



**NPIA**  
National Policing  
Improvement Agency

# Digest



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


The Digest this month features a more in depth look at the Policing Green Paper following on from the summary contained in last month's edition.

Also this month are new legislative proposals for measures against child sex offenders and reforms to the law on murder in particular the proposed abolition of the partial defence of provocation. A new Draft Immigration and Citizenship Bill has been published and a Home Office Circular on police powers and duties under the Children Act 1989 are also covered.

There has been new guidance released on football related offences and draft guidance on tackling forced marriages. Elsewhere in Government news, the National Risk Register has been released following the National Security Strategy published earlier this year and the Home Secretary has announced that interactive crime maps will be introduced by the end of the year.

There has been a landmark ruling by the Information Tribunal regarding the retention of old convictions held on the Police National Computer which has far reaching implications for forces. Finally there has also been an interesting case on the common law duty of the police to protect individuals against harm caused by criminals and another on police disciplinary procedures.

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

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## Draft Immigration and Citizenship Bill

A draft of the forthcoming Immigration and Citizenship Bill has been published to give Parliament and the public a chance to provide their views on the plans before the final Bill is introduced. Also published are draft immigration rules on protection.

The Bill and immigration rules focus on the following issues:

- ◆ Powers for UK Border Agency (UKBA) officers at foreign ports and airports to cancel visas or refuse permission for carriers to carry foreign nationals to Britain;
- ◆ Updating customs and immigration powers, including new powers to take and check fingerprints;
- ◆ Introducing a clear duty on migrants to ensure they have permission to be in the UK, with anyone who knowingly stays in the UK without permission after it has expired or been cancelled committing an imprisonable offence;
- ◆ Replacing leave to enter, leave to remain and entry clearance concepts with one of 'permission' being the basic authorisation given by UKBA officers. There will also be a single new power to cancel permission;
- ◆ Replacing the deportation and administrative removal procedures with one streamlined power of expulsion for all those without permission to be in the UK;
- ◆ Introducing a system of migrants 'earning' their right to stay, through learning English, paying more towards local public services and holding down jobs to pay taxes, with minor crimes slowing down citizenship and serious crimes triggering automatic deportation;
- ◆ Allowing automatic bans on returns to the UK, with powers to exclude criminals and immigration offenders either indefinitely or for fixed terms;
- ◆ Wide detention and tagging powers for illegal immigrants, including a power to require a large 'bail bond'. A new immigration bail procedure will replace provisions for temporary admission, temporary release and current bail procedures and will include a series of conditions such as residence and electronic monitoring as an alternative to detention;
- ◆ Providing new measures to tackle illegal working through civil penalties for employers who do not make the necessary checks, such as checks on the new ID cards for foreign nationals;
- ◆ Simplifying the appeals system to cut obstructions to enforcement, with measures to protect the vulnerable, such as ensuring immigration functions are carried out with regard to the need to safeguard the welfare of children;
- ◆ Reserving full access to benefits for citizens and permanent residents, coupled with ensuring migrants contribute more towards local services.

The draft Bill is only partial at present. There are a number of areas which will be added to the Bill before it will be introduced. These include:

- ◆ Giving stronger powers to the UKBA, including the transfer of certain functions to the UKBA from HM Revenue and Customs;
- ◆ Introducing tougher overseas controls and extending the law to develop these controls elsewhere in the world;
- ◆ Reviewing the arrangements for allowing movement without controls regardless of nationality within the Common Travel Area;
- ◆ Modernising arrangements for foreign nationals to undergo a medical examination as part of the examination at the UK border;
- ◆ Simplifying powers to ascertain identity by creating one power to obtain and use biometrics in specified circumstances;
- ◆ Consolidating the numerous powers to enable other bodies to provide information to the UKBA;
- ◆ Widening the role of the inspecting the UKBA to cover HM Inspectorate of Constabulary and the Independent Monitor of Entry Clearance;
- ◆ Removing the cut-off date for citizenship for people born to British mothers to allow those born before 1961 to be registered as British citizens;
- ◆ Introducing a system of sponsoring family visitors, including provision for penalties for the sponsor if the rules are broken;
- ◆ Simplifying the law relating to support for asylum seekers;
- ◆ Making provision for a swift appeal procedure to reduce the time and burden of cases going to the High Court for judicial review, and providing for a Special Immigration Appeals Commission;
- ◆ Creating a regulatory system for immigration advisers;
- ◆ Establishing a cross-Government working group to consider the different legal terms for residency and to simplify the legislation on access to benefits and services.

The draft Bill and draft immigration rules, together with public scrutiny documents on the proposals and details of the closed consultation 'The Path to Citizenship', can be found at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/immigrationandcitizenshipbill/>

## New Measures Against Child Sex Offenders Outlined

The Home Secretary, Jacqui Smith, has announced a range of measures to strengthen restrictions against child sex offenders. These include:

- ◆ Removing the need for recent evidence when police seek a Sexual Offences Prevention Order under Part 2 of the Sexual Offences Act 2003 (SOA);
- ◆ Requiring registered sex offenders to notify the police earlier of their intentions to travel abroad;
- ◆ Automatic removal of an individual's passport when they are subject to a blanket Foreign Travel Order under Part 2 SOA;
- ◆ Extending the duration of a Foreign Travel Order from the current 6 months.

These changes follow consultation with the police and the Child Exploitation and Online Protection Agency. The following measures are also being considered by the Home Secretary, who will be seeking views on the proposals:

- ◆ Further restrictions on passport issuance and validity;
- ◆ Raising the upper limit in respect of the child at risk from 16 to 18, to allow Foreign Travel Orders to be made in respect of this age group in specified circumstances.

## Driving Test Legislation on Use of Heavier Vehicles Delayed

Legislation requiring vehicles used for driving tests to meet a minimum 'real weight' requirement has been delayed until 30 September 2013.

The legislation was required to implement the European Commissions revised minimum standards for vehicles used for practical driving tests. This Directive was originally required to be implemented by 11 October 2010, however, following representations by Member States this implementation date was put back to 2013.

As it is Government policy not to implement EU Directives earlier than required, Ministers have agreed to opt to implement the revised requirements at this later date.

Further information on test vehicle requirements can be found on the Driving Standards Agency website at <http://www.dsa.gov.uk/>

## HOC 17/2008 Duties and Powers of the Police Under the Children Act 1989

This circular replaces and updates Home Office Circulars 54/1991 and 44/2003 and aims to give greater clarity about when and how to use police protection powers under the Children Act 1989 (CA 1989).

The circular gives detail of the police powers under the following headings:

- ◆ Police Protection Powers;
- ◆ The Initiating Officer and Designated Officer;
- ◆ When to use police protection;
- ◆ Powers of entry;
- ◆ "Significant harm";
- ◆ "Suitable accommodation";
- ◆ Use of reasonable force;
- ◆ Informing the local authority;
- ◆ Informing the child;
- ◆ Informing the parents;
- ◆ Releasing the child from police protection;
- ◆ Length of police protection;
- ◆ Parental responsibility;
- ◆ Contact;
- ◆ Local Authority action;
- ◆ Emergency Protection Orders (EPOs);
- ◆ Powers of the Court to determine the whereabouts and assist in the discovery of children at risk;
- ◆ Abduction and recovery of children in care, the subject of an EPO or in police protection;
- ◆ Search warrants;
- ◆ Refuges for children at risk;
- ◆ The address of the refuges must not be disclosed to any person.

The circular notes in particular that police protection powers under Section 46(1) CA 1989 are not orders granted by a court so should not be referred to as a police protection order. It highlights that the 'Initiating Officer' and 'Designated Officer' roles are distinct and must not be carried out by the same officer.

Also detailed is that a police station is not "suitable accommodation" and children should not be brought to a police station except in exceptional circumstances, and on no account should they be taken to the cellblock area of the station. The need for Chief Officers to ensure there is adequate liaison between the force, local authorities and other agencies that may provide suitable accommodation is highlighted.



The circular can be found at  
<http://www.knowledgenetwork.gov.uk/HO/circular.nsf/79755433dd36a66980256d4f004d1514/954f5cc40a46ebcd8025748200574cc4?OpenDocument>

## Counter-Terrorism Bill: The Role of Ministers, Parliament and the Judiciary Report

The Select Committee on the Constitution's tenth report on the Counter Terrorism Bill was published by the House of Lords on 5 August.

The role of the Committee is "to examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution".

The main focus of the report is on the continually controversial provisions contained in:

- ◆ Part 2 of the Bill; detention and questioning of terrorist suspects; and
- ◆ Part 6; inquests and inquiries.

The report considers the respective roles of ministers, Parliament and the judiciary in the arrangements proposed by these Parts of the Bill.

The report acknowledges that the Government have listened carefully to their critics. Indeed, the proposals contained in the Bill have emerged from compromises and concessions by the Government. They make no criticism of the process by which the Bill's proposals have been developed. The concerns expressed in the report are directed at the outcomes that have been reached.

The powers contained in the Counter-Terrorism Bill need to be considered against the background of other recent anti-terrorism legislation. The role of Parliament is to assess whether there is a necessity for new measures, to ensure that the measures are framed proportionately, go no further than necessary, and to require that legislation provides for adequate judicial control of the exercise of new powers.

A full copy of the report can be downloaded at  
<http://www.publications.parliament.uk/pa/ld200708/ldselect/ldconst/167/167.pdf>

## Green Paper - From the Neighbourhood to the National: Policing Our Communities Together

The Government's Green Paper on Policing (a summary of which was included in August's *Digest*) contains a number of challenges and recommendations, with the aim of setting out a new vision for a 21<sup>st</sup> century police force. The paper sets out the Government's intentions to give the police greater power and to give a clear deal for what the public can expect from the police.

In the introduction to the Green Paper, detail is given of 3 year funding settlement announced last year. The paper notes that Government funding for the police overall is to rise by at least 2.7% in each of the years 2007/2008 to 2010/2011. The settlement moves away from earmarked funding, the main remaining ring-fenced funds being £26 million over the three years for neighbourhood policing and £107 million over the three years for counter-terrorism.

As discussed in August's *Digest*, the paper focuses on seven key issues, set out across Chapters 1 to 7 of the paper. A detailed examination of these chapters is set out below.

### Chapter 1 - Improving the Connection between the Public and the Police

This chapter acknowledges that people have reasonable expectations about what they want from the police service locally. The paper states how clear service standards are to be created, to make it easier for people to influence the setting of local priorities.

The value the public place upon Police Community Support Officers (PCSOs) is highlighted, however the need to be clearer about the role PCSOs play is also shown. The paper shows the Government's commitment to the sustainability of funding for PCSOs, this ring-fencing of funds is to continue for at least the coming three years, with a review of this position after that. A commitment to standardisation of uniforms and training for PCSOs is also given.

In terms of clarity of the PCSO role, the paper sets out a core role and principles for PCSOs. PCSOs will either be integrated into neighbourhood policing teams or deployed to directly support neighbourhood policing teams, with the majority of their time being spent within neighbourhoods, not in the office or police station. The core principles for the role are:

- ◆ Undertaking public facing non-confrontational duties in uniform;
- ◆ Being visible in communities on foot or cycle patrol (in a vehicle in rural communities);
- ◆ Dealing with Anti-social Behaviour, low-level crime and incidents, local problems/priorities and quality of life issues;
- ◆ Supporting and improving service to victims and vulnerable people;
- ◆ Conducting engagement and problem solving activity.

A commitment to evaluating the standard and discretionary PCSO powers, to establish exactly what powers PCSOs are using, is given. This is in response to public confusion over what powers PCSOs have. This evaluation will be concluded by the end of 2008, with a key part of the evaluation being the public consultation on PCSO powers through this Green Paper.

The importance of a standard approach to build consistency in neighbourhood policing is noted, however the paper also points out that this should not be at the expense of local flexibility; the working practices of neighbourhood teams must be matched to the needs of an area.

The paper demonstrates current commitments towards working in partnership with, for example, local councils towards targeting crime and anti-social behaviour issues. The commitment towards setting out core principles of good practice is set out. These core principles are to include:

- ◆ Strong local leadership at strategic level;
- ◆ Clearly defined and agreed neighbourhoods;
- ◆ Shared and publicly negotiated local community safety priorities;
- ◆ Shared information, feedback and communication processes;
- ◆ Coordinated teams consisting of police, local authorities and other relevant organisations, if possible working out of the same office;
- ◆ Evidence-based deployment of resources;
- ◆ Nominated officers in police forces and local authorities to act as contact points;
- ◆ A neighbourhood lead, such as a neighbourhood manager or coordinator;
- ◆ Strong community engagement with local authority involvement at neighbourhood policing meetings.

