- 57% of commercial child abuse domains known to IWF contain image level 4 and 5 in 2006.
- 94 commercial websites reported by IWF to relevant authorities in 2006 have been actively selling child abuse images since 2005, 33 live since 2004, 32 live since before 2004.
- 10,656 individual URLs containing child abuse content (74% increase on 2005).
- 3,077 domains account for all these URLs.
- 1,667 of these domains were commercial websites.
- 10.5% of all URLs with child abuse content in 2006 were on photo album websites.
- 62% of commercial child abuse domains hosted in US.

© - National Policing Improvement Agency 2007

- 28% commercial child abuse domains hosted in Russia.

The report can be found in full at

http://www.internetwatch.org.uk/documents/20070412_iwf_annual_report_2006_(web).pdf

Report into UK Drugs Policy

A report by the independent UK Drug Policy Commission has claimed that the Government's strategy to combat the UK's drug problem has failed. "An Analysis of UK Drugs Policy" reports that the range of Government measures has had limited impact on preventing drug use. These measures included education, awareness raising campaigns and the high profile 'Frank' initiative, which cost around £9 million.

Some of the statistics used to back up the report's claim include:

- 40.4% of 16-19 year olds, 49% of 20-24 year olds, 51.6% of 25-29 year olds and 45.8% of 30-34 year olds have used drugs at some point in their lifetime.
- The UK has highest level of problem drug use in Europe, and the second highest number of drug related deaths.
- One quarter of 26-30 year olds had tried a Class A drug on at least one occasion.
- The cost of drug-related crime in England and Wales is more than £13bn.
- One in five people arrested is a heroin addict.
- Drug addiction rates in the UK are double those in France, Sweden, Germany and the Netherlands.
- There has been an 11% rise in the number of people jailed for all drug related offences between 1994 and 2005.
- Street prices have dropped - heroin falling from £70 a gram in 2000 to £54 in 2005 - making drugs more accessible.

The report points out that attempts to restrict the availability of drugs by arresting dealers and seizing supplies were failing; and that the benefits of drugs treatment programmes were limited because some users relapsed and many went untreated.

However, in reply the Home Office has insisted that Government strategy is working, citing a 16% decline in drug use since 1998.

The report can be found in full at http://www.kent.ac.uk/eiss/Documents/finaldesign.pdf

© - National Policing Improvement Agency 2007

Statistics on Drug Misuse in England and Wales 2007

The independent body, The Information Centre for health and social care has published a report which reveals the extent of drug use among children, young people and adults across England and Wales. Some of the main findings in the report show:

- Drug use among 11 to 15-year-olds was down on the previous year, although the use of Class A drugs remained unchanged.
- 38% of 15 and 16-year-olds in the UK had tried cannabis, one of the highest rates in Europe.
- 52% of 15-year-olds reported having ever been offered cannabis, with 18 having ever been offered cocaine and ecstasy.
- More men (13.7%) reported having taken drugs in the last year than women (7.4%).
- The number of adults taking Class A drugs, however, has risen from 2.7% in 1998 to 3.4% in 2005/6, mainly due to an increase in the use of cocaine powder.
- As in previous years, pupils who said they had truanted or been excluded were more likely to have taken drugs in the last month compared to those who had not truanted or been excluded (11% compared to 1%).
- Among pupils who had truanted or been excluded from school, the proportion who took drugs at least once a month is lower than in previous years. The level of regular drug taking among this group was 20% in 2003, 16 % in 2004, 17% in 2005 and 11% in 2006.

The report can be found in full at
http://www.ic.nhs.uk/pubs/drugmisuse07

 © - National Policing Improvement Agency 2007

CASE LAW

Centrex 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.

Voluntary Intoxication Does Not Automatically Remove Capacity to Consent to Sexual Intercourse

R v BENJAMIN BREE (2007)

CA (Crim Div) (Sir Igor Judge (President QB), Hallett LJ, Gloster J) 26/3/2007

CRIMINAL LAW - CRIMINAL PROCEDURE

Consent: Jury Directions: Rape: Voluntary Intoxication: Complainant's Voluntary Excessive Alcohol Consumption: Capacity To Consent To Sexual Intercourse: S.74 Sexual Offences Act 2003

If, through drink, or for any other reason, a complainant had temporarily lost her capacity to choose whether to have sexual intercourse, she was not consenting, and subject to the defendant's state of mind, if intercourse took place, that would be rape. However, where a complainant had voluntarily consumed substantial quantities of alcohol, but nevertheless remained capable of choosing whether to have intercourse, and agreed to do so, that would not be rape.

The appellant (B) appealed against his conviction for rape. B and the complainant (M) had spent an evening together and had voluntarily consumed a considerable amount of alcohol before returning to M's flat and having sexual intercourse. The Crown initially alleged that M had lacked the capacity to consent to the intercourse because she had been unconscious throughout most of the sexual activity but, following the evidence at trial, altered its stance to maintain that, although her ability to resist B's sexual advances had been hampered by the effects of alcohol, she still had capacity to consent and that she had made clear, so far as she could, that she did not wish to have sexual intercourse. M accepted that her recollection of events was very patchy and that she did not say "no" to intercourse; however, she maintained that she had not consented. B maintained that M had been conscious throughout the incident and that he had reasonably believed that she was consenting.

