

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

An inspection of Hertfordshire Constabulary

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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. Hertfordshire Constabulary 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 Hertfordshire Constabulary 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 Hertfordshire Constabulary 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.

Part1- 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 Hertfordshire Constabulary 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 Hertfordshire Constabulary 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.

We found that Hertfordshire Constabulary, while not having a formal policy, had a standard operating procedure which provided guidance to officers on the use of stop and search powers. Additionally, it also had a policy specifically providing guidance relating to stop and search encounters carried out under section 60 of the Criminal Justice and Public Order Act 1994. This allows officers, under certain circumstances, to stop and search any person in a specified area without the reasonable grounds to suspect possession of a prohibited item, required by Code A.

While the standard operating procedure included guidance on how officers should conduct stop and search encounters, it did not include a definition of what

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

constituted an effective and fair use of stop and search powers. However, it included a copy of the assistant chief constable's recent reminder to officers:

- that there are no individual numerical stop and search targets;
- of the importance of the outcome of the search;
- of the need for stops to be intelligence led;
- that the powers should be used against those engaged in serious criminality;
- of the expectation that a greater proportion of stop and search encounters should be for acquisitive crime and weapons rather than low level drugs possession;
- that searches should be focused on the priorities highlighted in the force's operational policing plan; and
- that stop and search powers are invasive and should always be conducted with strict reference to PACE Code A and with the highest standards of ethics and integrity.

There is not yet a national definition of what makes the use of stop and search powers effective and fair within the Authorised Professional Practice - the purpose of this recommendation. Despite this, and similar to most forces, Hertfordshire Constabulary reported that it had conducted work within the past three years to determine the extent to which the use of stop and search powers were effective and fair.

In the absence of a nationally agreed definition, forces' interpretations vary when defining what effective means in relation to stop and search encounters.

Hertfordshire Constabulary recorded the following outcomes from the use of stop and search powers:

- the item searched for was found;
- another prohibited item was found;
- an arrest was made;
- a caution was issued;
- a khat or cannabis warning was issued;
- a fixed penalty notice for a traffic offence was issued;
- a PND (Penalty Notice for Disorder) was issued;
- the person was reported for summons;

- restorative justice resolution;
- the person was reported for a traffic offence; and
- no further action was taken or a warning issued.

Recording such a range of outcomes means that the force is able to 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 (for instance, an arrest for disorderly conduct or an arrest because the person was already wanted for another offence). This allows the force to analyse the information it receives from stop and search encounters to determine if they are effective and fair.

However, the force considers that a successful outcome includes issuing a person stopped and searched with either a fixed penalty notice for disorder or a fixed penalty notice for a traffic offence. This may mean that the force inflates what it considers to be its successful outcomes where such notices are issued in circumstances where no prohibited item, suspected or not, has been found.

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 Hertfordshire Constabulary regarding recommendation 2

The force reported that it monitored the ethnicity, age, gender and name of people stopped and searched to determine proportionality. It also reviewed the officers who conduct the highest numbers of stops to check their actions are fair and proportionate.

The force has reported that it has made some good progress in ensuring that stop and search records are completed fully. For instance, from 1 April 2012 to 31 March 2014, it reported that the ratio of records that did not include an explanation of the grounds for the search reduced substantially to 0.01 percent.

Hertfordshire Constabulary reported that it audits the use of stop and search powers and that that includes audits of legal compliance, proportionality and effectiveness. The audit data indicate that audits are limited to:

- identifying the completeness of individual records;
- the proportion of black and minority ethnic people compared to white people stopped and searched;
- the likelihood of people from different ethnicities being stopped and searched; and
- the percentage of encounters that result in an arrest or positive outcome. However, this includes all arrests and it is not clear what outcomes are included within 'positive outcome'.

We found that Hertfordshire Constabulary had developed a set of actions to carry out as a result of HMIC's 2013 inspection on the use of stop and search powers. The force had also set up a strategic stop search board to review that action plan. The board meets quarterly and is chaired by the assistant chief constable.

