NPIA
National Policing Improvement Agency

Digest

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The NPIA Digest is a journal produced each month by the NPIA Legal Services Unit. The NPIA 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. During the production of the NPIA Digest, information is included from Governmental and quasi-governmental bodies, criminal justice organisations and research bodies. As such, the NPIA Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

This edition contains a number of articles relating to guidance for new legislation e.g. Police (Performance) and Police (Conduct) Regulations 2008, Practice Advice on the Management and Use of Proceeds of Crime Act, and on the use of Independent Advisory Groups. There are articles on the recently released crime statistics for England and Wales 2007/08, the Domestic violence factsheet and the IPCC Complaints Data for England and Wales 2007/08.

In the wake of last month's article on the use of custody suites as a place of safety, this edition features a report by Barnardo's, the children's charity on the increased use of custody for young persons. With Parliament back in session there have been a number of Government initiatives launched e.g. the establishment of the National Fraud Strategic Authority, a specialist Police e-Crime Unit and announcements of further funding to tackle youth crime and domestic violence.

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

The Case law is produced in association with lawtel From Sweet & Maxwell

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New Online Feature for NPIA Digest

There have been many requests from forces to develop a more responsive publication of current issues that occur in the policing arena. To enable the National Policing Improvement Agency to deliver this requirement to forces we have developed a 'Latest Digest News' feature on the NPIA website.

The 'Latest Digest News' feature highlights news articles and issues relating to policing and the criminal justice system. In-line with our editorial policy we will aim to post news items that are topical and relevant to policing and the criminal justice system. Each item posted will consist of a synopsis of the story with a fuller version, where applicable, reported in the monthly NPIA Digest as usual.

The 'Latest Digest News' feature can be accessed at http://www.npia.police.uk/en/6288.htm and the link is under the 'Publications' header.

It is hoped that this feature will provide timely information and developments to enhance our product and be a valuable tool to those working in the wider policing family and the criminal justice sector.

Home Secretary Orders National Police Race Assessment

On 7 October 2008 the Home Secretary, Jacqui Smith, announced a nationwide assessment of how ethnic minorities are treated by the police service in respect of recruitment and promotion.

The Policing Minister Vernon Coaker is to assess ethnic minority recruitment and progression nationally across the police service in collaboration with police representatives, including the Police Federation, Superintendent's Association and ACPO. He will report to the Home Secretary on any further action deemed necessary this month.

The Home Office indicated that the proposed action was not a review, suggesting swift changes to recruitment practices and promotion policy were unlikely. Ms Smith said: "The police service is determined to offer fair and equal opportunities to all its members, regardless of age, gender, ethnicity or background".

The report can be found at
http://news.bbc.co.uk/1/hi/uk_politics/7655984.stm

Prosecution of Disability Hate Crime

The Director of Public Prosecutions (DPP), Sir Ken McDonald QC has said that a vast amount of disability hate crime is not being picked up by the criminal justice system. As a result the opportunity to condemn the prejudice and hostility of the offender is being missed.

The DPP has said that Prosecutors were not always making the best use of legislation provided by Parliament which enables courts to punish offenders more severely.

He has urged police and prosecutors to make sure that the courts are given all the facts so that sentences can reflect the seriousness of the crime. Where there is evidence of hostility, police and prosecutors must ensure that it is put before the court. The DPP said that the police should routinely gather evidence of repeat victimisation, name calling and harassment in order to help secure more disability hate crime prosecutions using Section 146 of the Criminal Justice Act 2003.

The comments of the DPP follow the publication of a report called 'Getting Away With Murder' by Scope, Disability Now Magazine and the UK Disabled People's Council. The report found that in 2007-08 only 141 disability hate crimes were successfully prosecuted, compared to 6,689 racial incidents and 778 homophobic incidents.

The Crown Prosecution Service (CPS) has pledged to continue to work with disability groups and to take the following action to improve its handling of disability hate crime cases:

- Provide further guidance to prosecutors on what constitutes disability hate crime and how it should be dealt with;

- Review its handling of disability hate crime;
- Lead hate crime prosecutors from all CPS areas to work together to enhance awareness and build competence in handling disability hate crime;
- Continued assessment of performance on handling these cases.

Disability hate crime is not a specific offence. However, Section 146 of the Criminal Justice Act 2003 provides for an increase in sentences for aggravation related to disability. If at the time of committing the offence, or immediately before or afterwards, the offender demonstrated hostility towards the victim based on a disability (or presumed disability) of the victim, or the offence is motivated (wholly or partly) by hostility towards disabled people or a particular disability, then the court must treat that as an aggravating factor, and must say so in open court.

Details of the CPS policy on cases of disability hate crime, along with guidance detailing some of the key areas; can be found on the CPS website at http://www.cps.gov.uk/publications/prosecution/disability.html

The full report 'Getting Away With Murder' can be accessed at http://www.timetogetequal.org.uk/core/core_picker/download.asp?id=405

Transphobic Bullying in Schools

The Home Office has commissioned Gender Identity Research and Education Society (GIRES) to develop a toolkit for schools to use in combating transphobic bullying and provided a link to it from the Crime Reduction section of its own website. The resources may be of interest to those working in neighbourhood policing with responsibility for schools liaison.

GIRES has consulted widely in preparing this material and has already incorporated most of the good suggestions generated by that process into the current version of the document. The consultation process is ongoing and GIRES have indicated that it will be very happy to receive further suggestions for improving the material.

There are currently two versions of the toolkit. The first is designed for easy internet navigability and contains hyperlinks to other material within the toolkit and located externally. The second is an easy to print version. Like all GIRES material, the toolkit is subject to the charity's copyright policy (see http://www.gires.org.uk/copyright.php).

However, schools, as well as other organisations, are specifically permitted to use it, in whole or in part, for internal discussion and teaching.

Further information about GIRES and the toolkit can be accessed at http://www.gires.org.uk/transbullying.php

First National Trans Police Association AGM

The first Annual General Meeting of the National Trans Police Association (NTPA) is being held with the support of the West Yorkshire Police in Wakefield, West Yorkshire on 15 November 2008.

The National Trans Police Association was established following meetings with ACPO held in late 2007. Several attendees of these meetings decided that a 'stand alone' group formed to support staff, officers and forces across the country would be a benefit to all.

The NTPA is not only to support trans officers and staff but also their forces with guidance and support in what is still a new area of diversity for many people.

The AGM is only open to serving and retired Trans Police Officers and Staff plus invited guests.

Further information about this event please can be accessed at http://www.ntpa.co.uk/news/news.htm

Training Available for New Police (Performance) Regulations and Police (Conduct) Regulations 2008

The new Police (Performance) Regulations and Police (Conduct) Regulations 2008 are set to be introduced on 1 December 2008. The Conduct Regulations and the Performance Regulations are made under sections 50, 51 and 84 of the Police Act 1996. A new section 84 was inserted into the Police Act 1996 by paragraph 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008, and these Regulations will be the first exercise of the powers in the new section 84.

In order to assist forces to brief and train staff, the National Policing Improvement Agency (NPIA) have created a website which holds all materials associated with the PCSPB Regulations.

The National Centre for Applied Learning Technologies (NCALT) website contains the following sections:

- All Staff & Chief Officers Briefings - the briefings outline the changes and when they are coming into force. They also include the materials that are to be made available to support the implementation process. These documents have been sent to all Home Office forces and copies can be found on the NCALT website.
- Online Reference Tool - NPIA have created an index tool which allows users to access the regulations and guidance in a user friendly format. The idea behind this tool is that all users can access it whenever they need to and they can easily find out which sections of the regulations apply to specific areas of guidance. This tool will support any training courses on the subject and can be found on the NCALT website. It is currently in draft format awaiting the final regulations and guidance.
- Learning Descriptors - These documents contain the learning outcomes, suggested content and delivery methods for training in this area. They are split into three modules, each aimed at a slightly different target audience:
  - Module 1 is the general awareness section providing information for all staff;
  - Module 2 is specifically aimed at Managers and Supervisors; and
  - Module 3 for staff working within Human Resources or Professional Standards Departments.
- Case Studies - the case studies are linked to the learning descriptors. The learning descriptors outline specific areas where case studies are required to meet the learning outcomes. By using the hyperlinks embedded within the learning descriptors, or by viewing the case studies document in full, forces can access a bank of case studies which have been developed by the NPIA to cover all of the required areas of learning.

- E-Workbook - NCALT are currently piloting an e-workbook for these regulations. The pilot is aimed at all staff with additional chapters for managers and supervisors.
- Delivery Options - the NPIA have appointed a group of approved providers to deliver training in line with the NPIA learning descriptors. Forces may choose one of the approved providers or alternatively develop their own training in this area. For more information on the approved providers contact Trish Davies on 01423 876725 or email trish.davies@npia.pnn.police.uk

The website, training materials and latest versions of the regulations and guidance can be found by selecting 'PCSPB - Performance, Conduct and Standards of Professional Behaviour' under the 'National Learning Programmes' section at http://www.ncalt.com/

The draft statutory instruments can be found at http://www.opsi.gov.uk/si/si2008/draft/ukdsi_9780110835174_en_1 for Police (Conduct) Regulations and http://www.opsi.gov.uk/si/si2008/draft/pdf/ukdsi_9780110835181_en.pdf for Police (Performance) Regulations and an explanatory memorandum at http://www.opsi.gov.uk/si/si2008/draft/em/ukdsiem_9780110835174_en.pdf

NPIA Commences Revised High Potential Development Scheme

A national programme run by the National Policing Improvement Agency (NPIA) to develop the next generation of police leaders started on 13 October 2008 at the Police Training College at Bramshill.

A group of 84 officers, comprising police constables and sergeants from police forces across England and Wales, will be the first to begin their training under the revised High Potential Development Scheme (HPDS).

Chief Constable Peter Neyroud, Chief Executive of the NPIA, said: "The police service asked us to make revising and implementing HPDS one of our top priorities and we have delivered. The scheme is intended as a 'tough to get on, tough to stay on' programme, which will be deliberately challenging. Not all police officers will progress to the final stage although every officer who takes part in the programme will benefit from the training and development they receive, which will ultimately benefit policing and the public we serve."

The HPDS officers will benefit from a wide range of academic and professional development programmes designed and delivered as part of HPDS through a collaborative partnership between NPIA and Warwick University.

HPDS is the first initiative to be delivered under the police leadership strategy, Leading Policing, which was produced by the NPIA on behalf of the Association of Chief Police Officers, the Association of Police Authorities and the Home Office, following an extensive national debate within the service.

More information about the revised High Potential Development Scheme can be found at http://www.npia.police.uk/en/8563.htm

NPIA Contact Management Good Practice Seminar

The first Good Practice Seminar is to be held on 6 November 2008 in Ryton and hosted by the National Contact Management Programme. It will be the first in a series of events focusing on the sharing of good practice in the contact management environment. It will also be an opportunity to provide an update in relation to the National Contact Management Programme.

The aim is to identify and propagate good practice to those in the contact management environment and to understand police forces' approach to achieving good practice in areas such as:

- Customer service and customer satisfaction;
- Resource Management;
- Skills, training and education;
- Cultural change;
- Strategy and organisational structures;
- Technology; and
- Management processes.

This seminar hosted by the National Policing Improvement Agency (NPIA) represents an excellent opportunity to engage with force colleagues and the national team to positively contribute to the development of work at a national level.

Each force is invited to send up to three representatives from a range of relevant areas, such as:

- Contact Management;
- Police Authority members;
- Crime Management;
- Neighbourhood Policing;
- Analysts; and
- Human Resources.

More information about the seminar and booking procedures can be found at http://www.npia.police.uk/en/9546.htm

Police Learning and Development Annual Conference: From Training to Learning

This year's Police Learning and Development Conference to be held on 25 November 2008 at Ryton is run by Professional Policing Services (G4S PPS Ltd) in partnership with the National Policing Improvement Agency.

The theme of this year's conference is 'From Training to Learning', providing a forum for delegates to explore and exchange views on the latest thinking on learning delivery and its impact on policing performance. It will present insights and experiences from within policing and other professional organisations, showcasing some of the best learning and development programmes from police forces in England and Wales.

The highlights of the conference will include:

- Expert speaker panel on 'Professionalising the Service';
- Interactive workshop where you can influence the priorities for the ACPO Learning and Development Group;
- National Police Training Awards presentation dinner; and
- Other networking opportunities.

More information about the conference, keynote speakers and booking procedures can be found at http://www.npia.police.uk/en/6971.htm

National Investigative Learning and Development Conference 2008

The conference is organised by the National Policing Improvement Agency on behalf of ACPO and the National Investigative Training Steering Group. It is to be held at Wyboston on 1-2 December 2008.