HELD

© - National Policing Improvement Agency 2007

(1) The proper construction of the Sexual Offences Act 2003 s.74, which defined consent, was that if, through drink, or for any other reason, the complainant had temporarily lost her capacity to choose whether to have sexual intercourse on the relevant occasion, she was not consenting, and subject to questions about the defendant's state of mind, if intercourse took place, that would be rape. However, where the complainant had voluntarily consumed substantial quantities of alcohol, but nevertheless remained capable of choosing whether to have intercourse, and agreed to do so, that would not be rape. As a matter of practical reality, capacity to consent could evaporate well before a complainant became unconscious. However, whether that was so depended on the actual state of mind of the individuals involved on the particular occasion. It would be unrealistic to create a grid system that would enable the answer to those questions to be related to some prescribed level of alcohol consumption as everyone's capacity to cope with alcohol was different and even varied from day to day. The Act provided a clear definition of "consent" for the purposes of the law of rape, and by defining it with reference to "capacity to make that choice" sufficiently addressed the issue of consent in the context of voluntary consumption of alcohol by the complainant.

(2) In a trial in which issues of consent and voluntary intoxication were fundamental to the outcome, the jury had been given no or no sufficient directions to enable its verdict to be regarded as safe. The jury should have been given some assistance with the meaning of "capacity" in circumstances where M had been affected by her own voluntarily induced intoxication, and also whether, and to what extent, they could take that into account in deciding whether she had consented. Moreover, the judge had not addressed the significantly changed way in which the Crown put its case. It was possible that the jury had proceeded on the basis that M had been unconscious, contrary to the Crown's case in its developed form. In a situation like that the issue of consent and capacity should have been directly addressed, R v Olugboga (1981) 73 CAR 344 applied. The only specific feature of M's alcohol consumption identified by the judge was its possible relevance to her reliability as a witness. Although B conceded that M had been drunk, it was a fundamental part of his defence that she had been conscious throughout and had in fact consented to sexual intercourse. That critical aspect of the case had not been addressed in the summing up. The questions of whether M might have behaved differently drunk than she would have done sober, and whether she might have behaved as B contended, and the way in which the jury should consider those important issues, had not been mentioned at all.

APPEAL ALLOWED

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

© - National Policing Improvement Agency 2007

Delay in Reporting Rape did not Prejudice the Defendant

R v M (2007)

CA (Crim Div) (Tuckey LJ, Bennett J, Langstaff J) 20/4/2007

CRIMINAL PROCEDURE - CRIMINAL LAW

Delay: Good Character: Jsb Specimen Directions: Jury Directions: Prejudice: Rape: Sexual Abuse: Summing Up

Although a complainant had delayed for over three years from the date of two offences of rape before bringing the matter to the attention of the police, there had not been prejudice to a defendant, since he had been well able to provide a defence to the allegations against him.

The appellant (M) appealed against two convictions for rape. The complainant (L) was M's great-niece and god-daughter. She alleged historical sexual abuse at the hands of M when she was between six and seven years old. M and his wife (W) had looked after L when her mother was at work and L alleged that M had raped her on at least two occasions when W was out. M denied all the allegations made against him, stating that he could not have abused L since he had a debilitating back condition at the relevant time. A medical examination of L revealed no tears or wearing to the hymen, but that neither indicated nor or refuted the possibility of rape. At trial M adduced evidence from his medical records to verify his assertion and also called evidence from W, his two daughters and a neighbour who all asserted that there had been nothing abnormal in M and L's relationship. M submitted that the judge had failed to direct the jury adequately about the effect of the delay between the date of the alleged rapes and M's making of her allegations. M argued that a delay of over three years had caused him substantial prejudice, as the only defence available to him had been an outright denial. M submitted that the judge had also failed to provide a full good character direction.

HELD

M had been well able to defend himself against the allegations, since he had called evidence attesting to his state of physical health and the status of his relationship with L from a number of witnesses. Therefore, the instant case was clearly not one case where M could say that he had suffered any particular prejudice by the delay in proceedings. Had M's medical records been unavailable, the position might have been different. Delay was an issue that could affect the outcome of a case, but there had been other cases where lengthier delays had not prejudiced a defendant. Judges in their summing up were required to place the evidence and the case for each side fully and fairly before the jury, and there could be no complaint made of the judge in M's case. The judge had also reminded the jury that M's case was one of M versus L in their accounts of the matters alleged, that some time had passed since

© - National Policing Improvement Agency 2007

the alleged acts, and that it was for the Crown to prove its case. M's submission that the judge had not reminded the jury in that manner had no merit, since he had constantly reminded the jury of the stark differences in evidence between M and L. The judge had also directed the jury with great care that they should consider all aspects of the evidence before them and that it was possible that L had been fantasising or lying when she made her allegations. Although the judge had not provided the additional limb of the relevant JSB practice direction on good character, the failure to include it did not render M's conviction unsafe. The judge highlighted M's age and the fact that he was of positive good character, and directed that it was a factor that the jury could take into account. Further, at trial, M had been represented by experienced counsel who had not felt it necessary to object to the judge's approach to the case.

