

**To:** Joint Audit Committee  
**From:** Organisational Improvement Centre – Governance & Organisational Learning  
**Date:** April 2021  
**Subject:** Overview of HMICFRS publications – January 2021 to March 2021

**Purpose:**

The purpose of this paper is to provide an overview of inspection reports published by HMICFRS between January 2021 and March 2021.

**Overview of HMICFRS publications:**

**1. Impact of the pandemic on the Criminal Justice System**

- 1.1 On 19<sup>th</sup> January 2021, HMICFRS published a joint inspection report “[Impact of the pandemic on the Criminal Justice System](#)”.
- 1.2 The report sets out a cross-system view of how the Covid19 pandemic has affected the work of the police, prosecutors, prisons, probation and youth offending teams. It highlights the successes, the challenges and the continuing impact the CJS faces. The inspection evidence establishes that there remain very significant strains on the CJS.
- 1.3 The report includes risks facing the CJS as it continues to respond to and recover from the pandemic. Most significant is the growing backlog of cases in the courts and the consequential effect this has on other agencies.
- 1.4 The findings have been shared with the Assistant Chief Constable and staff involved in Covid19 recovery and learning to consider and review the cumulative impact of these changes on the police service, and CJS as a whole.

**2. An inspection of the effectiveness of the Regional Organised Crime Units**

- 2.1 On 10<sup>th</sup> February 2021, HMICFRS published “[An inspection of the effectiveness of the Regional Organised Crime Units](#)”.
- 2.2 In this inspection, HMICFRS examined how effectively and efficiently the Regional Organised Crime Units (ROCU) tackle the threat from serious and organised crime (SOC). They wanted to see how well ROCUs led the response to SOC while working with local police forces and other law enforcement agencies. HMICFRS inspected seven ROCUs, including Eastern Region. They found evidence of some good work, but also found inconsistencies in the resourcing, leadership and operation of ROCUs. Their major finding is the lack of a clear and sustainable funding model.

- 2.3 HMICFRS made 6 recommendations and raised one cause of concern to further improve the effectiveness of the ROCU network.
- 2.4 Recommendation 1: By March 2021, the Home Office should consider what changes to legislation can be made to allow the NCA to formally task ROCUs.
- 2.5 Recommendation 2: By February 2023, the National Police Chiefs' Council (NPCC) lead for SOC, with the Home Office, should devise a technical solution to make exchanging sensitive intelligence between organisations more efficient, and then encourage its adoption and adherence by all relevant forces and the NCA.
- 2.6 Recommendation 3: By February 2022, chief officers responsible for SOC in each region, with the chief officers of the affected forces, should make sure that systems are in place for senior investigating officers (SIOs) and lead responsible officers (LROs) to work effectively together.
- 2.7 Recommendation 4: By February 2022, the chief constable with the lead for SOC in each region, with the chief officers of the affected forces, should ensure that a chief officer is appointed with responsibility for each ROCU, as far as practicable working autonomously of force responsibilities.
- 2.8 Recommendation 5: By August 2021, the NPCC lead for ROCUs, with the NPCC lead for counter corruption, should publish an anti-corruption strategy for ROCUs and then encourage its adoption and adherence by all relevant forces.
- 2.9 Recommendation 6: By February 2022, the NPCC lead for SOC should design a national function that can make sure ROCUs operate in a co-ordinated and consistent way across England and Wales; the Home Office and other relevant interested parties should adopt the arrangements so devised and provide the necessary resources to ensure their successful operation.
- 2.10 Cause for concern: By February 2022, the Home Office should lead work with the NPCC and the Association of Police and Crime Commissioners (APCC) to identify a sustainable funding model for ROCUs that: 1) provides long term clarity and certainty to the financial position of the ROCUs, to allow for future business planning and more financial stability; and 2) enables ROCUs to lead the response to SOC in their region.
- 2.11 Progress against these recommendations will be tracked via the Constabulary's Business Assurance Meeting.