This year's conference seeks to inform delegates on the following themes:

- Investigative Learning: How does it impact on operational performance?
- Professionalising Investigation: The programme for the future;
- Tackling crime through training: Force case studies;
- Specialist or mainstream investigation? Integrating e-crime, financial investigations, intelligence, counter terrorism, forensics and proactivity into learning; and
- Professional support to the Senior Investigating Officer: Registration, CPD and specialist modules, a template for the future.

This conference is designed to promote and inform national learning and development programmes, ensuring that they fully support operational policing. It is aimed at all staff within investigative and intelligence training and operational communities.

More information about the conference and booking procedures can be found at http://www.npia.police.uk/en/10653.htm

National Occupational Standards for Managing Investigations and Roads Policing in Development

Skills for Justice are currently working with their partner organisations to develop the following National Occupational Standards (NOS) for Managing Investigations and Roads Policing.

With reference to the development of Managing Investigations work has been undertaken with the National Policing Improvement Agency (NPIA) to develop the following NOS:

- Supervising investigations and investigators;
- Implement strategies to manage investigations; and
- Develop and evaluate strategies to manage investigations.

Skills for Justice are also currently working with the NPIA and a number of Police Forces on the development of the following NOS for Roads Policing:

- Provide an initial response to road-related incidents;
- Provide a vehicle escort for the safe passage of other road users;
- Prepare and drive patrol and response vehicles;
- Deal safely and effectively with vehicles which fail to stop;
- Contribute to road safety;
- Stop and approach vehicles;
- Manage road checks; and
- Drive vehicles to protect people or goods at risk.

More information on the national occupational standards is available at http://www.skillsforjustice.com/template01.asp?PageID=461

Lords Decision to Block 42-day Detention Limit Leads to New Draft Counter-Terrorism Bill

The most controversial aspect of the Counter-Terrorism Bill is a provision to allow the pre-charge detention of terrorist suspects to be extended from 28 days to 42 days in certain circumstances.

Whilst the Government is keen to maintain the Bill's proposed detention limit, following the House of Lords decision on 13 October 2008 to vote against it, they have decided not to use the Parliament Act 1911 to force it onto the statute books. Instead a draft Counter-Terrorism (Temporary Provisions) Bill has been produced by the Home Secretary to enable the police and prosecutors to do their work in the event of a serious terrorist incident which threatens our current investigatory capabilities.

The Counter Terrorism (Temporary Provisions) Bill now stands ready to be introduced if and when the need arises. The provisions of this Bill would enable the Director of Public Prosecutions to apply to the courts to detain and question a terrorist suspect for up to a maximum of 42 days. Within the scope of this Bill terrorist detainees could only be detained where this is authorised by a judge. The Bill's powers would automatically expire after 60 days.

The draft Counter Terrorism (Temporary Provisions) Bill can be accessed at http://www.homeoffice.gov.uk/documents/draft-counter-terrorism.pdf?view=Binary

Practice Advice on Management and Use of Proceeds of Crime Legislation (2008)

The National Policing Improvement Agency (NPIA) in collaboration with the Association of Chief Police Officers (ACPO) has recently published 'Practice Advice for the Management and Use of Proceeds of Crime Legislation'.

The Practice Advice aims to assist senior managers to utilise the Proceeds of Crime Act 2002 more effectively into mainstream policing efforts rather than as a specialist field of work. The aim of the document is to provide an understanding of how financial investigation techniques can be applied to maximise opportunities successfully.

There is practical advice on the implementation of a local performance framework, and effective management information systems and processes which can lead to the following:

- Ensure the benefits of proceeds of crime legislation are integral to everyday crime investigation, in particular using the criminal property offences (money laundering);
- Embed the principle of asset recovery against all criminals, thereby removing the incentive of financial gain and reducing the effect of being perceived as a role model through accumulating wealth through criminal activity;

- Develop an understanding of the type and level of specialist resources required to operate effectively;
- Understand the processes involved and the required integration of specialist and non-specialist resources; and
- Provide examples of good practice from the BCU pilot sites as a result of using Practice Advice on Financial Investigation (2006).

The management and use of Proceeds of Crime Legislation features strongly in the new public service agreements (PSAs) and the Assessments of Policing and Community Safety (APACS) performance system. This legislation when used effectively provides the police service with substantial opportunities to make acquisitive criminal activity less attractive to the criminal fraternity and to remove negative role models from society.

The Practice Advice document can be accessed via the Genesis extranet.

PACE Review

The Home Office published the public consultation paper PACE Review: Government proposals in response to the Review of the Police and Criminal Evidence Act 1984, on 28 August 2008.

This is the final stage of the consultation process and sets out specific recommendations for change aimed at reducing bureaucracy, freeing up officer time, increasing accountability and raising public confidence and awareness. The Review also contains proposals around clarification of complex areas of PACE, e.g. bail and identification, which have been heavily amended over time.

This is an important opportunity to contribute to the proposals for change. Note that the ACPO PACE and Pre-Trial portfolio is responding to the consultation paper on the proposed changes, in particular those that impact on custody. Comments on the proposals relating to appropriate adults, short term holding facilities, post-charge questioning, the change in authority levels for granting extensions of detention and pre-charge bail are welcomed.

For Forces wishing to contribute to the ACPO response, they should send their input by email to Patricia Wooding (Patricia.wooding@thamesvalley.pnn.police.uk) who will be co-ordinating the responses on behalf of the ACPO portfolio holder. As the closing date for this stage of the consultation is 28 November 2008, responses should be provided for collation no later than 12 November 2008.

The Home Office PACE Review webpage can be found at http://police.homeoffice.gov.uk/operational-policing/powers-pace-codes/PACE-Review/

New Health and Safety Legislation Brings Tougher Penalties

The introduction of the Health and Safety Offences Act 2008 by the Government will increase penalties and provide courts with greater sentencing powers for those who commit offences under health and safety legislation.

The new Act raises the maximum penalties that can be imposed for breaching health and safety regulations in the lower courts from £5,000 to £20,000 and the range of offences for which an individual can be imprisoned has also been broadened.

This Act amends Section 33 of the Health and Safety at Work etc Act 1974. It received Royal Assent on 16 October 2008 and will come into force in three months time, in January 2009.

The full act can be accessed at
http://www.opsi.gov.uk/acts/acts2008/pdf/ukpga_20080020_en.pdf

Home Office Ministerial Changes

The Home Office have announced that it has changed its ministerial team in the recent Cabinet reshuffle. There are two new ministers joining the Home Office following the reshuffle with former ministers, Liam Byrne and Tony McNulty, moving to other government departments.

Vernon Coaker replaces Tony McNulty as Minister of State for Policing, Security and Crime and Phil Woolas becomes the new Minister of State for Borders and Immigration, replacing Liam Byrne. Alan Campbell is appointed as the new Parliamentary Under Secretary of State responsible for Crime, replacing Vernon Coaker.

The announcement can be read at
http://www.homeoffice.gov.uk/about-us/news/reshuffle-announced

Government Launches New UK Council for Child Internet Safety

The Government launched the new UK Council for Child Internet Safety (UKCCIS) on 29 September 2008 to oversee and co-ordinate the work of public and private sector organisations in delivering the recommendations from Dr Tanya Byron's report 'Safer Children in a Digital World' which was published in March 2008.

The Council will report directly to the Prime Minister by bringing together a wide range of subject matter experts to develop a Child Internet Safety Strategy. It is expected that their work will improve the regulation and education surrounding internet use, tackling problems such as online bullying, introducing safer search features, and the impact of violent video games. This strategy is due for launch by early next year.

The key features of the strategy will be to:

- Establish a comprehensive public information and awareness and child internet safety campaign across Government and industry including a 'one-stop shop' on child internet safety;
- Provide specific measures to support vulnerable children and young people, such as taking down illegal internet sites that promote harmful behaviour;
- Promote responsible advertising to children online; and
- Establish voluntary codes of practice for user-generated content sites, making such sites commit to take down inappropriate content within a given time.

More details regarding the strategy can be found at
http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2008_0215
and the full Byron report is to be found at
http://www.dcsf.gov.uk/byronreview/

Government Establishes the National Fraud Strategic Authority

The National Fraud Strategic Authority (NFSA), an agency of the Attorney-General's Office, was established on 1 October 2008. This new authority was created as part of the Government's response to the 2006 Fraud Review.

The NFSA will work with private, public and third sector organisations to initiate, co-ordinate and communicate counter-fraud activity across the economy.

The Government through the work of the NFSA intends to implement the Fraud Review's key recommendations to develop a strategic authority, a lead police force, a reporting centre and undertake consultation on a range of criminal justice reforms.

The authority's key priorities will include the delivery of:

- Tackling the key threats of fraud that pose greatest harm to the UK;
- Acting effectively to pursue fraudsters, hold them to account, and improve the support available to victims;
- Reducing the UK's exposure to fraud by building the nation's capability to prevent it;
- Targeting action against fraud more effectively by building, sharing and acting on knowledge; and
- Securing the international collaboration necessary to protect the UK from fraud.

There is much work underway in the establishment of not only the NFSA, but also the National Lead Police Force and National Fraud Reporting Centre.

This National Lead Police Force, operated by the City of London police will reinforce the policing response to fraud through the provision of essential counter-fraud specialist training, best practice and support to police forces in England and Wales thorough the recruitment of around 40 additional officers and specialists.

To inform the authority's assessment of the fraud threat will be a new National Fraud Reporting Centre (NFRC), which is planned to start operating in late 2009. This centre, also being developed and managed by the City of London police, will aim to address the under-reporting of fraud through the provision of a telephone and web-based reporting service, which will enable individuals and companies to share information on reports of fraud and receive advice and information to protect themselves from future attacks by fraudsters.

More information about the role of the NSFA can be found at http://www.leadingnfsa.co.uk/sections/about_the_org

Review of the Fraud Prosecution Service

A review of the Fraud Prosecution Service (FPS) by Her Majesty's Crown Prosecution Service Inspectorate's (HMCPSI) was published in October 2008. The purpose of the review was to provide a baseline of current performance for future inspection and to highlight any risks in the light of current and expected demands.

The review also assessed the capability of the FPS to foresee, analyse and meet any other challenges which may flow from changes in its operating environments, including volume or pattern of casework.

The FPS was established as part of CPS London in September 2006. However, FPS provides a national service in that it handles those cases not taken on by the Serious Fraud Office (SFO), which may originate from London or elsewhere and are unsuitable for handling within the Crown Prosecution Service (CPS) areas from which they emanate.

The FPS was founded in September 2006 to provide a specialist function on a national basis, and also to re-establish the role of the specialist fraud prosecutor in the context of clear and more effective management supervision structures.

The report identified a number of strengths and areas for improvement in respect of the service delivered by the FPS which included:

Strengths:

- The systems in place to provide early investigative advice are sound and the quality of the advice given to police investigators is consistently high;
- The quality and coverage of casework supervision by senior managers is very good;
- Senior managers are highly respected internally and externally and this has contributed to an improved reputation among other fraud and criminal justice agencies; and
- Managers are constructive and collaborative in their dealings with partner agencies.

Area for improvement:

- The FPS should introduce a uniform system for identifying case progression and witness issues;
- The FPS should ensure that systems for selection of counsel are robust and consistent; and
- The senior management team should engage with criminal justice partners with a view to implementing a more formal joint performance management regime that enables all agencies to learn from experience and continually improve performance.

The full report can be read at
http://www.hmcpsi.gov.uk/reports/FPS_thm_rpt_Oct2008.pdf

Ministry of Justice Circular 2008/04: Implementation of Part 2 of Serious Crime Act 2007

The purpose of this circular published on 29 September 2008 is to draw attention to arrangements for implementing Part 2 of the Serious Crime Act 2007. This covers section 44 to section 67 of the Act and associated Schedules. These provisions commenced on 1 October 2008. The circular provides an overview of the new offences.

Three new offences have been created by sections 44 to 46:

- Intentionally encouraging or assisting an offence (section 44);
- Encouraging or assisting an offence believing it will be committed (section 45); and
- Encouraging or assisting offences believing that one or more will be committed (section 46).

Sections 47 and 48 set out what is needed to prove the elements of an offence contained in sections 44 to 46. Supplemental provisions are contained in section 49. There is a reasonableness defence in section 50, while section 51 limits liability to exclude victims. Section 52 and Schedule 4 set out jurisdiction and procedure.

The requirement for consent to prosecution in certain circumstances is contained in section 53. Other procedural matters are covered in sections 54 to 57, relating to institution of proceedings, mode of trial, persons who may be perpetrators or encouragers, alternative verdicts and guilty pleas. Section 58 explains the penalties, which will apply. Sections 59 to 63 relate to consequential alterations to the law and sections 64 to 67 deal with interpretation.

