

# Stop and Search Powers 2: Are the police using them effectively and fairly?

An inspection of British Transport Police

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## Introduction

In 2013, HMIC published its report, *Stop and Search Powers: Are the police using them effectively and fairly?*<sup>1</sup> The report concluded that stop and search powers were rarely targeted at priority crimes in particular areas and there was very little understanding in forces about how the powers should be used most effectively and fairly to cut crime.

HMIC made ten recommendations in the 2013 report, and made a commitment to assess the progress made by forces and the College of Policing in carrying out the recommended action 18 months later.

Additionally, in 2014, the Home Secretary commissioned HMIC to:

- review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly;
- provide analysis of how forces in England and Wales compare with overseas jurisdictions, both in terms of the powers available and the way they are used; and
- examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.

In 2015, as part of the review of progress from 2013 and the reviews set by the Home Secretary, all forces were required to carry out a self-assessment and, to supplement that, HMIC carried out in-depth fieldwork in nine forces. British Transport Police was one of those forces. The national report *Stop and Search Powers 2: Are the police using them effectively and fairly?* was published on 24 March 2015.

Our findings in respect of British Transport Police in relation to the recommendations made in 2013 are reported in part 1 of this report.

Our inspection of the use of powers to stop people (other than specific stop and search powers), and the use of stop and search powers that involve the removal of more than outer clothing, are reported in parts 2 and 3 of this report.

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<sup>1</sup> *Stop and Search Powers 2: are the police using them effectively and fairly?* 2015, HMIC, London. Available from [www.justiceinspectors.gov.uk/hmic](http://www.justiceinspectors.gov.uk/hmic)

## Methodology

As part of this inspection, all 43 Home Office forces in England and Wales and the British Transport Police were required to complete a self-assessment of their progress against the 2013 recommendations. They also submitted supporting documents including relevant policies and reports.

In January 2015, we carried out fieldwork in British Transport Police and eight other forces in which we conducted:

- interviews with community representatives;
- interviews with senior managers;
- focus groups with a total of 50 operational sergeants and inspectors;
- focus groups with a total of 100 operational constables and PCSOs; and
- 237 knowledge checks.<sup>2</sup>

In order to verify and strengthen our findings, we carried out visits to police stations where we spoke with officers in intelligence units, investigation units, response teams, neighbourhood teams and custody suites. We observed briefings to see the information that officers received before going out on patrol and attended management meetings to observe how resources were deployed and managed.

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<sup>2</sup> A short test of five questions on the application of the PACE Codes of Practice, Code A

## **Part 1 - Findings in respect of recommendations made in HMIC's 2013 report, *Stop and search powers: Are the police using them effectively and fairly?*<sup>3</sup>**

This section sets out our findings from the self-assessment provided by British Transport Police and the evidence collected from fieldwork in the force.

### **Recommendation 1 from 2013**

Chief constables and the College of Policing should establish in the stop and search Authorised Professional Practice a clear specification of what constitutes effective and fair exercise of stop and search powers, and guidance in this respect. This should be compliant with the Code of Practice.

#### **Grounds for recommendation 1**

In our inspection in 2013 we found that, with a few exceptions, forces were not able to demonstrate how effective and fair their use of stop and search powers had been. Forces were unclear about what effective and fair meant in the context of stop and search encounters, and there was little evidence that officers were provided with guidance or instruction to assist their understanding.

#### **Findings in respect of British Transport Police regarding recommendation 1**

Notwithstanding the absence of progress on the development of authorised professional practice, many forces have made efforts to define effective and fair stop and search encounters and have provided guidance and instruction to their officers.

British Transport Police had a local policy, called the stop and search manual of guidance, relating to the use of stop and search powers, which was reviewed in June 2014. The manual of guidance was available on the force intranet but had not been published on the force's website. Instead, an outdated stop and search policy dating back to 2007 was accessible on the website.

About half of all forces were able to provide us with their definition of what constituted an effective and fair stop and search encounter. British Transport Police did not have specific definitions of effectiveness and fairness; however, the force's very comprehensive manual of guidance provided substantial advice and guidance to officers on how to use stop and search powers effectively and fairly. This included comprehensive explanations of almost every aspect relating to the use of stop and

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<sup>3</sup> *Stop and search powers: Are police using them effectively and fairly?* HMIC, London, 2013. Available from [www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

search powers. In respect of effectiveness and fairness, the manual of guidance offered the following:

"The quality of the encounter with the person being stopped is pivotal to maintaining public support for the use of the power. The use of the power can be provocative for members of the public and it is important that they are dealt with politely and considerately.

Searching Officers are more likely to be confident in their ability to conduct high quality searches if they have a clear understanding of stop and search law and in particular the PACE Codes of Practice. Understanding the real meaning of 'reasonable grounds', will go a long way to improving the quality of searches.

Officers who appear vague about their powers to stop and search will look underhand and appear to be acting unlawfully even if they're not.

Being searched by a police officer is intrusive and how officers interact with the search subject is very important. Searching officers should seek to provide reassurance that they have acted correctly. Treating people fairly and with courtesy is critical. It is also important that searching officers do their best to answer any queries and clarify any issue that the person being searched may have. Tact, diplomacy and patience will all contribute to allaying people's concerns.

A key measure of success is that the subject of the search felt that the officer had conducted themselves in a professional, polite confident manner and the grounds for the search were clearly explained. If the search subject perceives that the officer's grounds were tenuous or superficial, they are unlikely to feel that the officer was acting professionally.

