

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

An inspection of South Wales Police

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Introduction

In 2013, HMIC published its report, *Stop and Search Powers: Are the police using them effectively and fairly?* 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. South Wales Police was one of those forces. The national report *Stop and Search Powers 2: Are the police using them effectively and fairly?*¹ was published on 24 March 2015.

Our findings in respect of South Wales 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.

¹ *Stop and Search Powers 2: are the police using them effectively and fairly?* 2015, HMIC, London. Available from 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 South Wales 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.²

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.

² 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?*³

This section sets out our findings from the self-assessment provided by South Wales 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 South Wales 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.

South Wales Police had a formal policy guiding officers about their use of stop and search powers. At the time of our inspection, the policy was under review.

The policy sets out that the powers must be used 'lawfully, fairly, responsibly, with respect for people, without unlawful discrimination and in line with legislative requirements'.

In respect of effective and fair use of the powers, the policy sets out that '... when used fairly and effectively, [they] can play an important role in detecting and preventing crime and the fight against terrorism'.

³ *Stop and search powers: Are police using them effectively and fairly?* HMIC, London, 2013, www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

The policy also sets out that the powers provide a means to confirm or allay suspicions about individuals without exercising the power of arrest and, if used sensitively, are likely to increase community confidence in the police and make a positive contribution to reducing the fear of crime.

However, the policy did not define effective and fair use of the powers and offered no particular guidance to officers on how they could conduct stop and search encounters effectively and fairly.

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 South Wales Police regarding recommendation 2

Similar to the vast majority of forces, South Wales Police systematically collects information about stop and search encounters.

We were encouraged to find that the force no longer monitored individual officers and the use of stop and search powers was not seen as a performance measure.

The force stop and search board, chaired by the assistant chief constable (Support), meets quarterly to monitor the progress of actions required in respect of HMIC's 2013 recommendations. The board monitored complaints arising from stop and search encounters and also considered trends and patterns from the data.

Monitoring also took place in local policing areas where local trends in stop and search data were monitored. The monitoring considered only the number of stop and search encounters carried out and the arrest rate but did not include other positive outcomes such as cautions or cannabis warnings.

The force equality, diversity & human rights board, as part of its remit, monitors the proportionality of the use of stop and search powers in respect of ethnicity, gender and age.

We found that the force did not have sufficiently detailed records to be able to determine if the use of the powers was effective and fair. For instance, between 1 November 2013 and 31 October 2014, of the 18,540 stop and search encounters recorded, 998 did not include detail of whether the subject was male or female.

We were disappointed to find that the force did not require its officers to record if they had found the item searched for, or some other prohibited item. Consequently, there was no analysis carried out to identify how many times the item searched for had been found, or the number of times some other prohibited item had been found. Such analysis would help the force to establish how many times the grounds for the search proved to be accurate and would help to determine the effectiveness of the use of the powers.

The outcomes recorded by officers on the stop and search record had been updated as a result of the Home Office's best use of stop and search scheme and were:

- arrest;
- summons;
- caution;
- khat or cannabis warning;
- Penalty Notice for Disorder;
- community resolution; and
- no further action.

In its monitoring, the force did not differentiate between those arrests made because the original suspicion was accurate, those arrests made where a different item than that suspected was found, and those arrests made which were not connected at all to the original suspicion or the finding of an item. This inhibits the force's ability to determine the effectiveness of the use of the powers.

Additionally, the force did not monitor the frequency with which officers were using stop and search powers to establish if individual officers might be overusing them.

Similarly, the force did not monitor the frequency with which some people were stopped and searched to assess if people were being unfairly targeted.

There was no analysis to determine if stop and search powers had been targeted at high crime areas, or if there had been any impact of their use on crime rates.

The force did not collect data about the prosecution and conviction rate arising from stop and search encounters, limiting its ability to determine effective use of the powers.