Towards this end, work is to start this year on supporting local areas, to be delivered locally by, amongst others, the NPIA and local forces. The Home Office is to support the use of participatory budgeting, which will ensure that the views of the local community are built into decision-making processes to direct the use of resources. Pilots of these Community Safety Participatory Budgets are to take place in a few forces this year, towards informing a wider roll out in 2009.

The need to ensure active participation of local communities in neighbourhood policing is set out in chapter 1 of the paper. A number of initiatives to meet this need are set out in the paper, such as the Community Crime Fighter programme, aiming to increase the visibility of the local groups already working in the community, and the 'Crime Watch' style information packs the Home Office is developing, which will highlight what individuals, families and communities can do to make communities safer.

Neighbourhood policing is increasingly becoming an access point for the criminal justice service to engage with communities, and the ability of neighbourhood policing teams to impact on the more serious crimes in areas is highlighted. The local and national focus on preventing people becoming terrorists is noted as a key function of neighbourhood policing teams.

Key to the commitment towards making the police service more accountable to the public is the 'Policing Pledge' set out in chapter 1 of the paper. This will set clear national service standards for the police from first contact through to follow up, allowing the public to hold neighbourhood policing teams to account for tackling local priorities. The pledge will focus on customer service, neighbourhood policing, contact management and services to victims and witnesses. The Policing Pledge is to be implemented in all areas by the end of the year.

Part of the commitment towards customer service is to involve incentivising good customer service and challenging poor service. Customer service is to be integrated into police training, through asking the NPIA to review training on skills such as contact with the public.

In addition, to strengthen the link between those responsible for delivering policing and the public they serve, the paper sets out the commitment to legislate to reform police authorities, making them more democratic. This will be done through direct public voting, for the majority of the members of police authorities. These proposals are not to be implemented in London or the non-Home Office forces such as the British Transport Police.

## **Chapter 2 - Reducing Bureaucracy and Developing Technologies**

This chapter of the Green Paper sets out the Government commitment to reducing bureaucracy, both to decrease the amount of time officers spend filling in forms and to return to them discretion and judgement to focus on the issues that matter to local people.

This approach is to be tackled through the current Public Service Agreement regime, which focuses on 'harm' and on bringing a greater proportion of the most serious offences to justice. A commitment by the Home Office to review the amount of data that it collects from forces, with the aim of reducing it by 50%, is made clear. In particular the bureaucracy around recording low level crimes is to be tackled.

Pilots are currently running in some forces to reduce the amount of information collected when recording crimes by 80% in 80% of cases, and on scrapping the stop and account form, in favour of recording ethnicity information by radio.

In an effort to increase efficiency and productivity, the Green Paper sets out how forces are to move away from central targets, to setting their own individual targets and holding themselves locally to account.

An additional key element in reducing bureaucracy is working with the broader criminal justice system. This involves piloting the use of 'virtual courts' and the review of the Police and Criminal Evidence Act 1984, for

which proposals are to be published shortly. The Government is also undertaking a review of the Regulation of Investigatory Powers Act 2000.

In terms of technological advancements, the Green Paper notes the benefit of mobile data devices, such as the LANTERN mobile fingerprint devices and the handheld computers the British Transport Police are using to print Stop and Search forms, and the Mobile Information Programme. Through the paper, the Government have announced a further £25 million investment over the next two years to support the rollout of 30,000 extra mobile devices by March 2010.

Further to this, the paper announces that the NPIA is to take the national leadership role in police IT, and will prioritise the delivery of local crime information to the public. The NPIA will develop a mandate on convergence, requiring sign off of investments against compliance criteria, and will appoint regional leads to support forces in achieving this convergence. In addition, the NPIA will work with forces to develop their own capability, and will establish two major new programmes:

- ◆ Firstly, creating a common operating environment for police officers and staff;
- ◆ Secondly, seeking to create innovative information services for citizens to engage with the public more effectively, in support of the neighbourhood policing programme.

### **Chapter 3 - Defining Roles and Leadership in the Police Service**

This chapter describes the Governments views on the distinct roles in the police workforce, how they fit together as a team, and sets out the next steps in police leadership.

The paper sets out the Governments preference for a multi-year pay agreement, and notes that if this cannot be met, that consultations will begin on the arrangements for setting up a police officer pay review body.

The importance of the Office of Constable is highlighted in the paper. It states the intention of the Government that only Constables should have the wide ranging coercive powers available to them in the community at large, and notes the importance of a broad professional knowledge of policing. However the requirement for a good balance between this and specialist skills is recognised in the paper, which asks the NPIA to consult on how best to achieve this balance and to consult on and consider the best approach to deploying new Police Constables in their early years of service.

Police staff roles are considered in this chapter, noting that take-up of the roles of investigating, detention and escort officers set out in the Police Reform Act 2002 has not been as widespread as expected. Options for the future include the introduction of an Identification Officer role and a designated Crime Scene Investigator role. The provisions which will allow custody officer duties to be carried out by police staff will be repealed. The paper also reiterates the Government's commitment to providing further funding for the creation of more Special Constables, to build on the success of the role through the Special Constabulary National Strategy, launched earlier this year.

In terms of leadership in the police service, the paper sets out details of the Leadership Strategy agreed by the Home Office, the APA and ACPO, and sets out the Government's intention to look again at how the chief officer appointment system works. The proposals for changing the chief officer appointment system include making the Senior Appointments Panel (SAP) more proactive in succession planning and appointments, advertising chief officer posts in coordinated rounds to provide police authorities and candidates with more choice, and making the chair of SAP an independent member.

The Leadership Strategy identifies executive policing skills and business policing skills as needing particular development. Towards this, the paper states that the Performance and Development Review process for police leaders must be simplified, and must highlight their national level contributions alongside specifically local work.

Additionally, chief officers are to take account of national learning of best practice. To help this, a National College of Police Leadership is to be set up, which will set up a practical framework for the accreditation of chief officer skills. A graduate fast-track scheme which will complement the re-launched High Potential Development Scheme is to be developed by the NPIA to attract top quality graduates into policing. The College will also take forward recommendations for the role of Sergeant, including:

- ◆ Consistent definition of national standards for the role of Sergeant;
- ◆ Provision of accreditation for Sergeants;
- ◆ Review of the promotion process from constable to Sergeant.

The current exception to allow Chief Constables to be appointed without at least 2 years chief officer experience in another role is, subject to consultation, to be kept. However, the SAP is to set a high standard in considering any cases for an exception, to ensure that in general the 2 years experience is required.

#### **Chapter 4 - Focusing on Development and Deployment**

This chapter outlines how improvements to development and deployment are to be underpinned by support from the NPIA, and will ensure that the skills and initiative of the workforce are used as part of a team with a culture of learning to deliver more to the public.

The paper outlines the 2010 HMIC inspection of police authorities and forces progress on this workforce programme, including progress made in:

- ◆ Enabling officers and staff to improve customer service individually;
- ◆ Enabling frontline officers and staff to improve how their force works for the public;
- ◆ The adoption and implementation of equality standards;
- ◆ The deployment of officers and staff in comparison to the demand for police services;

- ◆ The achievement of a workforce mix that maximises delivery for the public;
- ◆ The development of the role of Sergeant.

The chapter asks the NPIA to consider how best to include in the training for police constables specific training in how to provide the best possible quality of service to the public. All forces are asked, with the support of the Home Office and NPIA, to learn the lessons from Operation QUEST in how to use their workforce to best understand what their customers want and need.

To continue the progress in gaining public confidence through ensuring equality and diversity in the police service, the paper proposes a three year equality, diversity and human rights strategy for the police service. This is to include:

- ◆ The local setting of minimum equality standards for policing, a framework for which is being developed by the NPIA;
- ◆ Support and work with staff associations such as the Police Federation;
- ◆ Continued support for the Diversity Staff Support Associations;
- ◆ Active talent management in areas where representation of diverse groups is of concern;
- ◆ Subject to its passage through Parliament, application to the police service of the proposed Equality Bill.

The focus on deployment to match demand is considered in this chapter, and will be an important element in the 2010 HMIC workforce inspection. Included in this focus is the need for force managers to ensure the right people are in the right place as part of their role, and for forces to ensure training on business management is part of training for all supervisors and managers. Police authorities are to hold forces to account for this as a key part of delivering an efficient and effective service to the public.

Ensuring the correct balance of police officers and operational staff is met is noted as a crucial factor for the future, and the paper sets out how the NPIA national workforce modernisation programme can help to achieve this, through providing authorities and forces with evidence of the range of officer: staff ratios across forces and helping forces to make use of this evidence and tools to identify the best workforce mix.

### **Chapter 5 - Co-ordinating Change in Policing**

This chapter sets out the need to coordinate change in policing, by establishing a clear framework for making decisions at the right levels and setting national minimum standards. It highlights the importance of the National Policing Board (NPB) in shaping these decisions.

In creating a new approach to decision making, the paper states that a primary consideration is whether operational benefit and cost-effectiveness are maximised. The decision making level should be proportionate to the problem, with the decision makers having the right skills and resources to

tackle the issue, whilst being accountable for their decision. The paper sets out approaches towards this change for consultation.

To achieve this at the local level, forces are to be responsible for implementing the neighbourhood element of the Policing Pledge, for agreeing which crimes and local problems to target and for setting their workforce mix. At the regional level further cooperation and collaboration is to be delivered by learning from areas that have built up regional operational teams to tackle serious organised crime.

At the national level, the paper sets out the scope for developing a strategic perspective on issues such as procurement, to build on the success of operational cooperation arrangements in areas such as counter-terrorism. The NPB will hold a key role in gauging whether there is stakeholder agreement in the best way ahead in tackling critical, high-risk areas of policing.

To ensure implementation of change, the Government sets out in the Green Paper its desire to use incentives to encourage activity, however notes that it is prepared to be more prescriptive through use of the powers in the Police Reform Act 2002 in this approach if implementation does not happen as quickly as hoped. This will ensure the public receive the improvements they deserve.

#### **Chapter 6 - Reinforcing Collaboration between Forces**

This chapter sets out the need to ensure collaboration between forces in tackling some of the most serious crimes, such as terrorism. It notes the introduction of the Protective Services Improvement Programme and the statutory duty to collaborate that has been placed on forces.

The impact of existing collaborations such as the Regional Intelligence Units, and the creation of national structures such as the Serious Organised Crime Agency are highlighted in the paper. Also detailed is the development of an integrated and national operation network for counter-terrorism policing, which brings together counter-terrorism intelligence analysis and development functions and allows for flexible deployment.

The paper states that the Government is considering requiring collaboration for protective service areas, such as serious and organised crime, where there is an operational and business imperative for decisions to be taken in a consistent manner and at a particular level, to strengthen the current response.

Collaboration is also required in protecting the vulnerable, targeting drugs and people trafficking and demonstrating successes. Internationally, the paper proposes an International Police Assistance Board to help coordinate international assistance, promote security and tackle crime abroad where it is most in the interests of the UK.

Providing value for money through coordinated procurement is also set as a target in the Green Paper. As part of this, police authorities and Chief Constables are expected to consider whether procurement decisions should be made locally, regionally or nationally, supported by better



management information about overall police expenditure on goods and services.

At the border, the creation of the UK Border Agency (UKBA) is highlighted as a key success in collaboration. The paper states the ongoing work to give frontline officers immigration and customs powers and to integrate how policing powers are coordinated within the UKBA. Key to this is the development of a joint police/UKBA threat assessment mechanism to underpin operational work, along with significant investment in technology, such as the e-Borders programme.

## Chapter 7 - Improving Performance in Policing

This chapter focuses on how performance of the police service will be supported and challenged in the future. It explains that the strategic direction for the Government is set by Government PSAs. Of particular importance is the change from PSAs which encouraged the police to focus on 'easy wins' and the change of focus to prevention and partnership working.

Reshaping of the performance management system for the police is discussed in the paper, including:

- ◆ Introducing clear guidance on the capacity police authorities need to do their job;
- ◆ Improving training for police authority members;
- ◆ Giving a lead role for police authorities in the Chief Constables PDR process;
- ◆ Allowing police authorities to request inspection from HMIC;
- ◆ Introducing independent inspection of police authorities from April 2009;
- ◆ Regulating to address persistent underperformance by a police authority.

At a national level the paper states the Government's intention to reinforce the focus it places on strong partnership working, such as continuing support for Crime and Disorder Reduction Partnerships.

The Home Office is to oversee the shift of the overall system for managing performance of police forces to HMIC. HMIC will report annually on the state of the police service, will agree the inspection programme and criteria with the Government, and will approve forces detailed action plans, to be produced in response to HMIC inspection.