While we were told by some officers that current and valuable guidance on how to use stop and search powers effectively and fairly was available to them on the force intranet, we were told by other officers that they were unaware of the guidance. The manual of guidance – a very good document – required further promotion and circulation to ensure all officers were aware of it."

## **Recommendation 2 from 2013**

Chief constables should establish, or improve, monitoring of the way officers stop and search people so that they can be satisfied their officers are acting in accordance with the law (including equality legislation and the Code of Practice) and that the power is used effectively to prevent crime, catch criminals and maintain public trust. This monitoring should, in particular, enable police leaders to ensure officers have the reasonable grounds (and, where applicable, authorising officers have the reasonable belief) required by law to justify each stop and search encounter.

### **Grounds for recommendation 2**

In 2013, HMIC found that very few forces could demonstrate that the use of stop and search powers was based on an understanding of what works best to cut crime, and rarely was it targeted at priority crimes in their areas. Forces had reduced the amount of data collected to tackle bureaucracy, but this had diminished their capability to understand the impact of the use of stop and search powers on crime levels and community confidence. Of the 8,783 stop and search records HMIC examined in 2013, 27 percent did not include sufficient reasonable grounds to justify the lawful use of the power.

### **Findings in respect of British Transport Police regarding recommendation 2**

Similar to the vast majority of forces, British Transport Police reported that it systematically collects information about stop and search encounters. However, the management oversight of data is limited to the arrest rate arising from stop and search encounters. The force did not record the reason for arrest and, while it can establish how many arrests are made during an encounter involving the finding of a prohibited item, it cannot necessarily establish how many arrests are directly linked to the item found. For instance, a stop and search encounter may involve the finding of an item which is dealt with by way of a fixed penalty notice, but the person is arrested because a check on the Police National Computer revealed the person was wanted for a separate offence; this would likely be recorded as an arrest resulting from a stop and search encounter. The oversight process is therefore not establishing how effectively the powers are used, i.e. how many arrests occur because a prohibited item was found and the original suspicion proved to be accurate.

Similarly, a number of other outcomes are recorded on the stop and search record, including summons, penalty notice for disorder, caution, drug warning and no further action. However, the set of data provided to divisions and sub-divisions and used by them to monitor the use of stop and search powers included 'total arrests' but did not include analysis of the other outcomes recorded.

The force was, therefore, not able to determine fully the effectiveness of the use of the powers. Additionally, it was not made clear whether 'total arrests' referred to all arrests arising from stop and search encounters, or just those in which a prohibited item was found.

The force monitored the ethnicity, age and gender of people stopped and searched to help it to determine fairness. However, despite recording the names of people stopped and searched (if they were content to give it), the force monitoring did not include a review of the frequency of the use of the powers on individual people which may help it to determine if the powers were used fairly.

Similar to most forces, British Transport Police also reported that it did not collect data about the prosecution or conviction rate arising from stop and search encounters, limiting its ability to determine effective use of the powers.

British Transport Police, similar to all other forces, had designated a senior manager to oversee the use of stop and search powers although, as with all other forces, this is not a full time post.

British Transport Police is one of about three-quarters of forces that audited the use of the powers as part of a scheduled audit programme to check that they were lawfully carried out.

Details of all stop and search encounters must be input by the searching officer to the force intelligence system within 24 hours of the encounter. Staff from the operations department conduct a comprehensive audit of all stop and search entries on the force intelligence system, including specific scrutiny of the recorded grounds as well as the completeness of the record. Feedback is provided to local managers to address any deficiencies with individual officers and trends are identified for force-wide dissemination and learning. The most recent audit was reported to have taken place in September 2014.

British Transport Police officers predominantly used paper versions of stop and search records with a small number of officers using personal data assistants (PDAs). We found that some of the officers we spoke to did not know of the requirement to input details from stop and search encounters to the force intelligence system. Monitoring of the use of stop and search powers relied on the information input to the force intelligence system rather than examining the paper records; therefore, the force may have reviewed and monitored incomplete data.

The force had set up four groups to monitor the use of stop and search powers:

- The Community Consultation Group, which meets quarterly and includes representatives from the Independent Advisory Group, StopWatch, the Independent Police Complaints Commission and Release. The group considers complaints made in respect of stop and search encounters;

- The Stop and Search Gold Group, which meets every two months and is chaired by the assistant chief constable. The group was set up in December 2014 with the intention of reviewing all stop and search encounters to identify trends. It also reviews the ten most prevalent officers in terms of stop and search encounters;
- The Stop and Search Steering Group, which also meets every other month with the intention of reviewing all stop and search encounters to identify trends. Important issues are escalated to the Stop and Search Gold Group; and
- The Stop and Search Practitioners' Group, which meets every six months and includes officers and supervisors who actively use and supervise stop and search powers. The group meets to discuss issues that hinder the proper use of the powers from a practitioner perspective and identify potential solutions for consideration by the Stop and Search Steering Group.

We found that the structure of the oversight groups provided the force with the ability to comprehensively monitor the use of stop and search powers. We were encouraged to see an active practitioners group and a community oversight group that included independent members from StopWatch, Release and the Independent Police Complaints Commission. We consider this to be good practice. However, it was not clear if the oversight groups were reviewing data at a sufficiently detailed level. The data included a breakdown of ethnicity, age and gender which helps the force to determine if the powers are used fairly, but in terms of monitoring outcomes, and therefore effectiveness, the data reviewed included only the total number of stop and search encounters broken down by those carried out under Code A and those carried out under the Misuse of Drugs Act, together with the total number of arrests which may include those that were not linked to the finding of an item. This lack of comprehensive analysis limits the force's ability to monitor the effectiveness of the use of the powers.

