

**The Criminal Justice Alliance**

**Submission to Home Office (HO) public consultation on revised Police and Criminal Evidence Act (PACE) codes A and C**

**May 2024**

*Since the shocking and avoidable circumstances of Child Q's case came to light, I've made it my mission to make sure no child is subjected to the same kind of humiliation. I welcome the proposals being set out by the government to implement a number of my recommendations to strengthen safeguards when a strip search is carried out, including by notifying parents, which should be an absolute minimum requirement.*

*Searches on children should only be carried out in certain, exceptional situations, and as a last resort with robust protections in place – so it is reassuring to see explicit reference in these proposals to treating children as children, no matter the circumstances. I would urge the government to go even further by restricting the locations where any search can legally be carried out – no child should be subjected to this at school, where they should feel safe and secure among trusted adults.*

*I am also repeating my call for the government to publish annual data on strip searches of children under stop and search powers, as my research found that often the police are not held to account for failing to meet the statutory safeguards that already exist. I am hopeful that these proposals will go some way towards shifting this culture, to bring in clearer standards and more effective oversight on these potentially traumatic powers on often very vulnerable young people.<sup>i</sup>*

**Dame Rachel De Souza, Children's Commissioner for England**

**The Criminal Justice Alliance**

1. The [Criminal Justice Alliance<sup>ii</sup>](#) (CJA) is a network of over 200 organisations and academics working towards a fair and effective criminal justice system. Our policy work in recent years has had a strong emphasis on policing and many of its current challenges such as violence against women and girls, stop and search, victims, and the implementation of the Public Sector Equality Duty.

**Consultation on revised PACE codes A and C**

2. The CJA welcomes the opportunity to respond to these important revisions to PACE codes A and C and their application by police officers to children and vulnerable adults. The statement above from Dame Rachel De Souza, Children's Commissioner for England is one we broadly support. We will make specific responses and suggestions concerning the proposed changes to the codes of practice.
3. However, our submission will address wider aspects and actions that we believe are necessary to accompany these proposed revisions to ensure the culture change Dame Rachel hopes for will happen. Some of these wider proposals have already been stated by the CJA, in our response to HMICFRS' report<sup>iii</sup> on our super-complaint regarding section 60 police powers of stop and search.

**Specific responses to the proposed changes to PACE codes A and C**

4. The CJA in our 2021 report *More harm than good*<sup>iv</sup>, stated our case for our super-complaint to repeal section 60 police powers of stop and search and highlighted the traumatising impact of stop and search powers on children. We welcome that the proposed revisions to PACE code C will clearly state this. As stated below in the Home Offices' letter<sup>v</sup> outlining the proposed amendments.

*Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer's duty to give due regard to safeguarding needs, to take appropriate action to ensure the child's dignity, rights and welfare are primary considerations, and to seek and give due regard to the child's preferences with respect to considerations such as the location of the search and the notification of a parent or guardian.*

5. PACE Code A, para 3.6 and para 3.7 detail where EIP and MTS searches can be carried out. Our position is that the only venues that should be allowed for these searches are the child's home or a police station. With an appropriate adult present on all occasions.
6. The Home Office summary of proposed amendments to PACE Code A and C, has two proposals involving requirements for senior officer notifications/approvals (amendments 6 and 9.) Amendment 9 states that:

*Any search of a child or vulnerable person involving the exposure of intimate parts (EIP), conducted under stop and search powers, must be authorised by an officer of at least the rank of inspector.*

7. However, amendment 6, states the following:

*To notify an officer of the rank of at least superintendent.*

This is clearly contradictory and possibly confusing. Worse still in our opinion it muddies the messages around the seriousness of the use of strip search concerning children.

8. We recommend that the senior position of Superintendent is the officer level for approvals and notifications in all cases involving children and the application of these powers. A failure to do so leaves the impression of diminishing the seriousness of the issue.
9. Amendment 4 of the Home Office summary of proposed amendments to PACE Code A and C states:

*Notifying a parent/guardian of an EIP search and its outcome as soon as practicable, prioritising doing so before the search takes place if practicable.*

We believe practicable is too meanable a term and should be replaced by words to the effect of making these requirements compulsory.

10. As the document stresses, there will be cases where notifying a parent may not be in the child's interest (such as a household where abuse of children or partners has been detected.) Effective measures must be in place for such situations. But in the majority of cases, where it will be deemed safe to do so, it should be mandatory for the parent to be informed and present.