APPEAL DISMISSED

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

Guidance on Extended Sentences under the Criminal Justice Act 2003

R v C: R v ANTHONY MICHAEL BARTLEY: R v DANNY BALDREY: R v ROBERT WILLIAM PRICE: R v WAYNE MALCOLM SPENCER BROAD (2007)

CA (Crim Div) (Latham LJ, Forbes J, Tugendhat J) 22/3/2007

SENTENCING - CRIMINAL LAW

Consecutive Sentences: Extended Sentences: Sexual Offences: Statutory Interpretation: Violent Offences: Guidance On Imposition Of Extended Sentences: Indeterminate Sentences: Criminal Justice Act 2003: Crime And Disorder Act 1998: Powers Of Criminal Courts (Sentencing) Act 2000: S.227 Criminal Justice Act 2003: S.228 Criminal Justice Act 2003

The Court of Appeal considered the practical difficulties arising from the imposition of extended sentences under the Criminal Justice Act 2003 on the one hand, and its predecessor regimes under the Crime and Disorder Act 1998 and the Powers of Criminal Courts (Sentencing) Act 2000 on the other, and gave guidance accordingly.

The appellants (C, B, D, P and W) who had been convicted of various serious sexual and violent offences appealed against their sentences. In each case an extended sentence had been imposed. W was neither present nor represented at the instant hearing. The cases had been listed together so that the court could consider the practical difficulties faced by judges when considering the imposition of extended sentences under both the Criminal Justice Act 2003

 © - National Policing Improvement Agency 2007

and its predecessor regimes under the Crime and Disorder Act 1998 and the Powers of Criminal Courts (Sentencing) Act 2000. The issues to be considered arose from the fact that the relevant provisions under the 1998 and 2000 Acts simply grafted onto the ordinary operation of release and licence provisions a power in relation to sexual and violent offences to extend the licence period beyond the end of the nominal sentence period, whereas s.227 and s.228 of the 2003 Act created a new form of extended sentence with different criteria that related, in particular, to the date of release from custody. The particular problems exemplified by the instant cases related to the power of the court to order either consecutive extended sentences or a mix of extended and ordinary determinate sentences.

HELD

(1) (a) There was nothing unlawful about the imposition of concurrent or consecutive sentences within either regime relating to extended sentences. The same was the case even where sentences of life imprisonment or imprisonment for public protection were imposed, R v O'Brien (Karl) (2006) EWCA Crim 1741, (2006) 4 All ER 1012 considered. The instant court would not interfere where extended or indeterminate sentences were justified unless the practical result was manifestly excessive or for some reason gave rise to real problems of administration; (b) However, judges should try to avoid consecutive sentences if possible and to adjust the custodial term or minimum period within concurrent sentences to reflect the overall criminality if it could be done within other sentencing constraints; (c) Where consecutive sentences were thought appropriate or necessary, if one or more of those sentences were determinate, the determinate sentence should be imposed first, and the extended sentence expressed to be consecutive; (d) In setting the overall sentence, judges should recall that there was no obligation for sentences to be in historical date order. There was nothing wrong with stating that the sentence for the first event in time should be served consecutively to a sentence or sentences imposed for any later offence or offences, R v Brown (Craig William) (2006) EWCA Crim 1996, (2006) Crim LR 1082, R v Nelson (Patrick Alan) (2001) EWCA Crim 2264, (2002) 1 Cr App R (S) 134 and R v Pepper (Jeremy Paul) (2005) EWCA Crim 1181, (2006) 1 Cr App R (S) 20 considered.

(2) The appeals of C, B and P were allowed in part and D's appeal was dismissed. The court considered that the sentences in W's case required separate consideration and granted leave to appeal and a representation order for counsel. The court further directed that W be represented at the appeal and be able to inform the court of the way the prison service had interpreted the court's order.

© - National Policing Improvement Agency 2007

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

Magistrates' Have Discretion to Hear Further Evidence

NARINDER MALCOLM v DIRECTOR OF PUBLIC PROSECUTIONS (2007)

DC (Maurice Kay LJ, Stanley Burnton J) 27/2/2007

CRIMINAL PROCEDURE - ADMINISTRATION OF JUSTICE

Calling Additional Evidence: Closing Speeches: Discretionary Powers: Magistrates' Courts: Prosecution Case: Prosecution Witnesses: Magistrates' Discretion To Receive Further Evidence: Issue Of Injustice To Defendant: S.7(7) Road Traffic Act 1988: R.3.3 Criminal Procedure Rules 2005

Magistrates had been entitled to use their discretion to receive further evidence to remedy a deficiency in the prosecution case, notwithstanding the fact that they had already retired, returned to the court room and had been part-way through giving their decision, as the most important issue was whether justice could be done.