However, the force monitored the use of stop and search powers under the Misuse of Drugs Act 1971 and identified that a substantial number of searches were carried out in which no prohibited item was found. It further identified that the majority of these had taken place after a drugs dog had indicated the possible presence of a controlled drug. The potential for this type of search to affect public trust adversely was recognised and the use of drugs dogs was reduced substantially.

We found that issues identified during monitoring are passed to divisions or sub-divisions to manage. A single point of contact had been appointed for each division to ensure that messages were fed back to officers. However, we found the level of commitment and interest varied between those officers acting as the single points of contact.

The British Transport Police Authority also oversees the use of the powers at its Performance Review Committee meeting.

Staff from the operations department at force headquarters monitored the use of powers under section 60 of the Criminal Justice and Public Order Act 1994. The numbers reported are extremely low.

We found that the force had carried out a good deal of work to ensure that stop and search encounters were fair. This involved an emphasis, outlined clearly in the manual of guidance, on explaining to officers what did and did not constitute reasonable grounds. The use of examples within the document helped to reinforce the message. There was also clear guidance to officers on the benefits of explaining the reasonable grounds, and the process in general, linking it to public confidence and trust. The guidance recognised that stop and search encounters were likely to be conducted in busy transport hubs and could cause increased humiliation and embarrassment as a result. It re-emphasised the need, in those circumstances, to consider the person's embarrassment and treat them with respect and dignity.

In general, we found a good level of knowledge among officers we spoke to in relation to the legislation and their powers, and they were clear that there was indeed a culture of treating people with respect and dignity.

### **Recommendation 3 from 2013**

Chief constables should ensure that officers carrying out stop and search encounters are supervised so that they can be confident that the law is being complied with and that the power is being used fairly and effectively. Particular attention should be given to compliance with the Code of Practice and equality legislation.

#### **Grounds for recommendation 3**

Code A places a specific obligation on supervisors to monitor the use of stop and search in order to prevent its misuse, and directs that:

- “supervisors must monitor the use of stop and search powers and should consider, in particular, whether there is any evidence that the powers are being exercised on the basis of stereotypes or inappropriate generalisations;
- supervisors should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with the Code; and

- supervisors must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address them.”<sup>4</sup>
- In 2013, we found little evidence that supervisors observed their constables using stop and search powers. There were inconsistencies in the recording of searches, evidence that people searched were not always provided with the information required by Code A and that they were not always fairly treated.

### **Findings in respect of British Transport Police regarding recommendation 3**

British Transport Police is responsible for policing the rail network and covers a vast geographical area stretching the length and breadth of England and Wales. Officers frequently work alone and it is very difficult for supervisors actively to supervise officers on patrol. Observation of actual stop and search encounters by supervisors is rare.

However, the force had implemented a comprehensive three-tier approach to supervising stop and search records. Having input the detail of the encounter to the force intelligence system within 24 hours, the officer is required to submit the hard-copy record to the supervisor.

The first level of supervision involves the supervisor reviewing the record with a particular emphasis on assessing the reasonableness of the grounds. The supervisor inputs the detail of the review to a supervisors’ spreadsheet on which the supervision of all stop and search encounters is recorded. This allows each supervisor to review all stop and search encounters carried out by officers under their control to determine if the powers are being used effectively and fairly, while also allowing scrutiny of the supervision of all records by senior officers. Issues are either raised with the relevant officer or escalated to the divisional single point of contact. On completion, the supervisor submits the record to the divisional single point of contact.

The second level of supervision involves a review of the record and the supervisors’ spreadsheet by the divisional single point of contact, usually an inspector or chief inspector, to ensure that any issues have been identified and fed back appropriately. On completion, the record is submitted to the operations department at force headquarters where the third level of supervision takes place involving a review of the record and any action taken as a result of the supervision.

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<sup>4</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 5.1, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

The officers we spoke to were aware of the supervision process (although not all were aware of the need to input the details to the force intelligence system) and considered that the recent reduction in the number of stop and search encounters, and increase in resultant arrests, was a direct result of not only the enhanced supervision but also the increased emphasis on understanding what constituted reasonable grounds.

Officers told us of a culture change within the force to one in which all stop and search encounters must involve well-considered and well-recorded reasonable grounds. The supervisors we spoke to were also clear that supervision of records had improved substantially within the previous 12 months and they felt they were reviewing a higher percentage of well-documented stop and search records representing good quality stop and search encounters. Some constables confirmed that they had had records returned to them and had been given guidance in person about reasonable grounds by supervisors.

However, we were told by some officers that the amount of information they recorded on the force intelligence system in respect of the grounds was often far more than was recorded on the hard-copy record. As it is the hard-copy record that the supervisor reviews (and a copy of the actual record is given to the person stopped and searched), the review may be carried out without the full information.

## **Recommendation 4 from 2013**

The College of Policing should work with chief constables to design national training requirements to improve officers': understanding of the legal basis for their use of stop and search powers; skills in establishing and recording the necessary reasonable grounds for suspicion; knowledge of how best to use the powers to prevent and detect crime; and understanding of the impact that stop and search encounters can have on community confidence and trust in the police. Specific training should also be tailored to the supervisors and leaders of those carrying out stops and searches.