Similar to the majority of forces, South Wales Police included a field in its custody system to show whether an arrest has resulted from a stop and search encounter. This helps the force not only to record outcomes more accurately but also assess the effectiveness and fairness of the use of the powers.

South Wales Police, like all other forces, had designated a senior manager to oversee the use of stop and search powers.

The force is one of about a quarter of all forces that did not audit the use of the powers as part of a scheduled audit programme to check that the stop searches were lawfully carried out.

The force did not record sufficient information about stop and search encounters to be able to carry out analysis and there was, consequently, a lack of force-level governance and oversight of detailed stop and search data. This means that the force was not able fully to determine if its use of the powers was effective and fair.

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.”⁴

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 South Wales Police regarding recommendation 3

We were disappointed at the lack of proper supervision of the use of stop and search powers.

Unlike the vast majority of forces, South Wales Police did not require supervisors to review the stop and search record. The force used an electronic method of recording in which officers recorded the details of stop and search encounters on a mobile data terminal which created an immediate electronic record. However, supervisors were not alerted to the existence of a stop and search record and were likely to be unaware that one of their officers had conducted a stop and search encounter.

There is no facility for supervisors to check the stop and search records retrospectively to ensure that the grounds were reasonable. Supervisors told us that they had no idea of the quality of stop and search encounters conducted by their officers unless they were able to observe encounters. However, similar to many other forces, supervisors told us that they have little time to patrol with their officers and actively supervise the use of stop and search powers on the streets. This view was supported by many of the constables we spoke to who confirmed that they received little hands-on guidance.

The staff in the intelligence unit carried out a check of the records on receipt and returned faulty records to supervisors for further action. However, officers and supervisors told us that this was generally to rectify missing data, rather than a check of the reasonableness of the grounds.

There was little supervision taking place of either the encounters themselves or the subsequent records. This is likely to be in contravention of Code A which states:

‘Supervising officers must monitor the use of stop and search powers and should consider in particular whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervising officers should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in

⁴ 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.

accordance with this Code. 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 this'.⁵

This has been recognised by the Force and the introduction of new mobile data handsets will ensure supervisors are made aware of any stop search encounters their staff have undertaken and thus facilitate their quality assurance of those.

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.

⁵ *Revised Code of Practice for the Exercise by Police Officers of Statutory Powers of Stop and Search*, Police and Criminal Evidence Act 1984 (PACE), HM Government, December 2014, Code A, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384108/2013PACEcodeA.pdf

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 South Wales 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, some forces including South Wales Police have sought to improve the training of their officers on the use of stop and search powers.

New recruits in South Wales Police receive training on stop and search powers as part of their initial training. Additionally, officers had undergone an electronic computer training package, with 695 constables and 95 sergeants having completed it within the previous 18 months. However, we found that most officers we spoke to considered electronic training to be far less effective than that which was delivered face-to-face.

In 2014, as part of its preparation for the NATO summit held in South Wales, the force provided some of its officers with behavioural detection training which also included guidance on unconscious bias. The force is in the process of providing this training to all officers.

Officers who respond to calls from the public receive training inputs every 10 weeks which included some guidance on stop and search powers and, in some local policing areas but not all, supervisors had been given additional training.

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 South Wales Police regarding recommendation 6

We were pleased to find that, unlike the vast majority of forces, South Wales Police automatically transferred the details of stop and search encounters onto its intelligence database at the time the encounter is recorded. This allows immediate access to information and intelligence about the person stopped and searched, the clothing worn, and the location, time and date of the encounter, which might help in detecting crime.

However, the stop and search record did not include a field in which officers could record other intelligence. The force relied on officers submitting a separate intelligence report with any relevant details. There was no reminder to officers in the stop and search policy of the importance of gathering intelligence, and no time limit by which officers must submit it. The value of intelligence may be reduced if submissions are late.