The Home Office will, as a result, scale back its involvement in performance management. Top down targets for police forces are to be dropped, with the exception of targets for overall public confidence in policing.

Consultation on all aspects of the Policing Green Paper is open until 10 October 2008. Details of the consultation and how to respond, along with the Green Paper itself, can be found at <http://police.homeoffice.gov.uk/police-reform/policegp/>

## National Risk Register

The Cabinet has published the National Risk Register following its announcement in the National Security Strategy earlier this year (covered in April's edition of the *Digest*).

The Register sets out the Government assessment of the likelihood and potential impact of a range of different risks that may directly affect the UK. It aims to increase awareness of the risks our country faces and encourages individuals and organisations alike to consider their own preparedness. It also includes details of how the Government and emergency services are preparing for any such emergencies in the event of the risks becoming a reality.

The document is broken down into the following:

- ◆ Risks:
  - ◆ Natural Events;
  - ◆ Major Accidents;
  - ◆ Malicious Attacks.
- ◆ Considerations for Organisations.
- ◆ Considerations for Individuals, Families & Communities.
- ◆ The Risk Assessment Process.

The National Risk Register is available at [http://www.cabinetoffice.gov.uk/reports/national\\_risk\\_register.aspx](http://www.cabinetoffice.gov.uk/reports/national_risk_register.aspx)  
The National Security Strategy can also be accessed from this site.

## Steroids and Growth Promoting Drugs to be Made Class C Drugs

The Government has announced its intention to classify 24 anabolic steroids and 2 growth promoting drugs as Class C drugs under the Misuse of Drugs Act 1971. The drugs are banned by sports authorities at present, however are not currently illegal. They will join the current 54 anabolic steroids and 5 growth hormones which are already Class C drugs. The drugs have been considered by the Advisory Council on the Misuse of Drugs (ACMD), with reference to the World Anti-Doping Code.

The move aims to target drug cheats and those supplying and trafficking banned substances in the run up to the London 2012 Olympic Games. The Government has also announced plans to consider controls for Gamma-butyrolactone (GBL) and 1, 4 butanediol, which, if ingested rapidly, convert to gamma-hydroxybutyrate (GHB), a Class C drug.

The ACMD's advice to Ministers on the 24 steroids and 2 growth promoters, together with a list of the drugs, can be found at <http://drugs.homeoffice.gov.uk/drugs-laws/acmd/>

## Violent Crime Statistics

The Ministry of Justice has published annual statistics showing that violent crime by women has for the first time overtaken shoplifting as the most common crime committed by women.

During 2006-07 more women were arrested for offences of violence against the person (35%) than for theft and handling stolen goods (33%). For the third and consecutive year more males were recorded as being arrested for offences of violence against the person (33%) than for offences in the theft category (21%).

The statistics on arrests relate to notifiable offences, the basis of recorded crime statistics. In 2006-07 an estimated 1,482,200 persons were arrested for recorded crime offences, an increase of 4% (52,400) compared to 2005/06. Total recorded crime over the same period was estimated to have decreased by 2% to 5,428,300.

The 52,400 increase in arrests is accounted for by increases within five of the nine offence groups. The three largest increases recorded were for the offence groups:

- ◆ Violence against the person, where there was an increase of 9%;
- ◆ Other offences, an increase of 21%; and
- ◆ Robbery, an increase of 15%.

Almost a quarter of all persons arrested were under the age of 18 and nearly 40% under the age of 21. Arrests of males aged under 21 rose by 3% and of males aged 21 and over by 5%. Similarly, arrests of females under the age of 21 increased by 1% and of those aged 21 and over by 2%.

Full details of the statistics are contained in the Ministry of Justice statistical bulletin, Arrests for Recorded Crime (Notifiable Offences) and the Operation of Certain Police Powers under PACE England and Wales 2006/07. The report published in July 2008 can be found at <http://www.justice.gov.uk/docs/arrests-recorded-crime-engl-wales-2006-07.pdf>

## Police Officers in Schools

The Schools Minister, Lord Adonis has said that every school would benefit from having a dedicated police officer available to them to reduce violent crime in schools.

In a speech at the annual conference of Voice, the teachers union, on 29 July, Lord Adonis said that schools in more challenging areas would particularly benefit from having a designated police officer and that trained officers could carry out searches for weapons where that was appropriate.

The government has recently accepted recommendations in a report by Sir Alan Steer, the government's behaviour advisor, recommending that the existing search powers of schools be extended to include powers to search for drugs, alcohol, and other items.

Key recommendations in Sir Alan Steer's Behaviour report include a strengthened approach to tackling drugs and alcohol in schools and legislating to allow teachers to search for drugs, cigarettes, alcohol and stolen property and for more schools to work with police to establish Safer School Partnerships.

The Safer Schools Partnership initiative was introduced in 2002 and is a collaborative approach between schools, police and other local agencies to tackle street crime and improve behaviour in schools. Police officers are based in selected schools in areas with high levels of street crime.

The existing search powers given to schools staff are contained in Section 550AA of the Education Act 1996 (as inserted by Section 45 Violent Crime Reduction Act 2006) and came into force on 31 May 2007. Schools staff have the legal powers to search, without consent, pupils whom they suspect to be carrying weapons. Further details of these search powers can be found at

<http://www.opsi.gov.uk/acts/acts2006/60038--e.htm#45>

Sir Alan Steers Report was published in July 2008 and can be found at [http://www.teachernet.gov.uk/\\_doc/12743/Steer%20Report%20and%20letter%200708.pdf](http://www.teachernet.gov.uk/_doc/12743/Steer%20Report%20and%20letter%200708.pdf)

## Closed Circuit Television (Monitoring and Promotion) Bill Introduced

A Private Members Bill regarding CCTV has been introduced before Parliament. The Bill, which is due to have its second reading before the House of Commons on 17 October, will:

- ◆ Impose a duty on public bodies to co-operate with the police and specified local authorities on the use of CCTV;
- ◆ Require certain users of CCTV to provide specified information to the police;
- ◆ Require insurance providers to promote the use of CCTV systems.

Details of the Bill's progress through Parliament can be found at <http://services.parliament.uk/bills/2007-08/closedcircuittelevisionmonitoringandpromotion.html>

## Preventing Violent Extremism: Next Steps for Communities

The Department for Communities and Local Government has published the report 'Preventing Violent Extremism: Next Steps for Communities', which sets out the Government's priorities for tackling violent extremism. The report highlights that preventing violent extremism is core business for local

authorities and police services and notes that their performance will be managed through outcome indicators in the local performance framework and the Assessment of Policing and Community Safety.

The report sets out plans to:

- ◆ Establish an independent board of academic and theological experts to examine and advise on issues relating to Islam in a modern context and reflect the diversity of Islamic and Muslim communities in the UK;
- ◆ Develop new citizenship materials and training packages for mosque schools, to be piloted in certain schools from October;
- ◆ Establish a Local Delivery Advisory Group made up of community leaders to advise on local responses to tackling extremism.

The report can be found at

<http://www.communities.gov.uk/publications/communities/preventing-violentextremismnext>

## Tackling Forced Marriage: New Measures and Draft Guidance

The Home Office has announced its intention to raise the age at which someone can apply for a marriage visa from 18 to 21. The proposal, part of the Government's commitment to preventing forced marriage and supporting its victims, is set out in the document 'Marriage Visas: The Way Forward', published by the UK Border Agency.

The intention to raise the marriage visa age is one of five key proposals to tackle forced marriage, along with:

- ◆ Asking foreign spouses to enter into an agreement to learn English before they come to the UK;
- ◆ Introducing a power to revoke leave to remain where there is evidence that the marriage route has been abused;
- ◆ Requiring sponsors to register their intention to marry overseas before they leave the UK;
- ◆ Ensuring, through a code of practice, that specialist teams can identify vulnerable people at risk of forced marriage.

The document follows two consultations run by the UK Border Agency, 'Marriage to Partners from Overseas' and 'Marriage Visas: pre-entry English Requirement for Spouses'.

The Foreign and Commonwealth Office has published draft statutory guidance setting out the responsibilities of all agencies dealing with forced marriage issues, entitled 'Forced Marriage Statutory Guidance: Consultation Paper'. It will apply to all agencies in England and Wales that have duties to:

- ◆ Safeguard children from abuse;

- ◆ Protect adults from abuse.

The closing date for replies to this consultation is 15 October 2008.

'Marriage Visas: The Way Forward' can be found at

<http://www.ukba.homeoffice.gov.uk/>

'Forced Marriage Statutory Guidance: Consultation Paper' can be found at

<http://www.fco.gov.uk/en/fco-in-action/nationals/forced-marriage-unit/fmconsultation>

## Judicial Appointments and Conduct Ombudsman Annual Report 2007-08

In his second annual report as Ombudsman, Sir John Brigstocke reveals that he received 314 complaints in 2007/08, a 3% increase on the previous year. Of these complaints 21 concerned appointments and the remaining 293 concerned judicial conduct. While many did not warrant formal investigation, primarily due to the absence of any specific, evidenced or substantial examples of maladministration, 101 were investigated and 11 were either partially or fully upheld.

In the report, Sir John Brigstocke reemphasises that proportionality and fairness are paramount in his consideration of complaints and states that his determinations are without bias; balancing the interests of both those complaining and those complained about.

Under the Constitutional Reform Act 2005 the Ombudsman is empowered to consider:

Judicial Appointments:

- ◆ Complaints from candidates for judicial office about the way in which their applications were handled;
- ◆ Matters referred by the Lord Chancellor relating to the procedures of the Judicial Appointments Commission (JAC).

Judicial Conduct and Discipline:

- ◆ Concerns raised by a complainant, or a judge who is the subject of a complaint, about how a complaint was handled by the Office for Judicial Complaints (OJC), a Tribunal President or a Magistrates' Advisory Committee; and
- ◆ Matters referred by the Lord Chancellor or the Lord Chief Justice relating to the handling of judicial conduct issues.

In judicial appointment complaints, the Ombudsman can:

- ◆ Uphold or dismiss a complaint (in whole or in part); and
- ◆ Make recommendations for redress (including a recommendation for payment of compensation for loss suffered as a result of maladministration).

In judicial conduct and discipline complaints, the Ombudsman can:

- ◆ Review how a complaint about the conduct of a judge has been handled; and
- ◆ Make recommendation for redress. In cases where the Ombudsman concludes that maladministration left to the original decision is unreliable, he can set aside that decision and direct that a new investigation or review be undertaken (in whole or in part).

The full report can be accessed at <http://www.judicialombudsman.gov.uk>

## Cabinet Office - "One year on: changing women's lives"

Minister for Women, Harriet Harman, has published a report entitled 'Women's Changing Lives', which reveals the progress made to date on the Government's priorities for women. The one year on progress report shows the development that has occurred in the following priority areas:

- ◆ Supporting women and families who are caring for children and elderly relatives;
- ◆ Tackling Violence against women and changing the way women offenders are treated;
- ◆ Increasing the Representation of Black, Asian and minority ethnic women in public life.

It came as the Government announced changes in the laws relating to homicide, which will bring an end to the defence of provocation. Such a defence is often used in cases of domestic violence, when a husband escapes a murder charge by blaming his wife for 'provoking him' by her infidelity. (Please see article on page 26 for more details of this legislation.) In addition, the Government Equalities Office has published a factsheet on domestic violence, which includes the Domestic Homicide Map of Britain showing the number of women killed by their partners across England and Wales.

Commenting on the report, Brian Moore, Chief Constable of Wiltshire and ACPO lead on domestic abuse said he hoped its release, combined with the changes in legislation, and the awaited Home Office guidance on domestic homicide reviews, will mark further progress towards combating all forms of violence against women.

The report can be accessed through the Government Equalities Office website <http://www.equalities.gov.uk>

## New Interactive Crime Maps in Every Area

The Home Secretary has revealed plans to introduce interactive crime maps across England and Wales by the end of the year. The announcement follows proposals contained in the Government's Green Paper on Policing, published in July.

The crime maps will allow the public to:

- ◆ See where and when crime happened, down to street level for some crime;
- ◆ Make comparisons with other areas;
- ◆ Learn how crime is being tackled by their local neighbourhood policing team.

Initially the maps will be available online and in leaflet format and will be supported with graphs showing crime trends, month-on-month comparisons and information broken down into types of offence. Ministers have yet to decide whether the maps will provide detailed information about crime on individual streets; however they will not include information on crimes committed in regards to specific houses or premises. Instead the maps will show broad categories of crime and anti-social behaviour and the Home Secretary believes they will better inform people about the problems in their area and will enable them to have a greater say in what their local police force focus on. This in turn will help to increase public confidence and make communities safer. Concerns have however been expressed by the Royal Institute of Chartered Surveyors who believe that house prices could be affected in areas which are identified as having high levels of crime and anti-social behaviour.