### **Grounds for recommendation 4**

In 2013, we found that training, where it was given, was focused almost exclusively on law, procedure and officer safety and very little on what works best to catch criminals, or how officer behaviour can affect the way the encounter is experienced by the person being stopped and searched. We were worried that little was being done by forces to help officers understand how they should judge when they have reasonable grounds to stop and search, how they communicate these grounds to the person being searched and how they record them in accordance with the Police and Criminal Evidence Act 1984.

Addressing recommendation 4 is dependent on the development of a national training package by the College of Policing.

## **Recommendation 5 from 2013**

Chief constables should ensure that officers and supervisors who need this training are required to complete it and that their understanding of what they learn is tested.

### **Grounds for recommendation 5**

In 2013, we found that supervisors were given little or no training about how to supervise, or to help them understand what is expected of them. We found many examples of supervisors reviewing and signing stop and search records that clearly did not include a description of reasonable grounds for suspicion. For example, on one record signed by a supervisor, the grounds had been recorded as 'Parked in a remote car park after dark'.

### **Findings in respect of British Transport Police regarding recommendation 5**

Addressing recommendation 5 is first dependent on the development of a national training package which is not yet available (see recommendation 4 above).

Notwithstanding the absence of a national training package, British Transport Police reported that it had improved the training it delivers to officers in respect of the use of stop and search powers.

The force reported that it had delivered e-learning training packages to all officers, including 313 supervisors and 980 constables within the previous 18 months. We were told by some officers that they found the package ineffective. Additionally, the force had delivered a half-day training input to all officers in one of the three divisions which included an explanation of what to record and why, guidance on Code A and understanding of procedural fairness. The force intended to deliver the additional half-day package imminently to officers in the remaining two divisions.

Encouragingly, the force also reported that, since 2009, it had trained officers on behaviour assessment screening which helps officers to understand different populations and the effect of unconscious bias on their decision-making.

The force reported that, at the conclusion of each training input, a knowledge check was completed by all attendees to ensure they had understood what had been taught.

The supervisors to whom we spoke confirmed that knowledge in general about the use of stop and search powers had improved a great deal in the previous year. This was supported by the constables who felt more confident using the powers, and more knowledgeable in terms of what was required and how encounters should be conducted.

## **Recommendation 6 from 2013**

Chief constables should ensure that relevant intelligence gleaned from stop and search encounters is gathered, promptly placed on their force intelligence systems, and analysed to assist the broader crime-fighting effort.

### **Grounds for recommendation 6**

Intelligence is a valuable by-product of stop and search encounters. However, in 2013 we were surprised at how little effort was given to monitoring how effectively stop and search powers were used to prevent crime and catch criminals. Only five forces had an intelligence field included on their stop and search record, and in a further eight it was noted on the record that a separate intelligence submission had been made. In those forces that did gather intelligence, there was confusion as to whether the stop and search record acted as an automatic intelligence submission or whether a separate intelligence form should be submitted, and we saw evidence of delays in placing the intelligence onto computer systems. This reduced the quality of the intelligence available to officers. Very few forces carried out sufficient analysis to map the locations of stops and searches against recorded crime, or to link stop and search encounters to prosecutions and convictions.

### **Findings in respect of British Transport Police regarding recommendation 6**

We found that, while British Transport Police did not have a system which automatically recorded details from stop and search encounters onto the intelligence system, it did have a system whereby such detail is manually input by officers within 24 hours. Supervisors, as part of their review of the record, also check that the input to the intelligence system has been made. This is a strong process by which the vast majority of intelligence from stop and search encounters is gathered. The only way for officers to avoid complying is to neglect to input the details to the intelligence system, and neglect to submit the stop and search record to the supervisor. Some officers we spoke to suggested that this happened occasionally.

Inputting the details of each stop and search encounter onto the force intelligence system within 24 hours means that staff in the intelligence unit have current information about every stop and search encounter, who was involved and at what location. The 'person description' field is also valuable for intelligence purposes to link descriptions of people who have been stopped and searched to descriptions of crime suspects.

However, some officers we spoke to were unaware of the requirement to input details to the intelligence system and so some valuable intelligence may be submitted late, reducing its value, or not submitted at all. It would be of benefit if the message were to be reiterated to all officers.

While the stop and search record provided a good deal of information of value to the intelligence unit, officers often glean more intelligence from people stopped and searched that cannot be recorded on the record. The decision about whether or not to submit separate intelligence from a stop and search encounter, beyond that recorded on the record, is left to the officers' discretion. The manual of guidance encourages officers to gather and submit intelligence from such encounters but there is no intelligence field on the stop and search record in which to record it. There is also no reminder or field for the officer to 'tick' to show that separate intelligence has been submitted.

British Transport Police, along with about half of all forces, reported that it mapped the locations of stop and search encounters to assist with analysis, and also that it mapped this data against crime patterns, as did about a third of all forces. The force analyses the data from the top 100 most frequent locations at which stop and search powers are used and compares them to crime reported in those areas. This helps the force to prevent crime by understanding the impact of stop and search encounters on crime patterns.

