NPIA
National Policing Improvement Agency

Digest

October 2011

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

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

The NPIA aims to provide fair access to learning and development for all. To support this commitment, the Digest is available in alternative formats upon request. Please email digest@npia.pnn.police.uk or telephone +44 (0)1480 334733.

Digest Editor: Telephone +44 (0)1480 334542

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Legal Services

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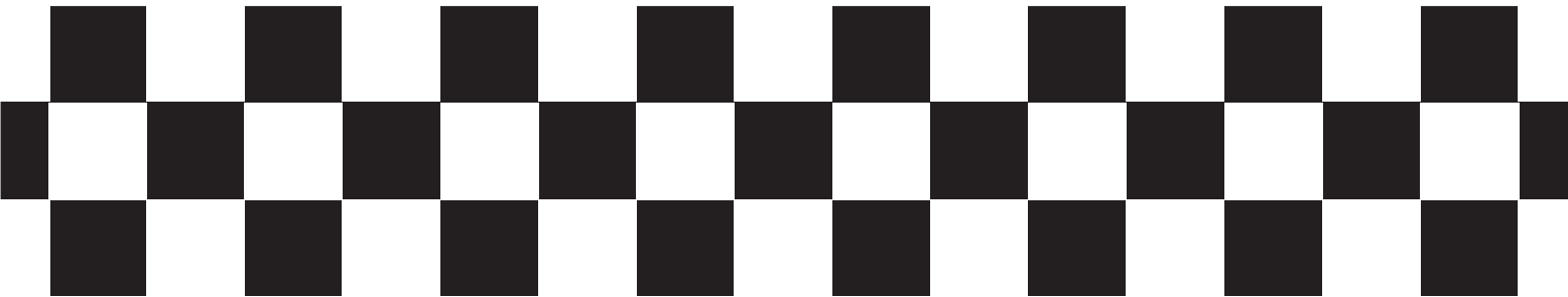

NPIA Digest October 2011

This month's edition of the Digest contains a summary of issues relating to police law, operational policing practice and criminal justice.

There are case reports on the presumption of innocence and the right to respect for private and family life and on the containment of children during demonstrations.

We look at the recently published report by the Home Affairs Select Committee on the New Landscape of Policing, a report by the Joint Committee on Human Rights on Stop and Search without Reasonable Suspicion and the report by the House of Lords Select Committee on the Terrorism Prevention and Investigation Measures Bill.

Statistical bulletins are covered which detail hate crime figures in England and Wales for 2010, racist incidents in England and Wales over the previous year and figures relating to the public disorder that occurred between 6 and 9 August 2011. The quarterly statistical update from the Ministry of Justice, providing criminal justice statistics over the period April 2010 to March 2011, is also covered.

There are articles on the report by the Equality and Human Rights Commission on disability harassment, new CPS guidance on female genital mutilation, NSPCC research into abuse in teenage relationships and a report looking at whether community sentences or custody are more effective. There is also a summary of the Criminal Procedure Rules 2011, the first part of the IPCC's report into police corruption and a new NPIA circular on the Working Time Regulations 1998 and how they apply to the Special Constabulary.

The progress of proposed new legislation through Parliament is examined and statutory instruments published this month summarised.

Contents

Bills Before Parliament 2010/11 - Progress Report

The following Bills from the 2010/11 session have progressed as follows through the parliamentary process:

- Police Reform and Social Responsibility Bill - The Bill covers five distinct policy areas: police accountability and governance; alcohol licensing; the regulation of protests around Parliament Square; misuse of drugs; and the issue of arrest warrants in respect of private prosecutions for universal jurisdiction offences. Key areas:
  - Replaces police authorities with directly elected Police and Crime Commissioners, with the aim of improving police accountability;
  - Amends and supplements the Licensing Act 2003 with the intention of 'rebalancing' it in favour of local authorities, the police and local communities;
  - Sets out a new framework for regulating protests around Parliament Square. Relevant sections of the Serious Organised Crime and Police Act 2005 would be repealed and the police would be given new powers to prevent encampments and the use of amplified noise equipment;
  - Enables the Home Secretary to temporarily ban drugs for up to a year, and removes the statutory requirement for the Advisory Council on the Misuse of Drugs to include members with experience in specified activities; and
  - Introduces a new requirement for private prosecutors to obtain the consent of the Director of Public Prosecutions prior to the issue of an arrest warrant for 'universal jurisdiction' offences such as war crimes or torture. The Government's aim in introducing this change is to prevent the courts being used for political purposes.

The Bill was presented to Parliament on 30 November 2010.

The Bill received Royal Assent on 15 September 2011. A detailed consideration of the Act will be available in next month's *Digest*.

- Protection of Freedoms Bill - The Bill:
  - Provides for the destruction, retention, use and other regulation of certain evidential material;
  - Imposes consent and other requirements in relation to certain processing of biometric information relating to children;

- Provides for a code of practice about surveillance camera systems and for the appointment and role of the Surveillance Camera Commissioner;
- Provides for judicial approval in relation to certain authorisations and notices under the Regulation of Investigatory Powers Act 2000;
- Provides for the repeal or rewriting of powers of entry and associated powers and for codes of practice and other safeguards in relation to such powers;
- Makes provision about vehicles left on land;
- Provides for a maximum detention period of 14 days for terrorist suspects;
- Replaces certain stop and search powers and provides for a related code of practice;
- Amends the Safeguarding Vulnerable Groups Act 2006;
- Makes provision about criminal records;
- Disregards convictions and cautions for certain abolished offences;
- Makes provision about the release and publication of datasets held by public authorities and to make other provision about freedom of information and the Information Commissioner; and
- Repeals certain enactments.

The Bill was presented to Parliament on 11 February 2011.

The Bill is due to have its report stage on 10 October 2011.

- Terrorism Prevention and Investigation Measures Bill - The Bill proposes to abolish control orders and make provision for the imposition of terrorism prevention and investigation measures.

The Bill was presented to Parliament on 23 May 2011. The Bill completed its committee stage on 5 July 2011. First reading took place on 6 September. This stage is a formality that signals the start of the Bill's journey through the Lords.

Second reading - the general debate on all aspects of the Bill - is scheduled to take place on 5 October.

- Legal Aid, Sentencing and Punishment of Offenders Bill - The Bill:
  - Reverses the position under the Access to Justice Act 1999, whereby civil legal aid is available for any matter not specifically excluded;

- Abolishes the Legal Services Commission;
- Makes various provisions in respect of civil litigation funding and costs, taking forward the recommendations of the Jackson Review and the Government's response to that review;
- Makes changes to sentencing provisions, including giving courts an express duty to consider making compensation orders where victims have suffered harm or loss; reducing the detailed requirements on courts when they give reasons for a sentence; allowing courts to suspend sentences of up to two years rather than 12 months; and amending the court's power to suspend a prison sentence;
- Introduces new powers to allow curfews to be imposed for more hours in the day and for up to 12 months rather than the current six;
- Repeals provisions in the Criminal Justice Act 2003 which would have increased the maximum sentence a magistrates' court could impose from six to 12 months;
- Makes changes to the law on bail and remand, aimed at reducing the number of those who are unnecessarily remanded into custody. Under the new "no real prospect" test, people would be released on bail if they would be unlikely to receive a custodial sentence;
- Makes provision to ensure that, where a person aged under 18 has to be remanded into custody, in most cases they would be remanded into local authority accommodation;
- Amends provisions relating to the release and recall of prisoners;
- Gives the Secretary of State new powers to make prison rules about prisoners' employment, pay and deductions from their pay. The intention of these provisions is that prisoners should make payments which would support victims of crime;
- Introduces a penalty notice with an education option and provision for conditional cautions to be given without the need to refer the case to the relevant prosecutor;
- Creates a new offence of threatening with an offensive weapon or an article with a blade or point thereby creating an immediate risk of serious physical harm. A minimum sentence of 6 months' imprisonment would normally be given to persons over 18 found guilty of this offence.