The force's electronic recording of stop and search encounters, via a mobile data terminal, had improved the accuracy of its recorded locations, consequently improving the accuracy of analysis and mapping. However, this was found by the force to be inaccurate in some cases and the force was in the process of replacing the existing mobile data terminals with better equipment to improve accuracy.

Similar to about half of forces, South Wales Police mapped the locations of stop and search encounters but did not consider them alongside the locations of reported crime to help it understand how best to prevent crime.

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 South Wales Police regarding recommendation 7

We were very disappointed to find that South Wales Police did not publish any information for the public on its website which might help explain the use of stop and search powers in its area.⁶ However, the force was in the process of reviewing its website to ensure that sufficient information is provided on a dedicated stop and search webpage.

The force had introduced an Equality and Diversity Human Rights group which, as part of its remit, reviewed data relating to the use of stop and search powers. However, this did not include a review of stop and search records. Community cohesion groups in local policing areas, made up of representatives from the community and other organisations, met quarterly and considered stop and search data but these were limited to the number of stop and search encounters conducted, the arrest rate and proportionality data.

The force has a ride along scheme which is open to members of the community. Opportunities to participate in the scheme have been extended to members of the community cohesion groups, although there has been limited uptake to date, which the force and police and crime commissioner's team are looking to address. We were also disappointed to find that the force had only recently started work to understand the effect of the use of stop and search powers on public trust. A stop and search board had been introduced which was considering how to include public oversight of the use of the powers.

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.

⁶ Website research carried out in June 2015.

Grounds for recommendation 8

In 2013, we carried out a survey of people who had been stopped and searched⁷. 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 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.⁸

Findings in respect of South Wales Police regarding recommendation 8

South Wales Police did not actively gather information about dissatisfaction relating to stop and search encounters; rather it considered the number of formal complaints made as an indication of how satisfied or dissatisfied people felt at being stopped and searched. Our national 2013 survey results suggest that very few are likely to make a complaint and we recommended that forces must take the initiative and put in place proactive measures to seek the views of people stopped and searched.

While there was generic information on the force's website about making a complaint, the force did not publish anything which related specifically to making a complaint or registering dissatisfaction about the use of stop and search powers. The force published a stop and search enquiry form on its website. However, this was merely a form for people who had been stopped and searched to request a copy of the record. It was also difficult to find on the website.⁹

The receipt provided to people who have been stopped and searched included information on how to request a copy of the record but did not provide any information on how to complain or feed dissatisfaction back to the force. This was a missed opportunity.

We found that South Wales Police had not carried out analysis of complaints made as a result of stop and search encounters because of the low numbers of complaints it records as breaching Code A. It did however have a process where the professional standards department reviewed all complaints that originated from stop and search encounters.

⁷ *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

⁸ *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

⁹ Website research carried out in June 2015.

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. We were concerned to hear, even from very senior officers, that the low number of complaints made (eight complaints recorded as breach of Code A in one year) meant that the powers were used in a fair, proportionate and necessary way.

It is a concern that South Wales Police, similar to other 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 in order that it can be used to improve practice.

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 South Wales 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 South Wales Police regarding recommendation 10

We were encouraged to find that South Wales Police had ensured that all stop and search encounters were recorded on a mobile data terminal, automatically creating an immediate electronic record. This approach has benefits in that the record is transferred to the computer system immediately and can be viewed by the staff in the intelligence unit.

However, we were concerned that the electronic recording method did not provide an opportunity for supervisors to check the record and, due to connectivity problems, did not always provide accurate data. The force reported that up to 30 percent of data from the mobile data terminals may be inaccurate. These, and other issues associated with the use of the mobile data terminals, had been recognised by the force. As a result, at the time of our inspection, the force was in the process of conducting a large project aimed at drawing together all of the force data systems with a new mobile data terminal. This was expected by the force to provide sufficiently comprehensive and accurate information and data about the force's use of stop and search powers. This is likely to help the force by providing information with which it can not only determine if the use of the powers is effective and fair, but also inform the public of how the powers are used.