The appellant (M) appealed by way of case stated against her conviction for driving whilst in excess of the prescribed alcohol limit contrary to the Road Traffic Act 1988 s.5(1)(a). M had been visiting her mother's house where her mother's boyfriend (B) had also been in attendance. M had been drinking and B became aggressive and attacked her. M became frightened and drove to a telephone box where she contacted the police. M was told to wait where she was for an officer (P) to attend. M remained frightened as B knew her home address and she decided to drive to another telephone box. In the course of her journey she was seen by P who signalled her to stop. P smelt alcohol on M's breath and she returned a positive breath test. M was arrested for driving whilst under the influence. At the police station, P carried out the drink drive procedure and asked M to provide another breath sample. M initially failed to provide a specimen but eventually provided two further samples. At trial, M ran a defence of necessity and duress. P was not cross-examined. During her final speech, M's counsel submitted that P had failed to provide an appropriate warning that M's failure to provide a sample could render her liable to prosecution as required by s.7(7) of the Act. The magistrates retired to consider their verdict and returned to announce their decision to dismiss the case on the basis of a lack of admissible evidence of the proportion of alcohol that had been in M's breath. Part-way through giving their decision, prosecuting counsel requested the magistrates' permission to recall P to give further evidence to remedy a deficiency in the prosecution case. The prosecution submitted that since P had not been cross-examined, there would

 © - National Policing Improvement Agency 2007

be no injustice to M as a consequence. P confirmed that he had followed the correct procedure methodically, including providing M with a copy of the printout from the breath analysis machine. The magistrates retired again and convicted M. The issues were whether (i) the magistrates had been correct to exercise their discretion to admit further evidence after they had started to consider their verdict, and had returned to court and started to announce their decision on the point of law concerning s.7(7); (ii) the magistrates had been correct to allow the prosecution to draw P's attention to the fact that he had circled a pro-forma document saying that M had accepted a copy of the printout.

HELD

It was clear that magistrates' courts had a discretion to permit either party in a criminal case to adduce further evidence at any time before they retired, provided that no injustice was done. However, the position after they had returned to give their verdict was more restricted. The magistrates still had a discretion to receive further evidence but special circumstances were required if that discretion was to be exercised, Webb v Leadbetter (1966) 1 WLR 245 considered. Criminal trials were no longer to be treated as a game in which each move was final and any omission by the prosecution led to its failure. It was the duty of the defence to make its defence clear to the prosecution and the court at an early stage. That duty was implicit in the Criminal Procedure Rules 2005 r.3.3. At no stage before her final speech did M's counsel raise any issue concerning P's compliance with s.7(7). If M wished to raise that issue, her counsel ought to have done so during cross-examination. In the circumstances, M's counsel should not have been permitted to raise the point under s.7(7) in her final speech unless the prosecution had been given the opportunity to call evidence to deal with the point. To have taken the point during closing speeches had been a classic and improper defence ambush of the prosecution, R v Cook Ex p DPP(2001) Crim LR 321 considered. M's failure to raise the s.7(7) point during a cross-examination of P amounted to a special circumstance that justified the recall of P, notwithstanding the fact that the magistrates had retired and partially announced their decision in the case. The most important question was whether justice could be done. M had been able to dispute P's evidence concerning the printout but had not done so. There had been no injustice to M and in the circumstances the magistrates had been entitled to use their discretion as they had, R (on the application of Traves) v DPP(2005) EWHC 1482, (2005) 169 JP 421 doubted.

APPEAL DISMISSED

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

© - National Policing Improvement Agency 2007

Proceeds from Cheating the Revenue Amounts to Criminal Property

R v I K (2007)

CA (Crim Div) (Dyson LJ, Crane J, Judge Radford) 8/3/2007

CRIMINAL LAW - TAX

Benefit From Criminal Conduct: Cheating The Revenue: Money Laundering: Proceeds Of Crime: Tax Evasion: Vat: Proceeds Of Cheating The Revenue As Criminal Property: S.340(5) Proceeds Of Crime Act 2002: S.340(5) Proceeds Of Crime Act 2002

The proceeds of cheating the Revenue could amount to "criminal property" within the meaning of the Proceeds of Crime Act 2002 s.340(5) even in circumstances where the trade whose profits were liable to income tax or whose turnover was subject to VAT was a legitimate trade.

The Crown appealed against a decision that there was no case to answer against the respondent (R) on counts 1 and 2 in relation to a total of 12 counts of money laundering brought against R and others contrary to the Proceeds of Crime Act 2002 s.340(5). R and his father (S) ran a money transfer business. The Crown's case, in counts 1 and 2 of the indictment, was that R and S had used the business to launder money from a third party (M) and that a discrepancy of £5.9 million in their business records represented the proceeds of criminal conduct. In count 11 of the indictment the Crown claimed that M had cheated the Revenue of tax and VAT contrary to common law. In count 12 M and S were accused of money laundering the sum of £200,000. The trial judge found that there was no case to answer in relation to count 12 because the £200,000 was the proceeds of legitimate trading, but gave leave to appeal as it raised an important point of law. The judge also gave leave to appeal on the question of whether he had erred in law in relation to counts 1 and 2 in ruling that since the Crown could not show that any of the £5.9 million was not the proceeds of cheating the Revenue there was insufficient evidence that the money referred to was criminal property. The court had to consider whether the proceeds of cheating the Revenue could amount to "criminal property" within the meaning of s.340(5) of the Act where the trade whose profits were liable to income tax or whose turnover was subject to VAT was a legitimate trade.