The Bill was presented to Parliament on 21 June 2011 and had its second reading debate on 29 June 2011. The Public Bill Committee met on 14 and 19 July 2011, scrutinising the Bill line by line. The Public Bill Committee will meet next on 11 October 2011. The Public Bill Committee will scrutinise the Bill line by line.

The Public Bill Committee is expected to report to the House by 13 October 2011.

The progress of Bills in the 2010/11 parliamentary session can be found at:
http://services.parliament.uk/bills/

Presumption of Innocence and Respect for Private and Family Life

G v the United Kingdom 37334/08 [2011] ECHR 1308

The applicant was convicted of an offence of rape of a child under the age of 13, contrary to section 5 of the Sexual Offences Act 2003. He complained to the European Court of Human Rights that his conviction was not compatible with the presumption of innocence and that the criminal proceedings amounted to a disproportionate interference with his right to respect for private life.

Circumstances of the Case

In September 2004, when the applicant was 15, he had sexual intercourse with a 12 year old girl and was subsequently charged with rape of a child under 13, contrary to Section 5 of the Sexual Offences Act 2003 (the 2003 Act). He was advised he had no defence to the charge. The applicant pleaded guilty on the basis that he willingly had sexual intercourse with the complainant and at the time had believed her to be 15 as she had told him so on an earlier occasion. He pleaded guilty, having been advised that as the complainant was under 13 at the time of the offence, the offence was committed irrespective of consent, reasonable belief in consent or a reasonable belief as to age.

The applicant was sentenced to a 12 month detention and training order and appealed to the Court of Appeal on the following grounds:

(1) the conviction violated his right to a fair trial and the presumption of innocence under Article 6 of the Convention, because the offence was one of strict liability; and

(2) it violated his right to respect for private and family life under Article 8 because it was disproportionate to charge him with rape under section 5 when he could have been charged with a less serious offence under section 13 of the 2003 Act which deals with sex offences committed by persons under 18.

The Court of Appeal found that no issue arose under Article 6 of the Convention as it did not prevent a State from creating offences of strict liability, nor did the judge infringe Article 8 by sentencing the applicant under section 5.

The House of Lords unanimously held that Article 6 guaranteed fair procedure and the presumption of innocence but did not place any obligation on States as regards the substantive contents of domestic law, including the mental or other elements of offences under domestic criminal law. They also

rejected the applicant's complaint under Article 8 by a majority of 3 to 2, with the majority holding that even if the applicants Article 8 rights were engaged, his prosecution, conviction and sentence were proportionate in the pursuit of the legitimate aims of the protection of health and morals and of the rights and freedoms of others.

European Court of Human Rights

Article 6(1) and (2) of the Convention

Article 6 of the European Convention on Human Rights states:

'1. In the determination of …any criminal charge against him, everyone is entitled to a fair…hearing…by [a] tribunal…'

'2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.'

The applicant submitted that the creation of strict criminal liability would always engage a consideration of compatibility with the presumption of innocence. In the case of Salabiaku v France [1998] ECHR 19, the court interpreted that Article 6(2) permitted the creation of offences of strict liability provided it did so within 'reasonable limits'; striking a balance between the public interest and the rights of the defence. The applicant submitted that the imposition of strict liability on a 15 year old boy, who reasonably believed the complainant was also 15 and had consented to sex, did not satisfy this test of reasonable limits.

The Court stated that the presumption of innocence requires, inter alia, that the burden of proving the elements of the offence charged against the accused is on the prosecution. The burden may shift to the accused, however, to establish the elements of any available defence. The Court underlined that in principle, the Contracting States remain free to apply the criminal law to any act which is not carried out in the normal exercise of one of the rights protected under the Convention and, accordingly, to define the constituent elements of the resulting offence.

The Court noted that the offence was created in order to protect children from sexual abuse. The prosecution was required to prove all elements of the offence beyond reasonable doubt. The Court did not consider that Parliament's decision not to make a defence available based on reasonable belief that the complainant was aged 13 or over could give rise to any issue under Article 6(1) or (2) of the Convention.

Article 8 of the Convention

Article 8 of the Convention provides that everyone has the right to respect for his private and family life. The applicant submitted that Article 8 of the Convention applied since sexual relationships are an aspect of private life. He accepted that the

initial decision to charge him with an offence under section 5 of the 2003 Act could not be criticised, but argued that once the basis of the plea had been accepted, the prosecuting authority should have either withdrawn the charge or substituted a charge under section 13 of the 2003 Act. To impose a conviction for rape on a 15 year old boy in circumstances where he reasonably believed that the complainant was also 15 and that she had consented to sexual intercourse was not necessary in a democratic society. The applicant pointed to the very serious consequences of stigmatising a child as a rapist.

The Court accepted that in the circumstances the sexual activities at issue fell within the meaning of private life, and that the criminal proceedings against the applicant constituted an interference by a public authority into his right to respect for private and family life. It was undisputed by the parties that the interference was in accordance with the law. In addition, as the measures were intended to protect young and vulnerable children from premature sexual activity, exploitation and abuse, there was no doubt that the interference pursed the legitimate aims of the prevention of crime and the protection of the rights and freedoms of others.

In relation to whether the interference was 'necessary in a democratic society', the Court recalled that the notion of necessity implies that the interference corresponds to a pressing social need and that it is proportionate to the legitimate aim pursued. The Court took into account the margin of appreciation left to the national authorities, when determining whether an inference is necessary in a democratic society. The State is under a positive obligation under Article 8 to protect vulnerable individuals from sexual abuse. Given the nature of the public interest at stake in this case, the Court concluded that the State authorities must be given a wide margin of appreciation.

In the House of Lords, Baroness Hale observed that the consequences of penetrative sex for a child of 12 or under may be very harmful. The Court did not consider that the national authorities exceeded the margin of appreciation in creating a criminal offence of rape, which does not allow for any defence based on apparent consent by the child, or on the accused's mistaken belief as to the child's age. In addition, the Court did not consider that the authorities exceeded their margin of appreciation by prosecuting the applicant for the offence, particularly as the legislation permitted a broad range of sentences and that the Court of Appeal had taken into account the mitigating circumstances of the applicant's case.

The application was declared inadmissible.

The judgement can be accessed in full at:
http://www.bailii.org/eu/cases/ECHR/2011/1308.html

Containment of Children during Demonstration

R (on the application of Castle and others) v Commissioner of Police for the Metropolis [2011] EWHC 2317

On 24 November 2010, the claimants, Adam Castle, his sister Rosie, and school friend Sam Eaton, took part in a demonstration in London against the proposed rise in university tuition fees and the removal of the Educational Maintenance Allowance. The boys were aged 16 years and Rosie was aged 14 years. They were not wearing school uniform. They arrived in Trafalgar Square at around midday, and shortly afterwards a crowd of people, which eventually grew to over 3000, made its way from Trafalgar Square, along Whitehall, towards Parliament Square.

The containment of the demonstrators within Whitehall was authorised and the claimants were amongst those contained for the rest of the afternoon.

