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DRAFT response to Home Office *Consultation on police powers of stop and search*

This is a DRAFT response for consideration by delegates at the Stop and Search Summit on 20 September 2013

Q1. To what extent do you agree or disagree that the use of police powers of stop and search is effective in preventing and detecting crime and anti-social behaviour?

Stop and search powers potentially contribute to the prevention of crime (by deterring would-be criminals and catching criminals "going equipped") and the detection of crime (by enabling officers to catch criminals with drugs, offensive weapons, stolen property and equipment for use in criminal activity). It is also a visible demonstration of police presence, offering reassurance in higher crime areas that the police are maintaining grip. However, the effectiveness of stop and search as a tool for preventing and reducing crime is not well understood, and further research is required.

Critically, the effectiveness of stop and search in deterring and preventing crime is difficult to determine because of the weakness of the available data. Given that there is a widely held view that the level of recorded stop and search is not necessarily the same as the actual level of stop and search (with most commentators suggesting that stop and search is under-recorded), it is difficult to draw any conclusions about "effectiveness". Only when the level of recorded stop and search can be trusted as a useful measure of the actual level of stop and search will it possible to usefully analyse stop and search usage to determine its impact on crime and anti-social behaviour.

Q2. What types of crimes and ASB can be tackled effectively by stop and search?

Researched evidence of the effectiveness of stop and search is inconclusive. Further research into how varying stop and search tactics yield better impact on preventing and detecting crime would support the development of more effective operational best practice.

Q3. To what extent do you agree that the arrest rate following stop and search events is a useful measure of the power's effectiveness?

Conversion rate targets for stop and search should not be used.

First, a proportion of arrests following stop and search are a result of the interaction itself, where the subject becomes hostile or uncooperative, but otherwise has nothing about their person that would otherwise have led to arrest. The arrest in these circumstances is a failure, yet if there is a conversion rate target then such an outcome would be considered a success. The risk is that a conversion rate target disincentivises officers from adopting a respectful and courteous approach to the person they have stopped and searched, knowing that a hostile response from the person being searched creates a pretext for arrest for "obstructing a police officer" or "breach of the peace" or some such.

Second, a conversion rate target is potentially manipulated by officers meeting their targets by making searches that do not address forms of criminality that in themselves cause high harm, but have a high probability of converting the search into an arrest. A typical example might be searches for cannabis possession. Just as detection targets can be met by targeting cannabis possession offences (where likelihood of a detection is very high), so conversion rate targets might skew stop and search practice towards offences where a higher conversion rate is likely, rather than ones where there is higher harm. More accurate stop and search recording data, broken down by individual officers, will provide management information that enables more considered scrutiny of individual practice, rather than a force-wide target.

Third, a standard conversion rate target fails to adequately reflect varying crime rates between force and varying patterns or types of criminality. For example, forces that face higher levels of violent crime related to gangs may need to use stop and search powers differently to a force where burglary dwelling is more of an issue. Reasonable conversion rates for use of stop and search when there is such variation in patterns of criminality may be very different between the two forces.

Fourth, stop and search is not just about the detection of crime but also deterrence. A potential objective of stop and search use is to create an environment in which criminals have a reasonable expectation that they will be stopped and searched, thereby making more complex their planning at least, and deterring them from engaging in criminal activity at best. Stop and search powers used to create a hostile environment for criminal activity may lead to a very different conversion rates to stop and search powers used in other contexts.

It is the view of West Midlands Police and Crime Commissioner that conversion rates, which will automatically become a league table, are potentially counter-productive given the highly variable circumstances that different forces face.

Q4 What other things beyond the number of resulting arrests should be considered when assessing how effective the powers of stop and search are?

Before an assessment of the effectiveness of the use of stop and search powers is possible, there is a more immediate requirement to increase public confidence in the published data relating to stop and search recording.

This needs to include:

- Confidence that officers are reliably recording stop and search data for every stop they do

- Information about the a) location and b) time of stops

- Confidence that the grounds for each stop are reasonable

Only with this baseline data would comparative analysis between forces and even inside force areas become possible.

The true indicators of effectiveness would be the ability to analyse the extent to which use of stop and search powers contributes to reductions in crime.

Q5 To what extent does the use of "reasonable suspicion" powers balance public protection with individual freedoms?

Concerns about public confidence in the use of stop and search powers are a product of two factors:

- Weaknesses in the data: it is not practically possible for the police to show consistently with a paper based or manual entry system (without recourse to highly bureaucratic and labour intensive approaches) that stop and search powers are being used in the right places and at the right times

- Issues relating to the quality of the contact between an officer and the person being searched. Although complaints about stop and search are low, consultation suggests that younger people in particular – who are most likely to be stopped – are concerned that they are not consistently treated with respect and courtesy during the stop and search process. These concerns are exacerbated when individuals are stopped, or claim to have been stopped, on a number of occasions.

Q6. To what extent does the use of "without reasonable grounds" powers balance public protection with individual freedoms?

West Midlands Police has reduced its use of Section 60 powers dramatically in recent years. In 2012-13, just 70 Section 60 stops were recorded. The practice is to require Chief Officer level approval for pre-planned Section 60 authorisations, such as during the recent large-scale EDL protest in Birmingham. I am satisfied that this is a reasonable and proportionate approach.

Q7. What information to record?

Time and location data

Future approaches to the recording of stop and search offers the potential to add accurate time and location data to each record. The ability to record the time and location of stops has considerable appeal:

•   Ability to overlay crime and demographic data, which has value in both providing public accountability and operational management information

•   Management oversight of patterns of use by individual officers or specific teams

West Midlands Police is exploring the potential for electronic recording of stop and search using existing Airwave terminals. Unfortunately initial findings have revealed both technical and operational issues relating to Airwave recording and other options are also being explored. The objective of providing much richer and more accurate stop and search data – without excessive bureaucracy – remains.