## **Recommendation 7 from 2013**

Chief constables should, in consultation with elected policing bodies, ensure that they comply with the Code of Practice by explaining to the public the way stop and search powers are used in their areas and by making arrangements for stop and search records to be scrutinised by community representatives. This should be done in a way that involves those people who are stopped and searched, for example, young people.

### **Grounds for recommendation 7**

In 2013, we found that fewer than half of forces complied with the requirement in Code A to make arrangements for the public to scrutinise the use of stop and search powers. Recognising the importance of keeping the public informed, it is surprising how little forces consulted or communicated with the public about their use of stop and search powers. Almost half of forces did nothing to understand the impact of stop and search encounters on their communities, with only a very small number proactively seeking the views of the people and communities most affected.

### **Findings in respect of British Transport Police regarding recommendation 7**

British Transport Police was one of the four forces, of the nine we visited, not to have introduced independent scrutiny panels or monitoring groups. However, it was clear that the force was about to introduce such a group – the Stop and Search Community Consultation Group (the anticipated start date of the group was March 2015). We were encouraged by the force's intention to provide the group with a monthly list of all stop and search encounters (with personal details redacted) from which they will select a sample to review. It was also encouraging to find a wide

array of community members involved, including youth groups, the Independent Advisory Group and groups with a specific interest in the use of stop and search powers, such as StopWatch and Release.

The force intends that the results of the scrutiny will be sent to the assistant chief constable who will report back to the group setting out what action has been taken as a result. The force also reported that it intends to expand the scrutiny process to a local level by inviting local Independent Advisory Group members to conduct independent reviews of the use of the powers and to review a sample of records.

Over half of forces, including British Transport Police, now publish information to the public which would help to explain the use of stop and search powers in their area. However, British Transport Police, unlike some forces, does not publish maps of the locations of stop and search encounters or minutes of relevant meetings. The manual of guidance is also not published.

In line with the Home Office's Best Use of Stop and Search Scheme, British Transport Police provides opportunities for members of the public to accompany police officers on patrol when they might use stop and search powers. It was recognised that the scheme to allow members of the public to accompany officers on patrol is unlikely to result in them witnessing first-hand an officer conducting a stop and search encounter.

The force had carried out work to understand how the use of stop and search powers affect public trust but this is limited to inviting people who have been stopped and searched to take part in a survey on the force's website. We found that some officers were unaware of the survey or the fact that there were instructions on the copy of the search record given to the person searched. Very few people had taken part in the survey and, in reality, little was learned from it.

## **Recommendation 8 from 2013**

Chief constables should ensure that those people who are dissatisfied with the way they are treated during stop and search encounters can report this to the force and have their views considered and, if they wish, make a formal complaint quickly and easily. This should include information about dissatisfaction reported to other agencies.

### **Grounds for recommendation 8**

In 2013, we carried out a survey of people who had been stopped and searched<sup>5</sup>. Of the 391 respondents, there were too many occasions when people felt that the police had not treated them with respect (47 percent) or had not acted reasonably (44

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<sup>5</sup> *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, 2013, [www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

percent). Thirty-nine percent said their experience of being stopped and searched lowered their opinion of the police. Of those people who said they were unhappy with the way they were treated by the police during the stop and search encounter, only 16 percent made a formal complaint. Many of those who did not complain, when asked why they had not done so, expressed a lack of faith in the complaints system.<sup>6</sup>

### **Findings in respect of British Transport Police regarding recommendation 8**

British Transport Police made little effort to gather information about dissatisfaction related to stop and search encounters.

Officers provided information to people stopped and searched on how to contact the force if they want to provide feedback via a survey on the force website which is promoted on the copy of the stop and search record given to the person searched at the conclusion of the encounter. However, we were concerned that, despite the encouragement in the manual of guidance, some officers we spoke to were not aware of the feedback opportunity on the force website and did not know that the information was on the copy of the record provided to the person searched, and so do not point it out. Some officers told us that many people do not wish to wait for the copy of the record and, while the person can apply for a copy within three months, many do not.

It is perhaps understandable that, since July 2014, only eight people had accessed the survey on the force website to give feedback on stop and search encounters. The survey's value is, therefore, limited.

While the force had developed the survey to provide an opportunity for people to leave feedback about their experience of being stopped and searched, this is dependent on the person stopped and searched taking the initiative and visiting the site. Our 2013 survey results suggest that very few are likely to do that and so forces must take the initiative and put in place proactive measures to seek their views.

We were disappointed to find that the force is one of the vast majority of forces that did not actively seek information about dissatisfaction felt by people who had been stopped and searched.

The force had low numbers of complaints recorded as breaching Code A. In the main, there is still a reliance on low complaint numbers to justify why so little work has been done to establish why people feel dissatisfied about the manner in which they were stopped and searched, and to use that information to improve practices and strengthen public trust.

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<sup>6</sup> *IPCC position regarding police powers to stop and search*, IPCC, June 2009, [www.ipcc.gov.uk/sites/default/files/Documents/guidelines\\_reports/stop\\_and\\_search\\_policy\\_position.pdf](http://www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/stop_and_search_policy_position.pdf)

However, not all complaints that arise from stop and search encounters are recorded under the breach of Code A category. We found that other categories of complaint such as incivility, oppressive conduct, harassment, and lack of fairness and impartiality are more likely to be used to categorise complaints from stop and search encounters as these are often the behaviours that have given rise to the complaint. The force had done no analysis on complaints and may therefore be underestimating the number that actually arise from stop and search encounters.

