

Disproportionate use of police powers: A spotlight on stop and search and the use of force

This HMICFRS spotlight report draws on various sources of information including the findings of HMICFRS 2018/19 Integrated PEEL Assessments. Of the 43 forces inspected, 19 were inspected on how well they treated the public and assessed combatting unconscious bias and using communication skills to prevent interactions escalating into conflict. For stop and search and use of force, HMICFRS considered training, monitoring use, understanding disproportionality and taking action, and external scrutiny.

The report was published on 26th February and a response is due by 23rd April.

Key findings:

Interactions with the public: Culture & Learning

- **Training and Culture:** Whilst officer and staff training in preventing unfair behaviour by combatting unconscious bias has improved, leaders need to recognise that training will only bring about lasting improvement if the culture in the force is one of diversity, inclusion and equality.
- **Conflict management:** Everyday interactions between officers/staff and the public needs improving, including building rapport to help secure public co-operation and reduce the need for conflict management, de-escalation and the use of force.
- **Scrutiny:** Too few forces regularly review body-worn video footage as part of their internal monitoring and external scrutiny of stop and search and use of force. They should make more use of this valuable source of information.

Use of force: forces are developing their understanding but need to do more

- **Disproportionality:** 2019/20 data indicates that Black people were about 5.7 times more likely to have force used on them than White people - the reasons for this are unclear and needs further exploration.
- **Handcuffing:** Anecdotal evidence shows that the use of handcuffs during stop and search encounters is becoming routine in some forces but this information is not routinely recorded. Without seeing this data there is a risk that some handcuffing during stop and search could be unjustified, unnecessary and therefore unlawful.
- **Training on fair and appropriate use of force** was generally good but some forces have backlogs meaning that officers and staff aren't receiving training as often as they should.
- **Monitoring, governance and external scrutiny** of use of force was either ineffective or non-existent in too many forces resulting in a limited understanding of how fairly or appropriately their officers and staff are using force.

Stop and search: over 35 years on, forces still need to do more to understand disproportionality

- **Lack of understanding:** Over 35 years on from the introduction of stop and search legislation, no force fully understands the impact of the use of these powers. Disproportionality persists and no force can satisfactorily explain why.

- **Disproportionality:** In 2019/20, BAME people were over four times more likely to be stopped and searched than White people; for Black people specifically, this was almost nine times more likely.
- **Ethnicity recording:** a failure to record ethnicity data in an increasing proportion of records is hiding the true disproportionality rate.
- **Most searches are for drugs**, and the majority of those are for possession rather than supply (about a quarter find drugs). Most searches are self-generated not intelligence led. This indicates that stop and search is not always being targeted at offences that are the most serious and high priority for forces.
- **Non-compliance with previous recommendations:** At the time of HMICFRS 2018/19 PEEL Legitimacy inspection, none of the 43 forces had complied fully with the inspectorates 2017 recommendations to analyse and monitor the 'find rate' for different types of searches, and that forces act on disparities and publish the analyses and results.

Recommendations

The report makes eight recommendations, six of which are directed towards police forces which are shown below.

Recommendation 1

By July 2022, forces should ensure that officers and staff have effective communication skills, in line with the National Policing Guidelines on Conflict Management. This should be in addition to existing training on conflict management and de-escalation.

Recommendation 2

By July 2021, forces should ensure that communication skills are reinforced as part of the programme of continuing professional development for officers and staff, and that supervisors are supported to routinely and frequently debrief officers on these skills using body-worn video footage.

Recommendation 3

By September 2021, forces should:

- ensure that officers record on body-worn video (when this is available) the entirety of all stop and search encounters, including traffic stops and use of force incidents;
- have a structured process for regularly reviewing and monitoring internally a sufficient sample of body-worn video footage to identify and disseminate learning and hold officers to account when behaviour falls below acceptable standards; and
- provide external scrutiny panel members with access to samples of body-worn video footage showing stop and search encounters and use of force incidents, taking account of the safeguards in the College of Policing's Authorised Professional Practice.

Recommendation 5

By July 2021, forces should ensure they have effective internal monitoring processes on the use of force, to help them to identify and understand disproportionate use, explain the reasons and implement any necessary improvement action.

Recommendation 6

By July 2021, forces should ensure they have effective external scrutiny processes in place in relation to the use of force. Forces should take account of feedback and update the scrutiny panel and the community on the action taken.

Recommendation 7

With immediate effect, forces should ensure that all stop and search records include detail of the self-defined ethnicity of the subject. When this information is refused by the subject, the officer-defined ethnicity code should be recorded.

The full report can be viewed here:

<https://www.justiceinspectorates.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

Chief Constable's comments

I am very grateful for the HMICFRS report 'Disproportionate Use of Police Powers – a spotlight on stop and search the use of force'.

Addressing disproportionality, including but not limited to use of police powers, is an organisational priority for Devon and Cornwall. Strategically we have established a command structure with the objective to develop an evidence based, ethical, multi-faceted response, that serves one purpose and one purpose only – to build confidence and trust in Devon and Cornwall Police, so that we are seen and believed as an organisation that is committed to the fair treatment of all, has a zero-tolerance approach to discriminatory practice, and whose officers, staff and volunteers consistently demonstrate impartial and unbiased behaviours as they deliver services to our communities.

