

From: The Rt Hon Sir Igor Judge
President of the Queen's Bench Division



ROYAL COURTS OF JUSTICE
STRAND, LONDON, WC2A 2LL

Ms Louise Douglas
Head of Criminal Law Policy Unit
Home Office
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7 February 2007

Dear Ms Douglas,

Consultation paper *Making sure that crime doesn't pay*

Thank you for your letter dated 10 November 2006 enclosing the Home Office consultation paper *Making sure that crime doesn't pay*. This is my personal response.

I agree that new offences to criminalise making or receiving payments to convicted offenders for publications about their crimes should not be created.

I have little else to add, except to say that I support the creation of a civil recovery power for literary proceeds of crime, alongside the confiscation powers provided for by the Proceeds of Crime Act 2002. A critical question under such a scheme would be how to address the position of those who would be willing to pay the criminal. This issue is raised in paragraphs 85 and 86 of the paper which discuss referral of cases. There needs to be some kind of system to ensure that the appropriate authority is notified before payment is actually made and the proceeds are salted away. This is a difficult area of enforcement but without an arrangement of this kind, we run the risk of closing the stable door after the horse has bolted.

In this context, I also note that the Serious Crime Bill, introduced in the House of Lords on 16 January 2007, would abolish the Assets Recovery Agency with its functions to be shared between the Serious Organised Crime Agency, the Director of



Public Prosecutions, the Director of Revenue and Customs Prosecutions and the Director of the Serious Fraud Office. The proposal at paragraph 83 of the paper, that the Assets Recovery Agency should bring proceedings for the recovery of literary proceeds, would therefore need to be reconsidered. That consideration should also extend to the proposed amendment at clause 104 of Schedule 7 of the Bill which states that SOCA and the prosecuting agencies must exercise their functions under the Proceeds of Crime Act in the way they consider is best calculated to contribute to the reduction of crime. It is unclear how the recovery of literary proceeds of crime would fit into a prioritising exercise under this provision if it were to apply to the proposed new powers.

Yours sincerely

A handwritten signature in cursive script that reads "Igor Judge".

The Rt Hon Sir Igor Judge