The claimants argued that their containment was unlawful on the following grounds:

(i) the defendant's decision to contain and, therefore, to detain children constituted a breach of his duty under section 11 Children Act 2004 rendering containment unlawful;

(ii) in further breach of his duty, the defendant detained the claimants for an excessive period of time and for the unlawful purpose of carrying out searches under section 60 Criminal Justice and Public Order Act 1994, and/or for the purpose of making arrests for offences allegedly committed during the demonstration; thus, the duration of the detention was unlawful.

It was contented that the defendant exceeded his common law power and acted in breach of the claimants' rights under Articles 5, 8, 10 and 11 of the European Convention on Human Rights.

Background

In the days preceding 24 November 2010, the Metropolitan Police had received notification of a public procession and applications in respect of demonstrations contributing towards what was called a 'national student walk out'. On the morning of the demonstrations, officers were briefed that if it was necessary to authorise containment, vulnerable people should be taken, or let, out. There was no indication that school children were planning to attend the demonstration.

At around midday, information was received by the Silver Commander that the crowd that had gathered in Trafalgar Square appeared to be planning to move down Whitehall

towards Parliament Square. This was not a route that had been notified or approved. Some protestors were masking themselves and some were fighting each other.

Containment

At 12.32 the use of containment was authorised in the event that the very large numbers in Trafalgar Square moved along Whitehall. At around the same time, intelligence was received that those demonstrators who had gathered at Horse Guards Parade were all making their way to Trafalgar Square - a further departure from the arranged route.

Just after 1pm the containment in Whitehall was reported to be complete. Instructions were given to identify young or vulnerable persons and allow them to leave.

Justification for delayed dispersal

It was reported by the Silver Commander that the dispersal was staggered due to the actions from those contained within the area. Continuous efforts were made to identify and release vulnerable persons, however these were constrained by the continuing need to preserve public order and protect the public.

Section 11 Children Act 2004

Under section 11 Children Act 2004, a positive obligation is owed by the police to safeguard and promote the welfare of children. The claimant's case was that this duty required the planning of the police response to the demonstration to embrace the need to safeguard and promote the welfare of children. Adequate planning should have ensured that innocent young people under the age of 18 years would not be confined within a crowd containment, or should have been contained for the minimum period necessary. The defendant had failed to demonstrate that, when making the decision to contain the crowd, the defendant's officers had paid specific regard to their duties towards children, and as a result the containment was unlawful.

The Court held that Section 11 imposes upon the chief officer of police one of two legal obligations: either

(1) to make arrangements with a view to ensuring that functions are discharged having regard to the need to safeguard and promote the interests of children, or

(2) to make arrangements which ensure that functions are so discharged.

The Court held that the chief officer's statutory obligation is to ensure that decisions affecting children have regard to the need to safeguard them and to promote their welfare, however it does not mean that the duties or functions of the police

have been re-defined by section 11. A police officer will not be deterred from performing his public duty to detect or prevent crime just because a child is affected but when he does perform that duty he must, as the circumstances require, have regard to the statutory need.

Effect of Breach of Duty by a Decision Maker

The claimants argued that a decision made in breach of the duty under section 11 renders that decision unlawful, at least where the rights of the children are engaged. Furthermore, the claimants submitted that this principle applied to the decision to authorise containment and if that decision was taken without regard to the statutory duty under section 11, the decision was unlawful in respect of both the children and the adults. The Court regarded it as unlikely that in the general performance of police work, circumstances would arise in which an officer's actions could be rendered unlawful because he failed to have regard to the statutory need.

The power to contain at common law

The Court stated that any interference with freedom of movement must be justified. The obligation upon the defendant was to avoid such action if he could. That duty required, where practicable, planning for alternatives to containment and, in any event, to minimise its impact on innocent parties. The section 11 duty required that planning, either in advance or at the time the decision was made, should, where appropriate, have embraced the need to safeguard children and promote their welfare. If the decision maker is unable to show that he could not, by taking reasonable steps, have avoided the need for containment, or mitigated the consequences to innocent third parties, particularly children, then he will have acted unlawfully towards them in beach of his public duty.

Conclusion

The Court accepted that the defendant owed a statutory duty to have regard to the need to safeguard children and to promote welfare in performing the police function of planning for a major public order event. They rejected the assertion that he had no regard to that need. Intelligence was received and shared as to possible plans to involve school children. At the planning stage there was no occasion to make specific arrangements for the management of children, as there was no intelligence that children may be attending in significant numbers. During the containment, there was a plan for release of vulnerable people, including school children and children were being released through the police cordon throughout the afternoon and evening.

There was a delay in the selective release of children, as a result of the instruction to search all those permitted to leave, as necessary, for weapons under the authority pursuant to section 60 Criminal Justice and Public Order Act 1994, and to make arrests as appropriate. There was, the court concluded, evidence from more than one source that a significant number of the protesters were armed. As a result, the Court did not regard the instruction to search those leaving for arms as unnecessary, unreasonable or disproportionate, nor was the instruction to arrest those suspected of committing offences unnecessary, unreasonable or disproportionate having regard to the presence and welfare of children. The containment was not prolonged for any unlawful purpose.

It followed that the claim based upon unlawful detention at common law and interference with the claimant's right to liberty under Article 5 must fail. Arguments were also made as to the application of Articles 8, 10 and 11, however the Court felt it unnecessary to address the arguments as they found that any interference that did take place was for a legitimate reason, in accordance with the law, and proportionate to the legitimate aim of preventing an imminent breach of the peace.

The Court concluded that section 11 Children Act 2004 requires chief officers of police to carry out their functions in a way that takes into account the need to safeguard and promote the welfare of children, however the court did not consider that the defendant was in breach of the duty or any of his public law duties. The claims were dismissed.

The judgement can be accessed in full at:
http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Admin/2011/2317.html&query=castle&method=boolean

SI 1709/2011 The Criminal Procedure Rules 2011

The Criminal Procedure Rules 2011 consolidate The Criminal Procedure Rules 2010, SI 2010/60, with the amendments made by SI 2010/1921 and 2010/3026. The new Rules incorporate the further amendments listed beneath. Otherwise, they reproduce the rules that they supersede.

- Part 2/: Rule 2.1(3) is amended, to provide for the transition to these new rules. Rule 2.2(1) is amended to include a definition of the expression 'Registrar';
- Part 3: Rule 3.5(2)(e) is amended, to provide for the giving of directions in public or in private, or without a hearing. Rule 3.11(3) is added, to provide generally for the giving of notice of hearings;
- Part 4: Rules 4.2, 4.3, 4.5, 4.6, 4.10 and 4.12 are amended to make new provision for the electronic service of documents and for consistency of expression. The title of rule 4.6 is changed, and the table of contents is amended correspondingly;
- Part 5: The Part is replaced;
- Part 10: Rule 10.5(1)(c) is amended to omit references to legislation now repealed;
- Part 15: The Part is replaced;
- Part 16: The Part is replaced;
- Part 19: Rule 19.17(12) is added, to allow for a hearing in public or in private. Rule 19.18(1) is amended to enlarge the scope of the rule; the title of the rule is changed; and rule 19.18(10) is added, to allow for a hearing in public or in private. The table of contents is amended correspondingly;
- Part 20: Rule 20.2 is added, to allow for a hearing in public or in private. The table of contents is amended correspondingly;
- Part 29: The time limit in rule 29.3(a) is changed. Rule 29.13(4) is amended, to refer to the statutory ground of objection to admitting video recorded evidence;
- Part 34: The time limit in rule 34.2(3) is changed;
- Part 35: The time limit in rule 35.4(3) is changed;
- Part 52: Rule 52.1(1)(a) is amended, for consistency of expression. Rule 52.10 is added, to provide for the enforcement of financial penalties imposed in other European Union member States. The table of contents is amended correspondingly;

- Part 57: Rule 57.15(1) is amended to enlarge the scope of the rule;
- Part 59: Rules 59.1 and 59.4 are amended to provide for separate applications for restraint and ancillary orders. The other rules in the Part, and the table of contents, are amended correspondingly;
- Part 60: Rule 60.1(3)(d) is amended, for consistency of expression. Rule 60.2(3) is amended to require further details of an application under that rule;
- Part 64: Rule 64.6(16) is added, to allow for the settling of a case stated without a hearing;
- Part 65: Rules 65.1(2), 65.8 and 65.9 are amended in consequence of the new rules in Part 5;
- Part 68: Rule 68.1(1)(a) is amended, to include a reference to section 274(3) of the Criminal Justice Act 2003. The time limits in rules 68.2(2) and 68.6(4) are changed;
- Part 76: Rules 76.1(1) and 76.7(1)(b) are amended, to include references to section 4 of the Dangerous Dogs Act 1991.