It is a concern that British Transport Police, similar to the other eight forces we visited, did not actively seek information about dissatisfaction from people who had been stopped and searched by way of follow-up contact or through community groups and was therefore unable to use it to improve performance and increase public trust.

## **Recommendation 9 from 2013**

Chief constables should introduce a nationally agreed form (paper or electronic) for the recording of stop and search encounters, in accordance with the Code of Practice.

### **Grounds for recommendation 9**

In 2013, we found a variety of forms used to record stop and search encounters in use by forces. They differed substantially in terms of layout and the type of detail to be recorded. One force had five different stop and search forms in circulation at the time of our inspection.

The recommendation involves the agreement of all chief constables in England and Wales and as such, is not a recommendation applicable solely to British Transport Police.

## **Recommendation 10 from 2013**

Chief constables should work with their elected policing bodies to find a way of better using technology to record relevant information about stop and search encounters which complies with the law and reveals how effectively and fairly the power is being used.

### **Grounds for recommendation 10**

Our 2013 inspection found that technology had the potential to improve the effective, lawful and fair use of stop and search powers. However, although there were a number of interesting developments, limited use was being made of technology to record stop and search encounters at that time.

## **Findings in respect of British Transport Police regarding recommendation 10**

British Transport Police officers record the majority of stop and search encounters on a paper form. Some officers are equipped with PDA technology but the force reported that, while these had the advantage of reducing duplication as data is automatically entered onto the force intelligence system at the time the record is made, fundamental issues arose including the bypassing of the supervisor and a lack of functionality underground. The force had sought a technical solution but found it prohibitively expensive and this inhibited full roll-out. Therefore, the majority of officers do not use PDAs to record stop and search encounters. The paper record had been newly designed and the force reported that it was quick and user-friendly although we found some officers thought that it was cumbersome and the requirement to input the details manually from the record to the force intelligence system was duplicitous.

The force did not use body worn video to record stop and search encounters but it is working towards developing fully integrated technology in the form of handheld computers for all officers to record such encounters. The use of body worn video in these circumstances is likely to improve the effectiveness and fairness of encounters while, research suggests, also improving the behaviour of both the officers and the people stopped and searched<sup>7</sup>.

The force was continuing to explore how hand-held computers could improve the recording of stop and search encounters.

## **Conclusions for Part 1**

The manual of guidance developed in 2014 is a comprehensive, well-written document offering excellent instruction and guidance to officers. The force had clearly invested time and effort in providing a valuable and user-friendly guidance document. However, its existence is not well known among officers and it should be promoted more effectively.

It is encouraging that the force records a variety of outcomes resulting from stop and search encounters which allow it to assess if the powers are being used effectively and fairly. However, more needs to be done in terms of analysis and monitoring of a wider range of outcomes to understand effectiveness and fairness in the use of the powers, and the force should differentiate between those outcomes, including arrests, that have arisen directly from the finding of a prohibited item and those that have not.

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<sup>7</sup> *Guidance for the Police use of body-worn video devices* Police and Crime Standards Directorate, Home Office, July 2007; *Picture This: body worn video devices ('headcams') as tools for ensuring fourth amendment compliance by police*, Harris, D., April 2010; and others.

The force had invested substantially in strengthening supervision of stop and search encounters with sergeants instructed to review all stop and search records, and keep records of results and feedback to officers. This was supported by follow-up checks by the divisional single point of contact and staff in the operations division at force headquarters. The supervision of the use of stop and search powers was considered to be good.

The force had also strengthened the monitoring structure by introducing four distinct monitoring groups. We considered that the Practitioners Group, introduced to review and improve the use of the powers from a practitioners perspective, and the imminent formation of the Community Consultation Group to provide independent oversight and including representation from StopWatch, Release and the Independent Police Complaints Commission, to be good practice. The force should ensure the formation of the Community Consultation Group is expedited as described.

It was encouraging that the force ensured that details of all stop and search encounters, including a description of the person and clothing worn, were input to the force intelligence system within 24 hours. The detail provides valuable intelligence, relatively quickly, to the intelligence unit staff to assist in crime detection and prevention. However, the force could do more to encourage officers to submit intelligence over and above that recorded on the stop and search record.

Mapping the locations of stop and search encounters against the locations of crime reports helps the force to prevent and detect crime while also helping to assess the effectiveness of the use of the powers.

The force publishes only limited data in respect of stop and search encounters and this should be improved. It is acknowledged that the force is working to implement a process by which members of the public can scrutinise the use of stop and search powers regularly and the force should continue its efforts to make this happen.

There has been little effort expended to find out if and why people feel dissatisfied about their stop and search experience. The force has developed a survey for feedback on its website but efforts to encourage people to use it have not been successful and the force needs to promote it with more vigour while also seeking other ways to gather information about dissatisfaction.

It is encouraging that the force is actively exploring the use of technology to assist its officers to use stop and search powers effectively and fairly.

Overall, we found that British Transport Police had invested a good deal of time and effort to make its use of stop and search powers more effective and more fair, particularly with regards to providing comprehensive guidance to officers and the supervision of stop and search records.

## Part 2 - How effectively and fairly does British Transport Police use section 163 of the Road Traffic Act 1988?

In addition to requesting HMIC to inspect further on the progress that police forces had made since the 2013 inspection, the Home Secretary commissioned HMIC to:

“Review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly.”

