



College of  
Policing

Drug seizure  
Statistics

PSNI  
Stop and search  
statistics

MOJ  
Investment  
plans

# Digest | November 2018

A digest of police law, operational policing practice and criminal justice, produced by the **Legal Services Department** at the College of Policing



**Forced marriage** Public consultation launched

**Tool developed** Tackling online grooming

**Female offenders** More funding

**Five forces** Test new domestic abuse tools

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# Introduction

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Dear readers,

Thank you for accessing the November 2018 edition of the digest produced by the Legal Services team at the College of Policing.

This month's edition examines the latest statistics on drug seizure and PSNI stop and search. There are articles covering the topics of online grooming, protecting children from criminal exploitation and forced marriage. As well as commentary on the new Assaults on Emergency Workers (Offences) Act 2018, which came into force on 13 November 2018.

Thanks for reading,

The Legal Services Team

For subscription requests, further information or to send us ideas about what you would like to see in upcoming editions, please email us at:

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# College Membership

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# Legislation

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## Counter Terrorism and Border Security Bill – draft code under Schedule 3 published

A draft Code of Practice for examining officers and review officers under Schedule 3 to the Counter-Terrorism and Border Security Act 2018 has been published. It is one of a number of supporting documents which relate to the Act that is still at Bill stage and is currently progressing through Parliament.

Schedule 3 will allow an examining officer to stop, question, search and detain a person at a port or the border area for the purpose of determining whether that person may be, or may have been, engaged in hostile activity. It also allows for the examination of goods in determining whether they have been used in connection with a person's engagement in hostile activity. The code applies to:

- training to be undertaken by those who will act as examining officers or exercise other functions under Schedule 3
- the exercises of the functions conferred by Schedule 3
- the video recording (with sound) of interviews by constables or persons detained under Part 1 of Schedule 3 at a police station
- reviews under Part 3 of Schedule 3.

The draft Code, which has been presented to Parliament, can be accessed in full [here](#).

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## Courts and Tribunals (Judiciary and Functions of Staff Bill 2017–2019)

The Courts and Tribunals (Judiciary and Functions of Staff) Bill is currently making its way through the parliamentary process. The Bill has just had its third reading in the House of Lords and is due to be heard on 26 November 2018 for its second reading in the House of Commons. The public Bill was introduced in light of a commitment made in the Queen's speech. The Bill contains four key provisions and a schedule, and makes the following amendments.

- It widens powers to give greater flexibility, allowing certain judicial office-holders to be deployed with more ease within the court framework.
- It amends the title of 'Chief Bankruptcy Registrar' to 'Chief Insolvency and Companies Court Judge'. It also makes it easier for similar judicial titles to be changed.
- It makes it easier for some court functions to be delegated from the judiciary to certain court staff. The use of this power is also extended to the Crown Court.

The Bill has been introduced to help fulfil some of the cost savings associated with the Justice Reform Programme. However, it has received comment about its narrow scope and inability to consider wider justice issues in future amendments.

Further information can be accessed [here](#).

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## Circular 018/2018 – rescheduling of cannabis

The Home Office has issued a circular regarding the rescheduling of cannabis-based products for medicinal use in humans. The circular comes following the statutory instrument 2018/1055 The Misuse of Drugs (Amendments) (Cannabis and Licence Fees) (England, Wales and Scotland) Regulations 2018 ('the Regulations'), which came into force on 1 November 2018.

The statutory instrument provides a legal route for doctors to prescribe cannabis-based products for medicinal use in humans. The Regulations also provide an extensive definition of cannabis-based products for medicinal use in humans; products that meet the definition will be reclassified to Schedule 2 of the 2001 Regulations and will be subject to special measures also included in the Regulations to control their use, order and supply. The definition of a cannabis-based product for medicinal use in humans is defined as a preparation or other product, other than one to which paragraph 5 of part 1 of Schedule 4 applies, which:

- is or contains cannabis, cannabis resin, cannabidiol, or a cannabidiol derivative (not being stereoisomers)
- is produced for medicinal use in humans
- is a medicinal product, substance, or preparation for use as an ingredient of, or in the production of an ingredient of, a medicinal product.

If the product meets this definition, there are three access routes available for its order and supply:

- a special medicinal product that is for use in accordance with a prescription or direction of a specialist medical practitioner
- an investigational medicinal product without a marketing authorisation that is for use in a clinical trial
- a medicinal product with a marketing authorisation.

The Regulations continue to prohibit the smoking of cannabis and cannabis-based products for medicinal use.