These Rules come into force on **3 October 2011**.

SI 2144/2011 The Police and Justice Act 2006 (Commencement No. 14) Order 2011

This Order brings into force on **3 October 2011** the provisions of the Police and Justice Act 2006 ("the 2006 Act") set out in article 2(1), but only in certain local justice areas (article 2(2)).

Section 45 of the 2006 Act, in so far as it comes into force by virtue of this Order, inserts section 57C of the Crime and Disorder Act 1998 ("the 1998 Act"), which is amended by section 106 of the Coroners and Justice Act 2009. Section 57C of the 1998 Act concerns the use of live links at preliminary hearings in magistrates' courts where the accused is at a police station. A live link is a video-link between a court and a police station.

Section 46 of the 2006 Act amends the Police and Criminal Evidence Act 1984 to allow police to grant bail subject to a duty to attend at a police station for proceedings in relation to a live link direction.

SI 2148/2011 The Coroners and Justice Act 2009 (Commencement No. 8) Order 2011

This Order brings into force on **3 October 2011** the provisions of the Coroners and Justice Act 2009 ("the 2009 Act") set out in article 2(1), but only in certain local justice areas (article 2(2)).

Section 106 of the 2009 Act amends section 57C of the Crime and Disorder Act 1998, which concerns the use of "live links" at preliminary hearings in magistrates' courts where the accused is at a police station. A live link is a video-link between a court and a police station. The amendment replaces the requirement that the court obtain the consent of the accused before giving a live link direction with a new requirement that the court be satisfied that it is not contrary to the interests of justice to make such a direction. Section 107 of the 2009 Act makes consequential amendments to sections 46ZA and 46A of the Police and Criminal Evidence Act 1984 ("the 1984 Act").

Section 108 of the 2009 Act inserts new sections 54B and 54C of the 1984 Act, and paragraph 27A of Schedule 4 to the Police Reform Act 2002, to allow persons answering to live link bail at a police station to be searched.

SI 2224/2011 The Criminal Justice Act 2003 (New Method of Instituting Proceedings) (Public Prosecutor Specification) Order 2011

Article 2 of this Order specifies Transport for London as a "public prosecutor" for the purposes of section 29 of the Criminal Justice Act 2003. Section 29 provides public prosecutors with the power to institute criminal proceedings on the issue of a written charge and requisition.

SI 2199/2011 The Misuse of Drugs (Licence Fees) (Amendment) Regulations 2011

The Misuse of Drugs (Licence Fees) Regulations 2010 (the '2010 Regulations') were made on 12 October 2010 and came into force on 15 November 2010. Regulation 1(3) of the 2010 Regulations - which provided that the 2010 Regulations extended to England, Wales and Scotland, other than the provisions cited in regulation 1(3) which extended to the United Kingdom - was included in the 2010 Regulations in error. That error is corrected in these Regulations which revoke regulation 1(3) of the 2010 Regulations and substitute a new heading to regulation 1 of the 2010 Regulations.

These regulations come into force on **3 October 2011**.

SI 2260/2011 The Equality Act 2010 (Specific Duties) Regulations 2011

These Regulations impose duties on public authorities listed in the Schedules to these Regulations. The purpose of the duties is to ensure better performance by the public authorities concerned of their duty to have due regard to the matters set out in section 149(1) of the Equality Act 2010 ("the Act").

Regulation 2 requires public authorities to publish information to demonstrate their compliance with the duty imposed by section 149(1) of the Act. Paragraph (2) requires the public authorities listed in Schedule 1 to publish this information not later than 31 January 2012 and subsequently at intervals of not greater than one year beginning with the date of last publication. Paragraph (3) requires the public authorities listed in Schedule 2 to publish this information not later than 6 April 2012 and subsequently at intervals of not greater than one year beginning with the date of last publication. Paragraphs (4) and (5) set out what a public authority's published information must include.

Regulation 3 requires all public authorities listed in the Schedules to prepare and publish one or more objectives they think they should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act. All public authorities must publish their objectives not later than 6 April 2012 and subsequently at intervals of not greater than four years beginning with the date of last publication.

Regulation 4 requires that the information must be published in such a manner that the information is accessible to the public and allows the information to be published as part of another document.

The regulations came into force on **10 September 2011**.

SI 2279/2011 The Crime and Security Act 2010 (Domestic Violence: Pilot Schemes) Order (No. 2) 2011

This Order brings into force sections 24 to 30 of the Crime and Security Act 2010 for a period from **7 October 2011 to 29 June 2012** for the purpose of assessing the effectiveness of the provisions by way of regional pilots. The Crime and Security Act (Domestic Violence: Pilot Schemes) Order 2011 brought these sections into force for a period of 12 months from 30 June 2011 to 29 June 2012 for the purpose of three regional pilots in Greater Manchester, Wiltshire and West Mercia. This Order extends the three regional pilots to three further policing divisions in Greater Manchester and a further territorial policing unit in West Mercia.

These provisions include the power for an authorising officer to issue a domestic violence protection notice to an alleged perpetrator of domestic violence, and the power for a magistrates' court, on application made by complaint by a constable, to make a domestic violence protection order.

SI 2282/2011 The Police and Criminal Evidence Act 1984 (Armed Forces) (Amendment) Order 2011

This Order amends the Police and Criminal Evidence Act 1984 (Armed Forces) Order 2009 (the "2009 Order"). Where a fingerprint, footwear impression or sample is taken from a person after commencement of the 2009 Order in connection with the investigation of a service offence, article 15 of that Order imposes a time limit on its retention if that person is not convicted of the service offence. Under article 15(12), that limit is 2 years from the date on which the fingerprint, footwear impression or sample was taken. Article 2(2) of this Order extends the time limit under article 15(12) to 3 years from the date on which the fingerprint, footwear impression or sample was taken.

Where a fingerprint, footwear impression or sample was taken from a person before commencement of the 2009 Order in connection with the investigation of a service offence, article 19 of, and Schedule 2 to, the 2009 Order impose a time limit on its retention if that person is not convicted of the service offence. Under paragraph 17(5)(a) of Schedule 2, that limit is 2 years from the date of commencement of the 2009 Order.

Article 2(3) of this Order extends that time limit to 3 years from the date of commencement of the 2009 Order.

This Order comes into force on **30 October 2011**.