A full copy of the circular can be found at
http://www.justice.gov.uk/docs/serious-crime-act-2007-implementation-part2.pdf

Government Consults on Safeguarding Vulnerable Adults

The Care Services Minister Phil Hope launched a consultation on 16 October 2008 seeking views on the action needed to improve the safeguarding policy in relation to the protection of vulnerable adults and to address abuse in all its forms in the care system.

The 'No Secrets' guidance for local authorities, the police and the NHS to work together to protect adults is already in place. The consultation aims to ensure that the policy keeps up with changes in the social care system, with the new emphasis on choice and control and changing forms of abuse.

The key issues for the consultation are:

- Whether there is now a need for legislation;
- The feasibility of a national database of recommendations from serious case reviews where abuse has occurred;
- What new measures are needed in the face of increased 'personalisation' of care with more people now being in charge of their own care instead of local authorities; and
- What new measures are needed in the face of changing forms of abuse, such as financial abuse.

The consultation on the review of 'No Secrets' will run from 14 October 2008 to 31 January 2009. Further information about the consultation can be found on the Department of Health website at http://www.dh.gov.uk/en/SocialCare/Socialcarereform/Safeguardinganddealingwithabuse/index.htm

£55m Overhaul of Disabled Parking to Crackdown on Blue Badge Abuse

The Department for Transport announced plans for a radical overhaul of the Blue Badge scheme. The Transport Minister Paul Clark stated that up to £55 million will be dedicated to ensuring that the disabled parking scheme meets the needs of the 21st Century.

For the first time Government is looking to give councils the power to confiscate stolen or forged Blue Badges immediately when they find them. This is to help reduce Blue Badge associated vehicle crime, as well as safeguarding key parking, close to vital services, for those who need it most.

A new system of assessing eligibility for the Blue Badge is also being developed, with dedicated independent medical assessors, who will ensure that only those who really need a Badge receive one. This system will help to standardise assessments throughout the country, and lighten the workload of GPs, who currently carry out individual assessments in many areas.

A number of initiatives to fight fraud and the abuse of the Blue Badge scheme have already been introduced including:

- Establishing a national system of data sharing (using up to £10 million of government funds) to identify Blue Badge cheats. This is to be complimented with new legal powers that will allow parking enforcement officers to seize lost, stolen and fraudulent Blue Badges;
- Upgrading the Badge security features, as such as barcodes that can be read through windscreens, to make the Badge harder to forge;
- Conducting a national publicity campaign to highlight the Blue Badge Reform Strategy. This will include messages about the impact that abuse has on disabled people; and

- Supporting the British Retail Consortium to reduce abuse in their members' off-street car parks, such as supermarket car parks.

For more information and full details of the Blue Badge Strategy can be found at http://www.dft.gov.uk/transportforyou/access/bluebadge/

Home Secretary Announces Extra £3m for Tackling Knife Crime

The Home Secretary announced on 20 October 2008 that extra funding of £3 million was to be made available to the ten police forces taking part in the Tackling Knives Action Programme (covered in October 2008 *NPIA Digest*).

The extra funding is targeted at rolling out the following activities:

- After-school patrols: a visible police presence on the routes to and from schools;
- Safer School Partnerships: a dedicated police officer allocated to a school or group of schools to promote safety and work with young people at risk of victimisation, offending, poor behaviour or attendance; and
- Operation Staysafe: police using safeguarding laws to remove young people at risk from the streets at night and take them to a place of safety.

The ten areas taking part in the Tackling Knives Action Programme are London, Essex, Lancashire, West Yorkshire, Merseyside, West Midlands, Greater Manchester, Nottinghamshire, South Wales and Thames Valley.

These initiatives specifically target schools to help them to remain safe for pupils, staff and visitors whilst preventing young people from being drawn into knife crime outside the school gate.

This funding is part of the Youth Crime Action Plan and full details can be found at
http://www.homeoffice.gov.uk/documents/youth-crime-action-plan/

Government Welcomes Contribution to Sentencing Debate

In response his to the Justice Select Committee report, 'Towards Effective Sentencing' the Justice Minister David Hanson stated on 22 October 2008 that sentences which both punished and rehabilitated have led to a dramatic fall in crime levels. The Minister welcomed the committee's call for a meaningful and informed debate on sentencing.

However on the subjects of indeterminate public protection sentences, Lord Carter's review of prisons, and short custodial sentences he challenged the committee's criticisms of the government's stance.

The Justice Select Committee report 'Towards Effective Sentencing' was published on 22 July 2008 and can be accessed at http://www.parliament.the-stationery-office.co.uk/pa/cm200708/cmselect/cmjust/184/18402.htm

The full report of the Government's response to the Justice Select Committee's report can be found at http://www.justice.gov.uk/docs/towards-effective-sentencing.pdf

Significant Increase in Use of Youth Custody

In their report 'Locking up or giving up - is custody for children always the right answer?' published by the children's charitable organisation Barnardo's, a claim is made that there has been a significant rise in the number of children receiving custodial sentences in England and Wales. This increase is despite the nature of offending by children and young people in England and Wales not changing significantly during the last decade.

The main device for effecting this change is legislative, particularly the introduction of the Detention and Training Order (DTO) in 2000 which appears to have made it easier for courts to sentence 10 to 14-year olds to custody, contributing to a more than fivefold increase in the number of children locked up.

The report examines the latest government data for England and Wales (1996-2006) to explore the changing use of custodial sentences for 10 to 14-year-olds. The following key points have been raised in the report:

- The use of custody for 10 to 14-year-olds has increased 550 per cent since 1996;
- Increasing numbers of 10 to 14-year-olds are being locked up for less serious offences, most noticeably for breach of community orders (e.g. failing to keep to weekly appointments with the youth offending team);
- There are clear trigger points in children's lives where effective, timely support could make a difference e.g. bereavement, running away from home, substance misuse, living in care and struggling at school;

- In spite of clear risks, the children spoken to had been isolated and excluded rather than supported at these early stages;
- Custody is an expensive option;
- Custody is an ineffective option with nearly 80 per cent of 10 to 14-year-olds re-offending within 12 months of release;
- Savings could be made if custodial sentences were reserved for 10 to 14-year-old children convicted of 'grave crimes' or violent offences; and
- Children who offend, or are at risk of offending, and their families respond well to effective early intervention work such as family therapy, restorative justice, and targeted support such as education, housing and mental health services.

The full report 'Locking up or giving up - is custody for children always the right answer?' can be found at http://www.barnardos.org.uk/locking_up_or_giving_up_final1_sept_08.pdf

Domestic Violence: Six New Special Courts Announced

The Ministry of Justice announced on 20 October 2008 that victims of domestic violence will receive extra help and support from six new Specialist Domestic Violence Courts (SDVCs). The new courts will be in Wales, the East Midlands, North East, North West and South East. They will add to the 98 SDVCs across England and Wales.

These innovative courts work by bringing together police, prosecutors, court staff, the probation service and specialist support services so that more offenders are brought to justice. The key features of SDVCs are:

- Trained and dedicated criminal justice staff with enhanced expertise in dealing with domestic violence, including magistrates specially trained in dealing with domestic violence cases;
- Cases clustered on a particular day to enable all agencies to focus their specialist resources; and
- Tailored support and advice from Independent Domestic Violence Advisors.

Further information about Specialist Domestic Violence Courts can be found at http://www.crimereduction.homeoffice.gov.uk/domesticviolence/domesticviolence59.htm

New £7m Specialist E-Crime Unit

The Minister of State for Policing, Security and Crime, Vernon Croaker, announced the establishment of a new £7m police unit dedicated to tackling cyber crime and clamping down on internet fraud. The new Police Central e-crime Unit (PCeU) will provide specialist officer training and co-ordinate cross-force initiatives to crack down on on-line offences.

It is recognised that e-crime is a growing problem with a global dimension, and with an estimated 80-90 percent of crime on the internet (excluding crime relating to children or images of child sexual abuse) believed to be fraud-related, the unit will focus on supporting the new National Fraud Reporting Centre (NFRC) when it comes into operation in 2009. The unit will also work closely with other law enforcement agencies to tackle international and serious organised crime groups operating on the internet.

The unit, although based in the Metropolitan Police Service, will be a national resource and will work with the National Fraud Reporting Centre and the National Fraud Intelligence Bureau to support the development of the police response to e-crime across the country. The PCeU will not overlap with existing organisations such as the Serious Organised Crime Agency's e-crime unit or with the Child Exploitation and Online Protection (CEOP) Centre, both of which have different and separate responsibilities, but the PCeU and these organisations will communicate regularly and will work together if required.

Further information about the Police Central e-crime Unit can be found at http://www.met.police.uk/pceu/index.htm

Home Secretary and Police Federation Announce Three Year Police Pay Deal

On 15 October 2008 the Home Secretary Jacqui Smith announced that a three-year pay deal for police officers has been agreed with staff associations. The agreement outlines the terms of a pay settlement for police officers over the next three years, worth 2.65% in 2008, 2.6% in 2009 and 2.55% in 2010.

It is hoped that this three year fixed rate pay deal will provide stability to the police service while also being affordable for the Government.

Following the pay agreement the Government also announced that it is to terminate the current consultation process for a police pay review body and has made a commitment not to take any legislative steps to introduce a police pay review body during the lifetime of this Parliament.

This full report can be read at
http://www.homeoffice.gov.uk/about-us/news/police-pay-deal

IPCC: Police Complaints Data Published

The Independent Police Complaints Commission (IPCC) has published its annual report on complaints against the police in England and Wales for the financial year 2007/08.

According to the report there were 28,963 complaint cases recorded by police forces across England and Wales in the year ending 31 March 2008. In total, 48,280 individual allegations were made against police. For the first time since the IPCC was set up in 2004, a majority of police forces (24 out of 43) saw decreases in the number of complaint cases they recorded.

One in eight police complaint cases involved an appeal to the IPCC. The IPCC completed 3,592 valid appeals during the year. Over 900 were against the non-recording of a complaint, over 400 were against the local resolution process and 2,260 were against the outcome of a police investigation. More than one in four appeals (28%) was upheld by the IPCC. One half of appeals against the police service's decision not to record a complaint were upheld. Three in 10 appeals related to the way local resolution was handled were upheld. Fewer appeals were upheld about the outcome of a completed police investigation (19%).

Six out of ten complaints alleged either neglect of duty (24%), rudeness and intolerance (22%) or common assault (14%). There was a rise of almost one quarter in the number of complaints about stop and search from 434 in 2006/7 to 536 in 2007/8.

Nearly 20,000 of the 45,524 completed allegations were resolved at a local level, without the need for a formal investigation. Despite official support for the quick and informal process, there appears to be a general downward trend in the proportions of allegations finalised this way.

The report also records details of the profile of complainants. According to the statistics, nearly two thirds of complainants were male and one third female. The largest numbers of complainants were aged 40 to 49 years (20%), followed by 30 to 39 years and 18 to 29 years (both at 19%). Nearly two thirds of complainants were White, six per cent Asian, seven per cent Black and three percent had another ethnicity. The ethnicity of more than one in five complainants was not recorded.

The largest proportion of complaints was about police officers at 92 per cent. The remaining eight per cent were about police staff, community support officers, contracted staff or special constables.

IPCC Chair Nick Hardwick said that it was unacceptable that nearly half of all complaints involved neglect or rudeness and this should be addressed by the police service.

Further details of the statistics can be found in the report Police Complaints: Statistics for England and Wales, 2007/08 at http://www.ipcc.gov.uk/index/resources/research/stats.htm

Learning Lessons: Suicide with a Licensed Firearm

The Learning the Lessons Committee is a multi-agency committee established to share and promote learning across the police service. Its members comprise; ACPO, APA, Home Office, IPCC, HMIC and the NPIA. The Committee produces regular bulletins with articles containing lessons to be learned from investigations.

This particular case involves a man who had previously suffered from depression being granted a firearms certificate by police. He later shot himself dead in the presence of police officers.

The circumstances of the case are that a man became depressed after the break-up of a relationship. He was prescribed anti-depressants but his doctor considered he had recovered two years later. He applied for a firearms certificate for the purposes of target shooting in a club and disclosed that he had had depression in the past, giving details of his doctor.

The force's Firearms Licensing Bureau asked the doctor to advise if the applicant had received, or was currently receiving, any treatment for alcohol abuse, depression or any other kind of mental or nervous disorder. The doctor asked for advance payment of a fee of £98.50 for providing a report.

The force took the view that the fee was too high and that the issue should instead be explored in an interview with the applicant. On the basis of the interview the certificate was granted. One evening, his ex-partner called to report an intruder. When the police arrived they found the man there. He picked up his rifle, which was leaning against the wall and shot himself dead.