The government will be sharing good practice with the police service, such as the Cabinet Office examples of crime mapping which can be found at [http://powerofinformation.wordpress.com/2008/06/18/crime-mapping-proof-of-concept/\(new window\)](http://powerofinformation.wordpress.com/2008/06/18/crime-mapping-proof-of-concept/(new_window))

## Mobile Phone Detection Devices in Prisons

The Justice Secretary Jack Straw has announced plans to introduce the latest technology to prisons across England to detect the smuggling of mobile phones. This is part of a drive to clamp down on drug smuggling into prisons as it is known that mobile phones are used to drive the movement of drugs within prisons.

Currently devices such as hand-held mobile phone scanners and Body Orifice Security Scanners are used only in high security prisons. Under the new proposals these will be rolled out across the country from March of 2009.

The plans come in response to David Blakey's review 'Disrupting the Supply of Illicit Drugs into Prisons'. In this review Blakey made 10 recommendations of which the wider use of blockers and scanners is one.

There has been a fall in the positive Random Mandatory Drug test results over the last ten years but there are still a significant proportion of offenders who arrive into prison with a history of drug addiction. An average of 55% of prisoners are problem drug users and some prisons report that as many as 80% of prisoners test positive for class A drugs on their arrival.



The National Offender Management Service's drug strategy for prisons comprises of 3 elements:

- ◆ Reducing demand through targeted interventions for low, moderate and severe drug users.
- ◆ Reducing supply through security measures and drug testing programmes.
- ◆ Establishing effective through-care links to ensure continuity of treatment post release to avoid back tracking in the progress made whilst in custody.

Further information about the plans can be found at <http://www.justice.gov.uk>

## Reforms to Law on Murder

The Ministry of Justice have announced the proposal of reforms to the law on murder. The consultation paper released by the government on the matter contains reforms to three major areas of the law in relation to homicide:

- ◆ Diminished responsibility,
- ◆ Complicity in homicide; and
- ◆ Provocation.

### Diminished Responsibility

The definition of diminished responsibility set out in the Homicide Act 1957 was originally, like provocation, a defence used primarily as mitigation to the use of the death penalty. It is a partial defence which if proved allows for a conviction of manslaughter only. The defence has not changed significantly since its inception and therefore was based upon 1950's psychiatry.

The Law Commission has worked closely with forensic psychiatrists to ensure that the new defence would be compliant with contemporary psychiatric understanding of the mind. The proposed new definition will be effective where the diminished responsibility is caused by a 'recognised medical condition' and that issue will be determined by medical evidence. The issue of whether the impairment of responsibility is enough to reduce culpability will be for the jury to determine.

### Complicity to Homicide

The law relating to complicity to homicide is to be streamlined and set out in statute. At present the current law is scattered across a number case law decisions from the court of appeal and the House of Lords. These provisions cover gang crime and therefore it is extremely important that the courts are able to determine liability where more than one person is involved.

At present someone will only be guilty as a participant to a murder if it was foreseeable that a person may be killed or seriously wounded in the course of any criminal enterprise; for example if one member of a gang is carrying a weapon. At present if the killing is well beyond the scope of the criminal enterprise the other gang members will be acquitted.

If the new measures came into force they would at least be convicted of manslaughter. Criminal responsibility would be significantly broadened to which the law commission's consultees totally agree. It is argued that criminal enterprises frequently turn violent and their participation and encouragement of that risk means that they should take responsibility.

### Provocation

The decision to abolish and replace the partial defence of provocation will make it much harder for those who kill out of anger to avoid a murder

charge by claiming that they were provoked. Such partial defences have in the past enabled potential murder convictions to be cut back to manslaughter.

The decision has caused intense debate but it is agreed that the current law is wrong as it is both too lenient to those who kill out of anger and too severe on those who kill out of fear of violence.

In the case of domestic violence killings typically by women, they often go too far for self-defence which only permits a response proportionate to that aimed at them and yet cannot be said to be provoked to loss of self control as this not really applicable to a situation where the person is in fear. Whilst provocation has been stretched to fear by some court of appeal decisions to fill this justice gap to some extent, there is still the risk that some women who respond in fear to domestic violence can be convicted of murder.

Provocation it is argued in the new proposals should partially excuse neither men nor women who lose control and kill in anger. Therefore the partial defence in these circumstances is to be abolished. The defence will remain however in carefully worded clauses where the defendant loses control due to a justifiable sense of being seriously wronged. This will only be allowed in exceptional circumstances where the jury see the conduct of the provoker as morally wrong. The clauses will be carefully worded to exclude any sexual infidelity from considered as an exceptional circumstance.

The other provision in relation to provocation will be killing because of a loss of control caused by fear of serious violence. Whether either defence will be successful will depend on whether a jury believe in the loss of self control or whether they think it was a cold blooded killing. Self-defence will still remain but for violence going beyond self-defence, loss of control will need to be shown to rely upon the new partial defence.

The Government consultation paper, 'Murder and Manslaughter: Proposals for Reform of the Law' can be found at <http://www.justice.gov.uk/publications/cp1908.htm>

## CPS Consultations on Rape and Domestic Violence Policies

The Crown Prosecution Service has launched consultations on revisions to its policies on prosecuting cases of rape and of domestic violence. The revisions reflect changes in legislation and procedure.

The rape consultation paper covers a number of new initiatives including:

- ◆ Witness Care Units;
- ◆ Special measures meetings;
- ◆ Pre-trial witness interviews;
- ◆ Independent Sexual Violence Advisers;

- ◆ The Victim's Code;
- ◆ The Prosecutors Pledge.

The domestic violence consultation paper covers changes including:

- ◆ The roll-out of statutory charging;
- ◆ The implementation of new special measures for victims and witnesses;
- ◆ The roll-out of specialist domestic violence courts, Independent Domestic Violence Advisers and multi-agency risk assessment conferences.

Both consultation papers can be found at  
<http://www.cps.gov.uk/consultations/index.html>

## New Behaviour Compacts for Offenders to be Piloted

Proposals for Offender Compacts are to be piloted in three prisons and one probation area in the West Midlands. The compacts will outline the level of behaviour expected from prisoners and offenders in the community, and will require offenders to commit to rehabilitation or face the possibility of penalties.

The Compacts will be piloted for 6 months with the aim of then being rolled out across all prisons and probation areas in 2009.

For those serving custodial sentences of less than 12 months an 'End of Custody Report' will also be piloted, which can be presented to employers on release and recognise positive behaviour.

## Amended Guidance on Football Related Offences

The CPS and ACPO have published amended guidance on football related offences, which gives new instructions on evidence for prosecutors and promotes close liaison between police and prosecutors.

The Guidance states that each police force is to have one or more Football Intelligence Officer, and should nominate a CPS lead football prosecutor with whom to liaise regarding football matches. It recommends that police areas with a number of football clubs have a point of contact for each club. The United Kingdom Football Policing Unit is to maintain and provide to the CPS a list of Football Intelligence Officers.

The Guidance also covers the legislation affecting football matches, out of court disposals and the use of Football Banning Orders.

The Guidance can be found at  
[http://www.cps.gov.uk/legal/section11/chapter\\_c.html](http://www.cps.gov.uk/legal/section11/chapter_c.html)

## Landmark Ruling Regarding Old Convictions Held on PNC

In a landmark ruling the Information Tribunal has dismissed appeals by Humberside, Northumbria, Staffordshire, Greater Manchester and West Midlands Police and ruled that the retention of the old convictions data is in breach of the Data Protection Act 1998. The decision upholds the view of the Information Commissioner's Office (ICO). The five forces have as a result been ordered to delete old criminal convictions from the Police National Computer (PNC).

Last year the ICO investigated five complaints about the retention of old conviction data and concluded that the data was no longer relevant and was excessive for policing purposes. Under the Data Protection Act 1998, personal information processed for any purpose should be adequate, relevant and not excessive and should not be kept for longer than is necessary for that purpose. The ICO issued enforcement notices to the forces to delete the material but the police appealed.

There have now been calls for clear national guidelines so that forces can take a consistent approach to the retention of criminal records.

The full judgment can be found at [http://www.informationtribunal.gov.uk/Documents/decisions/ChiefConstables\\_v\\_ICfinal\\_Decision\\_20Jul08.pdf](http://www.informationtribunal.gov.uk/Documents/decisions/ChiefConstables_v_ICfinal_Decision_20Jul08.pdf)

## Update on Taser trial

The third quarter statistics on the 12 month trial, which extended the use of tasers to specially trained units, have been released. Figures show that tasers have been discharged 57 times since the trial began in September 2007, and in total have been used on 411 occasions. Taser 'use' includes any time a Taser is drawn, aimed, red-dotted, arced, drive-stunned or discharged.

Ten forces are participating in the pilot; Avon and Somerset, Devon and Cornwall, Gwent, Lincolnshire, Merseyside, Metropolitan Police Service, Northamptonshire, Northumbria, North Wales and West Yorkshire.

The complete statistics can be found at <http://www.science.homeoffice.gov.uk/hosdb/about-us/news/539349>

## British Transport Police Introduces Neighbourhood Policing Teams

The British Transport Police have launched their new Neighbourhood Policing Teams (NPT) to be working across the London Underground and the Docklands Light Railway network.

The teams, comprising of constables and PCSOs will provide a highly visible presence at Tube stations. They will work in partnership with other stakeholders to address issues affecting the underground service such as

staff assaults and anti-social behaviour and will also link closely with their communities to address local priorities.

The new NPTs will work alongside the additional 440 uniformed officers announced in May for the bus network.

85% of the NPTs' time will be spent in their area working directly with their neighbourhood. This is in line with the requirements of the national Neighbourhood Policing model.

British Transport Police have always policed the Tube stations but will now spend even more time in their local area tackling crime.

Further information on the new teams can be found at <http://www.btp.police.uk>

## National Policing Plan For Wales Launched

A 2008 - 2011 National Policing Plan for Wales has been launched by the Police Authorities of Wales (PAW). PAW is a Joint Committee established under the Local Government Act 1972 and comprising the four police forces in Wales: North Wales; Gwent; South Wales and Dyfed-Powys Police.

The Plan sets out the Home Office strategic priorities for policing in England and Wales, and then sets out the following core strategic priorities for the Police Forces of Wales:

- ◆ To ensure public protection and the protection of vulnerable persons through a joined up approach to working nationally across all authorities in Wales;
- ◆ To effectively counter terrorism, domestic extremism, serious and organised criminality and major crime across Wales;
- ◆ To ensure that neighbourhood policing stays local and is embedded in all communities in Wales;
- ◆ To promote joint working and collaboration both within the police service and with other partners in local government, the criminal justice system and the voluntary and private sector;
- ◆ To continue to engage with central government to lobby for sufficient funding to provide an effective and efficient police service in Wales;
- ◆ To raise the profile of Police Authorities and the police service in Wales and fully engage with the Welsh Assembly Government in order to influence the public service agenda.

Projects and actions towards meeting these priorities are set out in the Plan, along with a timetable for delivery of these actions.

The National Policing Plan for Wales can be found on the Police Authorities of Wales website, at

[http://www.south-wales.police.uk/fe/master\\_auth\\_new.asp?n1=1301](http://www.south-wales.police.uk/fe/master_auth_new.asp?n1=1301)

## IPCC Calls To Stop Officers Confering When Making Notes

The Independent Police Complaints Commission (IPCC) has repeated its call for ACPO to discontinue the practice of allowing officers to confer when making their notes following an incident. The call reflects the IPCC's view that the public do not have confidence in the procedure as it treats police and civilian witnesses differently.

The request notes that this change of procedure will have wide implications and will affect the way the police service gather evidence, however it is suggested by the IPCC that it is possible to make changes to procedure that would reassure police officers that they will be protected from unfair treatment.

## Home Office Statistics on Police Service Strength in England and Wales Published

The Home Office have released a statistical bulletin for the year ending 31 March 2008, detailing police strength in England and Wales. The bulletin notes that:

- ◆ There were 141,859 full-time equivalent (FTE) officers in the 43 police forces of England and Wales as at 31 March 2008, a marginal decrease of 33 officers compared to 2007;
- ◆ Of these officers, 4.1% (5,793 officers) were minority ethnic officers, compared with 3.9% in 2007;
- ◆ The FTE police officer strength figure excluding those on career breaks or maternity/paternity leave was 139,728, a decrease of 304 officers from 2007;
- ◆ FTE police staff numbers for the 43 forces was 76,948, an increase of 2.4% on the previous year;
- ◆ FTE police community support officers (PCSOs) for the 43 forces stood at 15,805, an increase of 17.1% on 2007.