The full circular can be accessed [here](#).

The Regulations followed a call by the Home Secretary in June 2018 for an urgent two-part review of how cannabis was previously scheduled. The first part of this review found conclusive evidence of the therapeutic benefit of cannabis-based products for certain medical conditions and reasonable evidence of therapeutic benefit in several other medical conditions. Professor Dame Sally Davies conducted this part of the review and made recommendations that 'the whole class of cannabis-based medicinal products be moved out of Schedule 1 of the Misuse of Drugs Regulations.'

More information can be accessed [here](#).

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## The Privacy and Electronic Communications (Amendment) Regulations 2018

The Regulations amend the Regulations of the same name of 2003. They also make changes to the Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 and the Data Protection (Monetary Penalties) Order 2010. These instruments concern the processing of personal data and the protection of privacy in the electronic communications sector.

Find further information [here](#).

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## SI 2018/1078 The Proceeds of Crime Act 2002 (External investigations and External orders and requests) (Amendment) Order 2018

This order relates to section 444 and 445 of the Proceeds of Crime Act 2002, giving effect to:

- external requests: requests from overseas to prohibit dealing with property suspected to derive from criminal conduct
- external orders: for the recovery of property or money which come from criminal conduct
- investigations into whether property has been obtained as a result of or in connection with criminal conduct.

Find further information [here](#).

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## SI 1119/2018 The Ministry of Defence Police (Conduct and Appeals Tribunals) (Amendment) Regulations 2018

The instrument modifies disciplinary procedures and associated appeals procedures to former Ministry of Defence police officers.

Find further information [here](#).

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## SI 2018/1170 The Crime and Courts Act 2013 (Deferred Prosecution Agreements) (Amendment of Specified Offences) Order 2018

The instrument amends schedule 17 to the Crime and Courts Act 2013. Section 45 of that schedule provides for 'deferred prosecution agreements' (an agreement between the prosecutor and an organisation accused of an economic or financial offence). The instrument

adds offences under sections 89, 90 and 91 of the Financial Services Act 2012 (relating to misleading statements and impressions) to schedule 17.

Find further information [here](#).

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## Acts

### Assaults on Emergency Workers (Offences) Act 2018

The Assaults on Emergency Workers (Offences) Act 2018 ('the Act') came into force on 13 November 2018 and was enacted to acknowledge the very serious risks emergency workers are exposed to in the course of their duty. In the past year, police officers were subject to 26,000 assaults and 15.2 per cent of NHS staff said they were subjected to physical violence from patients, their relatives or the general public.

Key provisions are outlined below.

- A new either-way offence of assault or battery committed against an emergency worker incurring a potential 12-month imprisonment on summary conviction (as opposed to the six-month maximum custodial sentence under section 39 of the Criminal Justice Act 1988 and section 89 of the Police Act 1996).
- When an offence is committed against an emergency worker who is acting in the exercise of their functions, a statutory aggravating factor for offences applies under sections 16, 18, 20, 23, 28, 29 and 47 of the Offences Against the Person Act 1861, the common law offences of manslaughter and kidnapping and section 3 of the Sexual Offences Act 2003.

Find further information [here](#).

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### Updates to PACE Code H

Changes to paragraph 3.2 to Code H of the Codes of Practice and a notice of rights and entitlements for those in police detention have been issued.

Find further information [here](#) and [here](#).

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# Policing practice

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## Operational

### PSNI stop and search statistics

Published stop and search statistics for Northern Ireland state that between 1 July and 30 September 2018, 6,901 people were stopped and searched or questioned. A total of 491 stops resulted in arrest. Of the whole stop and search and questioning total, 6,085 were male, 811 were female. A total of 4,265 of those stopped were stopped under legislative powers under section 23 of the Misuse of Drugs Act.

Find further information [here](#).

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### Five forces to test new domestic abuse tool

A new risk assessment tool designed to assist frontline officers and staff in cases of domestic abuse is to be tested by five police forces. This follows initial pilots in Sussex, West Midlands and Humberside in 2017.

The new risk assessment tool was found to support more accurate risk assessment during initial contact between officers and victims, and led to more coercive and controlling behaviour being disclosed. Additional testing is being carried out to ensure the positive results seen in the pilot are repeated when the tool is used on a wider scale. If successful, the College will recommend the new tool to all forces in England and Wales.

Further information can be found [here](#).