The key lessons identified were as follows:

- For force firearms licensing policy to include procedures for assessing the applicant's medical disclosures;
- For Home Office Guidance to make clear the need to obtain a doctor's report when the applicant discloses a current or past mental or nervous disorder and to refuse an application when no medical information provided; and
- Guidance to provide for the applicant to pay the doctor's fee when the certificate is wanted for a hobby.

The full report of this incident can be found at http://www.learningthelessons.org.uk/bulletin42.8.pdf and the latest Learning the Lessons Bulletin October 2008 is available at http://www.learningthelessons.org.uk/learningthelessons_bulletin_oct08_v4.pdf

Police Community Support Officers' Powers to be Extended

On 16 October 2008, the Home Secretary, Jacqui Smith, delivered a speech at the UNISON police staff conference in Glasgow where she outlined plans to standardise the look of and increase the role of Police Community Support Officers (PCSOs). She stated that PCSOs should be given extended powers that would allow them to be able to detain suspects for the first time.

As part of a wide-ranging speech which included; the Policing Green Paper, public confidence, the Policing Pledge, workforce modernisation, she addressed new proposals for the role of PCSOs. She expressed her recognition of and support for PCSOs, not as replacements for police constables but in support of them. Rather than giving PCSOs the power to arrest, which must remain a power for constables alone, they would instead, provide a distinct and vital neighbourhood role delivering high visibility patrols, community engagement and problem solving.

The role of a PCSO would be given greater clarity in the following terms:

- All PCSOs must now be at least 18 years old;
- Standardisation of uniforms will enable the public to recognise a PCSO wherever they go;
- Powers would be the same for all PCSOs no matter where they are in the country; and
- Subject to the evaluation which has not yet concluded, powers would be expanded from the current list of standard powers to include others, such as detaining a suspect until a PC arrives, the ability to disperse troublemakers and to impose a fine for graffiti.

The Home Secretary indicated that these changes would help the public to easily recognise and understand the role of all PCSOs as a distinct and important part of the policing family.

PCSOs currently hold the following standardised powers:

- Issue fixed penalty notices for littering, breach of dog control orders and cycling on a footpath;
- Require name and address where they have reason to believe a person has committed a road traffic or antisocial behaviour offence or is in possession of illegal drugs;
- Confiscate alcohol from persons in designated places and from under-18s;
- Seize tobacco from under-16s;
- Seize drugs;
- Enter and search premises to save life or prevent serious damage to property;

- Seize vehicles used to cause alarm. Remove abandoned vehicles;
- Stop bicycles;
- Control and divert traffic;
- Stop vehicles and carry out road checks;
- Place traffic signs;
- Enforce cordoned areas under the Terrorism Act 2000;
- Photograph people away from a police station; and
- Stop and search in an authorised area under the Terrorism Act 2000.

The Home Secretary's speech to the UNISON Police Staff Conference is available in full at
http://press.homeoffice.gov.uk/Speeches/HS-speech-at-unison-police-conf

National DNA Database Annual Report 2006-07 Issued

The National DNA Database (NDNAD) Annual Report 2006-07 has been released, highlighting the importance of the NDNAD as a valuable intelligence tool for the police service and providing data on the use of the NDNAD over the past year.

The perspectives of the NPIA, the National DNA Operations Group, the Custodian of the NDNAD, the Human Genetics Commission are given in relation to the NDNAD, and information is given on the Scottish DNA Database, including details of the profiles exported for inclusion in the NDNAD.

The report states that in 2006-07, there were 41,717 crimes with DNA matches, 19,949 crimes detected in which a DNA match was available and 21,199 'indirect detections' arising from the DNA match (crimes which are detected as a result of further investigation into the original offence).

The report demonstrates the impact that the NDNAD has had on detection rates in 2006-07. It highlights that the overall rate of detection in 2006-07 was 26%, but where DNA was recovered from a crime scene and added to the NDNAD the detection rate rose to 43%. The figures for volume crime detection rates show the following increases:

- Domestic burglary overall detection rate of 17%, rising to 39% where DNA was retrieved from the scene; and
- Theft from motor vehicles overall detection rate of 9%, rising to 60% where DNA was retrieved.

The use of the NDNAD in the elimination of suspects is also highlighted in the report. Since 1995, over 94,000 persons have been asked by police and have volunteered to give a DNA sample for the purposes of investigations into serious crime. Of these, over 92,500 were eliminated from the investigations as their DNA did not match the DNA left by the offender at the scene.

Since 1995, 4,543,944 subject sample profiles have been loaded onto the NDNAD. During 2006-07, the number of profiles added was 722,464, an increase of 1% on 2005-06.

The number of crime scene samples loaded onto the NDNAD since 1995 was 427,437. During 2006-07, the number of profiles added was 55.217, a decrease of 20% on 2005-06. The report notes that this decrease partly reflects the fall in volume crime over the same period.

As at 31 March 2007, the number of subject sample profiles retained on the NDNAD was 4,428,376, of which 4,353,003 were criminal justice samples taken under the Police and Criminal Evidence Act 1984. 22,440 of the samples relate to volunteer profiles which, since 2001, can be added to the NDNAD provided the person provides separate written consent for this, which cannot be withdrawn.

The report states that it is estimated that 13.7% of the subject sample profiles held on the NDNAD are replicates, and that the number of different individuals represented on the NDNAD at 31 March 2007 was approximately 3,874,500. On 31 March 2007, 285,848 crime scene sample profiles were retained on the NDNAD.

Between 1 January 1995 and 31 March 2007, it is estimated that the number of subject sample records removed from the NDNAD at the request of the police was approximately 368,000. In 2006-07, 23,927 profiles were removed, of which 23,439 related to Scottish samples. Since 1995, 154,769 crime scene sample profiles were removed, of which 33,212 were removed in 2006-07.

The report analyses the retained samples, and breaks down the subject samples retained by gender, country of origin, age and ethnic appearance. The crime scene sample profiles are also analysed, by types of serious crime, types of volume crime and by country of origin.

The number of matches made is shown in the report. Since May 2001, 226,288 crime scene sample profiles were involved in 205,122 match groups linking crime scene and subject samples. Of these, 164,438 reported a match to a single suspect. In 2006-07, 44,224 crime scene samples were matched with one or more subject sample profiles, a decrease of 10.2% on the previous year due to fewer new records being loaded onto the NDNAD within that period.

During 2006-07, 6,430 new volunteer records were loaded onto the NDNAD, producing 293 immediate matches with crime scene sample profiles. 148 of these were from undetected crime scenes and 145 related to scenes that had previously been connected to another sample. Since May 2001, 20,640 crime scenes were linked to other crime scenes as a result of a new crime scene sample being added to the NDNAD, 3,351 of these were as a result of new records added in 2006-07.

The Report also details the work of the Standards, Systems and Assurance Team, which advises the NDNAD Custodian on scientific standards, data integrity, security and performance issues related to the police, forensic science laboratories and the NDNAD operational activities. Also detailed is

the work of the Custodian Accreditation Service, which scrutinises supplier organisations carrying out DNA analyses of samples submitted by Police Forces.

The report is split into four parts and can be found on the NPIA website at http://www.npia.police.uk/en/11403.htm

Consultation on Proposed Code of Practice on Collection of Missing Persons Data

The National Policing Improvement Agency (NPIA) has been commissioned by Home Office Ministers, in accordance with section 39 and 39A of the Police Act 1996 (as inserted by section 2 of the Police Reform Act 2002) to develop a code of practice in respect of the collection of data on missing persons. This is in response to the expressions of concern about the lack of information with respect to the nature and scale of the issue of missing persons nationally.

NPIA wish to consult with all police officers on their proposed code of practice. A draft code of practice and associated additional data requirements (Annexes A and B) have been developed for use in this consultation. They were issued on 26 September 2008 for consultation and comments are invited by no later than Friday 21 November 2008.

For full details of the background and requirements of the code of practice can be found at http://police.homeoffice.gov.uk/police-reform/

MAPPA Monitors Record Number of Offenders

A written ministerial statement published on 20 October 2008 introduced the Multi-Agency Public Protection Arrangement (MAPPA) Annual Report 2008, its seventh since the implementation of MAPPA in 2001.

The report released by the Ministry of Justice shows that the number of registered sex offenders rose by 3% to more than 31,300 last year. The total number of criminals being supervised by police and the probation service under MAPPA in England and Wales rose by more than 3% to 50,210. There was also an increase of 9%, to more than 16,000, in the number of violent offenders and sex offenders who were not required to sign the register.

The Criminal Justice and Court Services Act (2000) established the MAPPA and placed them on a statutory basis. The Criminal Justice Act (2003) re-enacted and strengthened those provisions. The legislation requires that the Police, Prison and Probation Services (acting jointly as the 'Responsible Authority') in each of the 42 areas of England and Wales:

- To establish arrangements for assessing and managing the risks posed by sexual and violent offenders;
- To review and monitor the arrangements;

- As part of the reviewing and monitoring arrangements, to prepare and publish an annual report on their operation.

The full annual MAPPA report can be read at
http://www.probation.justice.gov.uk/output/Page429.asp

ACPO Launch National Guidance on Independent Advisory Groups

ACPO and the Association of Police Authorities (APA) launched the first national guidance to police forces on engaging with community perspectives on policing through Independent Advisory Groups (IAGs) on 14 October 2008.

The concept of Independent Advisory Groups (IAGs) were introduced as a result of the Macpherson Report following the Stephen Lawrence enquiry. Their role has evolved significantly since that time and they now play an important part in ensuring that the police service effectively involves and considers the views of all communities in local policing.

Independent Advisors can be called upon to give guidance in the event of:

- Any internal or external critical incident or emerging problem; or
- In the development of policy and business plans within a Police Force area.

Their terms of reference are to act as 'critical friends' who volunteer their time to help inform and improve the police service.

David Millar, key advisor with Lincolnshire IAG and a member of the IAG National working party which produced the guidance, said "I welcome the national guidance, recognising that a Citizen Focus in policing must include all citizens from every minority community, both rural and urban. When I see Police listening to Independent Advice, I also see community confidence increasing and a fear of crime decreasing. My aim is to be within a society that is more at ease with itself and its police service."

The Guidance on Independent Advisory Groups can be obtained by contacting the ACPO Programme Support team on 020 7084 8959 and the press release can be read at
http://www.acpo.police.uk/pressrelease.asp?PR_GUID=%7B703397F7-4F52-4B04-9909-1D239DDE2D85%7D

Roll-out of Remote Fingerprint Transmissions

In 2004 Lincolnshire Police developed a state-of-the-art system which enabled fingerprint lifts, taken at crime scenes to be scanned immediately and sent via a secure electronic network to the force's Fingerprint Bureau. This reduced dramatically the time required to complete the process leading to earlier identification of fingerprints leading to more timely arrests.

Following rigorous testing of the process with the Home Office Scientific Development Branch (HOSDB) in order to gain their approval the National Police Improvement Agency (NPIA) initiated a project to roll it out to all forces with the support of Lincolnshire Police. By March 2009, all forces should be using this technology.

This enhanced fingerprint process is increasingly helping investigators to make a positive impact in their quest to solve major and volume crime and bring greater numbers of offenders to justice.

Further information about this process can be found at http://www.lincs.police.uk/index.asp?locID=44&docID=1885

Crime in England and Wales 2007/08

The Home Office released the latest crime statistics for England and Wales for 2007/08 on 23 October 2008. These crime statistics are produced by the Government Statistical Service under the National Statistics Code of Practice. The results from the British Crime Survey (BCS) and the crimes recorded by the police which together provide a more comprehensive picture of crime than could be obtained from either source alone.

The annual crime statistics provide information on the levels of crime in England and Wales and are used to help develop policy, for example by highlighting groups that are most at risk of certain crimes. They also provide trends in crime, measures for Home Office targets, and information to inform public debate about crime.

Although the BCS and police recorded crime differ in their coverage of crime, both indicate that overall crime has fallen in the last year. All BCS crime has fallen by 10% and police recorded crime by 9% compared with 2006/07; and most crime types have shown decreases as in the table below:

BCS Crime	**Police Recorded Crime**
All BCS crime down 10% to 10.1 million crimes	All police recorded crime down 9% to almost 5.0 million crimes
Violent crime down 12%	Violence against the person down 8%
Domestic burglary - stable	Most serious violence against the person down 12%
Vehicle-related theft down 11%	Sexual offences down 7%
Personal theft - stable	Robbery down 16%
Other household theft down 12%	Domestic burglary down 4%
Vandalism down 10%	Offences against vehicles down 14%
Risk of being a victim of crime down from 24% to 22%	Criminal damage down 13%
	Drugs offences up 18%

A summary of the report 'Crime in England and Wales 2007/08' can be accessed at
http://www.homeoffice.gov.uk/rds/pdfs08/hosb0708summ.pdf
and the full reports can be found at
http://www.homeoffice.gov.uk/rds/crimeew0708.html

Racially Aggravated Offences (Records)

On 29 September 2008 the Minister of State for Policing, Security and Crime Vernon Croaker was asked in the House of Commons how many racially-motivated crimes were recorded in each police force area in each of the last five years.