Scrutiny of stop and search encounters is conducted by the strategic policing board and operational policing board. We also found that the force lead on the use of stop and search powers, a superintendent, conducts a review of a sample of stop and search records and reports any good or bad examples to local managers to follow up with officers.

When we spoke to officers, we found that some were nervous about using stop and search powers, fearing the consequences of making a mistake. Local senior managers had sought to clarify the force position by making expectations clear and explaining that misuse or unsuccessful use of the powers might lead to a retraction of the powers or misconduct procedures for those affected. However, this has potentially created a climate where some officers are reluctant to use the powers for fear of making mistakes. Officers told us they believe that this explains the reduction

in stop and search encounters from just over 24,000 in 2012/13 to just over 21,000 in 2013/14. The adverse effect of these messages has been countered by an assistant chief constable who wrote to all inspectors, sergeants and constables setting out and clarifying the force's expectations.

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.

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

Findings in respect of Hertfordshire Constabulary regarding recommendation 3

Similar to the vast majority of forces, Hertfordshire Constabulary requires supervisors to endorse the stop and search record. The force reported that the record must be endorsed by a supervisor within 72 hours of the encounter. If a record has not been endorsed by a supervisor in that time, it is brought to the attention of a chief inspector to follow up.

Hertfordshire Constabulary reported that it had introduced a process whereby an inspector monitors stop and search records daily to ensure they have been endorsed by a supervisor. In addition, the force reports that sergeants have been given guidance on how to supervise the records with specific reference to the lawfulness of the search in terms of compliance with Code A. This process of monitoring the supervision of records highlighted a deficiency in the quality of scrutiny by supervisors. The force reported that this had been addressed and improvements in supervision rates and the quality of the recorded grounds were evident.

This approach has been successful; in January 2015, 91.8 percent of records had been endorsed by a supervisor compared to just 41 percent in October 2014.

Similarly, the drive to ensure completeness of records has resulted in a substantial reduction in missing data.

As in 2013, HMIC focus groups with supervisors and constables both revealed that supervisors rarely observed their officers carrying out stop and search encounters. In most cases, supervisors are sitting at a computer rather than patrolling with officers and observing how they carry out their duties.

As with other forces we visited, supervisors we spoke to told us that they were able only infrequently to supervise their staff carrying out stop and search encounters. Constables we spoke to supported this. However, the supervision of the records was seen by both sergeants and constables as strong, with feedback to individual officers on good and bad records.

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 Hertfordshire Constabulary 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 have sought to improve the training of their officers on the use of stop and search powers. However, while Hertfordshire Constabulary reported that it had provided training to constables and sergeants in respect of stop and search powers, including some face to face inputs, this was limited to guidance in respect of the Home Office's Best Use of Stop and Scheme and predominantly involved the powers under section 60 of the Criminal Justice and Public Order Act 1994. No other training had been provided.

The force had decided to delay the provision of formal training until after the College of Policing had developed a national training package; this was not due to be made available until 2016.

The force had provided guidance to officers in the form of ad hoc circulations from a variety of sources. However, some of the officers we spoke to saw these as somewhat contradictory and confusing. For instance, messages from senior managers about the likelihood of misconduct proceedings where stop and search records are not completed properly were seen as contradicted by the assistant chief constable's circulation about expectations. Some officers told us that they were becoming increasingly confused about the meaning of 'reasonable grounds', with some suggesting that they only use stop and search powers when they are 'certain' that a person has a prohibited item. This has the potential to lead to officers deciding not to use their powers in circumstances where they should be used, potentially resulting in an adverse impact on the force's ability to fight crime. Many officers said they would welcome clear and unequivocal guidance and 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 Hertfordshire Constabulary regarding recommendation 6

Similar to the vast majority of forces, Hertfordshire Constabulary reported that the details of stop and search encounters were not recorded automatically onto the intelligence database. However, the electronic intelligence system is capable of automatically retrieving detail from the stop and search database in relation to the locations, subjects and outcomes of stop and search encounters.

The stop and search record used by the force included fields for officers to record a detailed description of the person being stopped and searched but did not include a specific field for officers to record any intelligence gleaned from the encounter.