Conclusions for Part 1

At the time of our inspection, South Wales Police had recently reviewed its stop and search policy and had very recently re-introduced it. However, while the policy provided guidance to officers on the procedures to be adopted when using the powers and that they should be used 'lawfully, fairly, responsibly, with respect for people, without unlawful discrimination and in line with legislative requirements', the policy did not define effective and fair use of the powers and offered no particular guidance to officers on how they could conduct stop and search encounters effectively and fairly.

It is encouraging that the force records a variety of outcomes resulting from stop and search encounters which could help it to assess if the powers are being used effectively and fairly. However, the inability to link an arrest to the finding of the item searched for, or some other prohibited item, means the force was not able fully to assess effectiveness or fairness.

In monitoring the use of the powers, the force used a range of data but it was concerning that it considers arrests as positive, irrespective of whether they are linked to the finding of an item.

Supervision of stop and search encounters was found to be minimal and supervision of stop and search records non-existent. The force is in the process of changing its recording methods which may assist with supervision. However, until that time, the force needs to ensure that records are supervised properly.

The force had made efforts to improve officers' training through an electronic computer package, which almost all officers had completed. The force was in the process of providing behavioural detection and unconscious bias training but in respect of face-to-face training on the use of stop and search powers, the force preferred to wait until the College of Policing's national training package becomes available.

We were concerned that the force did not publish any information about the use of stop and search powers on its website. Much more needs to be done to provide comprehensive, meaningful and accessible information and data to the public.

The force ensured that the use of the powers was scrutinised by members of the local community through the community cohesion groups; one in each local policing area. However, the force did not ensure that stop and search records were scrutinised by community representatives.

It was disappointing to find that the force had not proactively sought information about dissatisfaction or developed ways for people to feed back if they felt dissatisfied about their stop and search encounter so that the way officers use stop and search powers could be improved. Instead, there was a reliance on low complaint numbers, which the force wrongly viewed as evidence that all stop and search encounters were carried out fairly and proportionately.

However, it was encouraging that the force had invested in technology, in the form of mobile data terminals, assisting its officers to record more easily the use of stop and search powers, and helping the force to determine if they are used effectively and fairly. It was also encouraging that, having identified some issues with the technology, the force was actively seeking better technological solutions.

Part 2 - How effectively and fairly does South Wales 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 place¹⁰.

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”¹¹

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice¹², 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.

¹⁰ *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

¹¹ *Road Traffic Act 1988* s.163, www.legislation.gov.uk/ukpga/1988/52/section/163

¹² *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

Findings in respect of South Wales Police regarding the use of section 163 of the Road Traffic Act 1988

While some work had been undertaken to understand how well officers used powers of stop and search, much less had been done to understand how well they used the Road Traffic Act power to stop vehicles.

The force did not have a policy on the use of the Road Traffic Act power and officers were not required to record their use of the power. This is not to say that individual officers never record these encounters. From our interviews with officers, we found that in addition to those stops that were not recorded, the use of this power was sometimes recorded in a pocket notebook, on a fixed penalty notice where one was issued or on the Police National Computer if the officer had conducted a check of the person or vehicle concerned. However, we found that, on those occasions when a stop was recorded, it was done so in an ad hoc manner and not according to any particular system that might allow effective oversight of the use of the power.

Due to the absence of recording requirements, supervision of the use of the power did not take place and the force is not able to carry out work to understand if the power is used effectively and fairly, or how the use of the power affects public trust. Like the vast majority of forces, South Wales Police had not designated a senior manager to oversee the use of the power.

However, some training on the use of the power is provided to officers on initial recruitment and further training, including guidance on how to use the power fairly, is provided for officers who specialise in policing roads.

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 access¹³. It also allows forces to designate PCSOs with the power to seize tobacco from any person under the age of 16 who they find smoking in a public place¹⁴. 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 them¹⁵. 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.

