Policing inspection programme and framework 2021/22 CONSULTATION RESPONSE

26 May 2021

About StopWatch

StopWatch is a coalition of legal experts, academics, citizens and civil liberties campaigners. We aim to address excess and disproportionate stop and search, promote best practice and ensure fair, effective policing for all.

Questions

1. Do these proposed thematic inspections cover those areas that are of most concern to you at the moment?
2. Are there any significant new or emerging problems in policing that HMICFRS should take into account in its inspection activity?
3. How else could HMICFRS adapt the way in which it acquires information to take account of current circumstances and risks to public safety?

Responses

1. **Do these proposed thematic inspections cover those areas that are of most concern to you at the moment?**

Ethnic disproportionality in the criminal justice system and serious youth violence are two of StopWatch's greatest areas of concern, both of which are covered by the proposed thematic inspections.

2. **Are there any significant new or emerging problems in policing that HMICFRS should take into account in its inspection activity?**

We've listed five issues that would benefit from the HMICFRS's attention:

Recording vehicle stops

In the summer of 2020, the cases of former shadow equalities minister Dawn Butler and Team GB athlete Bianca Williams drew particular scrutiny to police practices of vehicle stops. Butler and Williams, both black women, accused the police of institutional racism, suggesting this was the cause of their vehicle stops.

Whilst it is widely suspected that police stop black and Asian people at a higher rate than white people, with recent estimates suggesting that vehicle stops involve black people roughly six times more than their white counterparts (Dodd, V. 2021), there is very limited official data on this as officers still neither have to record why this power was used nor who it was used against. This is despite the fact that traffic stops are thought to be the most used police power. Furthermore, under section 163 of the *Road Traffic Act 1988*, police powers still allow officers to perform vehicular stops without reasonable suspicion. The combination of these factors means that the actions of forces across the country go unchecked on an endemic level.

The Metropolitan (Met) police have proposed implementing a trial scheme for six months, which will require officers to record the location, time of the vehicle stop, ethnic background, sex and age of the driver, and the make and model of the vehicle. However, there is no reason why this scheme should not be put into place immediately and with permanence, a point made at least as long ago as the Macpherson report in 1999. Recording this information and making it publicly available will help hugely to keep police forces accountable, particularly with regards to the racial disproportionality in auxiliary stops.

Issues with searches of individuals with Serious Violence Reduction Orders (SVROs)

Policing research has consistently shown that stop and search rarely serves to reduce crime rates, and to minimal effect when it has. The Home Office's own research has also frequently suggested that higher search rates may have no discernible crime-reducing effects. Stop and search powers do, however, further disenfranchise black and minority ethnic (BAME) communities who already have strained relationships with police forces. A 2020 open letter co-written by StopWatch to Priti Patel stated that: 'Years of policing research tells us that when discretion in the use of police stop and search is increased, racial disparities worsen' (StopWatch, 2020).

The government's new proposal to introduce SVROs in the *Police, Crime, Sentencing and Courts Bill 2021* is the latest example of this problem. The fact that searches of individuals serving SVROs can take place without suspicion further puts BAME people at risk, as – much like with section 60 stops – they are at greater risk of being targeted, compared with White people. It is for this reason we fear that SVROs will have a very limited effect on reducing crime rates, while perpetually criminalising previous offenders; the likelihood of this order having a racially disproportionate impact requires the HMICFRS's utmost attention.

Making body worn camera footage publicly available

With over £22 million being spent across all police forces on body worn cameras (BWCs) by 2017 (Big Brother Watch, 2017), there is a need for police forces to demonstrate their effectiveness, and that officers use them properly. A leaked memo in August 2020 revealed that Scotland Yard decided not to routinely release its own video footage of controversial incidents after internal reviews showed errors by officers (Crisp, W & Dodd, V., 2020). But this is exactly the reason why video footage ought to be routinely released and made

publicly available. A senior Met officer said in the aforementioned leaked memo that this body camera footage showed 'poor communication, a lack of patience, [and] a lack of de-escalation before use of force is introduced'. StopWatch suggested that if the footage was released, it would put on display the 'behaviours that black communities have been speaking about for generations, which is lack of professionalism, rudeness, excessive use of force.' Not releasing this footage will likely worsen the mistrust felt between BAME communities and police forces, as it suggests that the police are hiding their behaviour for fear of being held accountable for their actions by the public.

There ought to be a clear and publicly available methodology for looking at recorded stop and search footage. An effective way of doing this would be to dip sample BWC footage which could then be compared with video footage taken by bystanders of the same incident that appears in the public domain. This would ensure a better-rounded view of recorded stop and search incidents. If police forces were to make body worn footage publicly available too, then it could demonstrate to the British public the impact and usefulness of BWCs, which in turn would help forces to use their technology more effectively.

Improving access to police 'Matrix' databases

Whilst there have been some efforts to reduce the prevalence of the Gangs Matrix, any measures short of its abolishment are insufficient. Such databases should not exist in our view.

But for as long as these databases continue to operate, they must be open to scrutiny outside of policing authorities, both for data protection and human rights purposes and for identifying the appearance of any racial disproportionalities produced.

The College of Policing and the National Police Chiefs' Council should, on the advice of the Information Commissioner's Office, issue clear and publicly accessible guidance to all forces stipulating the legally required data protection and information management processes. This could mean, for instance, that the Met could: officially inform all those on the London Matrix of their 'gang nominal' status and other personal data kept on them; what steps they can take to be removed from the database; and how they can access the data to amend any inaccuracies, while an anonymised version of the database is made publicly available for scrutiny by organisations like ours.

Ultimately, Stopwatch calls on the government and all stakeholders to move away from policing practices that discriminate against, criminalise and exclude vulnerable young people who are at risk of harm and invest in a public health approach to community safety.

Ensuring facial recognition technologies meet public sector equality duty standards

In August 2020, South Wales Police's use of facial recognition was found by a Court of Appeal to be unlawful because it did not take reasonable measures to ensure there was no gender or racial bias. There is already plenty of evidence that shows black people and women run

the most risk of being misidentified, with some studies finding that minorities are almost 100 times more likely to be misidentified than white men (Cushing, 2018).

Facial recognition is a mass surveillance method that has rapidly expanded the UK's surveillance state. Big Brother Watch stated that the use of facial recognition 'inverts the vital democratic method of suspicion preceding surveillance, treating entire populations like suspects' (Big Brother Watch, 2020). There is great concern that facial recognition threatens human rights, including the right to privacy. The Council of Europe have argued that facial recognition technology should be banned outright. Liberty and Dr Bridges' successful challenge of South Wales Police's use of facial recognition suggests that public sector equality duty standards must be met in order for the tech to be used properly (StopWatch, 2020). At the very least, the use of facial recognition by police forces should be put on pause until it meets satisfactory equality duty standards, as argued for by the House of Commons Science and Technology Committee (2019).

3. **How else could HMICFRS adapt the way in which it acquires information to take account of current circumstances and risks to public safety?**

HMICFRS needs to engage more directly with civil society groups and grassroots organisations in order to provide recommendations that are sensitive to the harms faced by overpoliced communities.

They also need to liaise with more civil society and criminal justice policy experts outside of policing bodies. We believe that tapping into a broader well of expertise will help provide HMICFRS gain a fuller perspective for their inspection findings.

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