The force relied on officers submitting a separate intelligence report with details of intelligence gleaned. The gathering of intelligence and prompt submission of it is left entirely to the discretion of the officer who carried out the search.

In relation to analysis, similar to about a half of forces, Hertfordshire Constabulary reported that it mapped the locations of stop and search encounters and also considered them alongside the locations of reported crime to help it understand how best to prevent crime.

The force is working on a technological solution in the form of a mobile data terminal which would allow immediate and automatic input of stop and search data to the stop and search database as well as an immediate and automatic intelligence submission to the intelligence unit.

We were pleased to find a clear encouragement to officers from senior leaders to gather and submit intelligence at every opportunity, and the stop and search record has a useful field in which to record a full description of the person and clothing worn; this is potentially valuable intelligence. Encouragingly, we found that the force had carried out some innovative analysis of intelligence reports and stop and search records submitted on people known to be active criminals to identify if intelligence was being gathered and submitted. The analysis identified that valuable intelligence had been submitted on the vast majority of occasions.

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 Hertfordshire Constabulary regarding recommendation 7

Similar to over half of all forces, Hertfordshire Constabulary publishes information to the public which would help to explain the use of stop and search powers in its area. The information published is:

- the total number of stop and search encounters carried out since the adoption of the Home Office's Best Use of Stop and Search Scheme in August 2014 broken down by number of arrests, no further action and other positive outcome;
- an explanation of the Home Office's Best Use of Stop and Search Scheme;
- answers to frequently asked questions;
- searches carried out under section 60 Criminal Justice and Public Order Act;
- an explanation of how to make a complaint; and
- an explanation of how to request a stop and search record.

No information on force policy or what Hertfordshire Constabulary considered to be an effective and fair stop and search encounter was published. Similarly, no information was published in relation to ethnicity, gender or age of people stopped and searched, and no information on the locations of stop and search encounters.

The force reported that it had agreed with the police and crime commissioner that responsibility for public scrutiny of the use of stop and search powers should be held by the police and crime commissioner and, to that end, work is underway to set up public scrutiny committees. The intention is to include members of the public, including young people, to sit on the committees and, among other functions, oversee the force's use of stop and search powers. However, at the time of the inspection, the force did not ensure that at least some stop and search records are scrutinised by the public.

In line with the Home Office's Best Use of Stop and Search Scheme, Hertfordshire Constabulary provided opportunities for members of the public to accompany and observe police officers on patrol when they might use stop and search powers. However, it is recognised that, during any given patrol period, officers may not conduct a stop search encounter.

Similar to all forces, Hertfordshire Constabulary reported that it had carried out work to understand how the use of stop and search powers affects public trust. A number of approaches had been taken including, for example, in one local area a letter which was sent to every person subject to a stop search encounter inviting each of them to contact their local neighbourhood inspector if they had any concerns over the quality of the stop and search encounter. No responses were received. A further example

was an assessment of the impact on different communities of recording more information on each record than the legal minimum requirement, resulting in increased efforts to obtain more information from young people in relation to their thoughts on the use of stop and search powers. Also the force reported that it had developed an online survey to gather the views of people stopped and searched. The force plans to use new technology currently under development, to email the survey direct to those people.

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 searched⁵. 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.⁶

Findings in respect of Hertfordshire Constabulary regarding recommendation 8

Hertfordshire Constabulary reported that it did not actively gather information about dissatisfaction related to stop and search encounters; rather, the force relies on people to take the initiative and volunteer information. 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 the views of people stopped and searched. The force has however, as discussed under recommendation 7, made steps to understand how stop and search affects public trust and they are developing new surveys to assist in this area

⁵ *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, 2013, www.justiceinspectrates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

⁶ *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

The force also has plans to provide a link on the force website encouraging people to feed back any dissatisfaction direct to the public scrutiny group currently being convened.

The force website includes an explanation of how people can complain about their experience of being stopped and searched but offers no encouragement to people to feed back any dissatisfaction without making a formal complaint.

