

# cjm

## update

**Una Padel on the latest developments in criminal justice.**

### **Reluctant Witnesses**

As a result of its consultation exercise on encouraging more witnesses to give evidence in court, the Government has decided against using greater compulsion and will focus instead on enhancing support for witnesses. Respondents felt that reintroducing witness orders, abolished in 1996, could undermine initiatives to encourage witnesses to remain engaged in the criminal justice process. Witness summonses can already be used where an element of compulsion is felt to be required, and respondents to the consultation felt that more effective use could be made of them. The Government has included a provision in the *Serious Organised Crime and Policing Bill* to amend the evidential test (which requires substantive evidence that a witness will not attend voluntarily) to make it easier to obtain a witness summons before a trial starts.

### **Reluctant Defendants**

The failure of prosecution witnesses to attend courts is the main cause of ineffective trials, the second biggest cause is failure of the defendant to attend. One in twenty trials in the Magistrates' Courts and one in thirty-two trials in the Crown Courts did not go ahead because the defendant did not turn up in the year ending June 2004. In its report *Facing Justice: Tackling Defendants' Non-attendance at Court* the National Audit Office called for improvements in the following areas:

- Monitoring compliance with bail conditions. No agreements currently exist between the courts, which impose the conditions, and the police whose task it is to monitor compliance, on the extent and depth of monitoring required or the priorities to be met. None of the police forces involved in the NAO survey said they had sufficient resources to monitor all the conditions set down by the courts.
- Communication with defendants. Magistrates' Courts staff usually give defendants a form on which the date of the next hearing and any other information is filled in by hand. The NAO study found that these hand written documents were not easy to understand and sometimes illegible.
- Information available to the court on defendants' domestic circumstances. The Probation Service has no statutory duty to provide reports verifying the defendant's circumstances though it does aim to provide reports for the first hearing. In practice staff shortages and other pressures mean that such reports are only produced for about half the Magistrates' Courts in England and Wales. In the absence of verified information courts sometimes remand defendants in custody

until the information is available. Bail information reports by the Prison Service for the second court hearing are also often unavailable. In 2002-3 the Prison Service produced reports for only 22% of eligible remand prisoners and they resulted in the release of 3503 defendants on bail. Greater provision of bail information reports could play a significant role in reducing the number of remand prisoners in custody.

- Provision of accommodation for defendants who do not pose a threat to the public but are most likely to fail to attend court. The number of bail places in probation hostels has fallen by more than 50% over the last five years as hostel accommodation has been used increasingly to accommodate convicted offenders who require a high level of supervision. Bail places in hostels are now used largely for defendants who also pose other risks, leaving those who pose a low risk to the public but a high risk of non-attendance to be remanded in secure and expensive prisons. Procedures to find suitable voluntary sector hostel places for defendants of no fixed abode would help.

### **Spot Fines for Under 16s**

The pilot schemes under which 10-15 year olds will be given £40 fixed penalty notices for anti-social behaviour were launched at the end of December 2004. Police forces in Essex, Lancashire, the Metropolitan Police Kingston Division, Merseyside, Nottinghamshire, West Midlands and British Transport Police West Midlands Division will be involved in the year long pilot. Offences covered will include underage drinking, vandalism, misusing fireworks and harassment.

### **Drug Treatment on Bail Programme Expanded**

The 'restriction on bail' programme, under which drug users may be jailed if they do not consent to treatment while on bail, is to be extended to a further 10 Drug Action Team areas from January, with another 29 following by April. The scheme has been piloted in Nottingham, Manchester and Salford. The Home Office claims that the pilots have been effective and says that during the pilot:

- 286 defendants who tested positive for heroin, cocaine or crack were bailed under the 'restriction on bail' provisions
- only one defendant failed to accept the conditions
- 72% of the defendants assessed were not in treatment at the time of the assessment
- 20 defendants were remanded in custody for breaching the provisions.