HELD

(1) A person who cheated the Revenue obtained a pecuniary advantage as a result of criminal conduct within the meaning of s.340(6) of the Act. The judge had considered that he was bound by R v Gabriel (Janis) (2006) EWCA Crim 229, (2006) Crim LR 852 to find that the fact that the £200,000 cash was the takings of M's lawful business was of itself fatal to

© - National Policing Improvement Agency 2007

the submission that it represented the fruits of criminal conduct. If that were correct, it would mean that the money laundering provisions of the Act could never be invoked in relation to tax evasion where the business concerned was engaged in a lawful trade. It could not have been intended that the money laundering provisions of the Act, particularly those relating to the obtaining of benefit in the form of a pecuniary advantage, should not extend to the fruits of cheating the Revenue. The judge was not bound by Gabriel to find that. A failure to declare income did not of itself give rise to criminal property and Gabriel went no further than meaning that profits from legitimate trading could never, without more, give rise to criminal property. If, contrary to the view of the instant court, the judge was right to hold that Gabriel decided that the mere fact that a business was engaged in a lawful trade was itself fatal to a successful money laundering prosecution based on takings not declared to the Revenue, then that conclusion was not necessary for its decision and, for the reasons given, the instant court disagreed. The difference between Gabriel and the instant case was that in the present case the prosecution had made out a prima facie case of cheating and therefore the judge was wrong to withdraw count 12 from the jury, Gabriel distinguished.

(2) It was clear that the judge decided that there was no case to answer in relation to counts 1 and 2 only because of his ruling in relation to count 12. Since the judge had been wrong to rule as he did in relation to count 12, the basis on which he ruled on counts 1 and 2 must also fall away. It was open to the jury to infer that the discrepancy of £5.9 million was the product of criminal conduct and was therefore criminal property. It was true that the Crown could not identify the provenance of the money but the facts provided ample material from which the jury could make the necessary inference. Accordingly, the Crown's appeal against the judge's ruling in relation to counts 1 and 2, in so far as it affected R, was allowed.

APPEAL ALLOWED

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

© - National Policing Improvement Agency 2007

De Minimis Deviation from Traffic Signs Regulations Insufficient Reason to Overrule Speeding Conviction

CANADINE & ORS v DIRECTOR OF PUBLIC PROSECUTIONS (2007)

DC (Sir Igor Judge (President QB), Lloyd Jones J) 14/2/2007

ROAD TRAFFIC - CRIMINAL LAW

De Minimis: Prescribed By Law: Road Signs: Speeding: Speed Limits: Signs Prescribed By Law: Construction Of Signs: Visibility Of Borders: S.89 Road Traffic Regulation Act 1984: Reg.8 Traffic Signs Regulations And General Directions 2002: S.85(4) Road Traffic Regulation Act 1984: S.64(1) Road Traffic Regulation Act 1984: Reg.42(9) Traffic Signs Regulations And General Directions 2002

The fact that the black casing around an illuminated terminal sign at the entry and exit of a speed restriction area was visible on close examination did not render it non-prescribed within the meaning of the Road Traffic Regulation Act 1984 s.64(1).

The appellants (C) appealed by way of case stated against a decision of a district judge to convict them of driving in excess of the speed limit. C had been charged with driving in excess of a 20mph speed limit displayed by terminal signs at the entry and exit of a speed restriction area contrary to the Road Traffic Regulation Act 1984 s.89. The terminal signs in question were illuminated from the rear and were mounted in a casing unit. As a consequence of that mounting there was a small black lip surrounding the terminal signs. The Traffic Signs Regulations and General Directions 2002 reg.8 provided that the sign should be circular with a red border on a white background on which was printed, in black numerals, the maximum speed allowed within the restricted area. At trial it was accepted by C that they had travelled in excess of 20mph but they contended that pursuant to s.85(4) of the Act they had no case to answer because there was no legal enforceable speed restriction in place as the terminal signs were not prescribed traffic signs for the purposes of s.64(1) of the Act due to the fact that, inter alia, a black lip was visible around the terminal signs. The judge held that the terminal sign complied with reg.8 of the Directions and was independent of its casing. The judge further held that the lip of the casing unit was invisible except under very close examination. The High Court had to consider whether the visibility of the casing around a terminal sign rendered it non-prescribed with the meaning of s.64(1) of the Act. C contended, inter alia, that the lip of the casing was a ‘backing board’ for the purposes of reg.42(9) of the Directions and thus did not comply with reg.42(5) of the Directions as it was a proscribed colour.

 © - National Policing Improvement Agency 2007

HELD

In all the circumstances, the casing unit used to hold the illuminated terminal sign in place was not an integral part of the sign and the terminal signs complied with the Directions. The lip of the casing to the front of the terminal signs was clearly not a backing board and was not a background against which the terminal sign was displayed. Whilst it might be different if there had been a substantial surround that was visible to road users, the judge had concluded that the lip was effectively invisible. The application of reg.42 of the Directions was limited to the requirement that the back of any sign of the type in the instant case had to be grey, black or in a non-reflective metallic finish and that requirement had been complied with. Accordingly the signs in question complied with the Directions. In any event, even if the terminal signs did not so comply, there was no question of road users being misled or misinformed. In those circumstances, any deviation from the prescribed form was so minor that it should be disregarded as de minimis, Cotterill v Chapman (1984) RTR 73 applied.

APPEAL DISMISSED

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

Service under the Road Traffic Act 1988 not Effected by Poor Quality of Document

BRIAN GRIFFITHS v DIRECTOR OF PUBLIC PROSECUTIONS (2007)

QBD (Admin) (Smith LJ, Gross J) 22/3/2007

ROAD TRAFFIC - CRIMINAL EVIDENCE

Date Of Service: Disclosure: Expert Evidence: Photographs: Speeding: Speed Camera: Records Produced By Prescribed Devices: Service Of Poor Quality Documents: S.20(1) Road Traffic Offenders Act 1988: S.20(8) Road Traffic Offenders Act 1988

Service had not been effected under the Road Traffic Offenders Act 1988 s.20(8) where a copy of a document was of such poor quality that it could not be used for the purpose for which it had been served.