The specific objectives of this command structure are to better understand the culture of the organisation, with specific focus on our current understanding and valuing of diversity and equality; to better understand the causes of racial disparities in the use of police powers locally; to communicate internally, through a range of measures, so that our staff fully understand the impact of discriminatory practice and conduct, and the potential consequences for the individual and the organisation; to encourage all staff and volunteers to participate in conversations about protected characteristics to enhance understanding, tolerance and acceptance; to encourage all staff, volunteers and partners to challenge and report inappropriate and discriminatory conduct; to bridge the gap with specific communities, through proactive, sensitive and thoughtful outreach activity and external communications, designed to support and encourage meaningful engagement.

The report identified six recommendations for Police forces and I am pleased that significant progress is already being made towards the majority of these. We are currently reviewing our Stop and Search Strategy and in the updated plan we welcome the national debate on the evidence based approaches to tackling drugs and make a commitment to embedding an organisational culture which fosters positive interactions and the proportionate use of powers. This includes a focus on intelligence led outcomes and a healthy environment of constructive

and focused scrutiny, in partnership with our communities. Work will begin shortly to align the new plan to our new Equality, Diversity and Inclusion plan to avoid duplication and tie into the work around embedding the organisational culture work.

Alongside this work, our Performance & Analysis department have brought a detailed focus on disproportionality as part of our ongoing organisational performance monitoring over the last 9 months. This enables us to understand our data more coherently and identify where issues may be beginning to emerge so they can be addressed effectively and efficiently, as well as recognising and sharing areas of good practice. We have recently introduced a new performance management framework which centres around creating the desired culture, doing the right things, and relentless follow-up. All of these enable better open discussion about the quality of our service to the public.

I am particularly proud that Devon and Cornwall has been cited as positive practice within the report, highlighting our work on addressing unconscious bias. The report recognises that training has improved nationally, but identifies we added to the training by utilising a theatre company to deliver heightened awareness and understanding of unconscious bias in street interaction settings. Devon and Cornwall police are currently providing mandatory training to all officers and staff to develop their understanding of unconscious bias. Supporting officers and staff to identify and address any unconscious bias they may have is of utmost importance to ensure these do not manifest themselves in interactions with our public.

“The police are the people, and the people are the police” – a statement used when talking about how we police with consent. Our communities are critical to our service delivery. We need to ensure we continue to understand their needs, their concerns, their priorities, the issues that affect them, and we need to represent them to build confidence in our service.

Devon and Cornwall Police have strong, respectful and collaborative relationships with Independent Advisors and community leaders across the two counties. The support and scrutiny they provide in all aspects of our service delivery is intrinsic to our continuous improvement.

I welcome the report which highlights ongoing opportunities to ensure our service continues to be delivered to a high standard.

Police and Crime Commissioner’s response

I welcome this report from HMICFRS which highlights the disproportionate use of police powers around use of force and stop and search nationally, and makes a number of recommendations to police forces, the Home Office and the NPCC.

Disproportionality in this context is an issue that police forces have been working to better understand and address for a number of years, but there is clearly more work still to do. In Devon and Cornwall, the Chief Constable is addressing disproportionality as an organisational priority and I know that the force has already put in place a number of strategies, as laid out by the Chief Constable in his comments above, which I fully support.

Six of the report's eight recommendations ask police forces to take further action. I am supportive of recommendations 1 and 2 to develop and improve officer and staff communication, de-escalation and conflict resolution skills, and the use of de-brief and individual reflective learning through the use of body worn video footage at supervision. Whilst much of this practice is already in place in Devon and Cornwall, I am confident that the force can and will do more to develop its officers and staff in this area.

Recommendations 3, 5 and 6 focus on robust internal and external monitoring, scrutiny and feedback processes for both stop and search and use of force. Solid internal and external scrutiny foundations have already been established in Devon and Cornwall which will enable to force carry these recommendations forward. The Force's newly established Legitimacy Board brings together the strands of use of force, stop and search and covid-19 regulations to provide leadership, direction and oversight across the force area. Working alongside the Board, the Devon and Cornwall Community Scrutiny Panel now independently scrutinises the force's use of police powers through case dip sampling and review of body worn video footage, providing feedback on both individual officer's practice and any overarching themes which arise through their work.

In addition, stop and search and use of force have been a considerable focus for the Use of Police Powers Community Scrutiny Panel, administered and supported by my office. In 2019 this panel conducted scrutiny reviews on the use of spit and bite guards and stop and search, making several recommendations for change which I was able to raise with the Chief Constable directly. The Panel also regularly review stop and search and use of force data at their panel meetings, which includes ethnicity and disproportionality information.

I will be working with the Chief Constable to ensure that both the force and my office continue to develop robust scrutiny arrangements in respect of disproportionality which should as a result drive forward our understanding and improvements in practice.

Whilst I acknowledge the need to address gaps in ethnicity recording in stop and search to understand the true picture of disproportionality, I would ask the Chief Constable to be cautious in his approach to recommendation 7, which, by relying on officer defined ethnicity codes, brings its own risks for accuracy and data reliability. I would like to see more innovative solutions to addressing these gaps in ethnicity data developed, which could in part be addressed through the bolstering of officer communication skills and reflective learning addressed by recommendations 1 and 2.