SI 2188/2011 The Criminal Justice Act 2003 (Commencement No. 26) Order 2011

This Order brings into force section 29(1) to (3), (5) and (6) and section 30 of the Criminal Justice Act 2003 but only so as to allow the following public prosecutors to institute criminal proceedings by issuing a written charge and requisition:

- A person specified by the Secretary of State in an Order under section 29(5)(h) of the Criminal Justice Act 2003 or a person authorised by such a person(sections for this purpose in force from **6 September 2011**);
- A police force or a person authorised by a police force to institute criminal proceedings in England and Wales, so far as not currently allowed (sections for this purpose in force from **3 October 2011**); and
- The Secretary of State for Business, Innovation and Skills or a person authorised by the Secretary of State for Business, Innovation and Skills to institute criminal proceedings (sections for this purpose in force from **3 October 2011**).

SI 2296/2011 The Police Act 1997 (Criminal Records and Registration) (Isle of Man) Regulations 2011

These Regulations, which come into force on **1 October 2011**, make detailed provision in relation to applications made in the Isle of Man for criminal record certificates and enhanced criminal record certificates under Part 5 of the Police Act 1997 ("the Act"). These Regulations, which apply only in the Isle of Man, mirror, with appropriate modifications, the Regulations which apply in England and Wales. Part 2 is concerned with applications for criminal record and enhanced criminal record certificates. Part 3 is concerned with registration of persons under Part 5 of the Act.

Report on Police Corruption Published

The Independent Police Complaints Commission (IPCC) has published the first part of its report into corruption in the police service. The report was requested earlier this summer by the Home Secretary and outlines the various aspects of behaviour by police officers and staff that can be considered corrupt. It also sets out information on the number of referrals made to the IPCC and gives examples of some of the corruption cases that the organisation has investigated.

The report was ordered by the Home Secretary using powers set out in the Police Reform Act 2002, in a statement made to the House of Commons in July 2011. It followed allegations concerning corrupt relationships between the police and the media, generated by the News of the World phone hacking story.

There is no single, legal definition of corruption and it does not appear in the new Bribery Act 2010, although the Act was designed to create criminal offences which most people would consider to be corruption type offences. Police forces and police authorities are required by law to refer complaints or conduct matters to the IPCC if the allegation includes serious corruption. The IPCC's Statutory Guidance 2010 defines corruption as including:

- Any attempt to pervert the course of justice or other conduct likely to seriously harm the administration of justice, in particular the criminal justice system;
- Payments or other benefits or favours received in connection with the performance or duties amounting to an offence in relation to which a magistrates' court would be likely to decline jurisdiction;
- Corrupt controller, handler or informer relationships;
- Provision of confidential information in return for payment or other benefits or favours where the conduct goes beyond a possible prosecution for an offence under section 55 of the Data Protection Act 1998;
- Extraction and supply of seized controlled drugs, firearms or other material;
- Attempts or conspiracies to do any of the above.

In the last financial year, over 2,400 referrals, for all types of incidents, were received by the IPCC from police forces and other law enforcement agencies. Of those, over 200 were classified as cases of serious corruption. A similar number of corruption referrals were received in both 2009/10 and 2008/9. The current system requires forces and authorities to make a

judgement that a case meets the threshold for referral to the IPCC and then make the referral. In addition to this, cases of corruption may also be referred to the IPCC on a covert basis. During 2010/11, the IPCC received 44 covert referrals. In 2009/10 45 were made, and in 2008/9 there were 29 covert referrals.

The report sets out six specific cases that the IPCC has dealt with which have now come to a conclusion, and details the lessons and recommendations that have been made as a result.

- The IPCC found that in several cases, wrong doing was not detected due to lack of or inappropriate supervision. There had been a failure to identify issues that lead to officers being involved in criminality;
- The IPCC's experience showed that in may cases computer systems had been misused by individuals and that a lack of system safeguards had in some cases, aided the misuse;
- The IPCC found that individuals had been able to claim inappropriate expenses or act criminally because the policy within the force was not sufficiently robust to ensure that this behaviour was prevented.

The second report by the IPCC will provide further analysis of referrals and identification issues and lessons to be learned from such cases. It will comment on the public's view of police corruption and how this impacts wider confidence in policing. It will also bring together the work that was commissioned in the wake of the phone hacking scandal and will explore what further powers and resources would be required if the IPCC were to take a greater role in the investigation of corruption issues in the future.

Corruption in the Police Service: Part 1 can be accessed in full at:
http://www.ipcc.gov.uk/Documents/Corruption_in_the_Police_Service_in_England_Wales.pdf

Community or Custody Report Published

A report has been published following a national enquiry which looked at whether community sentences are more effective than short prison terms in stopping persistent, low-level offending. 'Community or Custody: which works best?' is the final report of the enquiry commissioned by Make Justice Work. It found that community sentences can be cheaper, tougher and more effective than prisons for persistent, low-level offenders, but reoffending can only be reduced if certain standards are met.

The year long enquiry gathered evidence from victims, offenders, judges, magistrates, police and probation officers,

prison governors and voluntary and private sector providers delivering intensive community services across the country. The report states that community sentences do have an important role to play in meeting both the expectations of the public and the victim's expectations of effective justice, while providing better value for money than prison. This will only be possible, however, if intensive community sentences meet the standards set out in the report, and if the public clearly understands what they are and can have confidence in them.

The report makes the following recommendations:

- **Giving victims confidence in the punishment**
  Community sentences must not be a soft option;
- **Confronting the causes of crime**
  During community sentences, time should be spent addressing the key drivers of low-level crime in order to help offenders move towards a stable, productive and crime-free life;
- **No passing the buck**
  Alternatives to custody depend on effective partnerships between multiple agencies;
- **Holding community sentences to account**
  Magistrates must be fully informed about intensive community sentences in their area and the public must be helped to understand the role such sentences play in combating crime.

'Community of Custody: which works best?' can be accessed in full at:
http://communityorcustody.com/National%20Enquiry%20-%20Final%20Report.pdf

NPIA Circular 03/2011 - The Working Time Regulations 1998 and the Special Constabulary

This circular replaces Home Office Circular 54/1999, which provided advice on the implications of the Working Time Regulations 1998 (WTR) for Special Constables, and amends several aspects of the previous guidance. The main additions are:

- Recommended good practice for police forces to assist in complying with the WTR;
- Further guidance to police forces on how the WTR applies to the Special Constabulary; including:
  - Guidance on the provision of rest periods and workforce agreements;

- Guidance on the provision of record keeping for all employees (including those who have opted out of the 48-hour working week);

- A revised example guidance note for Special Constables;
- An example workforce agreement relating to rest periods for Special Constables;
- A revised example opt-out agreement form for Special Constables.

The circular does not provide an exhaustive guide to the WTR and is intended as a means of supporting and assisting forces, by highlighting particular areas and issues of relevance, rather than a way to prescribe a rigid set of procedures to which police forces must adhere. It also covers aspects of the legislation relevant to the Special Constabulary in recognition of its unusual status as a volunteer body whose members are classified as workers under the WTR.

NPIA Circular 03/2001 - The Working Time Regulations 1998 and the Special Constabulary can be accessed in full at: http://www.npia.police.uk/en/10040.htm

Ministry of Justice: Statistical Bulletin on the Public Disorder of 6-9 August 2011

The Ministry of Justice has published a statistical bulletin providing information on those brought before the courts by midday on 12 September 2011, for offences relating to the public disorder of 6 to 9 August 2011. The publication highlights that these results should be treated as early indicative results and caution should be taken in implying causes of the disorder.

By midday on 12 September 2011, 1715 people had appeared before the courts for related offences. Of those, 90 per cent were male and 10 per cent were female. This compares with all first hearings for indictable offences in 2010, where 85 per cent were male and 15 per cent female. 21 per cent of those brought before the courts were juveniles, aged 10-17 and a further 31 per cent were aged between 18 and 20. Only 6 per cent of those appearing before the courts for the disorder were over the age of 40.

