

Friday 21 August 2020

Dear DAC Matt Horne

As you know at the IOPC our mission is to improve public confidence in policing by ensuring the police are accountable for their actions and lessons are learnt.

As Regional Director for London, I am completely focussed on us seeking to identify any areas of learning from our independent investigations with a view to preventing these issues from recurring, and in equal part where good practice is identified how this can be shared more widely.

Our statutory power to make learning recommendations plays a key part here.

Stop and search is an area of significant national focus currently, and particularly in London where there is recognised concern amongst Black, Asian and Minority Ethnic communities. What you will read below are a series of thematic learning recommendations around stop and search. These have been made in a new approach we have piloted.

Traditionally we would make learning recommendations from a single independent investigation completed. Here, I wanted to ensure we maximised the opportunity for learning in this important area and so we have carefully considered five completed independent investigations together which feature stop and search.

This has given us the opportunity to identify some common areas of concern and allowed us to move away from a more granular approach to, instead, looking at what the bigger picture is.

We have identified four broad themes from our work:

1. Why that person?
2. Communication
3. Use of force
4. Body Worn Video

In making these learning recommendations we have undertaken a consultation exercise to ensure that we listened to, and where appropriate, incorporated feedback from stakeholders.

These stakeholders have included organisations and people who are most affected by stop and search and with lived experience such as; Y-Stop and Stopwatch, our own IOPC Youth Panel, a range of stop and search Scrutiny Panel Chairs including the Pan-London Chair.

We have also consulted with the MOPAC Stop and Search Lead, the NPCC Lead on Stop and Search, DCC Adrian Hanstock, and HMICFRS.

The purpose behind the consultation was to ensure the learning recommendations we made were; credible, had increased legitimacy and ultimately to help improve policing practise.

These learning recommendations have been made under Paragraph 28A, Schedule 3 of the Police Reform Act 2002 and as you know, you will have 56 days to provide your formal response.

Ahead of this I would very much welcome the opportunity to meet and discuss our learning recommendations with you/and colleagues to answer any questions and explain our approach.

I look forward to hearing from you.

Kind regards

A handwritten signature in black ink, appearing to read 'Sal Naseem', with a stylized flourish at the end.

Sal Naseem
Regional Director for London
Independent Office for Police Conduct

Learning Recommendations on Stop and Search

Approach

The IOPC has recently completed five investigations involving the stop and search of Black men by MPS officers. The following learning recommendations are informed by the collective evidence gathered in these investigations. Each recommendation is cross-referenced with the investigation(s) that informed it.

1. Why that person – impact of disproportionate use of powers?

In some of our investigations, the men stopped have said that they felt racially profiled. PACE Code A says that a person's physical appearance cannot be used as the reason for stopping and searching them.

We have seen a lack of understanding from officers about why their actions were perceived to be discriminatory. We are concerned by this lack of understanding given the disproportionate way in which members of Black, Asian and minority ethnic (BAME) communities are affected by the use of stop and search powers– between June 2019 and May 2020, Black people were stopped and searched at a rate four times higher than White people – and the resultant impact on public confidence, legitimacy and cooperation in a policing by consent model.

- **Therefore, the IOPC recommends that the MPS take steps to ensure that their officers better understand how the application of their stop and search powers impacts individuals from a group that is disproportionately affected by those powers.**

The MPS may wish to consider:

- ***incorporating the lived experience of BAME people into existing stop and search training;***
- ***the role scrutiny panels can play and how the guidance in the revised and updated College of Policing stop and search Authorised Professional Practice (APP) could be applied¹;***
- ***proactively engage with impacted communities in ways that promote trust and confidence in the use of stop and search – the Reasonable Grounds Panel approach undertaken in Northamptonshire Police is a positive example²; and***
- ***wider roll-out of the Enhanced Stop and Search training currently piloted in West Area BCU if there is evidence to show that it is having a positive impact on community confidence.***

The College of Policing stop and search APP sets out an expectation that supervisors should monitor stop and search to ensure its use is appropriate, lawful and complies fully with Code A. It further states that senior officers with local and force-wide responsibilities must proactively monitor the broader use of stop and search powers so they are in a position

¹ The College of Policing APP on Stop & Search :Community Oversight

<https://www.app.college.police.uk/app-content/stop-and-search/transparent/>

² Regulating Police Stop and Search: An Evaluation of the Northamptonshire Police Reasonable Grounds Panel; Open Society Justice Initiative; 2019

to articulate their force position with regards to the fairness, effectiveness and proportionality of their stop and search activity at all times.