The appellant (G) appealed by way of case stated against his conviction for speeding. G was convicted on the basis of evidence taken from a Gatsometer speed camera. The camera technician had claimed that he had checked his calculations by viewing the images on his computer screen rather than the photographic prints, but the computer file had not been disclosed to G and it was only on the day of the trial that he had received good quality copies of the photographic prints. Prior to the trial G had only been served with poor quality copies of those prints. The questions posed by way of case stated were (i)

whether a print developed from a chemical film in a Gatsometer camera was a record within the meaning of the Road Traffic Offenders Act 1988 s.20(1); (ii) whether such a print had been produced by the camera; if no to either question (iii) whether the chain of evidence required evidence from the person who developed the prints; (iv) whether the service of a set of prints not relied upon at trial complied with s.20(8) of the 1988 Act; (v) whether the computer file should have been disclosed; (vi) whether the requirements of a fair trial extended to allowing G to check the time gap between the two photographs taken by the camera. G submitted that

(1) a print developed from a chemical film in a Gatsometer camera could not be relied upon under s.20(1) of the Act as it was neither a record within the meaning of that subsection nor had it been produced by the device and therefore the only way in which it could be relied upon was if the evidential chain between the camera and prints had been proven;

(2) the copies of the prints first served on G were of such bad quality that they were unusable and therefore there was effectively no service prior to trial as required under s.20(8) of the Act;

(3) the computer file relied upon by the computer technician should have been disclosed as it was that which he had used to carry out the secondary check and the source of the file was unknown;

(4) to ensure that the trial was fair, he should be permitted to check the time gap between when the two photographs from the speed camera were taken to ensure that the device was accurate.

HELD

(1) The photographs were a record produced (albeit indirectly) by the camera notwithstanding the need for the development and printing processes. The record produced directly by the device was a negative image on the film, but it also contained the relevant data provided by that device, which was then readable through a viewer or could be printed on to paper. s.20(1) of the Act should not be limited to records which were issued directly from the machine and therefore a print produced from a film using a Gatsometer camera was a record produced by a prescribed device. As there was no possibility that the wrong photographs would be attributed to G and proof of continuity would not assist in the detection of tampering with the photographs, in the absence of G raising the possibility of tampering, evidence of continuity would be pointless.

(2) If a copy of a document was of such poor quality that it could not be used for the purpose for which it had been served it did not constitute service. As the purpose of serving the prints was to enable G to carry out a secondary check and he would have been unable to use that evidence for

© - National Policing Improvement Agency 2007

that purpose, the prints had effectively not been served until the day of the trial. The Crown had therefore not complied with s.20(8) and as G had not waived that requirement, the evidence should not have been admitted under that section. However, the purpose of s.20 was to provide for the possibility that the record produced by the device might be admitted in evidence without having been produced by a witness. If the Crown had wished to rely on the expert to produce the photographs it was not required under s.20(8) to disclose them seven days in advance. As the expert had produced the photographs and had connected them to G and proof of continuity was not necessary s.20(8) did not apply.

(3) It was irrelevant to the issue of disclosure that the expert had relied upon images viewed on a computer screen to carry out his secondary check as the photographs were real evidence from which anyone could have carried out that check and therefore there was no need to disclose the computer file.

(4) It was not unfair to require G to take on trust the correct functioning of the device as the primary check and the secondary check had produced the same result.

APPEAL DISMISSED

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

SI 935/2007 The Education and Inspections Act 2006 (Commencement No 3 and Transitional Provisions and Savings) Order 2007

This Order is the third commencement order made under the Education and Inspections Act 2006. It brings a number of provisions of the Act in on various dates. Provisions which could be of interest to the police came in to force on **1 April** and are:

- Chapter 1 of Part 7.
- Sections 165 to 166.
- Section 184, to the extent that it relates to the provisions set out below in Schedule 18.
- In Schedule 18 (Part 6), the repeal of Sections 550A and 550B of the Education Act 1996, Sections 4 and 5 of the Education Act 1997 and Section 61 of the School Standards and Framework Act 1998.

See article on page 13 regarding these provisions.

SI 1030/2007 The Animal Welfare Act 2006 (Commencement No 1) (Wales) Order 2007

In force **27 March**. This Order brings into force, in relation to Wales, the following provisions of the Animal Welfare Act 2006:

- Sections 1 to 7 - Introductory; Prevention of Harm.
- Section 8(1), (2), (7) and (8) - Fighting etc.
- Sections 9 to 12 - Promotion of Welfare.
- Section 13 and Schedule 1 - Licensing and Registration.
- Sections 17 to 45 - Codes of Practice; Animals in Distress; Enforcement Powers; Prosecutions; Post-conviction Powers.
- Sections 51 and 52 - Inspectors; Conditions for Grant of Warrant.
- Section 53 and Schedule 2 - Powers of entry, inspection and search: supplementary.
- Sections 54 to 60 - General.
- Sections 62 and 63 - Interpretation and Financial Provisions.
- Section 64 to the extent that it relates to the provisions of Schedule 3 specified below - Minor and consequential amendments.
- Section 65 to the extent that it relates to the provisions of Schedule 4 specified below - Repeals.
- Schedule 3 except paragraph 3(1).
- Schedule 4 except - Section 2 of the Pet Animals Act 1951; Sections 2, 3, 6, 7 and 8 of the Agriculture (Miscellaneous Provisions) Act 1968; Sections 37 to 39 of the Animal Health Act 1981 and paragraph 8 of Schedule 5 to that Act.

