PHOTO: Katz Eyes

THE CRAWLER TRAWLERS

C P Mansfield explains how recent interpretations of the 1985 Sexual Offences Act have assisted police in cracking down on kerb-crawling

In 1985 the Sexual Offences Act was introduced in an attempt to combat the world's 'oldest profession'. Section 1 created offences concerned with men soliciting the services of a prostitute in a manner commonly known as 'kerb-crawling'. It was a case of applying legal sanctions to the 'demand', in addition to the established offences concerned with supply.

The section states that a man commits an offence if he solicits a woman (or different women) for the purposes of prostitution: a) from a motor vehicle while it is in a street or public place; or b) in a street or public place while in the immediate vicinity of a motor vehicle that he has just got out of or off, persistently or . . . in such a manner or in such circumstances as to be likely to cause annoyance to the woman (or any of the women) solicited, or nuisance to other persons in the neighbourhood.

The Home Office issued guidelines to police forces (Home Office Circular 52/1985), which suggested that the conduct of kerb-crawlers should be persistent in order to bring a prosecution. The section was interpreted by the Crown Prosecution Service and police forces as requiring the kerb-crawler to solicit a woman on two separate occasions.

Earlier this year, the Queen's Bench Division at the High Court of Justice heard an appeal by a kerb-crawler, who had been convicted by Luton Magistrates under the second leg of s. 1 concerned with causing annoyance to the woman or nuisance to other persons in the neighbourhood. The case was *John Patrick Paul v Luton Justices (ex parte The Crown Prosecution Service)* 1989.

The circumstances were that, late one evening in June 1988, two police officers saw a known prostitute standing on a deserted street corner in a highly populated residential area frequented by such women and their clients. The area was quiet with no other persons or vehicles about. A car driven by Mr Paul pulled up near the prostitute and, after a short conversation with the driver, she got into the passenger seat. The car drove away, but was stopped a short distance away by the two officers and the prostitute was arrested. She was charged with loitering for the purpose of prostitution and pleaded guilty.

The officers interviewed Mr Paul in the police vehicle and he replied to their questions in a manner which the magistrates construed to be an admission of the offence of kerb-crawling. Paul was found guilty of the offence, fined £200 and ordered to pay £75 costs.

At the appeal Mr Paul contended that he knew the woman concerned because of work he had previously done for her and it was she who had flagged him down to request a lift. He further argued that the incident did not cause a nuisance to other persons in the neighbourhood, as there was no one else in the area.

In their submission, by way of case stated, the Luton magistrates contended that, because of their local knowledge, they knew the area concerned to be frequented by prostitutes and their customers. They were also aware that there was a constant procession of cars being driven around the area at night.

The justices were also of the opinion that the word 'likely' contained in s. 1 did not mean that anyone else had to be present for the offence to be committed.

The Queens Bench Division therefore had to consider whether the prosecution was required to show that other persons had witnessed the incident before the offence of kerb-crawling could be established.

Lord Justice Woolf stated that, in this particular case, the magistrates took into account their knowledge of the area and its reputation. They also knew that the road on which the incident occurred was in a heavily populated residential area.

Therefore his Lordship's view was that, where such conduct took place in circumstances likely to cause grave offence to local residents, then the offence would be complete. He continued by saying that, because Parliament had specifically used the word 'likely,' it was, in his view, unnecessary for the prosecution to call specific evidence of an individual member of the public being caused nuisance or annoyance.

Prior to this decision, vice squads had experienced difficulties securing sufficient evidence for kerb-crawling convictions. Very few of the squads in the major conurbations had dealt with the problem effectively.

Following this case, the situation has eased somewhat, for now the prosecution can rely either on magistrates having local knowledge of 'red light' districts in residential areas or on local residents providing evidence that kerb-crawling in their area causes them a nuisance. In addition, if the resident is a woman, she can say to the court that she would be likely to be caused annoyance if a kerb-crawler solicited her for the purpose of prostitution.

A number of police forces with 'red light' districts in their area have now adopted a policy of obtaining three or four representative statements from local residents, who would be prepared to attend court if required, indicating the nuisance they suffer from kerb crawling activities. The statements are usually served on the defence and, in order to keep them current, retaken at regular intervals. The result has been an increase in police activity against an offence which residents of affected areas find unacceptable. ○