His reply provided statistics relating to racially or religiously aggravated offences recorded by the police. The figures produced were the total of racially or religiously aggravated offences recorded by the police in England and Wales for the years 2003-04 to 2007-08. Over the whole 5 year period the figures for the total number of racially or religiously aggravated offences fluctuated but in relation to the total number of offences there was an increase of almost 4000.

The statistics for the years 2003-04 to 2007-08 in respect of each police force are detailed and can be found at http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080421/text/80421w0043.htm

Domestic Violence Data Published

The Government Equalities Office published a factsheet outlining the key facts regarding domestic violence in the UK today. The stark reality is that:

- One in four women will experience domestic violence in their lifetime;
- 85% of victims of domestic violence are women;
- Women are the victims in 4 out of 5 domestic homicides;
- On average more than one woman is killed every week by a current or former male partner;
- One domestic violence incident is reported to the police every minute; and
- The total cost of domestic violence to services amounts to £3.1 billion and the cost to the economy is £2.7 billion.

More information about domestic violence can be found at http://www.equalities.gov.uk/domestic_violence/index.htm and the Domestic Violence factsheet can be accessed at http://www.equalities.gov.uk/publications/7825-TSO-Domestic_Violence_FACTSHEET.pdf

New Funding to Increase Access to Sexual Assault Referral Centres

It has been announced by the Home Secretary, Jacqui Smith, that an extra £1.6 million will be made available to ensure that every person in the country has access to a Sexual Assault Referral Centre (SARC). SARCs provide victims of sexual assault with immediate medical help, counselling, forensic examinations and give the opportunity to give evidence anonymously on one site. Research has shown that SARCs are an effective tool in meeting the needs of victims and in helping the police build better cases against perpetrators, and have been highlighted as best practice in a number of reports.

The funding will be used towards building ten new SARCs. Preference will be given to bids from local areas with the greatest need for additional services. Ten grants of £75,000 are available to areas wanting to set up a new SARC. Ten grants of £25,000 capital funding and twenty grants of £30,000 are available for existing SARCs to bid for. The existing SARCs can bid for funding for 2008/9 and 2009/10. The deadline for this is 7 November 2008, however there will be an additional opportunity to bid for 2009/10 funding in April 2009, which will also be £1.6 million for the financial year.

£100,000 has also been announced to create a team of experts including representatives from the police, the Crown Prosecution Service, the Forensic Science Service and an experienced SARC manager. This team will target areas without a SARC and increase victim's access to these facilities.

There are currently 22 SARCs in England and Wales. This funding is part of the Government's commitment in the Tackling Violence Action Plan set out in February 2008 to increase the number of SARCs to 38 by 2011.

Further information can be accessed at
http://press.homeoffice.gov.uk/press-releases/more-funding-for-sarcs

Cannabis Co-ordinator Spearheads the Drive to Cut Cannabis Cultivation

The Home Office and Association of Chief Police Officers (ACPO) announced on 26 September 2008 that former Chief Superintendent Mark Matthews was to be appointed as the new Cannabis Co-ordinator.

His role is to be responsible for the detection and disruption of organised criminals who supply cannabis. This is an innovative role which is designed to facilitate the sharing intelligence and good practice among law enforcement agencies in a determined bid to ensure that the UK is a hostile environment for criminals who seek to profit from cannabis cultivation. The appointment comes at a time when there are concerns of the prevalence and strength of more harmful forms of cannabis, i.e. skunk, along with trends towards cannabis production linked to organised criminal gangs.

Mr Matthews will be based in Merseyside, although he has a national remit. The terms of reference for his role are to:

- Identify patterns in cannabis cultivation and co-ordinate cross border investigations by working with police units across the country to detect developing trends such as gangs growing cannabis in rented accommodation;
- Liaise with law enforcement agencies to help share good practice in detecting cannabis farms, such as using infrared equipment that could detect where cannabis is being grown; and
- Clarify the scale of the problem by researching cannabis cultivation trends across England and Wales.

The announcement can be read in full at http://drugs.homeoffice.gov.uk/news-events/latest-news/cannabis-coordinator-appointed

Tougher Action on Cannabis

The Home Secretary has announced that repeat cannabis offenders will face tougher penalties in the future. Those caught carrying cannabis for a second time could face an on-the-spot fine of £80 instead of a warning.

The announcement coincided with the laying of a Parliamentary Order to reclassify the drug to Class B. Once the Order has been approved by Parliament, cannabis will become a Class B drug under the Misuse of Drugs Act 1971 with effect from 26 January 2009.

The Government's decision to reclassify cannabis to Class B, announced in May 2008, (see June 2008 *NPIA Digest*) means that a change in the current enforcement regime is also required. Cannabis warnings were introduced specifically for the purposes of being consistent with the reclassification of cannabis to a Class C drug in 2004. Under current Association of Chief Police Officers (ACPO) guidelines, a person can receive a second warning without any further escalation of penalties.

ACPO have put forward proposals for a strengthened enforcement approach which have been accepted by the Government, subject to consultation on Penalty Notices for Disorder (PND). The proposed escalation of penalties for simple possession by an adult offender is:

- One cannabis warning for a first offence;
- One PND for a second offence;
- Arrest for a third offence, then to be considered for further action (including release without charge, caution, conditional caution or prosecution); and
- All subsequent offences likely to result in arrest.

It is likely that the current procedure for under-18s caught in possession, i.e. using a reprimand, final warning and charge will remain unchanged as it provides an appropriate escalation mechanism.

The proposed escalation response does not preclude officers from immediately effecting arrest, for instance where there are aggravating factors present. It will not apply where there is any evidence of dealing or possession with intent to supply to others.

The Home Secretary said that the proposed new escalation of penalties will ensure that the police and courts have a range of sanctions at their disposal so that the punishment is proportionate to the offence. Both reclassification and escalation for repeat offenders will reinforce the message that cannabis is illegal.

The Association of Chief Police Officers' Lead on Drugs, Tim Hollis, said that where cannabis use is repeated or where there are aggravating circumstances locally, officers will take a harder line on enforcement.

Children and Families Minister, Delyth Morgan, said that the reclassification would help to get the message across that cannabis is not a harmless drug, and that there are real concerns about how it will impact on the future of young people who use it.

Reclassification of cannabis to a Class B drug will have a number of consequences in terms of maximum penalties. For possession of cannabis as a Class B drug, the maximum penalty on indictment increases from two to five years' imprisonment.

On summary conviction, in respect of which the majority of possession cases are dealt with, the maximum imprisonment penalty remains the same at three months, although the maximum fine that the Magistrates' Court can impose increases from £1,000 to £2,500.

For the supply and production offences for cannabis, the maximum penalties on summary conviction increase to six months' imprisonment and/or a £5,000 fine (from three months and/or a £2,500 fine respectively). The penalties for other offences relating to cannabis are unaffected, including the maximum penalty on indictment for supplying or producing cannabis of 14 years' imprisonment and/or an unlimited fine.

The Government has also published its response to recommendations made by the Advisory Council on the Misuse of Drugs (ACMD) in the report Cannabis: Classification and Public. The Government accepted 20 of the 21 recommendations from the ACMD report and in so doing has committed to taking forward work across a range of government departments. The Government rejected the recommendation of the ACMD to keep Cannabis in Class C.

Full details of the Government's response to the ACMD report can be found at http://drugs.homeoffice.gov.uk/publication-search/cannabis/acmd-cannabisreclassification?view=Binary

Launch of ACPO 'Honour-Based' Violence Strategy

The Association of Chief Police Officers (ACPO) published its first strategy for 'honour-based' violence (HBV) across England, Wales and Northern Ireland on 22 October 2008 which sets out a commitment to ensure the safety of victims and potential victims and bring perpetrators to justice.

This document aims to assist forces in the identification of potential victims and ensure that all steps are taken to protect them. Honour crimes are described as attacks or killings where the perpetrator's motive is to protect what they consider to be a family, clan or community's honour. There are about twelve suspected honour killings per year investigated by the police. Each police force is encouraged to take every opportunity to persuade and support religious and community leaders to speak out against such crimes.

Linked to suspected honour killings, are on average 500 reports a year from people who fear being forced into marriage or people who are in a forced marriage and have been threatened or abused asking the Police to investigate the circumstances.

The publication of this strategy document by ACPO precedes the introduction of new powers to use court orders to protect people from forced marriages. The Forced Marriage (Civil Protection) Act 2007 is due to come into force on 25 November 2008 (which is White Ribbon Day, when people will be encouraged to wear a white ribbon to show that they do not condone violence towards women). The Act will insert a new part 4A into the Family Law Act (FLA) 1996 to create a Forced Marriage Protection Order.

There are 19 recommendations made in this document, which includes; that under no circumstances should honour-crime victims be turned away and told that HBV is not the police's problem.

The police are to provide potential victims with witness protection because of the dangers they face, even if they are not prepared to make a statement against the people thought to be threatening their safety. Furthermore, the law has been drawn up to allow third parties to intervene where the victim is too scared to act or contact the authorities.

The ACPO press release on HBV can be accessed at http://www.acpo.police.uk/pressrelease.asp?PR_GUID={3D5B8666-B246-4AA7-8AE6-031409519CC8}

First Deployment of New Powers by Serious Fraud Office

The Serious Fraud Office (SFO) has, for the first time, used its new powers made available to it in April 2008, including the power of civil recovery under the Proceeds of Crime Act 2002 against a major plc.

Having itself brought matters of inaccurate accounting records within a subsidiary to the attention of the SFO, the plc agreed in a Consent Order to a settlement payment of £2.25 million, together with a contribution towards the costs of the Civil Recovery Order proceedings.

The powers available to the SFO include civil recovery powers, whereby property obtained by unlawful conduct can be recovered, without the need for a specific offence to be established against a particular company or individual. The powers were made available to the SFO in April 2008 by Statutory Instrument 755/2008, which effected provisions in the Serious Crime Act 2007 making the Director of the SFO an 'enforcement authority' for the purposes of the Proceeds of Crime Act 2002. Further details of the Statutory Instrument can be found in the May 2008 *NPIA Digest*, at page 63.

The full press release can be accessed at
http://www.sfo.gov.uk/news/prout/pr_582.asp?id=582

Partners Against Crime

A report 'Partners against crime: Councils working to make places safe and secure' has been published to coincide with the Local Government Association's Community Safety Conference which took place in Nottingham on 14-15 October 2008.

The LGA report was researched and written in partnership with the Rainer Crime Concern and outlines a series of eight case studies providing a snapshot of the range and extent of the contribution made by local authorities to community safety. The report also highlights the value of prevention and early intervention and provides examples of local authorities working in partnership with community safety partners to reduce crime and the fear of crime.

The report 'Partners against crime: Councils working to make places safe and secure' can be accessed at http://www.lga.gov.uk/lga/aio/1105690

Neighbourhood Policing Teams Working with Students to Cut Campus Crime

A new neighbourhood policing initiative aimed at providing reassurance for all students arriving to begin their university careers began at the start of this new academic year. Each university student will now have access to a local neighbourhood policing team that covers their campus and halls of residences from day one.

This nationwide initiative will enable better collaboration for neighbourhood policing teams working with students to prevent campus crime. This action is in line with the drive since March 2008 to ensure that there is neighbourhood policing covering every community in England and Wales.

The full article can be read at
https://nds.coi.gov.uk/imagelibrary/detail.asp?MediaDetailsID=253533

Merseyside Police Achieve Carbon Trust Standard

A recognition of their work to implement a series of initiatives and schemes has resulted in Merseyside Police becoming the first police force in the country to achieve the new Carbon Trust Standard. This is a new national standard that formally recognises that the force have taken positive steps to reduce their carbon footprint.

The certificate was presented to the force during the recent Carbon Trust Conference. The force's activities to achieve this standard follow their development of a force wide energy awareness scheme called Energy Champions. In support of this campaign the force has 130 members of staff trained in energy awareness to put into place the principles of good housekeeping. For example, ensuring simple things like switching off lights and taps after use.

Further information is available at
http://www.merseyside.police.uk/Images/video/transcripts/Chief%27s%20News%20Transcript%2026.09.08.pdf

Gloucestershire Constabulary's New HQ Wins Sustainability Award

The building of Gloucestershire Constabulary's new headquarters has attracted acclaim for its advanced energy saving design winning both the Low Carbon Technology Award and being highly commended in the Sustainability category. The environmental benefits of the building's design provide extra funding for policing resulting from lower energy costs.