### **3. Disproportionate use of police powers: A spotlight on stop and search and the use of force**

- 3.1 On 26<sup>th</sup> February 2021, HMICFRS published "[Disproportionate use of police powers: A spotlight on stop and search and the use of force](#)".
- 3.2 The report examines disproportionality in stop and search, and the use of force, and the impact police interaction can have on some people, particularly those from Black, Asian and Minority Ethnic backgrounds. It draws on various sources of information: published national and force-level data on stop and search and the use of force; the findings of the 2018/19

PEEL inspections; and the results of a review of a representative sample of stop and search records from 2019.

- 3.3 The findings are grouped under 3 broad headings: 1) How well forces equip their officers and staff to interact effectively and fairly with the public, and how well forces learn from reviewing the body-worn footage of those interactions; 2) Disproportionality in the way force is used on people; and 3) Disproportionality in the way stop and search powers are exercised. Overall, HMICFRS found that forces should do more to ensure they identify disproportionality, understand the reasons for it, take action to reduce it where required, and explain those reasons and actions to the public to evidence that their use of the powers is fair, lawful and appropriate.
- 3.4 As a result of the findings, HMICFRS made 8 recommendations.
- 3.5 Recommendation 1: By July 2022, forces should ensure that officers and staff have effective communication skills, in line with the National Policing Guidelines on Conflict Management. This should be in addition to existing training on conflict management and de-escalation.
- 3.6 Recommendation 2: By July 2021, forces should ensure that communication skills are reinforced as part of the programme of continuing professional development for officers and staff, and that supervisors are supported to routinely and frequently debrief officers on these skills using body-worn video footage.
- 3.7 Recommendation 3: By September 2021, forces should: 1) ensure that officers record on body-worn video (when this is available) the entirety of all stop and search encounters, including traffic stops and use of force incidents; 2) have a structured process for regularly reviewing and monitoring internally a sufficient sample of body-worn video footage to identify and disseminate learning and hold officers to account when behaviour falls below acceptable standards; and 3) provide external scrutiny panel members with access to samples of body-worn video footage showing stop and search encounters and use of force incidents, taking account of the safeguards in the College of Policing's Authorised Professional Practice.
- 3.8 Recommendation 4: The Home Office and the NPCC should take steps to ensure that the quality of the data collected on the number of incidents where force has been used to effect a stop and search is sufficient for publication. The Home Office should publish this data as soon as possible.
- 3.9 Recommendation 5: By July 2021, forces should ensure they have effective internal monitoring processes on the use of force, to help them to identify and understand disproportionate use, explain the reasons and implement any necessary improvement action.
- 3.10 Recommendation 6: By July 2021, forces should ensure they have effective external scrutiny processes in place in relation to the use of force. Forces should take account of feedback and update the scrutiny panel and the community on the action taken.
- 3.11 Recommendation 7: With immediate effect, forces should ensure that all stop and search records include detail of the self-defined ethnicity of the subject. When this information is refused by the subject, the officer-defined ethnicity code should be recorded.

The Constabulary's Stop and Search Procedure states that officers must immediately complete an accurate record for every stop and search. Where the subject refuses to provide their details, the officer should record a full description including the officer-defined ethnicity on the stop and search form. There are some flaws in the data that the force is aware of. This is subject to ongoing scrutiny at both the Force Performance Board and the Ethics, Diversity, Equality and Inclusion Groups to ensure this is addressed.

- 3.12 Recommendation 8: By December 2021, the Home Office should agree, nationally, a minimum standard for monitoring stop and search powers. HMICFRS commits to working on this with the Home Office and other interested parties, such as the College of Policing and the National Police Chiefs' Council.
- 3.13 Progress against these recommendations will be tracked via the Constabulary's Business Assurance Meeting.