### Powers to stop vehicles

In our 2013 report, we highlighted that some people believed that they had been stopped and searched when, in fact, they had been stopped and spoken to by an officer or stopped in their car under the Road Traffic Act – without a search taking place<sup>8</sup>.

In England and Wales, police officers’ powers to stop vehicles are enshrined in section 163 Road Traffic Act 1988, which states:

“A person driving a motor vehicle on a road must stop the vehicle on being required to do so by a constable in uniform”<sup>9</sup>

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice<sup>10</sup>, this power does not require an officer to have any particular reason to stop a motor vehicle and there is no requirement for the officer to explain why he or she has carried out the stop.

### Findings in respect of British Transport Police regarding section 163 of the Road Traffic Act 1988

British Transport Police has responsibility for policing the rail network in England and Wales. Some railway stations include public roads but, in general, officers very rarely have cause to stop vehicles. For this reason, the force reported that it neither had a policy in respect of the use of the power nor required officers to record their use of it.

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<sup>8</sup> *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, July 2013, page 18, [www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

<sup>9</sup> *Road Traffic Act 1988* s.163, [www.legislation.gov.uk/ukpga/1988/52/section/163](http://www.legislation.gov.uk/ukpga/1988/52/section/163)

<sup>10</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

However, the force reported that all officers receive one week of road traffic training during their initial police training. In addition, officers who transfer to British Transport Police from another force are expected to have some previous police knowledge acquired from their original force.

We found that none of the nine forces we visited, including British Transport Police, required officers to record the fact that a person had been stopped using this power and, as a consequence of this, there was no central record and no scrutiny of the way the power was being used. Consequently, the force was unable to establish if the power was used effectively and fairly.

## **How effectively and fairly do police community support officers use their powers to search for and seize alcohol and tobacco?**

The Police Reform Act 2002 enables forces to designate police community support officers (PCSOs) with the power to seize alcohol from any person they reasonably suspect to be in possession of alcohol, who is under the age of 18 and in a public place or place to which the person has gained unlawful access<sup>11</sup>. It also allows forces to designate PCSOs with the power to seize tobacco from any person under the age of 16 they find smoking in a public place<sup>12</sup>. In order to discharge these powers effectively, the Police Reform Act provides PCSOs with the power to search for the items if they reasonably believe the person is in possession of them<sup>13</sup>. Chief constables have a choice whether or not to designate these powers to their PCSOs.

HMIC asked all forces to provide a self-assessment of their use of the Police Reform Act 2002 powers to establish if they were making effective and fair use of these. We undertook further testing in this area while conducting fieldwork in the nine forces chosen for the inspection.

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<sup>11</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 6 [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

<sup>12</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7 [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

<sup>13</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7A [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

## **Findings in respect of British Transport Police regarding powers under the Police Reform Act 2002**

We found that British Transport Police had a policy in place for the seizure of alcohol, the stop and search manual of guidance, but not for the seizure of tobacco because smoking on trains and at train stations is forbidden. The force reported that it provided training to PCSOs in respect of Police Reform Act powers as part of initial training, but not thereafter.

Like most forces, British Transport Police reported that it did not require the use of the Police Reform Act powers to be recorded. However, we found that PCSOs do record their use of the powers but the method varies from region to region. For example, in one region the PCSOs record seizures on a PDA and the record is later reviewed by the supervisor. In another, the PCSO merely records the seizure in their pocket notebook and there is no supervisory review. However, we found that records are not collated and are not then reviewed to determine how effectively and fairly they are being used. The force was unable to provide us with either the number of times the powers had been used or detail of the outcomes.

We found that no monitoring of the use of the powers had occurred and no audits had been undertaken to determine if the powers were used effectively and fairly. The force had not designated a senior manager to oversee the use of the powers.

We found far less evidence of supervision by sergeants of the way the powers were being used than is the case for stop and search. Many of the supervisors we spoke to did not have a good knowledge of PCSOs' powers in respect of alcohol and tobacco seizure. We believe that part of the reason for this is the fact that the power can only be used by PCSOs, meaning that sergeants have no experience of using it themselves (unless they had been a PCSO before becoming a constable) and therefore lack the knowledge and confidence to check properly the work of the PCSOs. Similarly, we found that many of the constables we spoke to also had little knowledge of PCSOs' powers to seize alcohol and tobacco.

## **Conclusions for Part 2**

In Part 2 of this inspection, due to the absence of records we were unable to assess how efficiently and fairly officers in British Transport Police use the Road Traffic Act power to stop vehicles and the Police Reform Act powers to search for and seize alcohol and tobacco. However, it is acknowledged that, due to the remit of the force, its officers rarely use the section 163 powers.

Also, unlike the situation with stop and search, British Transport Police does not have in place policies that guide officers about how to use the Road Traffic Act power effectively and fairly. Oversight of the Police Reform Act power is better, with a policy in place. However, the policy offers an explanation of PCSO powers,

including those designated under the Police Reform Act, but does not offer guidance as to how they can be used effectively and fairly. For both Road Traffic Act and Police Reform Act powers, British Transport Police shows little commitment to collecting information and using this to oversee their fair and effective use.

The absence of reliable data about the use of the Road Traffic Act and Police Reform Act powers has meant that British Transport Police cannot demonstrate to us that it is using these powers effectively and fairly.

In our report *Stop and Search Powers 2: Are the police using them effectively and fairly?*<sup>14</sup>, we made recommendations to all forces in respect of the use of these powers.