- **The IOPC recommends that the MPS ensures that there is a structure in place to ensure leaders and supervisors are proactively monitoring and supervising the use of stop and search powers and addressing any concerning trends or patterns/ sharing any identified good practice at; individual, unit or organisational level.**

The MPS may wish to consider:

- *real-time supervision;*
- *regular dip-sampling of officer's body worn video footage;*
- *developing a process to capture regular concerns and share best practice;*
- *the role of reflective practice in this area;*
- *input and ownership at all levels; and*
- *how the related guidance in the College of Policing stop and search APP in this area of supervision and monitoring could be applied³.*

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Euston – Metropolitan Police, November 2019

1.1 Why that person – perceived racial profiling/bias?

From the evidence seen in three of our investigations, it appears that the officer's decision-making may have been led by or influenced by assumptions informed by the race of the people being stopped and searched, for example:

- Black boys entering premises with money were suspected of dealing drugs.
- Two Black men fist-bumping were suspected of exchanging drugs.
- A Black man in possession of someone else's credit card was suspected of having stolen it even after providing a credible explanation.
- A Black man with his hand by his waistband was suspected of being in possession of a weapon.

Would the belief have been the same if these men were white? The influence may be unintentional; nevertheless, the cumulative effect of such decision-making undermines the legitimacy of the stops and searches and has a negative impact on the confidence of BAME communities in policing.

- **The IOPC recommends that the MPS takes steps to ensure that assumptions, stereotypes and bias (conscious or unconscious) are not informing or affecting their officer's decision making when it comes to carrying out stop and searches, especially when using these powers on people from the black community.**

³ The College of Policing APP on Stop & Search :Supervision and monitoring-
<https://www.app.college.police.uk/app-content/stop-and-search/transparent/>

Given the potential limitations associated with implicit bias training, the MPS may want to consider:

- ***giving greater attention to external regulation, such as decision-breaks and real-time supervision⁴.***
- ***the approach adopted to bias within the Enhanced Stop and Search training currently being piloted in West Area BCU.***

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Romford – Metropolitan Police, April 2019

1.2 Why that person – legitimacy?

In two of our investigations, the smell of cannabis formed the sole grounds given for the stop, albeit in one of the investigations there was additional, unrelated intelligence. PACE Code A states that reasonable grounds for suspicion must relate to the likelihood that the object in question will be found. It also states that the search is more likely to be effective, legitimate and secure public confidence if reasonable grounds for suspicion are based on a range of objective factors.

The College of Policing Stop and search Authorised Professional Practice (APP) states it is not good practice for an officer to base their grounds for search on a single factor, such as the smell of cannabis alone, particularly where attribution is difficult, such as in these cases.⁵ Where the grounds for a search are perceived to be weak, the legitimacy of the stop and search is undermined, which can lead to members of the public feeling unfairly targeted and reduce confidence in the police service.

- **The IOPC therefore recommends that the MPS take steps to ensure that their officers are not relying on the smell of cannabis alone when deciding to stop and search someone and use grounds based upon multiple objective factors.**

This recommendation is informed by the following investigations:

- Stop and search, Harlesden – Metropolitan Police, October 2018
- Stop and search, Romford – Metropolitan Police, April 2019
- Stop and search, Euston – Metropolitan Police, November 2019

2. Communication – GOWISELY

In line with the Code of Ethics and the procedural justice approach, officers should treat every person they stop and/or search with courtesy, consideration and respect. The search

⁴ The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales; M. Shiner, Z. Carre, R Delsol & N Eastwood; 2018

⁵ The College of Policing APP on Stop & Search :<https://www.app.college.police.uk/app-content/stop-and-search/legal/legal-basis/#guidance-for-practitioners-conducting-and-supervising-searches>

should be conducted professionally to minimise the impact on the person and cause as little embarrassment as possible.

In some of these investigations, the quality of communication from the officers from the outset was poor. It is incumbent on officers to be mindful of all aspects of their communication – words, tone and non-verbal – in order to obtain the cooperation of the person being stopped and avoid conflict, escalation and resentment.

Rather than gaining the person's cooperation by putting them at ease, the officers were confrontational and failed to adequately articulate the grounds for the searches, leaving the men feeling frustrated and unsure of what the motivating factor was.

They resorted to the use of handcuffs and other force to gain compliance. This caused situations to escalate, which is damaging to the confidence of those directly involved, any spectators and members of the wider community.

Use of GOWISELY in full can improve understanding, compliance and avoid escalation, but this was not followed. As stated in the College of Policing's stop and search APP, if the person understands the reasons for an officer's action, they are more likely to accept it and not see it as arbitrary or unfair.⁶

- **The IOPC recommends that the MPS takes steps to ensure that officers carrying out stop and searches always use the principles of GOWISELY and engage in respectful, meaningful conversation with the person being stopped.**

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Harlesden – Metropolitan Police, October 2018
- Stop and search, Romford – Metropolitan Police, April 2019

2.1 Communication – de-escalation

In some of these investigations, opportunities were missed to de-escalate an increasingly confrontational situation. In one investigation, the sergeant intervened and managed to calm the situation down, but it escalated again when they withdrew from the conversation.

Even if a person appears confrontational or agitated, officers should make every effort to be polite when speaking to them. Being polite and professional can encourage a person to adopt a more positive attitude and cooperate with the search.