Of the total FTE staff (237,114) in the 43 police forces of England and Wales:

- ◆ 60% were police officers;
- ◆ 7% were PCSOs;
- ◆ 0.2% were traffic wardens;
- ◆ 0.8% were designated officers (Investigation Officers, Detention Officers and Escort Officers designated under the Police Reform Act 2002);
- ◆ 32% were other police staff.

In addition to this there were 14,547 special constables. There are also 2,579 constables employed by the British Transport Police across England and Wales and 502 constables seconded to Central Services.

The full bulletin can be found on the Home Office research development statistics page, at

<http://www.homeoffice.gov.uk/rds/index.html>

## Funding for an Extra 6,000 Special Constables Announced

The Home Secretary, Jacqui Smith, has announced that a £2.25 million funding package is to be made available to boost the numbers of Special Constables by 6,000 over the next three years.

This will increase the numbers of Special Constables to 20,000. The funding package will also be used to assist recruitment, training and development initiatives for Special Constables. In addition the money will fund 9 new regional co-ordinators to work closely with local police forces and ACPO regional leads towards a targeted approach to recruitment and development.

## Scheme Returns to Fight Retail Crime

Essex police have reintroduced a scheme called Essex Retail Against Crime (ERAC) which proved highly successful in the Harwich area. The scheme which links town centre shops together to tackle business crime resulted in there being no offences of shoplifting for the whole month of July.

The shops included in the scheme are issued with Townlink radios to enable them to alert one another of disturbances and also distributing photographs of known shoplifters.

Since the initial trial of the scheme a further 20 retailers have joined. Being aware of active shoplifters in the area has proven to be beneficial to both retailers and the Police.

Further details can be obtained from Essex police at

<http://www.essex.police.uk>



## Early Evaluation of the Domestic Violence, Crime and Victims Act 2004 Published

A study commissioned to provide an early evaluation of some of the measures in the Domestic Violence, Crime and Victims Act 2004 has been published. It aims to establish baseline data against which to evaluate the implementation of the measures, to provide an early snapshot of implementation and to identify issues and make recommendations about implementation.

Three measures of the Act which were implemented during the evaluation period, which ran until December 2007, are focussed on in the report:

- ◆ Making common assault an arrestable offence (although this measure was superseded by the Serious Organised Crime and Police Act 2005, it is still evaluated by the study);
- ◆ Making it a criminal offence to breach a non-molestation order;
- ◆ Extending the civil law on domestic violence regarding occupation orders and non-molestation orders.

The study notes that professionals viewed making common assault an arrestable offence as a positive move, however there were differing views regarding making breaches of non-molestation orders a criminal offence. The evaluation showed that the impact of the provisions considered has been limited and, in some cases, unclear. Despite this the following recommendations are tentatively made in the study:

- ◆ That specific guidance is developed and training implemented for the police;
- ◆ That the measures in Sections 12 and 13 allowing courts to impose restraining orders when sentencing or on acquittal for an offence be implemented as soon as possible;
- ◆ That the impact of the Act be monitored in the longer term, especially through the Ministry of Justice collating data and through the CPS and police linking data at a national level to monitor case progress.

The study can be found at

<http://www.justice.gov.uk/publications/domestic-violence-crime-victims-act-2004.htm>

## Tackling Non-UK Drivers Who Break Road Traffic Laws

The Department for Transport have announced a new package of measures designed to target non-UK drivers and UK drivers without a satisfactory address who flout road traffic legislation and to introduce graduated fixed penalties. Some of these measures are contained in the Road Safety Act 2006, however have not yet been implemented. Others are to be regulations under powers in the Road Safety Act 2006.

The measures will enable police and examiners from the Vehicle Operator and Services Agency (VOSA) the power to collect on-the-spot penalties from anyone without a satisfactory UK address. A financial deposit equal to the amount of the penalty, or up to £300 as a surety in respect of a potential court fine, can be required from the person. The measures will also allow them to issue penalty points against a non-UK driver's record for endorsable offences.

Police and VOSA examiners will also be able to immobilise any vehicle prohibited from continuing a journey as a result of the driver either breaking the laws on driver's hours or driving a vehicle with defects.

Also included are measures which would allow for the amount of a fixed penalty to be graduated, to reflect that some offences can be committed in a more serious manner, but still attract the same level of penalty. These measures are to be implemented only in respect of offences connected with the operation of commercial vehicles, breached of driver's hours and the overloading of vehicles. The proposals also include measures which would create a number of new fixed penalty offences.

The new measures, including a number of draft Statutory Instruments, are open for consultation until 17 October. The consultation can be found at <http://www.dft.gov.uk/consultations/open/graduatedfixedpenalties/>

## Accidents Involving Illegal Alcohol Levels

The Department for Transport has published provisional statistics for 2007 on accidents involving drinking and driving in the UK.

The provisional estimates show the following:

- ◆ Fatalities resulting from drink drive accidents fell by 18% from 560 in 2006 to 460 in 2007.
- ◆ Seriously injured casualties were reduced by 11% from 1,970 to 1,760.
- ◆ The number of less serious casualties however rose 4% from 11,840 to 12,260.
- ◆ The total number of casualties rose 1% from 14,370 to 14,480.

Further information on these statistics, drink drive definitions, the data sources, the completeness of the data and its reliability can be found on the Department for Transport's website at

<http://www.dft.gov.uk/pgr/statistics/datablespublications/accidents/cgb07drinkdrive>

and

<http://www.dft.gov.uk/pgr/statistics/datablespublications/accidents/cgbq1208>

## National Independent Advisory Group Conference

The 8<sup>th</sup> National Independent Advisory Group (IAG) conference will be held in November and hosted by Cleveland Police this year.

The conference will take place at the Thistle Hotel in Middlesbrough on the 24 and 25 November. The major focus of the conference will be 'Meeting the Needs of Our Changing Communities'.

IAGs have the following roles in relation to police forces:

- ◆ To ensure that the police forces throughout the UK have their decisions and operational outcomes independently challenged and scrutinised.
- ◆ To ensure that police relations are improving with their communities.
- ◆ To provide direct links to the various community and diversity groups within the force areas.
- ◆ To act as a 'critical friend' to forces in relation to major critical incidents to help promote community confidence.

The conference allows IAGs and other force representatives around the UK to meet and discuss the challenges of meeting the needs of changing communities. It comes at a time when local community links are of ever increasing importance in achieving effective Neighbourhood Policing and therefore the IAGs can play an increasingly vital role.

Further information about the conference can be found at [http://www.cleveland.police.uk/niag/niag\\_welcome.htm](http://www.cleveland.police.uk/niag/niag_welcome.htm)

## National Suicide Prevention Strategy for England: Annual Report 2007

The latest report on the National Suicide Prevention Strategy for England has been released, revealing that the national suicide rate is at its lowest ever level. The report, published by the National Institute for Mental Health in England (NIMHE), highlights the progress made in the last year. It shows that according to the most recent figures available, the suicide rate is 8.3 deaths per 100,000 population. The target to be achieved is 7.3 deaths per 100,000 by 2010; a decrease of 12% from a baseline of 9.2 deaths in 1995/6.

The suicide rate has continued to fall amongst young men under the age of 35; however the death rate among this group is still high when compared with the general population. The rate amongst teenagers has also continued to fall, however concern was expressed in the report over the number of suicides that have taken place recently in Bridgend. Particular concern surrounded the media coverage of the events, with research showing that the reporting and portrayal of suicides in the media can lead to copycat suicides. Plans to improve reporting have already been implemented, including the publication in June 2007 of *Sensitive Coverage Saves Lives*, which was commissioned by NIMHE to support and improve media portrayal of suicide and suicidal behaviour. The number of suicides among mental health in-patients, and those in contact with mental health services, also fell to 145 and 1277 respectively in 2005, from 157 and 1308 in 2004.

While a reduction in the number of suicides was found across many groups, the number of self-inflicted deaths in English prisons rose to 90 in 2007, following two years of declining figures. While no conclusions about the increase have been drawn, the report does recognise that there continues to be a high number of vulnerable individuals going into prisons, many of whom have experienced events that can increase the risk of self-harm. Provisions have already been put in place to improve suicide prevention in prisons, including ACCT (Assessment, Care in Custody and Teamwork - the care-planning system for prisoners at risk of suicide or self harm) and the revised prisoner suicide prevention and self-harm management strategy, which was published in October last year.

The national suicide prevention strategy in England was launched in 2002, with the aim of supporting the target to reduce the death rate from suicide and undetermined injury by at least a fifth by the year 2010. The full 2007 annual report can be accessed via the National Institute for Mental Health website; <http://www.nimhe.csip.org.uk/>

## UKDPC: Tackling Drug Markets and Distribution Networks in the UK

The UK Drug Policy Commission has released a report following a review into recent literature on current strategies which aim to tackle illicit drug markets and distribution networks in the UK. The report was prepared by the Institute for Criminal Policy Research and presents the main findings of the review which looked to answer four broad questions:

- ◆ What is the nature and extent of the problem?
- ◆ What are current UK responses?
- ◆ What are effective strategies for dealing with these issues?
- ◆ Where are the gaps in our knowledge and understanding?

The report suggests that any hopes of substantially reducing or eradicating UK drug markets through enforcement activity alone are unlikely to be fulfilled. It states that even the most significant drug seizures and dealer/trafficker convictions usually fail to have a sustainable impact on street-level supply and demand due to the scale of the markets and their ability to adapt quickly. It also suggests that while the illegal status of drugs is likely to have contained availability and use to an extent, drug laws do not appear to have a direct effect on the prevalence of drug use.

The authors of the review conclude that despite the findings, enforcement agencies can contribute towards reducing the impact of drugs markets in communities for instance, by:

- ◆ Tackling markets which cause the most 'collateral damage' (for instance, those linked with sex markets, human trafficking, gang violence, corruption, drug-related crime and other forms of anti-social behaviour);
- ◆ Disrupting open street-level markets which affect community confidence, damage neighbourhood reputation and undermine regeneration efforts;
- ◆ Forming local partnerships to channel users into treatment and related support;
- ◆ Working closely with local communities to help them become more resilient to drugs (for example, addressing the extent of violence and intimidation in some neighbourhoods);
- ◆ Tackling emerging markets before they become established;
- ◆ Recognising and minimising unintended adverse consequences of enforcement (for instance, a local 'crackdown' may just mean dealers move to other neighbourhoods).

Since 1995, the proportion of adults reporting any drug use during the previous year has fallen by 1.8 %. The report also reveals that during 2003/04 the size of the UK illicit drug market was estimated at £5.3 billion;

equivalent to around 33 % of the UK tobacco market and 41% of the alcohol market. It states that drug trafficking is considered the most profitable sector of transnational criminality and that it poses the single greatest organised crime threat to the UK.

The full report can be accessed through the UKDPC website:

<http://www.ukdpc.org.uk/index.shtml>

## Licensing Scheme for Knife Dealers

The Scottish Government are proposing to introduce a new licensing scheme for dealers of knives. The proposals are a key part of the Government's reform of knife crime law and are a vital component of a wider package of measures designed to tackle knife crime and violence more generally.

The new scheme would mean that dealers of non-domestic knives would need to be licensed by the local authority and comply with certain mandatory conditions set by the Government.

It is proposed that all licenses will include conditions that set out what records must be kept by the dealer and how articles must be stored and displayed. In particular, this will include records of how a customer's age and identity were verified and full descriptions of knives sold. It will also be a mandatory condition that articles should not be displayed so that they are visible from the street or in any public entrance to the premises. Anyone seeking to buy a sword must be able to prove the intended use, for example, by producing a membership card or letter from a society with a recognised reason for using swords.

The creation of a system of knife dealer licensing is the latest in the range of measures introduced by the Scottish Government to tackle the knife carrying culture and it seeks to limit the ease of access to these dangerous weapons and prevent them falling into the wrong hands.

The Custodial Sentences and Weapons (Scotland) Act 2007 gave Scottish Ministers the power to introduce a licensing scheme for dealers of non-domestic knives. The Government consultation on the proposed licensing scheme can be found at

<http://www.scotland.gov.uk/Publications/2008/07/Knives/Q/Page/2>

## Alcohol Scheme Leads to Crime Fall in Scotland

A community in Scotland which has trialled an over 21s off-sales alcohol policy has seen a fall in anti-social behaviour. The object of the trial was to disrupt the supply of alcohol to underage persons and improve local residents' quality of life.

Police, retailers and licensees agreed to work together to trial a voluntary restriction on the sale of alcohol to those aged 21 and over on Friday and Saturday evenings. As a result calls to police about anti-social behaviour in

the area concerned fell by nearly 60%. This also meant a fall of 45% in actual offences committed.