The first stage of the court process is for those accused to have a first hearing before the magistrates' court. Of those 1715 people appearing before midday on 12 September, around two thirds were remanded in custody. This compares with 10 percent for all indictable offences in 2010. By midday on 12 September, 18 per cent (315) of those brought before the courts had been found guilty and sentenced for their part in the disorder. 176 were sentenced to immediate custody, with an average custodial sentence of 11.1 months. Overall, 73 per cent of those who appeared before the courts for the disorder had a previous caution or conviction.

The Ministry of Justice: Statistical bulletin on the public disorder of 6 to 9 August 2011 can be accessed in full at: http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/august-public-disorder-stats-bulletin.pdf

Report Published on Abuse in Teenage Relationships

The NSPCC has published a report following a research project which looked at intimate partner violence in the relationships of disadvantaged young people. 'Standing on my own two feet' builds on previous school-based research which provided a detailed picture of the incidence and impact of teenage partner violence on the lives of young people. As the previous research was undertaken in schools, this study focuses on the experiences of young people outside mainstream education, young mothers, young offenders, young people living in residential care and young people at risk of sexual exploitation. Semi-structured interviews were conducted with 82 young

people, aged between 13 and 18 years old. 44 boys and 38 girls took part, with the majority of participants aged 15 years old or above.

The aim of the research was to:

- Develop a better understanding of the nature and dynamics of violence in vulnerable teenagers' intimate relationships;
- Examine the impact of physical, emotional and sexual violence on young people's well-being; and
- Identify appropriate responses.

Over half of the girls reported they had been a victim of physical violence in at least one of their partner relationships. In addition, a quarter reported more severe forms of violence. These experiences of severe violence included being punched in the face, resulting in black eyes or having teeth knocked out, being dragged by their hair or having earrings ripped out. In comparison, just over a quarter of the boys in the study reported that they had been a victim of physical violence in at least one of their relationships.

Disadvantaged young women were more likely to report sexual violence compared to those in the school based study. Half of the girls from the sample reported they had experienced some form of sexual violence, with a quarter stating that this involved physical sexual violence. Only a small minority of the boys reported sexual violence. The majority of female participants had relationships with older partners; in many instances these partners were adult men. Those that had older partners were much more likely to report higher levels of all forms of violence than those with same-age partners. Girls in care were especially vulnerable to sexual violence from partners.

The report makes the following recommendations:

- Policy and practice developments need to recognise that teenage partner violence appears to represent an even more profound child welfare issue for disadvantaged young people, and especially young women, than for young people in the general population;
- Safeguarding polices need to challenge the perception of partner violence as a normal aspect of teenage relationships;
- Child welfare professionals need to routinely include an assessment of partner violence in work with young people;
- A failure to acknowledge and confront the unequal power dimensions contained in some teenage relationships, including sexual violence, will jeopardise governmental policies aimed at reducing teenage pregnancy;

- Policy and practice initiatives require a strengthened emphasis on supporting young mothers to protect both themselves, and their babies, from violent partners whilst ensuring that the responsibility for the violence is directed at the perpetrator;
- Policy and practice developments are required which seek to challenge the negative stereotype attached to teenage pregnancy;
- There is a clear need to develop specific programmes for young people in care concerning partner violence and control;
- Leaving care (aftercare) programmes need to include the issue of intimate violence as a central element.

The report coincides with the launch of a government campaign to tackle teenage relationship abuse. The 'This is abuse' Campaign aims to prevent the onset of domestic violence in adults by changing attitudes amongst teenage boys and girls aged 13-18. Adverts are being run across youth TV channels, websites and in cinemas and are designed to raise awareness among teens about what constitutes abuse and violence in their relationships.

'Standing on my own two feet' can be accessed in full at:
http://www.nspcc.org.uk/Inform/research/findings/standing_own_two_feet_PDF_wdf84557.pdf

Details of the government's 'This is Abuse' campaign can be accessed at:
http://thisisabuse.direct.gov.uk/

Community Action Against Crime Fund Announced

The Home Office has announced a new grant fund to encourage greater community activism and to enable communities to develop innovative approaches to tackling local crime issues. The community action against crime: innovation fund is worth £5 million in 2011/12, and a further £5 million has been set aside for 2012/13.

The application process is open until 1 December 2011 and the Home Office have outlined the criteria that will be used to make funding decisions:

The applications must show that they:

- Are innovative;
- Deliver lasting benefit;

- Have involved local communities;
- Tackle crime issues that matter to the local community, with a particular focus on antisocial behaviour, crime in local neighbourhoods, substance misuse, re-offending, violence against women and girls, and youth crime.

Further details of the community action against crime: innovation fund can be found at: http://www.homeoffice.gov.uk/crime/partnerships/innovation-fund/

Ministry of Justice Circular 2011/07: Corporate Manslaughter and Corporate Homicide Act 2007

The Ministry of Justice has published a circular which provides guidance on the custody provisions of the Corporate Manslaughter and Corporate Homicide Act 2007, which were brought into force on 1 September 2011. As of that date, an organisation (including a Government Department) can be convicted of a corporate manslaughter offence if the way in which its activities were managed or organised caused a person's death and amounted to a gross breach of the duty of care owed to the deceased by virtue of that person being held in custody.

Ministry of Justice Circular 2011/07 can be accessed in full at: http://www.justice.gov.uk/downloads/publications/circulars/moj/circular2011-07-corporate-manslaughter-act.pdf

Equality and Human Rights Commission Publish Report on Disability Harassment

An inquiry by the Equality and Human Rights Commission has set out serious and systemic failings in the way in which public authorities have dealt with disability harassment. The report, entitled 'Hidden in Plain Sights' reveals that many disabled people have come to accept harassment - including verbal and physical abuse, theft and fraud, sexual harassment and bulling - as inevitable. Evidence found that disabled people often do not report incidents of harassment, as it may be unclear who to report it to, they may fear the consequences of reporting, or they may fear that the police and other authorities will not believe them.

The Commission's investigation into ten cases found that some public bodies were aware of earlier incidents of harassment, but had taken little action to bring it to an end. There was often a failure to share information between the different services and organisations involved, and in half of the cases no serious case review had been conducted. The cases also revealed that disability is rarely considered as a possible motivating factor in crime and anti social behaviour. As a result, the incidents are given low priority and the appropriate hate incident policy and legislative frameworks are not applied. The inquiry found that incidents are often dealt with in isolation, rather than as a pattern of behaviour and that sometimes there is a focus on the victim's behaviour and 'vulnerability' rather than dealing with the perpetrators.

The British Crime Survey shows that 1.9 million disabled people were victims of crime in 2009/10, and while the Commission were not aware how many were victims of harassment, the report states that disabled people are more likely to be victims of crime than those that are not.

The report makes recommendations to public authorities on how to address the problems that the Commission has uncovered. These recommendations focus on three key areas:

- **Recognition**: senior managers need to recognise this as an issue and show leadership; better information on the harassment of disabled people needs to be collected by all agencies; and a more positive attitude towards disabled people needs to be encouraged across society;
- **Prevention**: agencies must share best practice; staff should be given training and guidance on how to deal with disability-related harassment; research should be done into perpetrators and how to deter them;

- **Redress**: the criminal justice system must become more accessible and responsive to disabled people; police must routinely consider disability as a motive where a victim is disabled; victims must be better supported and perpetrators brought to justice.