The forthcoming Building Services Conference at Sadler's Wells on 26-27 November 2008 will showcase this building as a case study.

Preventing Violent Extremism: Toolkit for Schools

The Department for Children, Schools and Families published on 8 October 2008 a toolkit for use in schools called 'Learning together to be safe: a toolkit to help schools contribute to the prevention of violent extremism'. This toolkit is part of the Government's Children's Plan which sets out the importance of building cohesive and resilient communities and tackling the specific threat the UK currently faces from extremist groups prepared to use violence to achieve their aims.

The Government's "Prevent" strategy recognises the importance of working with children and young people to build resilience to violent extremism and to protect those who are vulnerable. This toolkit provides practical advice for use in schools following discussions with young people, teachers, police, community representatives, and local authorities across the country.

The toolkit is aimed at schools leaders for use in staff training, reviewing school practice and developing partnership working. It is for all schools,

primary and secondary, across England. The Department for Innovation, Universities and Skills will be distributing a version adapted for further education colleges shortly.

The toolkit gives background information on the threat from violent extremist groups of various kinds and on what might make young people vulnerable, and practical advice for building resilience and managing risks. Each school community will face their own issues and should actively seek a local partnership approach to be tailored to meet local challenges.

The toolkit can be downloaded at http://www.dcsf.gov.uk/publications/violentextremism/toolkitforschools/index.shtml

Police Board Game Helps Youngsters Stay Safe

The development of a board game called 'What Would You Do?' by Warwickshire Police Community Support Officers has proved to be a great success receiving positive feedback as best practice in helping to educate youngsters in how to stay safe. The game has targeted children at Key Stage 1 and 2 and has received official endorsements from Warwickshire Fire and Rescue Service and Warwickshire County Council. It has now been rolled out to all primary schools across the county via their Safer Neighbourhood policing teams.

The game raises awareness of a wide variety of safety issues from strangers to fires, road safety to railways, canals and rivers. The children are also encouraged to reflect on the risks and dangers involved in a number of scenarios, and in each case to ask each other 'What would you do?'

The game supports the principles of helping children to 'Stay Safe' and also links in with other areas of the Every Child Matters agenda. This has the potential to be adopted as best practice nationally, and has already seen countywide endorsements from their partner agencies in promoting the Stay Safe message.

For further details of the board game and how it can help protect children from harm and 'Stay Safe', please contact Sergeant Rob Gainer on 01788 853814 or email robert.gainer@warwickshire.pnn.police.uk or Pete Nash on pete.nash@warwickshire.pnn.police.uk

Advice for Families, Friends and Survivors Coping with the Aftermath of a Major Incident

Aftercare advice offering support and information for families, friends and survivors about how to cope in the aftermath of a disaster or critical incident has been published by the Department for Culture, Media and Sport on the Directgov website.

The support and information has been developed by the Department for Culture, Media and Sport's Humanitarian Assistance Unit; the pages are designed to provide the information that people are most likely to need in the medium to longer term following a major incident. This provision and support will help to sustain families, friends and survivors whilst enabling police to put into action their exit strategy.

The pages will act as a gateway to provide practical information on a range of issues such as emotional and financial support, and will link to relevant sites and provide clear information about where to seek further help.

Further information can be found at
http://www.direct.gov.uk/en/Governmentcitizensandrights/Supportaftera majorincident/index.htm

UK Drug Classification System

A leading independent think tank has recommended that the UK Drug Classification system be reviewed in their report 'The UK Drug Classification System: issues and challenges' published in September 2008. The recommendations were made by the UK Drugs Policy Commission (UKPDC) as part of its response to the Advisory Council on the Misuse of Drugs (ACMD) in relation to its proposed review of the classification of ecstasy.

The UKDPC report identified a number of influential independent reviews and reports that have highlighted the need to re-examine the current classification system. These include reports from the Police Foundation in 2000, the Commons Home Affairs Committee in 2002, the Commons Science and Technology Committee in 2006, and the Academy of Medical Sciences in 2008.

The UKDPC highlights three fundamental problems with the current system which it states should be clarified and considered:

- The purpose and impact of the classification system;
- How decisions about drug classifications are made; and
- Increased politicisation of drug classification.

The Home Office's independent Advisory Council on the Misuse of Drugs will be considering whether to downgrade ecstasy from Class A. The ACMD council, which is made up of 21 academics and drugs experts, provides advice to Government on illegal drug use. The Home Secretary has previously ignored the Council's recommendation that cannabis should

remain a Class C drug and decided to reclassify the drug to Class B on health grounds.

Roger Howard, Chief Executive of UKDPC, said that the purpose and operation of the drug classification system had become increasingly confused amongst politicians and the public in recent years. He said the time had come for an independent wholesale review of the system. This was required to clarify how a scientific rating of drug harms should be used for drug classifications and for wider applications such as setting policing priorities or public health messages.

Members of the UKDPC include the chairman Dame Ruth Runciman, a former council member who chaired a Police Foundation inquiry which argued for ecstasy to be moved to Class B seven years ago, Professor Colin Blakemore, the former Chief Executive of the Medical Research Council and David Blakey, a former Chief Constable and HM inspector of Constabulary.

For further information and full details of the written evidence of UKDPC to the ACMD can be found in the report 'The UK Drug Classification System: issues and challenges' at http://www.ukdpc.org.uk/resources/ACMD_Ecstasy_Submission_September_2008.pdf

Kerb Crawlers Offered New Rehabilitation Course

A new initiative has developed by Leicestershire Constabulary for men who have been arrested for kerb crawling in Leicester involving the option to attend a rehabilitation course. The course aims to prevent re-offending by raising awareness of the realities of prostitution and the affect kerb crawling has on communities.

The course is a collaborative project run by Leicestershire Constabulary in partnership with New Futures, a Leicester-based project which supports women involved in prostitution. Under the new scheme, men who are arrested on suspicion of kerb crawling for the first time will have the option to accept a conditional caution rather than go to court.

The conditions of the rehabilitation course are that they:

- Pay £200 to attend a one-day rehabilitation course;
- Agree not to visit specified areas associated with prostitution for six months; and
- Course must be attended within three months.

The funds raised by this course are used by the New Futures Project to support women involved in street prostitution to change their lifestyle.

Further information about this scheme can be accessed at http://www.leics.police.uk/news/2320_rehabilitation_course_for_men_arrested_for/

New One-Stop Shop for Community Cohesion Launched

A new interactive website, developed by the Institute of Community Cohesion (ICoCo) and supported by the Department for Communities and Local Government, was launched on 16 October 2008 and brings together in one place a range of practical advice and support on how to promote community cohesion and integration drawing on good practice case studies from across the country. This dedicated website provides expert help and guidance on creating strong, cohesive communities.

The website is aimed at practitioners, policy-makers and other organisations from a whole range of sectors and will provide a continuously updated bank of cohesion resources, including toolkits, links and briefings on key issues.

Further information can be accessed at http://www.cohesioninstitute.org.uk/

Projects to Support Young Crime Victims

The Justice Secretary and Home Secretary announced on 22 October 2008 that five areas had been awarded a share of nearly half a million pounds to create the next generation of support services for young victims of crime as part of Inside Justice Week.

The new pilot schemes will be located in Derby, Lambeth, Norfolk, Lewisham and Oxfordshire will start by the end of November and run for six months. The pilot schemes include the following key elements:

- Delivery of workshops in and out of school to give young people information on how to keep themselves safe;
- Run drop-in sessions in schools that young people can go to for support;
- Develop peer support networks in schools to encourage reporting and provide restorative solutions;
- Enable anonymous reporting though school intranet portals;
- Run a campaign to inform young people about special measures at court to encourage them to come forward as witnesses;
- Film a talking heads DVD to show other young victims that they are not alone;
- Provide one to one support for young victims who need it;
- Deliver training by young people for police on how better to work with young people; and
- Deliver sports sessions to boost self esteem to help make them resilient to victimisation and offending.

This initiative aims to improve support for young victims using a 'triple track' approach of enforcement and punishment where behaviour is unacceptable, non-negotiable support and challenge where it is most needed, and better and earlier prevention.

It is hoped that over the next six months the five areas will utilise new approaches to strengthening links between the police, the courts, schools and the voluntary sector. They will aim to make the criminal justice system less intimidating for youngsters to encourage greater reporting, less offending, with more support services and better identification of individuals at risk.

Following the conclusion of the pilot schemes each area is to produce a pledge stating how they will support young people at each stage of victimisation:

- From preventing victimisation in the first place;
- Encouraging reporting to assessing victims' needs; and
- Providing appropriate support.

The pledges determined by these pilot schemes will guide other areas across the country as they roll out similar services.

The full news release can be accessed at http://nds.coi.gov.uk/environment/fullDetail.asp?ReleaseID=381984&NewsAreaID=2&NavigatedFromDepartment=True

Rules for Mandatory Polygraph Tests for Sex Offenders

The National Offender Management Service is proposing to operate a three-year pilot of mandatory polygraph tests. The pilot, due to begin in April 2009, will determine if the polygraph can help in the management of sex offenders. The results of the pilot will be evaluated before a decision is made by Parliament as to the future of polygraph testing for sex offenders on a national basis.

A polygraph is a device that measures changes in breathing, heart activity and sweating, all of which are believed to be related to deception. Evidence from the polygraph would be used to help assess if an offender presents a risk to the public.

Sections 28 to 30 of the Offender Management Act 2007 enable the Secretary of State to insert a Polygraph condition in the licence of certain sexual offenders who are being released from prison. The Act also makes provision for the Secretary of State to set rules regarding the conduct of polygraph sessions. The rules may, in particular:

- Require polygraph operators to be persons who satisfy requirements as to qualifications, experience and other matters specified in the rules;
- Make provision about the keeping of records of polygraph sessions; and

- Make provision about the preparation of reports on the results of polygraph sessions.

The Ministry of Justice is consulting on the proposed content of the rules governing mandatory polygraph sessions. The consultation is aimed at relevant criminal justice professionals and organisations with an interest in the management of sexual offenders in England and Wales. The consultation will end on 21 November 2008.

The consultation paper can be found on the Ministry of justice website at http://www.justice.gov.uk/publications/mandatory-polygraphy-consultation.htm

Case Law

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

Absolute Privilege to Protect Those Participating in Criminal Investigations Applies from the Earliest Moment the Criminal Justice System Becomes Involved

RICHARD ANDERS WESTCOTT v SARAH WESTCOTT (2008)

CA (Civ Div) (Ward LJ, Sedley LJ, Stanley Burnton LJ) 15/7/2008

Defamation

Absolute Privilege: Complaints: Police: Slander: Protection For Initial Complaint To Police

A person who made a complaint to the police, thereby instigating a police investigation which did not lead to a prosecution, could rely on the defence of absolute privilege if sued for defamation.

The appellant (W) appealed against a decision ((2007) EWHC 2501 (QB)) that an oral complaint and written statement made by the respondent (S) were protected by absolute privilege. After a heated family argument, S had telephoned the police and claimed that W, her father-in-law, had assaulted her and her baby. She confirmed those allegations in a written statement. The police did not consider that the complaint warranted further action, and W sued S for defamation. The judge, on a preliminary issue, made the decision challenged. W argued that neither the oral complaint nor the written statement should be treated as part of the police's investigation but rather as steps taken to instigate that investigation, so that neither enjoyed the protection of absolute privilege.

HELD

Both the oral complaint and the written statement were protected by absolute privilege. The answer to the question posed in the instant case was to be found in Taylor v Director of the Serious Fraud Office (1999) 2 AC 177 HL. Taylor established that immunity for out-of-court statements was not confined to persons who were subsequently called as witnesses. The policy being to enable people to speak freely, without inhibition and without fear of being sued, the person in question had to know at the time he spoke whether or not the immunity would attach. As society expected that criminal activity would be reported and, when reported, investigated and, when appropriate, prosecuted, all those who participated in a criminal

investigation were entitled to the benefit of absolute privilege in respect of statements which they made. That applied whether they were informants, investigators or prosecutors. The answer to the argument that immunity should not protect a malicious informer had been tellingly given by Lord Simon of Glaisdale in D v National Society for the Prevention of Cruelty to Children (NSPCC) (1978) AC 171 HL. He had stated that although the immunity could be abused, the balance of public interest lay in generally respecting it. The test proposed by Drake J. in Evans v London Hospital Medical College (University of London) (1981) 1 WLR 184 QBD had received endorsement from their Lordships in Taylor. Thus the question was whether S's oral and written statements could each fairly be said to be part of the process of investigating a crime or a possible crime with a view to a prosecution or possible prosecution in respect of the matter being investigated. The police could not investigate a possible crime without the alleged criminal activity coming to their notice. Making an oral complaint was the first step in that process. In order to have confidence that protection would be afforded, the potential complainant had to know in advance of making an approach to the police that his complaint would be immune from a direct or flank attack. There was no logic in conferring immunity at the end of the process but not from its very beginning, and W's distinction between instigation and investigation was flawed accordingly. Any inhibition on the freedom to complain would seriously erode the rigours of the criminal justice system and would be contrary to the public interest. Immunity had to be given from the earliest moment that the criminal justice system became involved, Taylor, D v NSPCC and Evans applied.