Hertfordshire Constabulary 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. 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 likely to be used to categorise complaints from stop and search encounters as these are often the behaviours that give rise to the complaint.

We found that Hertfordshire Constabulary had not conducted any analysis to identify if any complaints arising from stop and search encounters had been recorded under categories other than breach of Code A. It is important that scanning is conducted which includes the categories listed above to ensure that all complaints arising from stop and search encounters are identified.

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 Hertfordshire Constabulary.

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 Hertfordshire Constabulary regarding recommendation 10

Hertfordshire Constabulary reported that some of its officers record stop and search encounters on mobile data terminals which automatically transfer the details to the stop and search database. The remaining officers use paper forms. However, as part of an ongoing project with two neighbouring forces, an electronic solution is currently being developed with the intention of all officers using it to improve the speed, transparency, and efficiency of data capture about stop search encounters.

The force reported that some stop and search encounters are recorded on body worn video. The force reported that it had attempted to ensure that footage was reviewed but its method had proved too inefficient and the force is exploring better ways to ensure that footage is reviewed for effectiveness, fairness and legal compliance.

Similar to the majority of forces, Hertfordshire Constabulary reported that its custody system includes a field for completion by custody staff to show whether an arrest has resulted from a stop and search encounter and, thereby, help to assess effectiveness of the use of the powers.

Conclusions for Part 1

Hertfordshire Constabulary had made efforts to improve the guidance to its officers in respect of the Home Office Best Use of Stop and Search.

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, but 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 exclude from its view of successful outcomes those that have not directly arisen from the finding of a prohibited item.

The force had invested in strengthening supervision of stop and search encounters with sergeants instructed to review all stop and search records, supported by a regular dip-sample of records conducted by the force lead.

There is a clear encouragement to officers from senior leaders to gather and submit intelligence at every opportunity, and the stop and search record has a useful field in which to record a full description of the person which can be valuable as intelligence. It was encouraging to find that the force had carried out some innovative analysis of intelligence reports and stop and search records submitted on people known to be active criminals and identified that valuable intelligence had been submitted on the vast majority of occasions. 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.

It is acknowledged that the force is working with the police and crime commissioner 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. It is encouraging that the force had attempted several approaches to determine if people felt dissatisfied about their stop and search encounter and, while their work has provided few results thus far, the force should also continue to explore ways to get this information and use it to improve behaviour and public trust.

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 the force has made progress on the recommendations made in 2013; however, there is still more than needs to be done.

Part 2 - How effectively and fairly does Hertfordshire Constabulary 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 place⁷.

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”⁸

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice⁹, 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.

⁷ *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, July 2013, page 18, www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

⁸ *Road Traffic Act 1988* s.163, www.legislation.gov.uk/ukpga/1988/52/section/163

⁹ *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 Hertfordshire Constabulary regarding section 163 of the Road Traffic Act 1988

Hertfordshire Constabulary reported that, while work had been undertaken to understand how well their 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 has a policy on the use of the Road Traffic Act power. However, on examination, the policy, while useful, is merely guidance to police drivers in relation to stopping lone motorists, especially lone female motorists. The guidance arose from an incident involving a lone female motorist, signalled to stop by a person purporting to be a police officer. The guidance also offers advice to lone motorists on how to react when being stopped. Similar to the vast majority of forces, Hertfordshire has no specific policy or guidance on the use of the Road Traffic Act powers.

Officers are not required to record their use of the section 163 power, and no information about its use is collated and reviewed so senior leaders can understand how officers use it.

Due to the absence of recording requirements, supervision of the use of the power does 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.

The force reported that some training is provided to traffic patrol officers and some other uniformed officers and that this included training on how the power can be used effectively and fairly.

In our fieldwork we found that none of the nine forces we visited, including Hertfordshire Constabulary, 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.

However, this is not to say that individual officers never record these encounters. From our interviews with officers, we found 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 in an ad hoc manner and not according to any particular system that might allow effective oversight of the use of the power.

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 access¹⁰. 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 place¹¹. 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 them¹². 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 Hertfordshire Constabulary regarding powers under the Police Reform Act 2002

Hertfordshire Constabulary reported that very little work had been done to understand how effectively and fairly PCSOs used the Police Reform Act powers to search for and seize alcohol and tobacco.