The Equality and Human Rights Commission Report, Hidden in Plain Sight, can be accessed in full at:
http://www.equalityhumanrights.com/uploaded_files/disabilityfi/ehrc_hidden_in_plain_sight_2_pdf.pdf

Racist Incidents in England and Wales - 2010/11

The Home Office has published statistics which reveal that the number of racist incidents recorded by police in England and Wales fell by seven per, from 54872 in 2009/10 to 51187 in 2010/11. There was also a decrease in the number of racist incidents recorded in 26 of the 43 police force areas.

A racist incident is defined as 'any incident, including any crime, which is perceived to be racist by the victim or any other person'.

Home Office Statistical Findings 1/11 can be accessed at:
http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosf0111/hosf0111-xls?view=Binary

ACPO Publishes Hate Crime Date for 2010

ACPO has published hate crime data for 2010, for the five monitored forms of hate crime classifications used by the criminal justice system. From 1 January to 31 December 2010, the police recorded 48,127 crimes where the victim, or any other person, perceived the offence to be motivated by hostility based on a person's race or ethnicity, religion or belief, sexual orientation, disability or where the victim was perceived to be transgender. This compares with 51,920 crimes in 2009.

ACPO Recorded Hate Crime Data for 2010 for England, Wales and Northern Ireland, can be accessed at:
http://www.report-it.org.uk/files/acpo_hate_crime_data_for_2010.pdf

Criminal Procedure Rules 2011

The Criminal Procedure Rules 2011 will come into force on 3 October 2011; consolidating the Criminal Procedure Rules 2010 and the Criminal Procedure (Amendments) Rules 2010 and the Criminal Procedure (Amendment No.2) Rules 2010, which subsequently amended them.

The Rules include the following additions and revisions:

- **New procedure rules** about procedure on the enforcement of financial penalties imposed in other European Union member states;
- **Replacement rules** about forms and court records; about preparatory hearings in the Crown Court; about reporting restrictions and restrictions on public access to criminal cases; and about the electronic service of documents;
- **Amendments** to the time limits for making applications, and giving notices, in connections with special measures for vulnerable witnesses, hearsay evidence and bad character evidence; amendments to the rules about restraint orders and other orders in proceedings for the confiscation of proceeds of crime; and amendments to the time limits that apply where the Criminal Cases Review Commission refers a convictions to the Court of Appeal;
- The rules incorporate cross-references to relevant legislation recently, or likely soon to be, brought into force.

The Criminal Procedure Rules 2011 can be accessed in full at: http://www.legislation.gov.uk/uksi/2011/1709/contents/made

The Ministry of Justice Guide to the Criminal Procedure Rules 2011 can be accessed at: http://www.justice.gov.uk/guidance/courts-and-tribunals/courts/procedure-rules/criminal/docs/criminal-procedure-rules-2011-guide-for-users.pdf

Revised CPS Guidance on Female Genital Mutilation Published

The Crown Prosecution Service (CPS) has issued new guidance which sets out the legal elements of Female Genital Mutilation (FGM) and the challenges prosecutors may face when bringing a case to court. FGM is a collective term for a range of procedures which involve partial or total removal of the external female genitalia for non-medical reasons. The practice, often referred to as female circumcision, is estimated to affect up to 140 million girls and women worldwide; with over 80,000 who could be at risk in England and Wales.

FGM has been a specific criminal offence since 1985; however a 'loophole' was identified in the legislation, which meant that taking girls who were settled in the UK abroad for FGM was not a criminal offence. This was rectified by the Female Genital Mutilation Act 2003, which was brought into force on 3 March 2004.

The Act affirms that it is illegal for FGM to be performed, and that it is also an offence for UK nationals or permanent UK residents to carry out, or aid, abet, counsel or procure the carrying out of FGM abroad on a UK national or permanent UK resident, even in countries where the practice is legal.

The revised CPS Guidance on Female Genital Mutilation can be accessed at:
http://www.cps.gov.uk/legal/d_to_g/female_genital_mutilation/

Restorative Justice Register Launched

The Restorative Justice Council have launched a new national register of qualified restorative practitioners; the first of its kind internationally. Restorative Justice has been shown to help reduce re-offending by making offenders understand the pain they have caused. The practice is already used in some areas of England and Wales, and ensures that victims, if they are willing, are able to meet their offenders to explain the impact of the crime and to make offenders face up to their actions. Of those victims that have taken part, 85 per cent reported a positive experience.

The register will provide professional recognition for practitioners and will give employers confidence that the staff are working to national standards. It will also provide quality assurance for the public, giving victims in particular confidence that the process they are being offered is safe and focused on their needs.

The RJC Register of Restorative Practitioners can be accessed at:
http://www.restorativejustice.org.uk/practitioners

Criminal Justice Statistics in England and Wales

The Ministry of Justice has published the quarterly statistical update, covering the period April 2010 to March 2011. It presents the key trends of activity in the Criminal Justice System (CJS) in England and Wales over the latest 12 months and consolidates information previously presented in a number of National Statistics publications.

In the 12 months ending March 2011:

- 2.09 million individuals were given an out of court disposal, or proceeded against at court. There was a 13.3 per cent

fall in the use of out of court disposals when compared with the previous 12 months; from 522,100 to 452,700 and a three per cent fall in the number of defendants proceeded against at court;

- 238, 100 cautions were administered. This was a decrease of 12.9 percent on the previous 12 months and 33.7 per cent fewer than in the 12 Months ending March 2011, when the use of cautions peaked at 359, 000;
- 134,000 Penalty Notices for Disorder (PNDs) were issued; 17.1 per cent fewer than the 161,600 issued in the 12 months ending March 2010. 13,900 of these were for drug offences. There was an 18 per cent decrease in the number of PNDs issued for theft and handling stolen goods;
- 80, 700 cannabis warnings were issued. This was 7.6 per cent less than the 87,300 issued in the previous 12 months;
- 1.64 million defendants were proceeded against in the magistrates' courts; three per cent fewer than the 1.69 million in the 12 months ending March 2010. This was caused by fewer proceedings for summary motoring offense and summary non-motoring offences;
- 1.36 million offenders were convicted of a criminal offence. This was 3 per cent fewer than the 1.4 million convicted in the previous 12 months. The largest increases were for theft and handling stolen goods, and sexual offences. The conviction ratio was 82.9 per cent; similar to the previous period. This ratio varied from 57.3 per cent for sexual offences to 91.8 per cent for drug offences;
- There were 226,000 new entrants to the criminal justice system; a fall of 11 per cent. 25.8 per cent of all offences that resulted in a caution or conviction were committed by people with no previous proven offences;
- Crime decreased by 4.3 per cent from 4.34 million to 4.15 million when compared to the 12 months ending March 2010.

The Statistical Bulletin can be accessed in full at:
http://www.justice.gov.uk/downloads/publications/statistics-and-data/criminal-justice-stats/criminal-stats-quarterly-march11.pdf

Human Rights Joint Committee Publishes Report on Stop and Search without Reasonable Suspicion

The Joint Committee on Human Rights has published its second Report on the Terrorism Act 2000 (Remedial) Order 2011: stop and search without reasonable suspicion. The Order has been in force since 18 March 2011 and was made as a result of the European Court of Human Rights' judgement in the case of Gillan and Quinton v UK.

In its first report in June this year, the Committee stated that in its current form, the Order did not go far enough in terms of safeguards and risked giving rise to further human rights breaches. The Committee recommended that the Order be replaced with one that modified the provisions of the original Order. The recommendations of the report were not accepted by the Home Secretary and the Committee has called upon the Government to amend the order:

(i) to make explicit that the authorising officer must have a reasonable basis not only for his or her suspicion that an act of terrorism will take place, but also for his or her view that the authorisation is necessary and proportionate to prevent such an act; and

(ii) to require prior judicial authorisation of the power to stop and search without reasonable suspicion.