© - National Policing Improvement Agency 2007

- Section 66 - Transition

SI 1035/2007 The Crime and Disorder Act 1998 (Responsible Authorities) Order 2007

In force **1 May**. This Order provides that the three crime and disorder reduction partnerships in West Suffolk are to be combined to form a single partnership covering the area. The combined area will comprise the local government areas of Forest Heath District Council, St Edmundsbury Borough Council and Mid Suffolk District Council.

SI 1038/2007 The Religion or Belief (Questions and Replies) Order 2007

In force **30 April**. Section 70(2) of the Equality Act 2006 requires the Secretary of State to prescribe forms by which a person who has brought or is considering bringing proceedings (a claimant or potential claimant) under Part 2 of the Act (discrimination on grounds of religion or belief) may question the respondent or potential respondent.

The forms are prescribed in Article 2 of this Order, which states that:

- A claimant or potential claimant may use the form set out in Schedule 1.
- A respondent or potential respondent may use the form in Schedule 2.

For the purposes of Section 70 of the Equality Act 2006 (information), this Order provides that a question may be served on a respondent or potential respondent and a reply may be served on a claimant or potential claimant, whether or not the question or reply is in the prescribed form, in any of the following ways:

- By delivering it to him.
- By sending it by post to him at his usual or last known residence or place of business.
- Where the person to be served is acting by a solicitor, by delivering it at, or by sending it by post to, the solicitor's address for service.
- Where the person to be served is a claimant or potential claimant, by delivering the reply, or sending it by post, to him at his address for reply as stated by him in the document containing the questions, or if no address is so stated, at his usual or last known residence.
- Where the person to be served is a body corporate or is a trade union or employers' association within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992, by delivering it to the secretary or clerk of the body, union or association at its registered or principal office, or by sending it by post to the secretary or clerk at that office.

© - National Policing Improvement Agency 2007

SI 1064/2007 The London Olympic Games and Paralympic Games Act 2006 (Commencement No 2) Order 2007

In force **2 April**. This Order brings into force the following provisions of the London Olympic Games and Paralympic Games Act 2006:

- Paragraph 12 of Schedule 3, which inserts Section 8A into the Olympic Symbol etc. (Protection) Act 1995 (enforcement by Trading Standards).
- Paragraph 13 of Schedule 3, to the extent that it inserts Section 8B(2) and (3) into the 1995 Act (arrest in relation to Scotland).
- Paragraph 14 of Schedule 3, which inserts Sections 12A and 12B into the 1995 Act (detention by Revenue and Customs).

SI 1079/2007 The Criminal Justice Act 2003 (Surcharge)(No 2) Order 2007

In force **1 April**. Section 161A(1) of the Criminal Justice Act 2003, which was brought into force by the Domestic Violence, Crime and Victims Act 2004 (Commencement No 8) Order 2007 (S.I. 2007/602) on 1 April, requires a court, when dealing with a person for one or more offences, to order the person to pay a surcharge.

Section 161A(2) of the 2003 Act allows the Secretary of State, by Order, to prescribe cases in which the court's duty to order the payment of the surcharge does not apply. The effect of Article 2 of this Order is that the duty to order the offender to pay a surcharge will apply only in those cases where the offender is ordered to pay a fine (whether or not any other penalty is imposed).

Section 161B(1) of the 2003 Act, which was also brought into force by the Domestic Violence, Crime and Victims Act 2004 (Commencement No 8) Order 2007 on 1 April, provides that the amount of the surcharge payable under Section 161A(1) is such amount as the Secretary of State may specify by Order. Article 3 of this Order sets the amount of the surcharge at £15.

This Order supersedes the Criminal Justice Act 2003 (Surcharge) Order 2007.

SI 1092/2007 The Equality Act 2006 (Commencement No 2) Order 2007

In force **30 April**. This Order brings into force the following provisions of Part 2 of the Equality Act 2006 (Discrimination on Grounds of Religion or Belief) (other than Sections 52(6), 70 and 71 which are already in force):

- Section 40 so far as it relates to paragraph 57 of Schedule 3.
- Sections 44 to 52(5).
- Sections 52(7) to 69.
- Sections 72 to 80.
- Paragraph 57 of Schedule 3.

© - National Policing Improvement Agency 2007

SI 1109/2007 The Immigration, Asylum and Nationality Act 2006 (Commencement No 6) Order 2007

This Order brings into force various provisions of the Immigration, Asylum and Nationality Act 2006, on the dates noted below:

- Section 8 (legal aid) - **30 April**.
- Section 52(7) and Schedule 2 (fees: consequential amendments) - **2 April** (to the extent that those provisions are not already in force).
- Section 61 and Schedule 3 (repeals) - **2 April** (to the extent that those provisions relate to the entries listed in Schedule 1 to this Order).
- Section 122 of the Nationality, Immigration and Asylum Act 2002 shall remain in force for the purpose of the definition of work permit or other immigration employment document in Section 88(3)(c) of that Act.