APPEAL DISMISSED

Police Interview Testing Child Defendant's Appreciation of the Dangerousness of Starting a Fire was Admissible Evidence

R v MATTHEW STRINGER (2008)

CA (Crim Div) (Toulson LJ, Jack J, Simon J) 10/6/2008

Criminal Evidence - Criminal Law

Admissibility: Arson: Intention: Murder: Police Interviews: Young Offenders: Intention To Cause Death Or Serious Injury: Teenage Defendant's Understanding Of Consequences Of Starting Fire In Occupied House

Once the jury had found that a teenage defendant had deliberately started a fire in his house where the rest of his family were asleep in bed, and that he had walked away from the house once the fire had taken hold, the inference was overwhelming that he must have appreciated that death or serious injury was a virtual certainty. He therefore had the necessary intent for murder.

The appellant (S) appealed against his conviction for murder and for arson with intent to endanger life. When S was 14 years old a fire spread through his family's house early one morning when all of his family except him were in bed upstairs. One of his brothers died in the fire and the five other occupants escaped with injuries by jumping out of windows. S was out of the house at the time the fire spread but returned when it was ablaze. The prosecution case was that he left the house having deliberately started the fire by igniting white spirit that he had poured around the downstairs hallway and the foot of the stairs. S denied starting the fire, claimed there was no sign of fire when he left home and provided an explanation for his absence from the house. He gave no evidence at trial. He was of low to average intelligence. At police interview he was questioned about his understanding of the consequences of starting a fire in a house where people were asleep. The judge ruled that those parts of the interview were admissible, and gave the jury written directions about how they should approach the question of whether S had intended to kill or cause really serious bodily harm. S submitted that the judge (1) had been wrong to rule that the interview passages were admissible, as the police had not explored his understanding of the consequences of starting a house fire in a legitimate way; (2) had erred in her direction to the jury about intent.

HELD

(1) The consequences of starting a fire was a proper subject for the police interviewing S to explore, and no less so because of his age. In due course a jury was going to have to consider whether his thought processes regarding the consequences of his conduct might have been different from those of an adult. As well as a legitimate matter, it was also a difficult matter. S was denying responsibility for causing the fire and therefore could not be asked what he in fact had appreciated at the time. The officers could only address the questions of whether death or serious injury was a virtual certainty and whether S had the capacity to appreciate that. The questioning was repetitive and in places clumsy, but it was not oppressive or unfair. S's answers were articulate and showed that he had understood the questions and was not just going along with what was being put to him. He agreed that setting fire to his house with everyone upstairs asleep would cause really serious harm to them, but he denied he had done it. Since the jury knew that S had disadvantages relating to his intelligence, they were bound to have to consider whether his appreciation of the dangerousness of starting the fire would be different from that of an adult, and his answers on that topic were relevant. The evidence of the interviews was properly admissible.

(2) The judge in her direction to the jury had conflated two questions, one as to the inevitability of death or injury resulting from the setting of the fire, the other as to S's appreciation and intention on the morning of the fire. That was a narrow distinction, but it was important in S's case. The jury should have been reminded of it and directed that they should look at all the evidence to decide S's intention and whether that

morning he had appreciated that death or serious injury was a virtual certainty. However, if the jury were satisfied, as they must have been, that S had started the fire after putting white spirit at the bottom of the stairs, that he had watched it take hold and then walked away, there could be only one answer to the question of whether it was a virtual certainty that somebody in the house would suffer really serious harm or death. It was completely unrealistic to imagine all the occupants escaping by jumping from the upstairs windows without any of them suffering serious harm. That must have been obvious to any ordinary person at the time. Even taking account of S's age and his level of intelligence, the inference that he must have appreciated it on that morning was overwhelming. On the facts as the jury must have found them, the conclusion that he had the necessary intent was bound to follow.

APPEAL DISMISSED

Privilege Against Self-Incrimination was not a Valid Reason for Failing to Disclose Passwords or Keys to Encrypted Files

R v (1) S (2) A (2008)

CA (Crim Div) (Sir Igor Judge (President QB), Penry-Davey J, Simon J) 9/10/2008

Criminal Evidence - Criminal Procedure

Disclosure Notices: Privilege Against Self-Incrimination: Withholding Information: Failure To Comply With Notices Under S.53 Regulation Of Investigatory Powers Act 2000: Reliance On Privilege Against Self-Incrimination As Reason For Refusing To Comply: S.49 Regulation Of Investigatory Powers Act 2000: S.53 Regulation Of Investigatory Powers Act 2000

An offender who had been served with a notice under the Regulation of Investigatory Powers Act 2000 s.49 requiring him to disclose the password or keys to encrypted files, and who was subsequently charged with failing to comply with the notice under s.53 of the 2000 Act, could not rely on the privilege against self-incrimination as a reason for refusing to comply. The evidence on the files existed independently of the will of the offender, and the privilege against self-incrimination would be engaged only if the data itself contained incriminating material.

The appellants (X and Y) appealed against a decision of the judge refusing to order that counts on an indictment alleging that they had failed to comply with a notice under the Regulation of Investigatory Powers Act 2000 s.53 should be stayed. The appellants had allegedly conspired with a third party (Z), who was the subject of a control order, to breach the order. X had taken Z to a secret address which was raided by the police. X was

found in a room with a computer on which the key to an encrypted file appeared to have been partially entered. Various encrypted files were found on another computer at X's home. Y was arrested elsewhere and computer discs with encrypted areas were seized. The files were believed to support evidence against X of a terrorism offence. The appellants were served with notices under s.49 of the Act, requiring them to disclose the password or keys to the encrypted files, and charged under s.53 after refusing to comply. The appellants' refusal to comply formed the basis of the counts, which the judge was invited to stay. The appellants maintained that the notices were incompatible with the privilege against self-incrimination. The judge decided that the privilege against self-incrimination was not engaged on the basis that the material in question had a separate existence, independent of the minds of the appellants, and that in any event the incursion into the privilege, if any, was legitimate.

HELD

The principle that evidence existing independently of the will of the subject did not normally engage the privilege against self-incrimination was clearly established, Attorney General's Reference (No7 of 2000), Re (2001) EWCA Crim 888, (2001) 1 WLR 1879, R v Kearns (Nicholas Gary) (2002) EWCA Crim 748, (2002) 1 WLR 2815 and R v Hundal (Avtar Singh) (2004) EWCA Crim 389, (2004) 2 Cr App R 19 considered. The notices issued under s.49 required the appellants, under threat of criminal proceedings for non-compliance, to speak or write or otherwise convey sufficient information to the police to enable them to access the contents of their computers. The actual answers, that is to say the product of their minds, could not of themselves be incriminating. In much the same way as a blood or urine sample provided by a car driver was a fact independent of the driver, and which might or might not reveal that his alcohol level exceeded the permitted maximum, whether the appellants' computers contained incriminating material or not, the keys to them were and remained an independent fact. The correct analysis was that the privilege against self-incrimination might be engaged by a requirement of disclosure of knowledge of the means of access to protected data under compulsion of law. In short, although the appellants' knowledge of the means of access to the data might engage the privilege against self-incrimination, it would only do so if the data itself, which undoubtedly existed independently of the will of the appellants and to which the privilege against self-incrimination did not apply, contained incriminating material.

APPEALS DISMISSED

One Warrant can be Issued for Both "All Premises" and "Specific Premises", However Failure to Correctly Fill in Pro-forma Attached to Warrant Application Meant Warrant was Issued Unlawfully

(1) HARRY JAMES REDKNAPP (2) SANDRA REDKNAPP (Claimants) v (1) COMMISSIONER OF POLICE OF THE METROPOLIS (2) CITY OF LONDON MAGISTRATES' COURT (Defendants) & (1) WILLIAM MCKAY (2) PETER STORRIE (3) MILAN MANDARIC (4) AMDY FAYE (Interested Parties) (2008)

DC (Latham LJ, Underhill J) 23/5/2008

Criminal Procedure - Police

Conspiracy To Defraud: Defects: Execution: Powers Of Entry: Powers Of Search: Search And Seizure: Search Warrants: Lawfulness Of Issue And Execution: Football Clubs: S.345 Proceeds Of Crime Act 2002: S.9 Police And Criminal Evidence Act 1984: Sch.1 Para.12 Police And Criminal Evidence Act 1984: S.8 Police And Criminal Evidence Act 1984: S.8(3) Police And Criminal Evidence Act 1984: S.16(5) Police And Criminal Evidence Act 1984

A warrant to search the business premises of a football manager was issued unlawfully and was quashed as the conditions set out in the Police and Criminal Evidence Act 1984 s.8(3) were not met.

The first claimant football club manager (R) and his wife applied for judicial review of the issue and execution of a warrant to search eight premises, including their property. The police had suspected that R and others might have conspired together to defraud, and to commit false accounting and money laundering offences over the transfer of football players at R's club and elsewhere. The police were granted production orders under the Proceeds of Crime Act 2002 s.345, but unsatisfied with the material they obtained, made a further application for warrants under the Police and Criminal Evidence Act 1984 s.9 and Sch.1 para.12 to search business premises of the clubs concerned. On execution of the warrants, files containing correspondence between solicitors, the football club and R were taken. Thereafter, R made it clear that he was prepared to co-operate with the police but was anxious that every effort should be taken to ensure that publicity was kept to a minimum. A detective constable successfully applied ex parte for a warrant under s.8 of the Act in order to search eight premises. The premises included R's home address, where the police intended to arrest him when the warrant was executed, but he was in Germany at the time. The search of R's home was witnessed by a number of reporters from a newspaper, and the resultant publicity was extensive and damaging. R submitted that (1) the warrant was issued unlawfully as it was defective for several reasons; among other things, the statutory preconditions were not satisfied, it was drawn too widely, and the justice of the peace had no power to grant a warrant that was for both "specific premises" and "all premises"; (2) he and his wife could properly complain about the circumstances of the warrant's execution and the resultant publicity.

HELD

(1) It was wholly unacceptable that the police had not properly completed the pro forma document that accompanied the warrant application. The obtaining of a warrant was never to be treated as a formality; it authorised the invasion of a person's home. All the material necessary to justify its grant should have been in the information provided on the form. The police failed to delete the inapplicable alternatives, which meant that they failed to indicate which of the four conditions in s.8(3) of the 1984 Act was applicable. The magistrate should have been informed, either in the information or orally, that material similarly described had been the subject matter of the earlier warrants. However, the police were justified in drawing the description of the material widely in the circumstances. Even if the magistrate had been properly informed, there would have been no justification for his refusing the warrant simply on the grounds that it was widely drawn, and there would have been a need to make provision for ensuring that material that should not be seized was not seized. Nowhere in the detective constable's statement did he say that he identified to the magistrate which of the four s.8(3) conditions was being relied on. As the validity of the warrant was in question, it was wholly unreliable to have been asked to rely on anything other than the application itself, and if necessary, a proper note or record of any further information given orally to the magistrate. As the conditions set out in s.8(3) were not met, the warrant was unlawfully issued and would be quashed. Whilst the Act distinguished descriptively between a "specific premises warrant" and an "all premises warrant", there was no indication in the Act itself that one warrant could not include both types. Parliament did not intend such a warrant to be unlawful and, provided the relevant information was given to the magistrate, there would be no vice in such a warrant.

(2) R's complaint about publicity would only be relevant if there was material suggesting that the police had procured the presence of the journalists. That would require a detailed examination of the evidence, which could not be carried out on the instant application. There was no evidence that the search went beyond what was justified under the warrant. However, the copy of the warrant given to R's wife failed to specify their home address, so the requirements of s.16(5) of the 1984 Act were not met and the execution of the warrant was not valid.

APPLICATION GRANTED

"The Force" In Regulation 12(2) Of The Police Pensions Regulations 1987 Means The Police Force The Officer Was Serving At The Relevant Time

R (on the application of CHRISTINE ASHTON) (Claimant) v POLICE MEDICAL APPEAL BOARD (Defendant) & METROPOLITAN POLICE AUTHORITY (Interested Party) (2008)

QBD (Admin) (Charles J) 30/9/2008

Pensions - Employment - Police

Disabled Persons: Interpretation: Occupational Pensions: Police Service: Meaning Of "The Force" In Reg.12(2) Police Pensions Regulations 1987: Retirement On Grounds Of Disability: Reg.12(2) Police Pensions Regulations 1987: S.5 Interpretation Act 1978: S.11(3) Police Pensions Act 1976: Reg.12(3) Police Pensions Regulations 1987: Sch.A Police Pensions Regulations 1987: S.101(1) Police Act 1996

The correct interpretation of "the force" in the Police Pensions Regulations 1987 reg.12(2) was the police force in which the officer was serving at the relevant time, as opposed to the police service as a whole.