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## Police

### Police financial reserves figures published

In March 2018, Police and Crime Commissioners (PCCs) held over £1.4 billion in usable resource reserves. These are funds retained to help manage financial risk and to invest into future costs and can be categorised into two sub-categories – resource and capital. Resource reserves are used to cover unforeseen pressures and funds ear-marked for specific purposes. Capital reserves are kept for capital investment. Reserve details as they stood in March 2018 are now available for review.

Find further information [here](#).

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## Value for money profiles published

HMICFRS has published an annual value for money profile for forces in England and Wales. The profiles seek to help forces improve decision-making by identifying areas for improvement in their spending. The areas of analysis include:

- spending on policing activities
- crime levels and outcomes across forces
- work-force costs.

Find further information [here](#).

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# Criminal justice system

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## Drug seizure statistics 2018

Drug seizure statistics in England and Wales for the financial year ending 2018 have been published.

The statistics relate to all drugs controlled under the Misuse of Drugs Act 1971, which provides for three categories: Class A, Class B and Class C. They relate to drug seizures made by the 44 police forces, including the British Transport Police and Border Force. The statistics also include the first batch of data relating to the Psychoactive Substances Act 2016, albeit as 'experimental statistics' since they do not yet meet the standards required by Official Statistics. Some key findings are outlined below.

- Cannabis was involved in 72 per cent of all drug seizures and represented the most commonly seized drug overall.
- There was a 142 per cent increase in the quantity of herbal cannabis seized since 2016/2017.
- Border Force seizures represented the largest quantities. They seized 79 per cent of cocaine, 94 per cent of anabolic steroids and 92 per cent of all cannabis resin.
- Among the most commonly seized new psychoactive substances (NPS) were synthetic cannabinoids and nitrous oxide.
- Cocaine was the most commonly seized Class A drug, although the quantity of cocaine seized fell by 39 per cent compared with the previous year.
- Class A drug seizures have decreased by one per cent between 2016/2017 and 2017/2018.
- Compared with 2016/2017, there was a 66 per cent decrease in the quantity of anabolic steroids seized.

The full statistical report can be accessed [here](#).

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### More funding for female offenders

The Ministry of Justice (MOJ) has awarded £3.3 million to 12 organisations whose work helps divert women away from crime. The funding follows the intentions of the Female Offender Strategy which acknowledges that many female offenders are in vulnerable circumstances, and hopes to move the emphasis from custody towards rehabilitative community services. The funding will go towards initiatives such as the Domestic Violence Trauma pilot, which is to be launched in Brighton and Hove, supporting female victims of domestic abuse and those with further complex issues, such as homelessness and mental health problems.

Find further information [here](#).

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### MOJ investment plans

A further £30 million will be invested into the prison system, towards improving safety and security. This adds to initiatives already underway, such as body scanners and phone blocking technology. An additional £15 million will be spent on maintenance and security of court buildings and £6.5 million will be invested in the wider justice system, including £1.5 million to the Parole Board to boost operational capacity.

Find further information [here](#).

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### Multi-agency terrorism exercise to take place

At the start of November, the emergency services, other public services and the government undertook a three-day multi-agency terrorist attack exercise, involving over 40 agencies and 500 people. Carried out in Westcott, Buckinghamshire, the exercise was designed to prepare the organisations in the event of a major terrorist attack involving hazardous materials.

In this particular exercise, the simulation concerned a chemical incident. However, the UK has the capability to deal with a range of chemical, biological, radiological and nuclear (CBRN) incidents.

The exercise was followed by a two day workshop to assess what plans should be in place following an attack to ensure those affected receive the relevant support.

Further information can be accessed [here](#).

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## New strategy launched to tackle serious and organised crime

The government has published a new serious and organised crime strategy which provides a framework and outlines capabilities designed to respond to the full range of serious and organised crime threats. Four overarching objectives are set out in the strategy, outlined below.

- Relentless disruption and targeted action against the highest harm, serious and organised criminals and networks.
- Building the highest levels of defence and resilience in vulnerable people, communities, businesses and systems.
- Stopping the problem at the source. Identifying and supporting those at risk of engaging in criminality.
- Establishing a single, whole-system approach.