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<sup>14</sup> *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from [www.justiceinspectorates.gov.uk/hmic](http://www.justiceinspectorates.gov.uk/hmic)

## Part 3 - Searches involving the removal of more than an outer coat, jacket or gloves.

As part of this inspection, HMIC was commissioned by the Home Secretary to examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.

Code A<sup>15</sup> informs police officers about how to conduct stop and search encounters, and makes certain distinctions about what clothing can be removed and where searches can take place. The following extracts from Code A describe what can and cannot be done in relation to the removal of clothing during a search.

- “There is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves, except under section 60AA of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity).”<sup>16</sup>
- “Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby. Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.”<sup>17</sup>

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<sup>15</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

<sup>16</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraphs 3.5, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

<sup>17</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraphs 3.6., [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

- “Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).<sup>18</sup>

In effect, Code A specifies three levels of search that are characterised by their increasing level of intrusiveness:

- A search involving no removal of clothing other than an outer coat, jacket or gloves;
- A search involving more than removal of an outer coat, jacket or gloves but not revealing intimate parts of the body; and
- A search involving more than the removal of an outer coat, jacket or gloves which reveals intimate parts of the body, often referred to as a strip-search.

While the code stipulates that there is only a power to require the removal of more than an outer coat, jacket or gloves out of public view, the accompanying guidance notes provide the officer with the opportunity to ask the person voluntarily to remove more than that clothing within public view.<sup>19</sup> However it does not give any further guidance on how this should be conducted.

## **Findings in respect of British Transport Police regarding stop and search encounters requiring the removal of more than outer coat, jacket or gloves**

Unlike the vast majority of forces, British Transport Police provided specific guidance, in its manual of guidance, for stop and search encounters in which there is a need to remove more than a person’s outer coat, jacket or gloves, including strip searches.

British Transport Police also reported that now (since December 2014), it also collates the occasions on which more than outer coat, jacket or gloves are removed and whether that involves the exposure of intimate body parts. This is recorded by

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<sup>18</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A paragraphs, 3.7, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

<sup>19</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, Notes for guidance: Recording [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

the officer on the force intelligence system when inputting the detail of the encounter and includes the extent of clothing removed and which, if any, intimate body parts were exposed<sup>20</sup>. The force intelligence system included a drop-down menu to assist officers with recording the extent of the search which officers found helpful.

However, the stop and search record itself did not have a specific field in which this information could be recorded and there is therefore the potential for inaccurate entries to be made on the force intelligence system; for instance, where an officer conducts several stop and search encounters and is unable to remember precisely what clothing was removed.

In time, the force will be in a position to determine how many times officers conduct more intrusive searches on the street and provide a higher level of scrutiny. This offers the opportunity not only to identify trends and assess effectiveness, fairness and the impact on public trust, but also to improve practices.

We are encouraged that senior officers, while having previously had insufficient knowledge or oversight of the searches conducted by their officers involving the removal of more than outer clothing, are now able to carry out such scrutiny as a result of the changes to their recording practices. The force should ensure that this occurs at the earliest opportunity, allowing for sufficient records to be generated to allow meaningful analysis and scrutiny.

Despite the advice in the manual of guidance, we found that some officers we spoke to did not display a good knowledge of the circumstances under which more than outer coat, jacket or gloves can be removed. We also found some confusion among officers as to the locations at which these more intrusive searches should be carried out. This suggests more training is required.

Additionally, we found that stop and search encounters involving the removal of more than outer coat, jacket or gloves received no more attention in terms of supervision or monitoring, than encounters that did not involve the removal of such clothing. Some supervisors we spoke to, including sergeants and inspectors, were unaware of the process to be undergone in respect of conducting and recording strip searches.

From the evidence we gained during the inspection, it is clear that these highly intrusive searches, including strip searches, are being conducted without the proportionate and necessary levels of supervision and scrutiny that they deserve. However, the force, having introduced processes to record when this occurs, and unlike the vast majority of other forces, is now in a much stronger position to develop supervision and scrutiny processes.

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<sup>20</sup> Guidance 7,

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

## Conclusions for part 3

The power of a police officer to stop a member of the public in the street and search them is an intrusive one. The ability to remove clothing that reveals the intimate parts of the person's body is extremely intrusive.

At the time of the inspection, HMIC was not able to judge if stop and search encounters conducted by British Transport Police that require the removal of more than an outer coat, jacket or gloves were either appropriate or necessary as it was not possible to separate them from stop and search encounters that do not involve the removal of such clothing. As a result, it was also not possible accurately to establish the volume of such searches undertaken. However, the introduction of a process by which these encounters can be differentiated from the rest will alter that, once sufficient data have been gathered.

While the force, at the time of the inspection, was carrying out no additional scrutiny of these very intrusive searches, it will, unlike the vast majority of forces, be in a position to do so as soon as sufficient data are gathered to assess if those stop and search encounters are lawful, necessary and appropriate.

Additionally, the introduction of recording allows the force to ensure that individuals' rights are not being severely breached. It also provides the force with the ability to identify officers who may require additional training, advice or discipline.

In our report *Stop and Search Powers 2: Are the police using them effectively and fairly?*, we made recommendations to all forces in respect of stop and search encounters involving the removal of more than outer coat, jacket or gloves<sup>21</sup>.

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<sup>21</sup> *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from [www.justiceinspectors.gov.uk/hmic](http://www.justiceinspectors.gov.uk/hmic)