Similar to about a quarter of all forces, Hertfordshire Constabulary reported that it did not have a policy in place for the seizure of alcohol and tobacco under Police Reform Act powers. Neither had a senior manager been designated to oversee the use of the Police Reform Act powers. The force reported that PCSOs receive training on the use of the power which included an input on the effectiveness and fairness of the use. The force reported that it had not provided any guidance to PCSOs on the use of these powers within the preceding 12 months.

Like most forces, Hertfordshire Constabulary reported that it did not record, collect or use information to assess how well its PCSOs used the Police Reform Act powers.

¹⁰ 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

¹¹ 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

¹² 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

Due to the absence of suitable records, no audits of the use of the powers had been undertaken to determine if they were used effectively and fairly.

As with the use of the Road Traffic Act power, this lack of oversight at the senior level of Hertfordshire Constabulary was replicated on the frontline, with no requirement for supervisory oversight of the use of Police Reform Act powers.

Hertfordshire Constabulary was unable to provide us with either the number of times the powers had been used or detail of the outcomes.

Conclusions for Part 2

In Part 2 of this inspection, as a result of the absence of records we were unable to assess how efficiently and fairly officers and PCSOs in Hertfordshire Constabulary use the Road Traffic Act power to stop vehicles, and the Police Reform Act powers to search for and seize alcohol and tobacco.

Also, unlike the situation with stop and search, Hertfordshire Constabulary does not have in place policies that guide officers about how to use the Road Traffic Act power or the Police Reform Act powers effectively and fairly. For both Road Traffic Act and Police Reform Act powers, the force showed 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 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?*¹³, we made recommendations to all forces in respect of the use of these powers.

¹³ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectors.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 A¹⁴ 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).”¹⁵
- “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.”¹⁶

¹⁴ *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

¹⁵ *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

¹⁶ *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).¹⁷

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.¹⁸ However it does not give any further guidance on how this should be conducted.

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

In common with most other forces, Hertfordshire Constabulary reported that it does 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). However, it reported that substantial work had been done to develop a policy in respect of this but that implementation of this had been delayed by the development of mobile data terminal technology.

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 paragraph, 3.7, 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, Notes for Guidance 7, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf.

When asked to provide information about searches conducted involving the removal of more than outer clothing, Hertfordshire Constabulary was unable to provide any information in relation to the number of stop and search encounters that had involved the removal of more than outer coat, jacket or gloves. This is the case for the vast majority of forces. We are not able to report, with any accuracy, how often Hertfordshire Constabulary officers conduct these more intrusive searches on the street, and are not able to report how many strip searches, in total, are conducted.

As a result of the absence of any records in relation to the removal of more than outer coat, jacket or gloves, the force reported that it is not able to determine how many times these searches occur, or at what level of intrusiveness. Neither is it able to determine if the actions of its officers in this regard are effective and fair, or what impact the removal of more than outer coat, jacket or gloves has on public trust.

During our fieldwork, we found that the force had directed that all stop and search encounters involving strip searches must be carried out in a custody suite and authorised by the custody sergeant. However, this was not included in policy and did not appear on the force intranet. Several officers we spoke to were unaware of the directive and some told us they had conducted stop and search encounters involving strip searches in places other than custody suites.

The stop and search record used by officers did not identify if more than outer coat, jacket or gloves were removed during the encounter. Therefore, as the force is not able to establish how many stop and search encounters involved the removal of more than outer coat, jacket or gloves, senior officers are unable to oversee these highly intrusive stop and search encounters to ensure they are conducted effectively and fairly. 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.

HMIC 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 Hertfordshire Constabulary. The force is not able to identify those stop and search encounters that involve the removal of more than outer coat, jacket or gloves and carried out no greater scrutiny of these very intrusive searches than it carries out for searches that do 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 individuals' 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 been provided with no guidance on those stop and search 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 gloves¹⁹.

¹⁹ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectorates.gov.uk/hmic