As a result, the government states it will be able to measure and demonstrate that:

- (a) they have significantly raised the risk of operating for the highest harm criminals and networks within the UK and overseas, online and offline, by ensuring:
  - (i) new data and intelligence capabilities have targeted and disrupted serious and organised criminals and networks in new ways
  - (ii) a range of partnerships and working practices are embedded in the UK that enable us to sharpen and accelerate our response
  - (iii) overseas partners are working with us more often, more collaboratively and more effectively to target serious and organised crime affecting the UK
  - (iv) they are arresting and prosecuting the key serious and organised criminals, stopping their abuse, denying and recovering from them their money and assets, dismantling their networks and breaking their business model.
- (b) communities, individuals and organisations are reporting they are better protected and better able to protect themselves, and victims are better supported to recover from their abuse or exploitation
- (c) fewer young people are engaging in criminal activity or reoffending

The strategy builds on previous strategies and links to other government strategies, such as the UK's Strategy for Countering Terrorism (CONTEST) and the UK Anti-Corruption Strategy 2017-2022.

Part one sets out the current threat. Part two covers the new strategic approach and sets out the overall ambition. Part three focuses on how this translates into action regarding the four overarching objectives. Part four describes how the strategy will be implemented in the UK and overseas.

The strategy can be accessed in full [here](#).

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## Policing minister questioned on preparations for Brexit by Home Affairs Committee

On 14 November 2018, the Home Affairs Committee heard from the Rt. Hon. Nick Hurd MP, Minister of State for Policing and Fire Service, about preparations for Brexit. Other prospective

attendees included Rebecca Ellis from the European Directorate and Scott McPherson, the Director General of the Crime, Policing and Fire Group at the Home Office.

The meeting was set up to involve key discussions around the preparedness of the Home Office in ensuring that UK policing and security capabilities are not compromised in the event of a 'no deal' Brexit.

Further information can be accessed [here](#).

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### Prison action against reoffending

A £6 million pilot programme aimed at supporting prisoners serving short sentences and at high risk of reoffending is being run in prisons in Leeds, Pentonville and Bristol. The programme will try to tackle the difficulties individuals face after leaving prison, which create a high risk of reoffending.

The programme will focus on finding suitable accommodation for individuals while providing support to help them integrate back into society. Prisons will work with local authorities, probation staff, charities and others to provide this support. An evaluation will be carried out at the end of the two-year scheme to assess whether it can be rolled out across the country.

The programme is part of the £100 million Rough Sleeping Strategy that the Government announced earlier this year which aims to halve the number of people on the streets of England by 2022.

More information can be accessed [here](#).

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### Public consultation on forced marriage launched

A public consultation into whether there should be a mandatory reporting duty for forced marriage and an update to the existing statutory guidance on forced marriage has been launched, announced by the Home Secretary Sajid Javid at the International Conference on Ending FGM and Forced Marriage. Posters and a video were also unveiled which will be used in an upcoming awareness campaign to highlight that forced marriage is a crime and to direct victims and concerned parties to the Forced Marriage Helpline for help and support.

The consultation seeks views on whether it is necessary to introduce a mandatory reporting duty relating to forced marriage cases, and if so, what such a duty would look like. It also seeks views on how the current guidance could be improved or strengthened. The consultation is open to everyone, however views are sought in particular from victims and survivors of forced marriage, those with expertise in the area, and relevant professionals, including those working in social care, education, the police and healthcare.

The consultation closes on 23 January 2019, and can be accessed in full [here](#).

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### Report on protecting children from criminal exploitation published

A thematic report from Ofsted, HMICFRS, the Care Quality Commission (CQC) and HMI Probation has been published on protecting children from criminal exploitation, human trafficking and modern slavery. The report considers the findings from three inspections of local authority areas, with a focus on the criminal exploitation of children, and builds on the findings from the 2016 report 'Time to listen – a joined up response to child sexual exploitation and missing children'.

The report recognises that much has been done to address child sexual exploitation but calls for agencies to learn the lessons of the past when responding to criminal exploitation of children across county lines. It concludes that the only way of responding to and preventing highly coordinated criminal operations that exploit children is to have a highly coordinated multi-agency and whole-council approach. Local partnerships need to be aware of exploitation risks in their local area and must be curious at a strategic and operational level about what is happening.

The report can be accessed in full [here](#).

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### Tool developed to help tackle online grooming

The Home Secretary, Sajid Javid, gave high praise to a new tool developed to help tackle online grooming, designed by engineers from some of the world's leading technology firms. Employees from a number of companies, including Google, Microsoft and Twitter got together as part of a two-day collaborative 'hackathon' to create tools which could be used in the fight against online grooming.

One such tool can automatically identify potential conversations between children and online groomers. Thousands of conversations were analysed to identify patterns of behaviour exhibited by child groomers. Software was then developed to flag these 'rogue' conversations. It is hoped that in the future this technology will flag issues to moderators who can then investigate further. The tool requires additional work before it can be released, but it is expected to be licensed to small and medium-sized technology companies free of charge in the future.