The Scottish Government is currently consulting on its proposals for tackling Scotland's alcohol misuse problem of which this trial is one. The consultation period ends on 9 September and can be accessed at <http://www.scotland.gov.uk/Consultations/Current>

## Second Consultation on Comprehensive Area Assessment

The second joint consultation on the proposed approach to the new Comprehensive Area Assessment (CAA) has been launched. The CAA, due to be launched in April 2009, will draw together information to show how well residents are being served by their local public services. This will help people hold their elected representatives and public bodies to account.

CAA will cover a range of issues including how safe people feel and provision for the vulnerable in their area. CAA will bring together the work of seven inspectorates to coordinate their regulation and inspection of services, including:

- ◆ HM Inspectorate of Constabulary;
- ◆ HM Inspector of Prisons;
- ◆ HM Inspectorate of Probation.

The consultation period runs until 20 October 2008, with the proposals being trialled at ten sites across the country.

The consultation can be found at <http://www.audit-commission.gov.uk/caa/consultation.asp>

## Case Law



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## Standard of Proof Applicable in Police Disciplinary Proceedings

**R (on the application of INDEPENDENT POLICE COMPLAINTS COMMISSION) (Claimant) v ASSISTANT COMMISSIONER HAYMAN (Defendant) & (1) COMMISSIONER OF POLICE OF THE METROPOLIS (2) PC BANNISTER (3) EMERIC CAMPBELL (4) MR WILCOX (Interested parties) (2008)**

**QBD (Admin) (Mitting J) 28/7/2008**

Civil Evidence - Police

Civil Proceedings: Disciplinary Procedures: Police Officers: Standard Of Proof: Weight Of Evidence: Police Disciplinary Proceedings: Applicable Standard Of Proof: European Convention On Human Rights

*The standard of proof applicable in police disciplinary proceedings, as to whether the alleged wrongdoing by a police officer had occurred, was the civil standard of proof.*

The claimant Independent Police Complaints Commission applied for judicial review of a decision of the defendant assistant commissioner to quash disciplinary proceedings brought against the second interested party police officer (B). While off duty B had become involved in a fracas. In the course of that fracas B arrested the third interested party (C) and allegedly told police officers that the fourth interested party (W) had assaulted him as a consequence of which W was arrested. Both C and W were subsequently released without charge. Following a complaint to it by C the Commission laid four charges of misconduct against B, each of which alleged either use of force or abuse of authority; there was no charge of lack of honesty or integrity. A disciplinary panel found three of the charges proved: wrongfully arresting C and W, and assaulting C. It also found that B had exhibited a lack of integrity and that, in short, he had lied to it. The panel further found that the appropriate sanction was to require B to resign. B appealed against the panel's decision to the assistant commissioner who in reaching his decision had regard to the then Home Office guidance pertaining to police disciplinary proceedings, namely Home Office Circular 8/2005 para.3.81, which stated that where an alleged failure was serious and the likely sanction serious it would be reasonable to look for proof to a high degree of probability. The assistant commissioner determined that, having



regard to the seriousness of the allegations and sanction it was appropriate for him to apply a standard of proof beyond a reasonable doubt. Applying that standard the assistant commissioner found that the allegations against C were not proved. The Commission contended that the assistant commissioner had made a fundamental error of law by applying the wrong standard of proof, namely the criminal rather than the civil standard.

#### HELD

- (1) The assistant commissioner had clearly applied the wrong standard of proof and his decision fell to be quashed. It was clear that some proceedings, though civil in form, had a nature such that it was appropriate to apply the criminal standard of proof, or a standard of proof that was practically indistinguishable from the criminal standard, *B (Children) (Sexual Abuse: Standard of Proof)*, Re (2008) UKHL 35, (2008) 3 WLR 1 applied. An example would be proceedings seeking a football banning order that might involve a breach of rights under the European Convention on Human Rights 1950, *Gough v Chief Constable of Derbyshire* (2001) EWHC Admin 554, (2002) QB 459 considered. However, where the proceedings were civil in nature and form, a single civil standard applied. Accordingly, in deciding whether an alleged event had occurred, such as in police disciplinary proceedings, the evidence had to be looked at with great care; but in determining whether the alleged event actually occurred there was only one appropriate standard of proof to apply, namely the balance of probabilities, *D*, Re (2008) UKHL 33, (2008) 1 WLR 1499 considered. If a police disciplinary panel was satisfied that an event or allegation against a police officer was proved then it had to find that event proved and then had to apply the appropriate sanction.
- (2) The disciplinary proceedings in question had consequences for members of the public and any finding, if ultimately upheld, that B had as alleged wrongfully arrested two members of the public and wrongfully assaulted another, would have to be disclosed in certain criminal proceedings that might involve B, for example a person accused of resisting arrest where B was the arresting officer. Accordingly, notwithstanding that four years had passed since the alleged events, it was appropriate to remit the matter to the first interested party for a fresh determination.

#### APPLICATION GRANTED



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## Bad Character Evidence Is Admissible In Relation To Any Other Count If It Meets The Criteria Set Out In The Criminal Justice Act 2003 S.101(1)

**R v DANIEL ROBERT WALLACE FREEMAN: R v JEROME CRAWFORD (2008)**

**CA (Crim Div) (Latham LJ, Grigson J, MacDuff J) 8/8/2008**

Criminal Evidence

Bad Character: Counts: Indictments: Previous Convictions: Severability: Indictments Containing More Than One Count: Cross-Admissibility Of Evidence On Each Count: S.101 (1) Criminal Justice Act 2003

Evidence in relation to a count on an indictment was capable of being admitted as bad character evidence in relation to any other count if it met the criteria set out in the Criminal Justice Act 2003 s.101(1). In the first appeal the trial judge was correct to refuse to sever the counts on the indictment and, in relation to the second appeal, the evidence on one count was admissible in relation to the other as the evidence made it more likely that the appellant had committed the offence.

The appellant (F) appealed against his convictions for indecent assault and sexual assault of a child. The appellant (C) appealed against his convictions on two counts of robbery. F's indictment related to separate complaints made by two young girls. The first offence had occurred about four years before the complaint was raised. At trial F applied to sever the counts relating to the two incidents on the basis that the joint trial would prejudice his ability to explore in detail the reasons for the lateness of the complaints made by the first complainant. The application was refused. C's indictment related to two similar offences of street robbery occurring a few weeks apart. At trial the prosecution applied to adduce bad character evidence in relation to three previous convictions for street robbery and applied for leave to use the evidence from each of the offences on the indictment in relation to the other. The applications were granted.

**HELD**

(1) Evidence in relation to one count in an indictment was capable of being admitted as bad character evidence in relation to any other count in the indictment if it met any of the criteria or gateways in the Criminal Justice Act 2003 s.101(1). When it was submitted that evidence in relation to one count was admissible in relation to another, it was not always helpful to concentrate on the concept of propensity when the nature of the evidence was such that, in itself, it was capable of being probative in relation to another count, in the sense that it made it more likely either that the offence was committed or that the defendant committed the offence, *R v Chopra (Manoj Kumar)* (2006) EWCA Crim 2133, (2007) 1 Cr App R 16 and *R v Wallace (James Andrew)* (2007) EWCA Crim 1760, (2008) 1 WLR 572 considered. Whilst a jury had to be reminded that it had to reach a verdict on each count separately it was entitled, in determining guilt in respect of any count, to have

regard to the evidence in relation to any other count, or any other bad character evidence if that evidence was admissible and relevant. In cases of cross-admissibility it was too restrictive an approach for a jury to first determine whether it was satisfied on the evidence in relation to one of the counts of a defendant's guilt before it moved on to using the evidence in relation to that count when dealing with any other count in the indictment.

- (2) In the case of F the judge's decision refusing to sever the counts could not be faulted. It was clear that the evidence was admissible under s.101(1)(d) of the 2003 Act and, although the judge dealt with it on the basis of propensity, there was no prejudice to F. In relation to C the evidence of his previous convictions were clearly material evidence that supported the prosecution's case that C had committed the robberies in question. Further, each of the two offences were admissible in relation to the other as the evidence of each made it more likely that it was C who had committed the other.

#### APPEALS DISMISSED



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## Convictions Safe Where There Is No Evidence That Undermines the Identification Evidence of a Witness

**R v ANTHONY STOCK (2008)**

**CA (Crim Div) (Latham LJ, Forbes J, Dame Heather Steel) 8/8/2008**

Criminal Evidence - Criminal Procedure

Alibis: Credibility: Fresh Evidence: Identification: Robbery: Summing Up: Identification Evidence: Absence Of Contamination: Reliability

**A conviction for robbery was safe where there was no evidence that undermined the identification evidence of a witness.**

The appellant (S) appealed against his conviction for robbery in 1970, via a reference under the Criminal Appeal Act 1995 s.9. The robbery had taken place during an evening when a member of staff of a store, accompanied by another, had been taking money to a safe. The only witness who was able to give any description of any of the men was a manager (W) of the store who, according to him, had ran to the scene and had seen one of the staff members being struck by a man who had then turned to his direction and had eventually ran off to a car. W helped the police to compile an identikit of the person whom he had confronted. As a result of information received, including information from three other staff members of the store, S was questioned. He relied on an alibi and refused to attend an identification parade. W was then taken to S's home where he confronted S. S was identified in court by W and the three other witnesses as the person whom they had described to the police. W maintained that he had not been

shown a photograph of S before confronting him at his home. Following S's conviction an inquiry was carried out after an individual (X) admitted that he had been party to the robbery and that S had played no part in it. W, who was re-interviewed, stated that he had been shown a number of photographs by the police and had picked out one and had said that he was similar to the attacker in question, but he did not think that that person had been involved. S alleged that two of the police officers, who had been involved in the investigation, including an officer (M), had conspired to pervert the course of justice. The case was referred to the Court of Appeal twice, which dismissed the case in 1996 and in 2004. On the second occasion the court found that W's statements about being shown a number of photographs did not undermine his assertion at trial that he had not been shown a photograph of S before confronting him. The court also held that W's credibility had not been undermined by any of X's evidence. The main issues were whether (i) there were substantial grounds to regard the identification evidence of W as contaminated by his being shown photographs and by his subsequent failure to disclose those events at trial; (ii) the identification evidence of the three other witnesses was contaminated; (iii) there were significant failings in the summing up in relation to the identification and alibi evidence and the evidence of the officers in the case; (iv) there was evidence to suggest that X's evidence exonerating S was true; (v) the role of M, who was later proven to be a dishonest officer, was such as to render the conviction unsafe.

#### HELD

- (1) Due to the passage of time since W had made the statements regarding the photographs, the evidence was not sufficiently clear as to justify the conclusion that it could be a secure basis for interfering and doubting the safety of the verdict. Even if S's photograph was amongst the photographs shown to W, at whatever time, before the confrontation at S's home, it was clear that it had not been available before he had helped with the identikit, which was agreed to represent a likeness that was very close to S, and the circumstances of the confrontation as described by W had been so dramatic that they must have been critical to the conclusion of the jury. If it was the case that there was a photograph of S that W had not immediately recognised as his attacker, that was capable of strengthening the reliability of his ultimate identification, in that he had not been prepared to identify S from a photograph. None of the arguments put forward in relation to the photographs undermined the safety of S's conviction.
- (2) The Court of Appeal in 2004 and 2006 had discounted the dock identification by the three other witnesses. Also it was improbable that the three witnesses would have been put in a position to identify S at court if they had not positively identified him from photographs at some earlier stage. In their statements they all positively had averred that they recognised the same photograph, which was the photograph of the person they saw in court. There was no reason to believe that there was any material available that the defence could have used to cast doubt on that part of their evidence.

- (3) None of the complaints regarding the summing up undermined the safety of S's conviction. The evidence of M should be disregarded. But the critical question was whether the identification by W was reliable: it was.
- (4) There was nothing in the new information provided by S to show that X's evidence was credible.
- (5) The character of M was known to the Court of Appeal in 1996 and in 2004. It did not undermine the identification evidence of W.

#### APPEAL DISMISSED



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## Not Unlawful By Including Details of Unproven Allegations on an Individual's Enhanced Criminal Record Certificate

**R (on the application of JOHN PINNINGTON) v CHIEF CONSTABLE OF THAMES VALLEY (2008)**

**DC 31/7/2008**

Police - Criminal Evidence

Communication Aids: Disclosure: Enhanced Criminal Record Certificates: Reliability: Sexual Abuse: Vulnerable Adults: Reliability Of Information Disclosed In Certificate: Unproven Allegations

An assistant chief constable had not acted unlawfully by including, on an individual's enhanced criminal record certificate, details of unproven allegations of sexual abuse made against that person. Although the allegations suffered from serious weaknesses, it was reasonable of the assistant chief constable to conclude that they might have been true.