In addition, Section 25 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 will not affect the power of the Secretary of State to make regulations under that section which require a person seeking permission to marry under Section 19(3)(b), 21(3)(b) or 23(3)(b) of that Act or to form a civil partnership under paragraph 2(1)(b) of the Civil Partnership Act 2004 to make an application in writing and specify the information to be contained in, or provided with, the application, and how and to whom the fee in respect of that application is to be paid.

SI 1120/2007 The Docking of Working Dogs' Tails (England) Regulations 2007

In force **6 April**. Under Section 6 of the Animal Welfare Act 2006, working dogs may be exempted by regulations from the prohibition upon the removal of the whole or any part of a dog's tail, otherwise than for the purpose of its medical treatment.

Regulation 3 sets out the requirements to be observed before a veterinary surgeon may certify that the dog is a working dog. Regulation 3(1)(a) and Schedule 1 specify the types of dog that are capable of being certified, and Regulation 3(1)(c) and (2) describes the further evidence (concerning the likelihood that the dog will be used for certain work) that is required to be shown to a veterinary surgeon in order to obtain such a certificate.

Regulation 4 prescribes the way in which a dog whose tail is docked is to be identified by microchipping. Schedule 2 prescribes the form in which the certificate is to be given.

SI 1160/2007 The Police (Amendment) Regulations 2007

In force **1 June**. These Regulations amend the Police Regulations 2003.

Schedule 3 to the Police Regulations 2003 contains provision for certain officers to receive a replacement allowance, which is calculated by reference to a compensatory allowance that was payable under the Police Regulations 1987 (which have now been revoked) in certain circumstances.

Regulation 2 provides that certain officers shall be entitled to a replacement allowance, calculated as if for Regulation 52B (compensatory allowance) of the Police Regulations 1987 there were substituted the wording set out in Regulation 2. Regulation 52B formerly provided that where two police officers were married to each other, and one served as a part-time officer, then the other officer could receive a further sum to take account of the part-time officer's reduced housing or related allowances. These Regulations provide that replacement allowance shall be calculated as if compensatory allowance were not limited to married couples, and extended to two or more officers living together where at least one of them is a part-time officer.

The amendments have effect from the date on which the Police Negotiating Board agreed to make the amendments, except in so far as they relate to two married part-time officers, where the amendments have effect from 1 July 2000. Such retrospection is permitted under Section 50(5) of the Police Act 1996.

SI 1162/2007 The Police (Fingerprints) Regulations 2007

In force **1 May**. These Regulations amend the Special Constables Regulations 1965 and the Police Regulations 2003.

Regulation 2 inserts a new Regulation 1A (fingerprints) into the Special Constables Regulations 1965. This regulation makes provision for special constables to provide fingerprints as directed by their chief officer. Their fingerprints are to be kept separate from other persons' fingerprints (except for those of regular police officers), and provision is made for the destruction of a special constable's fingerprints when he leaves the force (save if he becomes a regular member of the force or transfers to another force).

The existing provisions relating to the fingerprints of regular officers, contained in Regulation 18 of the Police Regulations 2003 (fingerprints), are amended by Regulation 3 to mirror the new requirements for special constables. The effect of these amendments are that the fingerprints of regular officers do not have to be kept separate from the fingerprints of special constables, and do not have to be destroyed if a regular officer, on ceasing to be a member of the force, becomes a special constable at that force or transfers to another force.

SI 1170/2007 Her Majesty's Inspectors of Constabulary (Specified Organisations) Order 2007

In force **1 May**. This Order specifies certain bodies as 'organisations' for the purposes of paragraph 3(4) of Schedule 4A to the Police Act 1996.

Paragraph 3 of Schedule 4A imposes a duty on Her Majesty's Chief Inspector of Constabulary to prevent or limit certain proposed inspections of specified organisations, in order to prevent an unreasonable burden being imposed on those organisations.

© - National Policing Improvement Agency 2007

This Order lists the specified organisations as:

- A police force.
- A police authority.
- The Serious Organised Crime Agency.
- The National Policing Improvement Agency.
- The Ministry of Defence Police.
- The British Transport Police.
- The Civil Nuclear Constabulary.

If Her Majesty's Chief Inspector of Constabulary considers that the proposed inspection by persons or bodies listed in paragraph 3(2) of Schedule 4A would impose an unreasonable burden on one of the specified organisations above, Her Majesty's Chief Inspector of Constabulary must give notice to that person or body not to carry out the proposed inspection or not to carry it out in a particular manner.

The persons or bodies in paragraph 3(2) are:

- Her Majesty's Chief Inspector of Prisons.
- Her Majesty's Chief Inspector of the Crown Prosecution Service.
- Her Majesty's Inspectorate of the National Probation Service for England and Wales.
- The Commission for Healthcare Audit and Inspection.
- The Audit Commission for Local Government.
- The National Health Service in England and Wales.

© - National Policing Improvement Agency 2007

NPIA
National Policing
Improvement Agency

Legal Services

Yew Tree Lane, Pannal Ash, Harrogate,
North Yorkshire, HG2 9JZ.
Telephone 01423 876664
www.npia.police.uk