Further information can be accessed [here](#).

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## Review of the efficiency and effectiveness of disclosure

The Attorney General's Office has published a review of the efficiency and effectiveness of disclosure in the criminal justice system. The review looked specifically at how processes and policies are implemented by prosecution and defence practitioners, police officers and investigators. It highlights practical proposals aimed at tackling the root causes of problems with the disclosure process, which are grouped under the headings listed below.

### **Primary legislation continues to provide an appropriate disclosure regime, but in practice the system is not working as effectively or efficiently as it should.**

The report states that while the government does not rule out revisiting the Criminal Procedure and Investigations Act 1996 in the future, it believes primary legislation continues to provide an appropriate disclosure regime. However, as the system is not working as effectively or efficiently as it should, it finds that frontline investigators and prosecutors would benefit from simpler, clearer and more practical assistance in performing their duties. The review recommends that changes be made to simplify and modernise secondary legislation guidelines, guidance and protocols that sit underneath the CPIA.

### **Practical reinforcement of the duty to make reasonable lines of inquiry and apply the disclosure test correctly.**

While better training and guidance are important, the review states that firm, practical solutions and a different way of working are required to combat some of the habitual and systemic disclosure problems. The review recommends that there should be a rebuttable presumption in favour of disclosure for categories of key documents/material that usually assist the defence. The review also found that oversight and handling of sensitive unused material is inconsistent and recommends that roles and responsibilities should be clarified.

### **Pursuing a fair investigation and considering disclosure obligations from the outset, rather than as an afterthought.**

The report states there is wide support for the proposition that a fair investigation requires consideration of disclosure from the outset, however there is an ingrained cultural problem that sees disclosure as an administrative or bureaucratic issue that only arises at the midpoint of litigation. Working practises should be adjusted to drive cultural change, with a transparent emphasis on an auditable record of what the investigator and prosecutor have actually done to discharge their disclosure obligations.

The review also found a lack of transparency regarding the approach to reasonable lines of inquiry. It recommends that the Manual of Guidance is amended to reflect the need to document all reasonable lines of inquiry and that disclosure management documents are deployed in all crown court cases.

### **Proportionate 'frontloading' of disclosure preparation and performance**

The review found that too many disclosure issues are left until too late a stage and that certain processes could be streamlined to remove work that is unnecessary or involves duplication. It recommends moving to a national position with a better balance between streamlining work

and performing disclosure obligations earlier in order to progress any contested disclosure issues or problems.

### **Early and meaningful engagement with disclosure issues by the defence and the judiciary**

Evidence given to the review by stakeholders stated that early and meaningful engagement between the prosecution team and the defence is crucial to improving the disclosure process. In some pre-charge cases, a lack of pre-charge discussion hampers early resolution of evidential issues, particularly where there is a large amount of digital material. The review recommends that the AG guidelines include guidance on pre-charge engagement and that the National Disclosure Improvement Plan working group considers guidance on pre-charge engagement.

### **Harnessing technology**

The report states that in meeting complications caused by technology, it is right to adopt technological solutions, including artificial intelligence, and equally important to respect and protect complainant, witness and third-party rights. It finds that frontline investigators and prosecutors would benefit from clear and practical assistance in relation to digital material, and recommends changes to secondary legislation and the AG's guidelines, guidance and protocols to deal with the realities of digital material.

### **Data management**

The review finds that data collection on the impact of disclosure on cases is inadequate, and does not provide an appropriate basis for managing performance. It recommends new metrics for disclosure and the alignment of performance indicators across the police and prosecution to ensure a joined-up approach.

### **Sustained oversight and improvement**

Finally, the review finds that in order to deliver the necessary cultural change, there needs to be a sustained oversight by senior operational leaders and ministers. It recommends that the Criminal Justice Board is the appropriate forum to oversee the issue and implementation of the recommendations in the review. It also recommends that an NDIP should be established to ensure that the operational focus and pace built up under the NDIP programme is maintained in the future.

The review can be accessed in full [here](#).

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Please provide feedback to the Digest team via email: [Digest@college.pnn.police.uk](mailto:Digest@college.pnn.police.uk)

The Digest is a primarily legal environmental scanning publication intended to capture and consolidate topical and key issues, both current and future, impacting on all areas of policing.

During the production of the Digest, information is included from governmental bodies, criminal justice organisations and research bodies. As such, the Digest should prove an invaluable guide to those responsible for strategic decision making, operational planning and police training.

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