The claimant (P) applied for judicial review of the decision of the defendant chief constable to disclose details of unproven allegations made against P in an enhanced criminal record certificate pursuant to the Police Act 1997 s.115(7). P's employment as a deputy principal of a college for young autistic adults had been due to be transferred elsewhere, subject to a requirement that he possessed a clean certificate. P accordingly applied to the criminal records bureau whereupon the assistant chief constable decided to include on the certificate details of allegations of serious sexual abuse made against P by three autistic young adult males. All the complaints had involved the use of facilitated communication to assist the complainants. In relation to the first allegation a second facilitator was made available to validate the information but P was not then identified as the offender. In relation to the second allegation, no suitable second facilitator could be found. In relation to the third, a specialist intermediary concluded that there was overwhelming confirmation that P was abusing the complainant, but that the complainant could not communicate sufficiently well to provide evidence. The police took no further action in

relation to any of the complaints. Following disclosure of the certificate P was dismissed. Upon review the assistant chief constable decided that, whilst disclosure should be made, further details of the allegations were to be provided so that they could be placed in context. P submitted that:

- (1) The allegations lacked cogency and credibility and no-one could reasonably have believed that any of them might be true and they were therefore not relevant and should not have been disclosed;
- (2) If disclosure had been necessary, it should have been limited in its scope, and its relevance should have been properly explained to P's employer.

#### HELD

- (1) In forming an opinion on relevance under s.115(7)(a) the chief constable had to ask himself whether the information might be true. If the answer was in the negative there could be no reasonable basis for concluding that it might be relevant. That assessment involved careful consideration of the available evidence but did not require any additional legal test. It was a matter of judgment reviewable by the court only on a *Wednesbury* basis. The relatively low threshold inherent in the question whether the information "might be true" was appropriate, *R (on the application of B) v Secretary of State for the Home Department* (2006) EWHC 579 (Admin) and *R (on the application of X) v Chief Constable of the West Midlands* (2004) EWCA Civ 1068, (2005) 1 WLR 65 applied. All the allegations suffered from serious weaknesses and on the available evidence none of them could be substantiated against P in court. However, it was not unreasonable for the assistant chief constable to conclude that they might be true. Great caution had to be exercised in relation to allegations made through facilitated communication, *D (A Child) (Evidence: Facilitated Communication), Re* (2001) 1 FLR 148 Fam Div applied. The fact that, as happened in the instant case, allegations made in that way had not been repeated during an attempted validation, or there had been no validation stage at all, reinforced the need for caution and effectively precluded any further proceedings in respect of them. However, none of that meant that they could not be true. Whether they might be true had to be assessed by reference to all the circumstances. The allegations against P were not so devoid of substance as to make it unreasonable to conclude that they might be true. The evidence did not make it so unlikely that the information was correct that it would be disproportionate to disclose it, *R. (on the application of X) applied*. Furthermore, there was no other basis on which disclosure could be said to be disproportionate. Therefore the disclosure was lawful. In relation to employment with children or vulnerable adults it was information of which an employer should be aware and it was then for the employer to decide whether the employment of the person concerned involved an unacceptable risk.
- (2) P had not taken up the opportunity offered to him to make further representations on the proposed wording of the disclosure. In any event disclosure in the terms as proposed was lawful. It was open to

an employee to draw an employer's attention to additional matters, so as to enable the employer to assess the significance of the information disclosed in the certificate. The omission of those matters from the certificate did not render the disclosure so inadequate or unfair that no reasonable decision-maker would have made disclosure in those terms.

#### APPLICATION REFUSED



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## The Proceeds Of Crime Act 2002 S.295 Can Be Used At An Interim Stage In Proceedings When The Issue Of Whether Money Obtained Had Derived From Criminal Conduct Remains Unresolved

**R (on the application of the CHIEF CONSTABLE OF GREATER MANCHESTER) (Claimant) v CITY OF SALFORD MAGISTRATES' COURT (Defendant) & SARWAR & SONS (KNITWEAR LTD) (Interested Party): R (on the application of SARWAR & SONS (KNITWEAR LTD)) (Claimant) v CHIEF CONSTABLE OF GREATER MANCHESTER (Defendant) (2008)**

**QBD (Admin) (Richards LJ, Mackay J) 21/7/2008**

Criminal Procedure

Extensions Of Time: Interim Orders: Material Contribution: Proceeds Of Crime: Seized Money: Return Of Detained Money: S.242 Proceeds Of Crime Act 2002: S.298 Proceeds Of Crime Act 2002: S.297(3) Proceeds Of Crime Act 2002: S.295 Proceeds Of Crime Act 2002: S.294 Proceeds Of Crime Act 2002: S.295(5)(A) Proceeds Of Crime Act 2002

The Proceeds of Crime Act 2002 s.295 could be used at an interim stage in proceedings when the issue of whether money obtained had derived from criminal conduct remained unresolved. In deciding whether to grant such an application it was therefore appropriate for a court to consider whether the illegal conduct had made a material contribution to its acquisition by the alleged offender.

The applicant chief constable applied for a quashing order against a decision of a district judge of the respondent magistrates' court ordering the return of seized money to the interested party (S). Police officers executing a warrant at S's commercial premises had found that a number of people were working there in breach of restrictions imposed on their immigration status. Cash found on the premises was seized under the Proceeds of Crime Act 2002 s.294 and the period for which the money could be detained was later extended under s.295. S claimed that the money came from cash sales. The police believed that it might have been intended to be used to pay wages. S applied for the money to be returned and a cross application was made by the chief constable for the continued detention of the money. The judge accepted S's submission that even if there were reasonable grounds to suspect that a significant number of the

workforce were illegal workers that did not render S's whole business unlawful with the consequence that the money seized at the premises was recoverable money within the meaning of the Act. The chief constable submitted that the judge had erred in approaching the matter on the basis that he had to show that S's apparent criminality had rendered its whole business unlawful rather than asking whether there were reasonable grounds for suspecting that the money derived to a material degree from the labour of people whom it was a criminal offence to employ and whether its further detention was justified under s.295(5)(a). He also contended that s.295 was satisfied because the work of the illegal workers had made a material contribution to S's acquisition of the money.

#### HELD

The judge had misdirected himself in law and had asked the wrong question. Alternatively, he had reached a conclusion that no reasonable tribunal could have reached on the applications. The "material contribution" approach was familiar from other areas of the law and was one which the courts found no difficulty in applying in practice. Furthermore, there were safeguards for the former holder of the seized property and he had the ability, at any time, if he thought he could show that its continued detention was unwarranted, to seek its return. Section 297(3) put the burden on him at that interim stage to prove to the civil standard that there was no basis in law on which the money could reasonably be suspected of having been obtained through criminal conduct. At the forfeiture stage under s.298 the position was different; there was a clear burden on the chief constable to satisfy the court of the matters in s.242. It was plain that Parliament envisaged that s.295, by contrast, would or might be invoked at a time when it was in doubt that the money was acquired as a consequence or result of the criminal act concerned and the issue was therefore not capable of resolution. The judge's decision should be quashed.

#### APPLICATION GRANTED



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## Prosecution Do Not Have To Prove That a Hospital Doctor In Charge Of a Patient Had Been Notified Of the Statutory Requirement for the Patient to Give Blood and Had Given His Consent in a Drink Driving Offence

R v JULIAN BRYAN (2008)

CA (Crim Div) (Scott Baker LJ, Burnett J, Judge Roberts QC) 22/7/2008

Criminal Procedure - Road Traffic

Blood Samples: Causing Death By Careless Or Inconsiderate Driving: Consent: Doctors: Drink Driving Offences: Hospital In-Patients: Jury Directions: Requirement For Prosecution To Prove Consent Of Hospital Doctor In Charge Of Accused: S.7(7) Road Traffic Act 1988

A judge had erred in directing a jury that the prosecution did not have to prove as a matter of law that a hospital doctor in immediate charge of a patient suspected of a drink driving offence had been notified of the statutory requirement for the patient to give blood and had given his consent.

The appellant (B) appealed against his conviction for causing death by careless driving when over the prescribed alcohol limit. B had been taken to hospital after the car that he had been driving left the carriageway and collided with a tree, killing one of the passengers. A police officer gave evidence that he obtained approval from the hospital doctor in charge of B for blood specimens to be taken. A police surgeon took the specimens, which revealed blood alcohol levels above the legal limit. At trial, the hospital doctor's evidence was that he was unable to recall any case in which he had been approached by a police officer and asked if a patient was fit to give blood. The point made by the defence was that if the police officer had not followed the correct procedure in Form C and obtained the hospital doctor's consent, then it made it more likely that he had not read out the warning, as set out in the form, about the consequences of failing to give blood, which had to be given to B pursuant to the Road Traffic Act 1988 s.7(7). In his summing up, the judge directed the jury that the prosecution did not, as a matter of law, have to prove that the consent of the doctor in charge was obtained. The judge stated that the law required the consent of the doctor who took the sample, but that getting the hospital doctor's consent was universal good practice. B submitted that the judge had misdirected the jury by telling them that the prosecution did not have to prove as a matter of law that the medical practitioner in immediate charge of him had been notified of the statutory requirement to give blood and had been asked for his consent.

**HELD**

The judge's observations to the jury that the prosecution did not as a matter of law have to prove that the consent of the doctor in immediate charge of B had been obtained, that the consent required was that of the doctor who took the sample, and that obtaining the hospital doctor's

consent was good practice only, were erroneous in two respects. Firstly, the requirement was mandatory and not mere good practice. Secondly, what was required was not the treating doctor's consent, but that he should have been notified of the proposal to take blood and not have objected. However, the focus of the defence case had been that B had not been warned about the consequences of the failure to give blood in accordance with s.7(7). No submission had been made that the sample was inadmissible because the doctor in immediate charge of B had not been asked if he had any objection. The issue of whether the police officer had notified the doctor in charge of the intention to take a blood sample was run by the defence as part of an attack on the police officer's evidence. It was implicit in the jury's verdict that they accepted his evidence and were satisfied that the officer had complied with the requirements of s.7(7). In those circumstances, the judge's errors were immaterial and there was nothing in the ground of appeal.

#### APPEAL DISMISSED



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## Police Owe No Common Law Duty of Care to Protect Individuals against Harm Caused By Criminals

CHIEF CONSTABLE OF HERTFORDSHIRE v VAN COLLE  
(ADMINISTRATOR OF THE ESTATE OF GC, DECEASED) & ANOR: SMITH  
v CHIEF CONSTABLE OF SUSSEX (2008)

HL (Lord Bingham of Cornhill, Lord Hope of Craighead, Lord Phillips of  
Worth Matravers, Lord Carswell, Lord Brown of Eaton-under-Heywood)  
30/7/2008

Negligence - Human Rights - Police

Duty of Care: Police Powers and Duties: Right to Life: Threats: Victims:  
Extent of Duty to Protect Persons Threatened with Death or Violence

The principle established in *Hill v Chief Constable of West Yorkshire* (1989) AC 53, namely that, in the absence of special circumstances, the police owed no common law duty of care to protect individuals against harm caused by criminals, should be preserved.

The first appellant chief constable appealed against a decision ((2007) EWCA Civ 325, (2007) 1 WLR 1821) that the police had been under a duty to take preventive measures to protect a witness who was being threatened and who was subsequently murdered, and that they were in breach of that duty and therefore acted incompatibly with the European Convention on Human Rights 1950 art.2. The second appellant chief constable appealed against a decision ((2008) EWCA Civ 39, (2008) HRLR 23) that a claim in negligence against the police arising from an allegation that they had failed to take necessary steps after being informed of death threats against an individual should not have been struck out. The cases involved two victims (G and S). G had been murdered just days before he was due to give evidence for the prosecution at the trial of a defendant (B) on charges of theft. B was convicted of G's murder. G's parents alleged that G's murder by B had occurred after a number of threats and incidents of witness intimidation by B against G and others of which the investigating police officer (R) should have been aware and which should have led him to take steps to protect G against the risk of serious harm. According to S, he had repeatedly informed the police that his former partner (P) had threatened to kill him, the police had ample evidence and information to arrest P and they had no excuse for not doing so. While the police were investigating the matter, P attacked S with a claw-hammer, causing serious injuries. In bringing proceedings against the respective chief constables, G's parents relied on art.2 of the Convention, while S's claim was brought under the common law. The issue was whether the Court of Appeal had been correct to reach the two decisions that it had.