- **The IOPC recommends that the MPS ensure their stop and search training incorporates a section on de-escalation, including the roles of supervisors and colleagues in controlling the situation and providing effective challenge.**

⁶ The College of Policing APP on Stop & Search : <https://www.app.college.police.uk/app-content/stop-and-search/fair/>

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Harlesden – Metropolitan Police, October 2018
- Stop and search, Romford – Metropolitan Police, April 2019

2.2 Communication – ending the stop and search

In several of these investigations, the initial search was negative. At this point the officer/s should try to end the encounter in an appropriate manner, explaining the outcome of the stop and search and (where appropriate) offer reassurance or thank the person for their cooperation. However, we have seen officers find new grounds to continue the search/encounter, for example:

- Concerns relating to a man's car insurance led to suspicion that he was carrying a knife.
- A suspicion that two men were exchanging drugs led to a suspicion that one of them had a stolen bank card despite him providing a credible explanation for it being in his possession.

This apparent 'fishing' for evidence, rather than ending the encounter when the original suspicion has been allayed, undermines the legitimacy of the ongoing stop and search. This leaves people feeling unfairly targeted, causing frustration and dissatisfaction.

- **The IOPC recommends that the MPS takes steps to ensure that officers exercising stop and search powers are ending the encounters once their suspicion has been allayed, in a manner that minimises impact and dissatisfaction, unless there are further genuine and reasonable grounds for continued suspicion.**

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018

3. Use of force/restraint - handcuffs

A common theme amongst our stop and search investigations has been that handcuffs have been used in nearly all instances. Although we recognise that officers can use reasonable force to carry out a stop and search if necessary, their starting point should always be to seek cooperation from the person.

Use of handcuffs, indeed any kind of force, immediately changes the dynamic of the encounter such that it no longer feels consensual. Encouraging a person to do something voluntarily, by acknowledging their emotional state and being polite to them, is likely to be more effective and safer than ordering or physically compelling them to do so.

We are concerned that handcuffs are being used unnecessarily and where the use of other tactics could have de-escalated the encounter.

- **The IOPC recommends that the MPS take steps to ensure that officers exercising stop and search powers are not using restraint/handcuffs as a matter of routine and are only using these tools when reasonable, proportionate and necessary.**

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Romford – Metropolitan Police, April 2019

3.1 Use of force/restraint - recording

Except for handcuffs, it is currently not possible to understand how often MPS officers are using force during stop and search encounters. This leads to a lack of transparency, which is a barrier to effective scrutiny.

The College of Policing stop and search APP explains why transparency is crucial to public trust and confidence. To achieve transparency, data must be of sufficient quality to permit analysis of trends or patterns. The MPS has the potential to improve public perceptions and reassure the public that there is genuine responsibility and accountability for police actions.

- **The IOPC recommends that the MPS amend their stop and search records to include a question about whether any kind of force has been used. The records should also state where information about the kind of force will be recorded.**

This recommendation is informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Brent – Metropolitan Police, June 2018
- Stop and search, Harlesden – Metropolitan Police, October 2018
- Stop and search, Romford – Metropolitan Police, April 2019

4. Use of body worn video

In three of our investigations the beginning of the encounter, including the initial contact, was not captured in full on officers' body worn video (BWV) as there were delays to the cameras being switched on. Pre-event buffering captured an additional 60 second pre-activation video, but this function does not capture audio. This gap in video footage, prevented an independent assessment of the entire stop and search encounter.

Used properly, BWV supports transparency, trust and confidence in the police. The College of Policing's BWV APP explains how BWV provides a clear and impartial record of any interaction. This means that when a complaint arises the video record can be used to quickly establish exactly what happened and provide a speedy resolution as part of the complaints process. This provides greater transparency and allows officers to show that they followed the correct procedure if their actions are challenged. It also states that BWV should be activated to capture all relevant information in the time leading up to the person being detained for a search, the conduct of the search itself and the subsequent conclusion of the encounter. This is echoed by the MPS's own BWV policy.

Stop and search APP states 'The standard approach is that BWV should be activated to capture all relevant information in the time leading up to the person being detained for a search, the conduct of the search itself and the subsequent conclusion of the encounter'.⁷

The MPS's BWV policy states stop and searches are encounters where officers must activate their BWV, in order to provide transparency of an encounter.

- **Therefore, the IOPC recommends that the MPS take steps to ensure that their officers are following APP and MPS policy and switching on their BWV camera early enough to capture the entirety of a stop and search interaction.**
- **The IOPC recommends that supervisors take a proactive role in monitoring and ensuring compliance with BWV APP and MPS policy.**

These recommendations are informed by the following investigations:

- Stop and search, Deptford – Metropolitan Police, March 2018
- Stop and search, Harlesden – Metropolitan Police, October 2018
- Stop and search, Romford – Metropolitan Police, April 2019

⁷ The College of Policing APP on Stop & Search: <https://www.app.college.police.uk/app-content/stop-and-search/transparent/#using-body-worn-video-to-record-information>