#### **4. Getting the balance right? An inspection of how effectively the police deal with protests**

- 4.1 On 11<sup>th</sup> March, HMICFRS published "[Getting the balance right? An inspection of how effectively the police deal with protests](#)".
- 4.2 In September 2020, the Home Secretary commissioned HMICFRS to conduct an inspection into how effectively the police manage protests. This followed several protests by groups including Extinction Rebellion, Black Lives Matter and many others. HMICFRS inspected 10 forces with recent experience of policing protests and consulted a wide range of other bodies, including protest groups and the general public. A number of additional forces also contributed to the inspection, including Cambridgeshire.
- 4.3 The report considers 5 questions: 1) How well do the police manage intelligence about protests? 2) How well do the police plan and prepare their response to protests? 3) How well do the police collaborate in relation to protests? 4) How effective are the decision-making processes and how do they affect the police response to protests? 5) Does the current legislation give the police the powers they need to deal effectively with protests?
- 4.4 Having reviewed the evidence, HMICFRS' conclusion is that the police do not strike the right balance on every occasion. The balance may tip too readily in favour of protestors when the police do not accurately assess the level of disruption caused, or likely to be caused, by a protest.
- 4.5 To help improve, HMICFRS have made 12 recommendations and highlighted a further 4 areas of improvement (AFIs). Some of these are about the law concerning protest, the other recommendations and AFIs are designed to help the police get the balance right.
- 4.6 Recommendation 1: By 30 June 2022, the National Police Chiefs' Council (NPCC), through its National Public Order Public Safety Group and National Protest Working Group, should analyse the results from the national development team trial. In the light of this analysis, the NPCC should secure an appropriate longer-term arrangement for managing the risks presented by aggravated activists.

- 4.7 Recommendation 2: With immediate effect, the National Police Chiefs' Council (NPCC), through its National Public Order Public Safety Group and National Protest Working Group, should closely monitor progress on integrating the management of protest-related covert human intelligence sources with the devolved force model. And, by 30 June 2022, the NPCC should ensure that a post-implementation review is conducted.
- 4.8 Recommendation 3: By 30 June 2022, the College of Policing, through its planned review, should bring the public order authorised professional practice (APP) up to date and make arrangements to keep it current, with more regular revisions as they become necessary. It would also be beneficial to consolidate the APP, protest operational advice and aide memoire into a single source (or a linked series of documents).
- 4.9 Recommendation 4: By 31 December 2021, chief constables should make sure that their legal services teams subscribe to the College of Policing Knowledge Hub's Association of Police Lawyers group.
- 4.10 Recommendation 5: By 31 December 2021, the College of Policing should ensure that all Public Order Public Safety commander and adviser students attending its licensed training are enrolled in the College of Policing Knowledge Hub's Specialist Operational Support – Public Order Public Safety group, before they leave the training event.
- 4.11 Recommendation 6: By 31 December 2021, chief constables should ensure that their forces have sufficiently robust governance arrangements in place to secure consistent, effective debrief processes for protest policing. Such arrangements should ensure that: 1) forces give adequate consideration to debriefing all protest-related policing operations; 2) the extent of any debrief is proportionate to the scale of the operation; 3) a national post-event learning review form is prepared after every debrief; and 4) the form is signed off by a gold commander prior to submission to the National Police Coordination Centre.
- 4.12 Recommendation 7: By 30 June 2022, on behalf of HM Government, the Home Office should lead a joint review of police and local authority powers and practices concerning road closures during protests. This should be done with the support of, and in consultation with, the Department for Transport, the Ministry of Housing, Communities & Local Government, Westminster City Council, the Metropolitan Police, Transport for London and other interested parties. The review should include a comparison of the arrangements in London with those in other parts of England and Wales. Its findings should lead to decisions on whether to: 1) retain, modify or repeal section 52 of the Metropolitan Police Act 1839 and section 21 of the Town Police Clauses Act 1847; and 2) establish new multi-agency arrangements for implementing road closures in London during protests.
- 4.13 Recommendation 8: By 30 June 2022, the National Police Chiefs' Council, working with the College of Policing, should provide additional support to gold commanders to improve the quality of gold strategies for protest policing. This support should include: 1) the creation and operation of a quality assurance process; and/or 2) the provision of more focused continuous professional development. The additional support should ensure that gold commanders for protest operations include an appropriate level of detail within their gold strategies. This may include the levels of disruption or disorder above which enforcement action will be considered.