### HELD

(Lord Bingham dissenting in respect of S's case)

- (1) (Per Lord Hope) as to the art.2 claim brought by G's parents, the relevant test was set out by the Strasbourg court in *Osman v United Kingdom* (23452/94) (1999) 1 FLR 193 ECHR. Under the test, the court

had to be satisfied that the authorities knew or ought to have known "at the time" of the existence of "a real and immediate risk to the life" of an identified individual from the criminal acts of a third party. If they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk, the relevant positive obligation would have been violated. In G's case, that test had not been met. The murder had been the action of a seriously disturbed and unpredictable individual, and it could not reasonably be said that R should have anticipated, from the information available to him at the time, that B constituted a risk to G's life that was both real and imminent. It had been argued that by involving G in B's prosecution, in particular by requesting him to be a witness at B's trial, the police had exposed him to a risk to his life, thereby placing him in a special category of witnesses, not shared by all members of the public, to whom a lower threshold applied. However, the test in Osman was invariable and was not intended to impose a standard which might vary from case to case, Osman applied.

- (2) (Per Lord Hope) As to S's claim in negligence, the balance of advantage in this difficult area lay in preserving the principle set out in Hill v Chief Constable of West Yorkshire (1989) AC 53 HL, whereby, in the absence of special circumstances, the police owed no common law duty of care to protect individuals against harm caused by criminals. In Brooks v Commissioner of Police of the Metropolis (2005) UKHL 24, (2005) 1 WLR 1495 Lord Nicholls of Birkenhead said that there might be exceptional cases where the circumstances compelled the conclusion that the absence of a remedy sounding in damages would be an affront to the principles that underlay the common law. That approach was to be respected, but S's case did not fall into that category. That was why, if a civil remedy was to be provided, there needed to be a more fundamental departure from the core principle in Hill. That should be resisted, in the interests of the wider community, Hill and Brooks followed.
- (3) (Per Lord Bingham) the Court of Appeal had been right to decide as it had in S's case. If a member of the public (X) furnished a police officer (Y) with apparently credible evidence that a third party whose identity and whereabouts were known presented a specific and imminent threat to his life or physical safety, Y would owe X a duty to take reasonable steps to assess such threat and, if appropriate, take reasonable steps to prevent it being executed.

#### APPEALS ALLOWED



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## Secure Training Centre (Amendment) Rules 2007 to Be Quashed

**R (on the application of C) v SECRETARY OF STATE FOR JUSTICE (2008)**

**CA (Civ Div) (Buxton LJ, Tuckey LJ, Keene LJ) 28/7/2008**

Penology and Criminology - Human Rights

Amendments: Consultation: Inhuman or Degrading Treatment or Punishment: Procedural Impropriety: Race Equality Duty: Restraint: Right to Respect for Private and Family Life: Secure Training Centres: Young Persons: Amendments Allowing Wider Power of Restraint: Procedural Defects: Lawfulness of Amendments: s.71(1) Race Relations Act 1976: art.3 European Convention on Human Rights: art.8 European Convention on Human Rights: Secure Training Centre (Amendment) Rules 2007

The failure to produce a race equality impact assessment prior to laying the Secure Training Centre (Amendment) Rules 2007 before Parliament was a defect in the procedure that was of substantial, and not merely technical, importance and the rule of law and the proper administration of race relations law required the Rules to be quashed.

The appellant (C) appealed against a decision ((2008) EWHC 171 (Admin), (2008) ACD 32) refusing to quash the Secure Training Centre (Amendment) Rules 2007. The respondent secretary of state had sought to amend the Rules so as to permit officers working at secure training centres to physically restrain a young person at a centre where restraint was thought to be necessary for the purposes of ensuring good order and discipline. Before the amendments were made, the secretary of state had engaged in limited consultation, involving the Youth Justice Board and directors of the centres. He had not consulted in particular the Children's Commissioner and had not carried out a race equality impact assessment. C, who eventually left one of the centres, sought to challenge the lawfulness of the amendments. The judge held that the amendments amounted to a significant change of policy and the failure to consult the commissioner was *Wednesbury* unreasonable and the failure to carry out the assessment pursuant to the Race Relations Act 1976 s.71(1) was a breach of duty. However, the judge held that it was not appropriate to quash the amendments because there had been a substantial and informed debate about the amendments before they came into force; Parliament had been aware of the concerns of the commissioner and others who had been denied formal consultation; one of the members of the House of Lords had not pressed his motion to annul the amendments and he and others had accepted that the secretary of state had established a wide-ranging review of the issues in light of which the position would receive further consideration, and that reconsideration enabled the legal deficits to be remedied. A few days before the appeal hearing the secretary of state produced the impact assessment to validate the amendments. The issues were whether (i) the judge had wrongly declined to quash the

amendments; (ii) the amendments involved breaches of the European Convention on Human Rights 1950 art.3 and art.8.

#### HELD

- (1) It was very hazardous to draw any conclusions from the observations of various speakers in a debate, and particularly a debate that was not pressed to a vote, as to what the majority of members understood, let alone decided or were prepared to overlook. To suggest that Parliament had approved the failure to consult the commission was, therefore, an assumption too far. Also the legal obligation to take certain steps before laying legislation before the Parliament was that of the executive. It was not Parliament's role to control that obligation: that was the function of the courts. Rather, the function of Parliament was simply to approve or disapprove the amendments as laid. Its failure to disapprove the amendments could not supply the executive's failure to perform the legal obligations that it bore before laying the amendments in the first place, *R (on the application of Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* (2007) EWCA Civ 498, (2008) QB 365 and *R v Secretary of State for Health Ex p United States Tobacco International Inc* (1992) QB 353 DC applied, and *F Hoffmann La Roche & Co AG v Secretary of State for Trade and Industry* (1975) AC 295 HL considered. As regards the wide-ranging review, the review was into the merits of restraint, namely the physical control in care, and not at all into the matter at issue in the instant case, namely the process whereby the system of physical control in care was extended to good order and discipline. Further, it could not deal with the omission of the impact assessment. The absence of the assessment was the result not of inattention but of a mistake made by the secretary of state. It sent out the wrong message to public bodies with responsibilities under s.71 of the 1976 Act to allow that deficit to be cured by a review only undertaken eight months after the amendments had been laid. Although one could not doubt the good faith of a civil servant, who had produced an impact assessment that showed that physical control in care had not been applied in a discriminatory manner, as a matter of principle it could not be right that a survey that should have been produced to inform the mind of the government before it took the decision to introduce the amendments was only produced in order to attempt to validate the decision that had already been taken. The failure to produce the assessment was defect in the procedure that was of very great substantial, and not merely technical, importance. In the circumstances, the reasons given by the judge for not quashing the amendments were mistaken and the rule of law and the proper administration of race relations required the amendments to be quashed.
- (2) A system of physical control in care of its very nature engaged art.3. The secretary of state could not establish that that system was necessary for ensuring good order and discipline. As regards art.8, the system was not necessary in a democratic society and, therefore, not justified.

APPEAL ALLOWED



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### **SI 1864/2008 The Road Safety Act 2006 (Commencement No 3) Order 2008**

In force **31 July**. This Order brings Section 46 of the Road Safety Act 2006 into force. This section extends Part 2 of the Vehicles (Crime) Act 2001 to Scotland and Northern Ireland. Sections 17(1) and 28 of the Vehicles (Crime) Act 2001 are not to apply to any person in Scotland or Northern Ireland before 1 November 2008.

### **SI 1887/2008 The Police Pensions (Amendment) Regulations 2008**

In force **8 August**. These Regulations amend existing regulations dealing with police pensions and retirement benefits. They set out a new scheme of ages at which police officers can be compulsorily retired and set out the ages at which an officer can voluntarily retire.

The instrument also makes provision for certain officers who transferred to the Serious Organised Crime Agency at the time of its creation to retain their membership of the Police Pension Scheme 1987. The Regulations also amend the employer contribution rate payable by police authorities in respect of officers who are members of police pension schemes.

### **SI 1908/2008 The Serious Organised Crime and Police Act 2005 (Disclosure of Information by SOCA) Order 2008**

In force **23 July**. This Order designates protecting public health and the functions of the Financial Services Authority under the Financial Services and Markets Act 2000 as permitted functions for the purposes of Section 33 of the Serious Organised Crime and Police Act 2005. Section 33 allows the Serious Organised Crime Agency to disclose information obtained in connection with the exercise of its functions if the disclosure is for a permitted function.

### **SI 1909/2008 The Proceeds of Crime Act 2002 (Disclosure of Information) Order 2008**

In force **23 July**. This Order designates a list of persons as 'permitted persons', who may disclose information to the Director of the Serious Organised Crime Agency (SOCA) for the purposes of Section 436 of the Proceeds of Crime Act 2002 (POCA). It also designates protecting public health and the functions of the Financial Services Authority under the Financial Services and Markets Act 2000 as permitted functions for the purposes of Section 438 of POCA, which allows the Director of SOCA to disclose information if it is for a permitted function.

### **SI 1918/2008 The Road Safety Act 2006 (Commencement No 4) Order 2008**

In force **18 August**. This Order brings into force Sections 20, 21 and, to the extent not already in force, 30 of the Road Safety Act 2006. Section 20 inserts a new section 2B into the Road Traffic Act 1988, making an offence of causing death by driving without due care and attention, or without reasonable consideration for other persons.



Section 21 creates section 3ZB of the Road Traffic Act 1988, making an offence of causing death by driving whilst unlicensed, disqualified or uninsured. Section 30 inserts section 3ZA into the Road Traffic Act 1988, which explains when a person is to be regarded as driving without due care and attention, or without reasonable consideration for other persons.

#### **SI 1931/2008 The Terrorism Act 2000 (Proscribed Organisations) (Amendment) (No 2) Order 2008**

In force **17 July**. This Order changes the reference in Schedule 2 to the Terrorism Act 2000 from "Hizballah External Security Organisation" to "The military wing of Hizballah, including the Jihad Council and all units reporting to it (including the Hizballah External Security Organisation)". Schedule 2 is the list of proscribed organisations, for which Part 2 of the Terrorism Act 2000 makes provision, including setting out offences in relation to such organisations.

#### **SI 1978/2008 The Proceeds of Crime Act 2002 (Investigative Powers of Prosecutors in England, Wales and Northern Ireland: Code of Practice) Order 2008**

In force **22 July**. This Order brings into operation a code of practice made pursuant to section 377A of the Proceeds of Crime Act 2002. This Code of Practice is to apply to all prosecutors in England, Wales and Northern Ireland, and must be complied with by, amongst others, the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office and the Director of Public Prosecutions for Northern Ireland.

#### **SI 2039/2008 The Criminal Justice Act 1988 (Offensive Weapons) (Amendment No 2) Order 2008**

In force **1 August**. This Order widens an existing defence to offences under Section 141(1) of the Criminal Justice Act 1988 and Section 50(2) or (3) of the Customs and Excise Management Act 1979, in relation to swords with a curved blade of 50 centimetres or over. It makes the defence apply where the weapon in question was made before 1954 or where it was made at any other time according to traditional methods of making swords by hand. The Order also creates a new defence to the same offences where a person can show that the conduct in question was for the purpose only of making the weapon available for the purposes of use in religious ceremonies.

#### **SI 2076/2008 The Criminal Procedure (Amendment) Rules 2008**

In force **6 October**. These Rules are an amendment to the Criminal Procedure Rules 2005, and make a number of changes, including introducing a new rule about representatives and 'supporting adults'. The Rules also revise and simplify the procedures for starting prosecutions in the Magistrates' Court and for appeals to the Crown Court.

**SI 2077/2008 The Immigration (Supply of Information to the Secretary of State for Immigration Purposes) Order 2008**

In force **31 July**. This Order creates a statutory power for certain persons and purposes, including the Chief Constable of the British Transport Police Force, for the purposes of the prevention, detection, investigation or prosecution of criminal offences and safeguarding national security, to supply information to the Secretary of State for the Home Department for 'immigration purposes'. The Order also extends the definition of 'immigration purposes' in section 20(3) of the Immigration and Asylum Act 1999.

**SI 2156/2008 The Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) Order 2008**

In force **14 August**. This Order designates the United States of America as a 'participating country' under Section 51(2)(b) of the Crime (International Co-operation) Act 2003 (the Act), for the purposes of sections 32, 35, 43, 44 and 45 of the Act. Sections 32 and 35 of the Act confer a discretion on the Secretary of State to direct a senior police officer or senior customs officer to apply for customer information orders and account monitoring orders when a request for such information is received from a participating country. Sections 43 and 44 allow judicial authorities in the UK to make outgoing requests for customer and account information to participating countries. Section 45 provides that outgoing requests are to be made through the Secretary of State.