The Committee welcomed the Government's clarification that for a new authorisation to be made under the power of renewal, an authorising officer must either have new intelligence, or have conducted a fresh assessment of the existing intelligence and be satisfied that it still relates to an act of terrorism that will take place.

The Committee recommended removing all references to random searches in the Code of Practice and making it more explicit that any individual exercise of the power to stop and search must be capable of being justified by the precise nature of the intelligence about the threat.

The Order has to be agreed by both Houses of Parliament before 14 October or it will lapse.

The Human Rights Joint Committee - Seventeenth Report - the Terrorism Act 2000(Remedial) Order 2011: Stop and Search without Reasonable Suspicion (second report) can be accessed in full at:
http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/192/19202.htm

House of Lords Select Committee Report on Terrorism Prevention and Investigation Measures Bill

The Lords Constitution Committee has published a report on the Government Bill which will replace the current control order regime. The Terrorism Prevention and Investigation Measures Bill, currently before Parliament, abolishes control orders and replaces them with terrorism prevention and investigation measures (TPIMs).

The Committee stated that Lord Macdonald was clear, in his report on the Review of Counter-Terrorism and Security Powers, that control orders 'undoubtedly' resulted in 'some terrorist activity' remaining 'unpunished by the criminal law'. He described this as a serious and continuing failure of public policy. In the report the Committee stated that it was not clear that the TPIMs Bill, as currently drafted, sufficiently addressed these concerns.

Unlike control orders, which required annual parliamentary renewal, the TPIMs regime is intended to be permanent. The Committee questioned whether it was constitutionally appropriate to place such a scheme of extraordinary executive powers on a permanent basis. The Committee stated that the Bill should be clear that in cases concerning TPIM notices, the function of the court is not limited to ordinary judicial review. While this is reflected in the explanatory notes to the Act, the Committee felt that such a constitutionally important matter should not be left for clarification in the notes.

The Committee also commented on the Draft Enhanced Terrorism Prevention and Investigation Measures Bill. If enacted, the Bill would enable the Secretary of State to impose more stringent restrictions than those available under the TPIMs Bill. This may include, for example, a relocation requirement. It is intended that the Bill would only be enacted in the event of an emergency; specifically 'a very serious terrorist risk that cannot be managed by any other means'. The Committee has previously submitted written evidence on the Draft Detention of Terrorist Suspects (Temporary Extension) Bills. Concerns were raised that the device of holding fast-track legislation in reserve was constitutionally problematic for a range of reasons. The Committee stated that given that the Government were again proposing the use of this device, a comprehensive response to the constitutional concerns that had been expressed in the context of the Draft Detention of Terrorist Suspects (Temporary Extension) Bills should be provided.

The Lords Constitution Committee Report on the Terrorism Prevention and Investigation Measures Bill can be accessed in full at:
http://www.publications.parliament.uk/pa/ld201012/ldselect/ldconst/198/19802.htm

Report on the New Landscape of Policing Published

The Commons Home Affairs Committee has published a report, examining the Government's proposals for policing reform and calling for a revision of its timetables for introducing the changes. The report focuses on the structural changes to what the Committee has called the landscape of policing.

In July last year, the Home Office published 'Policing in the 21st Century: Reconnecting police and the people', which set out proposals to reform policing in England and Wales. The main structural changes set out in Policing in the 21st Century are:

- The phasing out of the Serious Organised Crime Agency and the creation of "a new National Crime Agency to lead the fight against organised crime, protect our borders and provide services best delivered at national level";
- The phasing out of the National Policing Improvement Agency, "reviewing its role and how this translates into a streamlined national landscape";
- "Repositioning ACPO as the national organisation responsible for providing the professional leadership for the police service, by taking the lead role on setting standards and sharing best practice across the range of police activities."

The report also looks at the following proposals, which have been announced since the publication of Policing in the 21st Century:

- A Government-commissioned review by Peter Neyroud, published on 5 April 2011, which provided proposals for the creation of that Professional Body for policing; and
- The creation of a "police-led" company to be responsible for police IT, as announced by the Home Secretary on 4 July 2011 at the ACPO conference.

The Committee concluded that overall, it seems likely that the new landscape will contain more bodies than the current landscape, but that it is possible that these changes will lead to a more logical and better functioning police landscape and ultimately make the police more successful at achieving their basic mission of reducing crime and disorder. It is their view that this is what the Home Secretary should be held to account for, not the number of bodies in the landscape; however the Committee notes that the scale of the change is unprecedented and the scope for mistakes is accordingly large. The changes are the most far-reaching to be proposed to the police service since the 1960s and are among the most significant that have been proposed since Sir Robert Peel laid the foundations for modern policing nearly 200 years ago.

Key points made by the committee include:

- The Committee stated that it is unacceptable that, more than a year after the Government announced it was phasing out the National Policing Improvement Agency, it still has not announced any definite decisions about the future of the vast majority of the functions currently performed by the Agency. Spring 2012, when the Agency is due to be phased out, is little more than six months away. The committee was not persuaded that the Government can meet this timetable and recommends that it delay the phasing out of the Agency until the end of 2012;
- The committee agreed with the Government that responsibility for counter-terrorism should remain with the Metropolitan Police until after the Olympics, but recommended that after the Olympics, the Home Office should consider making counter-terrorism a separate command of the National Crime Agency;
- The Government's plan for the National Crime Agency contains welcome assurances about the future of the Child Exploitation and Online Protection Centre in the new landscape, particularly in relation to safeguarding its multi-partnership approach to tackling the sexual abuse of children;
- The Government must appoint a head of the new National Crime Agency as a matter of urgency;
- A Professional Body for policing, as proposed by Peter Neyroud, could ultimately become a useful part of the policing landscape, but the Government will need to win the hearts and minds of police officers and staff to convey coherently the nature and role of the new body. The proposed new Professional Body must be inclusive from the outset and not just involve officers of ACPO ranks. Individual police officers and staff need to believe that this is their body;
- Collaboration between police forces offers clear financial and operational benefits. The Home Office should be more active in encouraging and supporting forces to collaborate with one another;
- The committee recommended that the Home Office review the legislative framework in which collaboration between police forces takes place with a view to ascertaining whether it could remove any obstacles that are making collaboration more difficult;
- IT across the police service as a whole is not fit for purpose, to the detriment of the police's ability to fulfil their basic mission of preventing crime and disorder. The Home Office must make revolutionising police IT a top priority;

- The committee seeks clarity from the Home Office on which police force or forces it has in mind to take on responsibility for the existing IT systems provided directly by the National Policing Improvement Agency and an assurance that the force in question will be given the necessary resources to take on this task;
- One of the most important aspects of reducing bureaucracy in the police service will be integrated IT, not just across the police service itself, but across the whole criminal justice system. The new police-led IT company needs to make this a priority;
- The committee stated that Tom Winsor's review of pay and conditions is having an inevitable impact on morale in the police service, but believes it is possible to do more to mitigate this;
- The committee commended the work of Jan Berry, the former Reducing Bureaucracy in Policing Advocate, in emphasising that reducing bureaucracy in the police service is not simply about reducing paperwork but addressing the causes of that paperwork and bringing about a change in culture in the police service. The committee urged the Home Secretary to meet Jan Berry to discuss how to take her work forward.

Home Affairs Committee - Fourteenth Report - New Landscape of Policing can be accessed in full at:
http://www.publications.parliament.uk/pa/cm201012/cmselect/cmhaff/939/93902.htm

NPIA

National Policing
Improvement Agency

Legal Services
Chief Executive Officer Directorate

www.npia.police.uk