Findings in respect of South Wales Police regarding the use of powers under the Police Reform Act 2002

We found that the chief constable and police and crime commissioner jointly had made a decision not to designate their PCSOs with the power to stop and seize either alcohol or tobacco. The decision was made to ensure that PCSOs could concentrate on their core role of engaging with the public. Therefore, the force did not have a policy relating to the seizure of alcohol and the seizure of tobacco.

All PCSOs we spoke to were fully aware of their lack of powers in respect of seizing alcohol and tobacco and all were supportive of the approach, informing us that they felt their relationship with the public would be adversely affected if they were to search for and seize alcohol and tobacco.

¹³ 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

¹⁴ 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

¹⁵ 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

Conclusions for Part 2

In Part 2 of this inspection, we found that South Wales Police's PCSOs did not use the Police Reform Act powers to seize alcohol and tobacco following a policy decision by the chief constable and police & crime commissioner.

Due to the absence of records, we were unable to assess how effectively and fairly officers in the force use the Road Traffic Act power to stop vehicles.

Also, unlike the situation with stop and search, the force did not have policies that guide officers on how to use the Road Traffic Act power.

The absence of reliable data about the use of the Road Traffic Act power means that the force cannot demonstrate 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?'¹⁶, we made recommendations to all forces in respect of the use of these powers.

¹⁶ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectorates.gov.uk/hmic

Part 3 - Searches involving 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 A¹⁷ 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).”¹⁸
- “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.”¹⁹

¹⁷ *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

¹⁸ *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 3.5, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

¹⁹ *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 3.6, 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).²⁰

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.²¹ However it does not give any further guidance on how this should be conducted.

Findings in respect of South Wales Police regarding stop and search encounters requiring the removal of more than outer coat, jacket or gloves

While, in common with most other forces, South Wales Police had a specific policy regarding the use of stop and search powers, it did not provide guidance about 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 in which intimate body parts are exposed).

We were disappointed to find that officers did not record whether each stop and search encounter involved the removal of more than outer coat, jacket or gloves. When asked to provide information about such searches, the force was unable to tell us how many had been carried out.

²⁰ *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, 3.7, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf.

²¹ *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 on recording, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf.

Consequently, the force was not able to establish how often officers conduct these more intrusive searches on the street and is not able to report how many, where and under what conditions strip searches were conducted. However, the force intends that the new mobile data terminals, when introduced, will include the facility to record details of stop and search encounters involving the removal of more than outer coat, jacket or gloves.

As a result of a lack of guidance on this subject, we found general confusion among officers as to what they are required to do, and record, when they conduct a search which requires the removal of more than outer coat jacket or gloves, particularly in respect of such searches that involved the exposure of intimate body parts. In the main, officers we spoke to indicated that such searches would be carried out in a police station, in a side room of a custody centre, but not supervised by the custody sergeant. While there is a facility on the stop and search record to record additional information in which details of the removal of clothing could be included, no such direction or guidance had been given to officers.

Therefore, senior officers had no knowledge or oversight of the more intrusive searches conducted by their officers. It is worrying to us that the leaders of officers using stop and search powers do not know, as a matter of course, how frequently their officers are conducting, or have conducted, more intrusive searches, including strip searches.

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.

We were disappointed that South Wales Police was not able to identify those stop and search encounters that involved the removal of more than outer coat, jacket or gloves.

We would expect the level of scrutiny that takes place on stop and search encounters to increase in line with the level of intrusion. However, this is not the case in South Wales Police. The force carried out no greater scrutiny of these very intrusive searches than it carried out for searches that did not involve the removal of such clothing.

The current lack of additional scrutiny of these types of stop and search encounters does not allow the force to ensure that individual's rights are not being severely breached. It also does not provide the force with any ability to identify officers who may require additional training, advice or discipline.

We are concerned that officers had not been provided with guidance on those encounters that require the removal of more than outer coat, jacket or gloves.

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 gloves²².

²² *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectorates.gov.uk/hmic