

## The use of stop and search powers by Devon and Cornwall Police

### Who we are

We are a small group of volunteers who are members of the public that form the 'Use of Police Powers Community Scrutiny Panel' for the Police and Crime Commissioner (PCC) for Devon, Cornwall and the Isles of Scilly. Our role is to help scrutinise how Devon and Cornwall Police use some of its legal powers (mainly use of force), and to report our findings to the PCC. The PCC may then use that information to inform their work with the Chief Constable.

Our role is not to criticise the police. Our aim is to identify what is working well along with any opportunities that we can find to improve something. Our value comes from the fact that we are not part of the police, so we can help view that organisation and how it works differently and independently.

In 2019 we completed a review into how Devon and Cornwall Police use their powers to stop and search. As a small panel of volunteers with limited time and resources we could not explore everything so we worked to a specific scope.

We work within the remit of the PCC's Scrutiny Framework and our panel's own Terms of Reference (both of which can be found online at [www.devonandcornwall-pcc.gov.uk/about-us/scrutiny/](http://www.devonandcornwall-pcc.gov.uk/about-us/scrutiny/)).

We are not inspectors of constabularies, auditors, a professional standards team, or the Independent Office for Police Conduct. We are members of the public who can explore issues and offer our insight and recommendations to the PCC but it would not be right or appropriate for us to comment on individual cases that are or have been subject to disciplinary procedures. That is not our role and something which is clear throughout all of the PCC's scrutiny processes.

### How we did this review

Received training in the use of stop and search



Carried out desk based research



Reviewed documents



Spoke with police officers



Reviewed body worn video



Met with the Force Lead Officer for Stop and Search



## Some of the facts

### Why stop and search it is used

The Devon and Cornwall Police website says stop and search is 'an effective tool to detect and prevent crime' and that police can stop and search someone if they have reasonable grounds to suspect that the individual is carrying:

- drugs, weapons or stolen property
- items which could be used to commit a crime; to commit an act of terrorism or to cause criminal damage

There is one exception to this which is when the police use 'Section 60' of the Criminal Justice and Public Order Act. Use of Section 60 means that police officers can search anyone in a specially designated area *without suspicion* for a defined period but *only* if the police think that serious violence may take place.

The authorisation for a Section 60 stop and search used to be made by a police Superintendent, but this was changed at a national level in 2019 to an Inspector. We were informed by the Force Lead for Stop and Search that this change could be viewed negatively by individuals and communities. We were also informed that an Assistant Chief Constable within the Force had scrutinised the Force Lead for Stop and Search in relation to this change within Devon and Cornwall Police.

Given the potential for concern relating to the use of Section 60, a number of areas publish information about Section 60 Authorisations, often within their stop and search annual reports, but also separately such as West Midlands Police and Crime Commissioner (<https://www.westmidlands-pcc.gov.uk/projects/stop-search/section-60-authorisations/>). Application of Section 60 is not referenced in Devon and Cornwall Police's stop and search annual report 2017-18.

### Being reasonable

The police should only use the power to stop and search people when they have a good reason. Outside of a Section 60 designated area, the police must have (and be able to demonstrate) 'reasonable grounds' for their suspicions to use the power to stop and search.

Having 'reasonable grounds for suspicion' can't be based on just knowing that a person has previous convictions or certain characteristics. The police must have specific information or intelligence to form reasonable grounds.

As the Devon and Cornwall website says:

*You should not be stopped or searched just because of your age, race, gender, sexual orientation, disability, religion, faith, the way you look or dress, the language you speak or because you have committed a crime in the past.*

*If you believe this is the only reason why you were stopped or searched, you can complain.*

When police officers stop someone to search they may refer to the mnemonic 'GO WISELY' to carry out the procedure correctly:

- G:** Grounds - for the search
- O:** Object - the officer is searching for
- W:** Warrant - particularly if the officer is in plain clothes
- I:** Identification - proof that the officer is indeed a police officer
- S:** Station- to which the officer is attached
- E:** Entitlement - any citizen being searched by a police officer is entitled to copies of the search record
- L:** Legislation - the legal power which gives the officer the right to stop and search
- Y:** You - are being detained for the purpose of a search or for the purpose of - informing the citizen of the purpose and nature of the search

There is information for people who have been stopped and searched on the Devon and Cornwall Police website.