Name and address

The purpose of recording stop and search information is not to provide police intelligence. However, it is reasonable to consider whether stop and search data has an intelligence by-product, not least because this increases the likelihood that police officers will comply with

the recording requirements. Therefore recording the reported name and address of the person being stopped and searched may be of value, but this again would benefit from further research.

Stops by non-territorial forces

Given that there is likely to be significant use of stop and search powers by non-territorial forces, ensuring that there is data about the totality of stops in an area is potentially of value. In the West Midlands, British Transport Police make use of stop and search powers at a number of significant railway stations, notably New Street and Birmingham International. Reporting methodologies that made it easy to incorporate this information into the total number of stops would be valuable. In other areas, stops by the Ministry of Defence Police and Civil Nuclear Constabulary might be significant in number.

Q8. National requirement for how information is recorded (i.e. a particular technology) or left to individual forces?

West Midlands Police is exploring the potential for using existing Airwave terminals for the electronic recording of most stops and searches, however initial experience suggests that there are significant technical and operational difficulties with this approach (see Q7). Other options are being explored.

Given this experience, there are real risks that a national approach could fail if not adequately tested and mature. Furthermore national solutions may have the feeling of being imposed – will not secure local support and enthusiasm. It may be that national approaches fail to reflect the differing requirements of large and small, urban and rural forces.

Q9. Confidence that powers are used fairly

The weaknesses in current data collection make it difficult to answer these questions:

- Where are stops taking place?

- When are stops taking place?

- What is the correlation between the recorded number of stops and the actual number of stops?

- How many people are being stopped more than once?

- To what extent do different approaches to the use of stop and search correlate with varying effectiveness in preventing and reducing crime and disorder?

Only with stronger data recording will it become possible to have greater confidence about whether the powers are being used fairly.

Q10. What would give greater confidence in use of stop and search?

Time and location recording offers the potential to answer some of these questions. It potentially allows police managers to see whether officers are using the powers in crime

hotspots and gives much greater management oversight of how each individual officer is using the powers. Patterns of inappropriate of excessive use would be easier to spot.

The public could be able to find out how these powers are really used where they live. With adequate data, there could be a local online portal where anyone can see where stops are taking place, overlaid with crime and population data. There could be an online facility that would allow a member of the public who has been stopped to enter time and location details into an interactive map, and check the record of their stop to see if the recorded data is accurate. This could also build information about repeat stops which is an issue of concern that again is not fully addressed by current recording mechanisms.

What is also required is some more research into the impact of stop and search on preventing and detecting crime. It is widely assumed by police officers that it is an essential tool, but there is not strong evidence about what approaches are most effective.

Q11. To what extent do the current requirements to explain the reasons for a stop make use more fair and transparent?

Current paper based recording practices are unreliable thanks to legibility and lost pieces of paper. The data collected is also very difficult to collate and analyse. The West Midlands Police Airwave recording trial currently includes requiring the officer to make an audio recording of their grounds for a stop. This approach is a significant cultural and organisational change and, as indicated, the Airwave pilot has revealed significant technical challenges. Furthermore, voice recordings of grounds for a stop may be difficult to search and analyse to look for patterns in operational use of stop and search powers.

Q12. Have you heard of police.uk?

Yes.

Q13. Should police.uk contain stop and search information?

A single source of information about stop and search has appeal. It could, for example, include British Transport Police data, would could offer a more complete picture of local use of stop and search. However, there are risks associated with duplication of effort (or differences in local and national data) and failure to reflect local circumstances. Also, presentation of actual data relating to the use of stop and search (as opposed to policy information) would require a national recording policy which is not supported for reasons set out above.

Q14. Local community role in deciding police use of stop and search /

Q15. How might communities be involved in use of stop and search powers?

Public engagement

West Midlands Police currently uses Independent Advisory Groups in each local authority area to consider stop and search. These are consultative bodies that receive information on the data as currently recorded. Stop and search is also considered in other engagement forums, such as those for young people and those relating to the prevention of violent

extremism. These are useful ways to engage with stakeholder audiences, but the reach can be limited. The Police and Crime Commissioner's stop and search summit on 20 September will explore public views on stop and search engagement activity.

Presentation of stop and search data online

Recording of time and location stop and search information offers the potential for the presentation of data in a geographic interface format, with members of the public able to set their own search parameters (geography, date, time of day) to see information about the use of stop and search powers in a very detailed way. Provision of data in such a format, coupled to interactive functionality, offers potential for more direct consultation with members of the public affected by stop and search.

In the longer term, this could enable a better understanding of the incidence of repeat stops, for example. It might also create potential for processes that allow members of the public to comment on their personal experience of stop and search without pursuing the formal complaints process.

Q16. Are there are any other views or comments that you would like to add in relation to stop and search powers that were not covered by the other questions in this consultation?

Stop and search powers are wider than just the "reasonable grounds" stops and Section 60. In the West Midlands, members of the public are also likely to raise Schedule 7 stops at Birmingham Airport, for example, and make no distinction between this and other forms of stop and search. There is also the issue of whether "stop and account" encounters should still be recorded (they are not in the West Midlands, but are elsewhere, notably London). This consultation is therefore only a partial consideration of much bigger questions about stop and search.

The Home Office consultation is here:

https://www.gov.uk/government/consultations/stop-and-search

It closes on 24 September 2013