- 4.14 Recommendation 9: By 30 June 2022, the National Police Coordination Centre should revise the national post-event learning review form so that it contains a section to report on the policing operation's impact on the community.
- 4.15 Recommendation 10: By 30 June 2021, the Home Office should consider laying before Parliament draft legislation (similar to section 11 of the Public Order Act 1986) that makes provision for an obligation on organisers of public assemblies to give the police written notice in advance of such assemblies.
- 4.16 Recommendation 11: By 30 June 2021, the Home Office should consider laying before Parliament draft legislation (similar to section 13 of the Public Order Act 1986) that makes provision for the prohibition of public assemblies.
- 4.17 Recommendation 12: By 30 June 2022, the Home Office, working with the National Police Chiefs' Council and other interested parties, should carry out research into the use of fixed penalty notices for breaches of public health regulations in the course of protests. The research should explore the extent to which recipients complied with the scheme, and any consequential demand on the criminal justice system. The outcome of this research should inform a decision on whether to extend either the penalty notices for disorder scheme or the fixed penalty notice scheme to include further offences commonly committed during protests.
- 4.18 Area for Improvement 1: Forces should improve the quality of the protest-related intelligence they provide to the National Police Coordination Centre's Strategic Intelligence and Briefing team. And this team should ensure that its intelligence collection process is fit for purpose.
- 4.19 Area for Improvement 2: On a national, regional and local basis, the police should develop a stronger rationale for determining the number of commanders, specialist officers and staff needed to police protests.
- 4.20 Area for Improvement 3: The police's use of live facial recognition technology is an area for improvement. The National Police Chiefs' Council should continue to work with the Government and other interested parties. These bodies should develop a robust framework that supports forces, allowing the use of live facial recognition in a way that improves police efficiency and effectiveness while addressing public concerns about the use of such technology. The framework should be designed to help the police satisfy the requirements explained in the Court of Appeal judgment: [2020] EWCA Civ 1058.
- 4.21 Area for Improvement 4: The police's protest-related community impact assessments are an area for improvement, particularly those that need to be completed after the event. These assessments should assist the police to understand fully the impact of protests on communities. They should include assessments of the impact of protest on local residents, visitors to an area, businesses, and the critical infrastructure including transport networks and hospitals.
- 4.22 Progress against these recommendations will be tracked via the Constabulary's Business Assurance Meeting.

## **5. An inspection of the Metropolitan Police Service’s policing of a vigil held in commemoration of Sarah Everard**

- 5.1 On 30<sup>th</sup> March 2021, HMICFRS published “[The Sarah Everard Vigil: An inspection of the Metropolitan Police Service’s policing of a vigil held in commemoration of Sarah Everard on Clapham Common on Saturday 13 March 2021](#)”.
- 5.2 In March 2021, the Home Secretary and the Mayor of London separately commissioned HMICFRS to inspect how the Metropolitan Police Service handled the policing of the vigil in memory of Sarah Everard.
- 5.3 HMICFRS found that an event on Clapham Common could have taken place because the right to protest remains even during the pandemic. However, the Metropolitan Police were justified in adopting the view that the risks of transmitting Covid19 at the vigil were too great to ignore when planning for and policing the event. The inspectorate concluded that, in this case, the Metropolitan Police’s decision to prioritise consistency with their approach to policing other mass gatherings during the Covid19 lockdown was right.
- 5.4 Having reviewed the evidence, the inspectorate found that: 1) police officers at the vigil did their best to peacefully disperse the crowd; 2) police officers remained calm and professional when subjected to abuse; and 3) police officers did not act inappropriately or in a heavy-handed manner. However, HMICFRS did find that there was insufficient communication between police commanders about changing events on the ground, and public confidence in the Metropolitan Police has also suffered as a result of the vigil.
- 5.5 The report has been shared with the Chief Officer Team to consider the findings for the future planning and response to similar events.

### **Recommendations:**

It is recommended that the Joint Audit Committee note the content of this paper.