### Understanding what good practice is in stop and search

Stop and search can be an emotive issue and an abuse of the power by the police can have negative and long lasting consequences for individuals and whole communities. It can also damage the public's confidence in their police. As the Devon and Cornwall Police Equality Impact Assessment (EIA) on stop and search says, stop and search can potentially interfere with a person's rights under the Human Rights Act.

As part of our review we considered a whole range of documents relating to stop and search including the Criminal Justice Alliance briefing Stop & Scrutinise: How to improve community scrutiny of stop and search, and a House of Commons Library Briefing Paper (August 2019) 'Police stop and search powers'.

It's our view that it's important for the police to not only use their powers legally, appropriately and proportionately, but to be able to *demonstrate* to the public that they are. The Devon and Cornwall Police stop and search policy says that a stop and search is most likely to be fair and effective when it stands up to public scrutiny.

To help with such scrutiny and public assurance, a national voluntary scheme exists for police forces called the Best Use of stop and search Scheme (BUSS). Devon and Cornwall Police has adopted the scheme and publishes an outline of it on its website at [www.devon-cornwall.police.uk/your-right-to-information/stop-search/national-best-use-of-stop-search-scheme/](http://www.devon-cornwall.police.uk/your-right-to-information/stop-search/national-best-use-of-stop-search-scheme/).

The College of Policing says:

*There should be a transparent approach to the use of stop and search powers at individual, supervisory, force and public scrutiny levels.*

- *Officers using the powers must record individual encounters in sufficient detail so that they are capable of being reviewed*
- *Supervisors must monitor the use of the powers by those for whom they are responsible and address any issues identified*
- *Those at senior levels must ensure that data is analysed and acted upon.*
- *Force policies must support and promote the fair and effective use of stop and search powers and facilitate public scrutiny of their use*

The performance of Devon and Cornwall Police against BUSS was reviewed by Her Majesty's Inspectorate of Constabularies and Fire and Rescue Services (HMICFRS) and the latest

judgement in 2017 was that the Force was compliant in recording and publishing the full set of outcomes and in monitoring the use of stop and search. HMICFRS did recommend that the Force enhance its monitoring of data.

The Force has published a self-assessment in relation to national recommendations made by HMICFRS in 2013 on its website so the public and stakeholders can understand how the Force is responding to what is being said. The version online at [www.devon-cornwall.police.uk/media/773432/stop-search-self-assessment-april-2017.pdf](http://www.devon-cornwall.police.uk/media/773432/stop-search-self-assessment-april-2017.pdf) is dated April 2017.

## **A summary of our recommendations**

As part of this scrutiny review, we made a number of recommendations directly to the PCC, which included:

- Requesting of the Chief Constable that the 2016 Equality Impact Assessment for stop and search be updated and published on the Force website (in response to the changes made to Section 60 in 2019).
- Seeking assurance from the Chief Constable that a) arrangements are in place to ensure that the Force has a strategy and work plan for stop and search post 2020; b) a clear process for monitoring delivery of the strategy and work plan; and c) that the Force can maintain consistency of leadership if/when the current Force Lead Officer for stop and search changes roles.
- Seeking confirmation from the Chief Constable as to how/when the Force will make assurances to the public that it a) understands its data in relation to stop and search being used on Black, Asian and Minority Ethnic (BAME) individuals; b) can explain in easy to understand terms to the public the context for that data and c) what action it is taking to reduce known disparities.
- Seeking from the Chief Constable a 'house-keeping' review of the information published on the Force's stop and search web pages, along with consideration as to how some of the content from an internal stop and search strategy and work plan could be translated publically.
- Clarifying with the Chief Constable how the Force could present stop and search data in a more readily understandable way and with appropriate commentary.
- Clarifying with the Chief Constable how training in stop and search can be kept under review particularly in light of the new officer uplift, and whether consideration could be given to asking specific partner organisations to contribute to the Force's stop and search training, for example in relation to young people and minority groups.
- Clarifying with the Chief Constable how stop and search is featuring within the Force's communications strategy *and* prevention strategy in order to raise awareness of the power to stop and search and its use within Devon, Cornwall and the Isles of Scilly.

## **Next steps**

Our work will be considered by the PCC who will let us know what action may be considered in response to our findings. We will then monitor progress against any actions at our quarterly scrutiny panel meetings.