The court was required to determine what was meant by "the force" in the Police Pensions Regulations 1987 reg.12(2) in proceedings between the claimant police officer (C) and the defendant police medical appeal board. C was employed by the local police service and had worked as a dog handler. Following difficulties with various members of the dog section, she was signed off sick with anxiety and depression, claiming that it was due to many years of bullying and discriminatory treatment. She later returned to work, but had no contact with uniformed police officers. A psychiatrist diagnosed C with situational anxiety and depressive disorder. He advised that if C returned to working in the same environment then her disablement was likely to be permanent, and recommended that she be retired as being permanently disabled. That meant that C would be entitled to a full pension straight away. The question of C's disability was then referred to a medical practitioner, who determined that C was disabled as a result of an adjustment disorder and that the disability was not likely to be permanent. His view was that C was unable to work with the uniformed officers in her particular local police service, but that she would be expected to make a good recovery and would be fit to work as a police officer in another police service. As a result, C would not be entitled to her pension until her retirement age. C appealed. The appeal board held that "the force" under reg.12(2) meant the police service as a whole, as opposed to the police force for the area in which C was serving. Therefore, C was not permanently disabled as she would be able to return to work as a police officer in a different police service.

HELD

Pursuant to the Police Pensions Act 1976 s.11(3), unless the context otherwise required, the meaning of "police force" within the Regulations meant any police force. In addition, the glossary of terms in Schedule A of

the Regulations defined “police force” as “a home police force”, and the Police Act 1996 s.101(1) and the Interpretation Act 1978 s.5 provided that unless the contrary intention appeared, “police force” meant a force maintained by a police authority. Although such definitions were not decisive, it was clear that unless it could be demonstrated with sufficient clarity that the context otherwise so required, all references to “the force” in the Regulations were to be given the statutory meaning of a “police force”, being an individual police force in a particular area. Without such a definition, problems would arise as to what was to be included or covered by a generic police force. As disablement under reg.12(2) meant an inability to perform the full range of duties within the force, then in cases of situational disablement it would be unclear as to the number of forces making up “the force” in which the officer had to be able to perform all relevant duties. In addition, with regards to the existence of a number of forces, if the duties to be performed were common to all forces then there would be no need to differentiate between a force and the police force generally, but if the duties were not all common, then it would be natural to look at the duties particular to the force of which the officer was a member at the relevant time. Further, the use of the indefinite article when referring to “a police force” in the latter parts of reg.12(2) and reg.12(3) did not mean that the use of “the force” in relation to disablement meant something different, as it was clear that the two terms could be used interchangeably, and it was necessary to look at the phrase in its context. Finally, taking a purposive approach, several factors favoured the meaning of “police force” as being an individual police force, including the participation of the police authority of the area in which the officer was serving in the decision making processes that followed a conclusion of permanent disability and thus the significant relevance of the deployment needs of only that area in those decisions, and the lack of an ability for an officer or his authority to ensure that the officer could join another force. Therefore, in light of the statutory definitions and all other reasons, “the force” in reg.12(2) meant the police force for the area in which the officer was serving at the relevant time, Corkindale v Police Medical Appeal Board (2006) EWHC 3362 (Admin), Times, January 18, 2007 followed, R (on the application of Sussex Police Authority) v Beck (2003) EWHC 1361 (Admin), (2006) ICR 570 not followed. The decision of the appeal board was quashed.

JUDGMENT FOR CLAIMANT

Detention Included Provision of Services so Disability Discrimination Act 1995 Applied

GICHURA v HOME OFFICE & ANOR (2008)

CA (Civ Div) (Waller LJ, Buxton LJ, Smith LJ) 20/5/2008

Immigration - Discrimination

Disability Discrimination: Immigration Removal Centres: Provision Of Services At Immigration Removal Centres: S.19 Disability Discrimination Act 1995: S.21 Disability Discrimination Act 1995: Disability Discrimination Act 1995

There was no reason to exclude services provided to a person held in an immigration removal centre from the ambit of the Disability Discrimination Act 1995.

The appellant (G) appealed against the striking out of his claim against the respondents, the Home Office and the operator (K) of an immigration removal centre, for breaches of duty under the Disability Discrimination Act 1995. G was a failed asylum seeker who had been detained in an immigration removal centre run by K pending his removal. He was a wheelchair user and a disabled person within the meaning of the Act. He asserted that both the Home Office and K were providers of services within the meaning of s.19 of the Act and had failed to make reasonable adjustments as required by s.21. His claim related to the arrangements for waiting in order to be searched on reception at the centre; access to toilet and bathroom facilities; access and egress in a room in the centre; the provision of bedding; and the provision of medical services. The district judge struck out the claim, finding that neither the Home Office nor K were providers of services within the meaning of the Act. K submitted that the matters complained of were part and parcel of a government function, namely the detention of a failed asylum seeker pending removal, and therefore did not fall within s.19.

HELD

G had been provided with services within the meaning of the Act. In support of her conclusion, the district judge had applied the reasoning of the R v Entry Clearance Officer (Bombay) Ex p Amin (1983) 2 AC 818 HL on the basis that, despite the factual differences, the case of Amin was similar to the instant one in that what K was doing was performing a governmental function. That was too simplistic an approach, Amin distinguished. On a number of occasions the court had taken an expansive view of the application of discrimination legislation to matters done in the course of performance of a governmental function. There was a distinction between acts which might be done by a private person and acts which a private person would never do. It was not enough, to exclude the provision of a service from the reach of the Act, to say that it was incidental to a government function if, when done by a private person, what was done would be regarded as the provision of a service, Savjani v Inland Revenue Commissioners (1981) QB 458 CA (Civ Div) and

Farah v Commissioner of Police of the Metropolis (1998) QB 65 CA (Civ Div) applied. There could be two functions going on at the same time. K was detaining G, and whilst anyone detaining a person had to provide them with bed, board, food and facilities, many issues could arise as to how that was done. The broad view of what counted as provision of a service was important because it was important that the disability and other discrimination legislation applied in circumstances in which it was natural to think that it should apply. It was not right to say that Parliament intended the disability discrimination legislation not to apply to detention in an immigration removal centre, police station or prison. Some of the functions performed in those places were purely governmental, but once detained, a detainee was a member of a section of the public with what were, in truth, services and there was no reason to exclude those services from the ambit of the Act.

APPEAL ALLOWED

IPCC Decision not to Prevent Police Officers Conferring did not Violate the Article 2 ECHR Obligation to Perform an Adequate Investigation into Death

R (on the application of (1) CHARLOTTE SAUNDERS (2) CORINNA TUCKER) (Claimants) v (1) INDEPENDENT POLICE COMPLAINTS COMMISSION (2) COMMISSIONER OF POLICE OF THE METROPOLIS (3) CHIEF CONSTABLE OF KENT (Defendants) (1) ASSOCIATION OF CHIEF POLICE OFFICERS (2) POLICE FEDERATION OF ENGLAND & WALES (3) ELIZABETH SAUNDERS (Interested Parties) (2008)

QBD (Admin) (Underhill J) 10/10/2008

Human Rights - Legal Methodology - Police

Collusion: Duty To Undertake Effective Investigation: Independent Police Complaints Commission: Investigations: Police Officers: Precedent: Right To Life: Failure To Prevent Police Officers From Conferring And Collaborating: Adequacy Of Investigation Into Police Shootings: Art.2 European Convention On Human Rights: S.21 Police Reform Act 2002

In the course of its investigations into two police shootings, the decision of the Independent Police Complaints Commission not to prevent the principal officers involved in the incidents from conferring or collaborating before they gave their first accounts of what had happened did not violate its obligation to perform an adequate investigation of an individual's death at the hands of state agents pursuant to the European Convention on Human Rights 1950 art.2.

In joined cases, the claimants (S and T) applied for judicial review of certain decisions made by the first respondent commission in the course of its investigation into the circumstances surrounding the fatal shooting of two young men by the police. S and T were each sisters of the men who had died. The commission had pursued an investigation into the shootings. Although those investigations were not completed and no final conclusions had been reached, let alone published, S and T took the view that they had not been properly conducted. They each issued proceedings which were subsequently ordered to be heard together. S and T contended that the commission had erred in the course of each investigation in that no steps were taken, either by the police or the commission's staff, to prevent the principal officers involved in the incidents from speaking to one another before they gave their first accounts of what had happened, or, more particularly, to prevent them from collaborating in their notebook entries or statements which constituted those accounts. It was accepted that such collaboration had occurred. S and T complained that the commission had thereby acted in breach of its duty, and that the second respondent police commissioner and third respondent chief constable were in breach of their duties, pursuant to the European Convention on Human Rights 1950 art.2. The commission denied any breach of duty in the light of its previous recommendation that whatever the position might be as regards collaboration and conferring generally, it was highly undesirable in the case of incidents where action by police officers had caused death to members of

the public, and that police instructions should be reviewed accordingly. T further submitted that the commission's senior investigator had erred in not seeking to interview most of the principal officers, instead relying on their written statements. S contended that the commission had acted in breach of its statutory obligation under the Police Reform Act 2002 s.21 to keep her and the family properly informed about the progress of the investigation.

HELD

(1) There was no prohibition in English law, or as a matter of police practice, on police officers who had been involved together in an incident in speaking to one another about their involvement before they gave their first account. The risk of evidence being contaminated by conferring was sought to be guarded against by the training and guidance given to police officers. A ban on conferring would be difficult to enforce in practice and would in many cases have serious operational disadvantages. The effect of art.2 of the Convention was to impose an obligation adequately to investigate the death of an individual at the hands of agents of the state and in the case of a fatal shooting by police officers, the state might be held to have violated art.2 if, in the course of the investigation required by that article, adequate steps were not taken to prevent the officers concerned from conferring before producing their first accounts of the incident, Ramsahai v Netherlands (52391/99) (2008) 46 EHRR 43 ECHR (Grand Chamber) considered. However, the mere fact that there was collaboration in the production of witness statements in the instant cases did not mean that a breach of art.2 had been definitively established. Decisions of the European Court of Human Rights were not to be treated as binding precedent on the facts of a particular case. The relevant and binding principle of Ramsahai was that there had in every case of killing by state agents to be an effective investigation, and that in order to be effective such an investigation had to be both independent and "adequate". An investigation might be inadequate if appropriate steps were not taken to reduce the risk of collusion and the commission had not, in the circumstances of the instant cases, acted in breach of art.2 in failing to issue a clear direction to the officers involved to disregard the existing guidance on conferring. It was actively pursuing the abolition of conferring or collaboration for incidents involving armed police officers, and to have issued a direction in direct contravention of current police guidance would have impacted on the effectiveness of ongoing investigations. The second and third respondents had, similarly, not acted in breach of art.2 by failing to direct that there be no conferring or collaboration.

(2) It had not been necessary for the successful investigation into the death of T's brother for all the principal officers to have been interviewed. The senior investigator involved had been satisfied that he had sufficient information for his own purposes.

(3) It was agreed that that part of S's claim relating to disclosure should be adjourned. However, it was plainly not the case that under s.21 of the 2002 Act interested persons were entitled to be informed of every

minor development or twist and turn of the investigation. The judgment of what information was required to be disclosed could only be made by the body conducting the investigation, subject only to the intervention of the court where that discretion was exercised irrationally or otherwise unlawfully.

JUDGMENT ACCORDINGLY

SI 2442/2008 The Civil Enforcement of Parking Contraventions (County of East Sussex) (Borough of Eastbourne) Designation Order 2008

In force **18 September**. This Order is made in exercise of the powers conferred by paragraph 8(1) of Schedule 8 and paragraph 3(1) of Schedule 10 to the Traffic Management Act 2004.

East Sussex County Council has applied to the Secretary of State for an order to be made under these powers with respect to part of its area.

The Secretary of State has consulted the Chief Constable of the Sussex Police in accordance with the requirements of paragraphs 8(3) of Schedule 8 and 3(4) of Schedule 10.

The Secretary of State designates the area described in paragraph (2) as:

(a) a civil enforcement area for parking contraventions; and

(b) a special enforcement area.

(2) This Order applies to the area of the Borough of Eastbourne with the exception of all off-street parking places provided by Eastbourne Borough Council pursuant to section 32(1)(a) of the Road Traffic Regulation Act 1984.

Notes