## **Wider context and considerations regarding strip search, children and the wider use of police stop and search powers**

- 11.**The CJA, as previously highlighted, led a super-complaint to HMICFRS, the IOPC, and the College of Policing proposing that section 60 police powers to stop and search should be repealed. This super-complaint came forward from consultations with CJA members working with young people and those impacted by these police powers.
- 12.** HMICFRS' report, the CJA's response to the report and some interviews with young people sharing their experiences can be accessed [here](#). We believe our experience in leading this super-complaint is relevant with regards to the challenges and context around strip search and children.
- 13.** In their response to our super-complaint, HMICFRS found that many forces were not complying with the statutory and agreed voluntary arrangements regarding governance, training and implementation of policy with regards to section 60. HMICFRS press release at the time of the report's launch<sup>vi</sup>.
- 14.** Following the case of Child Q, the Children's Commissioner carried out her own research into the issue<sup>vii</sup>. Her report and her comments on the findings are available on the Children's Commissioners website.
- 15.** What is clear to us at the CJA is that police forces' inability to adhere to statutory requirements and voluntarily agreed frameworks to protect children across stop and search powers is not limited to strip search.

## **HMICFRS and the Office of the Children's Commissioner to review child safeguarding arrangements in relation to police stop and search powers**

- 16.** In our response to HMICFRS' report on our section 60 super-complaint, we proposed that the whole area of police powers of stop and search in relation to children, needs a complete overhaul and that HMICFRS in partnership with the Office of the Children's Commissioner should be tasked to carry out a thematic review of the current arrangements and to make recommendations to government.

*Politicians and the policing establishment must acknowledge and review inadequate child safeguarding protections regarding police stop and search powers. We recommend the Office of the Children's Commissioner and HMICFRS jointly carry out this review which must pay special attention to the intersection of race and child safeguarding.<sup>viii</sup>*

- 17.** We stand by this proposal as in our experience this provides a clear transparent pathway for whole system reform of the current arrangements, which in our opinion provide inadequate protections for children.<sup>ix</sup> It simultaneously leaves police officers and other professionals open to charges of causing trauma and potential abuse of children.
- 18.** This is a wholly unsatisfactory set of circumstances for all parties. As much as we welcome these proposed revisions of the PACE codes in our opinion, they are unlikely to address the over-arching problem. They certainly will not in our opinion result in the culture change that all parties have agreed is necessary.

**Race, serious youth violence, the voice of the child and ensuring data is collected and independently reviewed.**

- 19.** Across the police's use of powers to stop and search, racial disparity and allegations of racial profiling are a constant facet<sup>x</sup>. Any progress in this area must give full attention and due regard to race and the impact of these powers on the communities most disproportionately affected. That should not negate assessing their impact across all communities and wider society.
- 20.** The National Police Chiefs' Council (NPCC) through the work of its race action plan and in establishing its Independent Scrutiny and Oversight Board<sup>xi</sup> within this area can play an active role in making their commitments to creating an anti-racist police force deliver practical results. These commitments need to be supported and delivered.
- 21.** HMICFRS in their report in response to the CJA super-complaint stated that they found no evidence of stop and search's effectiveness in addressing knife crime and serious youth violence. However, it is still promulgated by senior police officers, politicians and media opinion formers as reducing serious youth violence. We raised this point in our recent response to HMICFRS<sup>xii</sup> publishing the responses from statutory bodies whom they had made recommendations in their report on CJA's super-complaint<sup>xiii</sup>.
- 22.** We think it is vital that if stop and search is promoted as the best intervention to address serious youth violence then it must be based on an agreed and credible evidence base. This is particularly pertinent if it is applied to children with all the negative outcomes previously outlined.
- 23.** The CJA concurs with the Children's Commissioner that the rights and safeguarding of the child are paramount. Statutory agencies must give greater consideration and access to the voices of those affected children to be heard. This is critical not just for the child's rights but also for the institutions and professions involved.
- 24.** If we are to learn lessons then building compassion, empathy, and understanding is crucial. The ability of professions and institutions to meaningfully reflect and address these challenges diminishes when those most impacted are not heard. As we have seen in recent cases such as Rochdale<sup>xiv</sup> this can have a huge and prolonged negative impact and facilitate tragic and avoidable results.
- 25.** Finally, we agree with the Children's Commissioner that data collection must be more rigorous and comprehensive. We are also of the opinion that independent scrutiny at national and local levels is essential and must be strengthened.

**Conclusions**

- 26.** We believe only a comprehensive review of the current arrangements to protect children across all police powers of stop and search will address this situation. We repeat our call for government to authorise HMICFRS and The Office of the Children's Commissioner to jointly conduct this much needed inquiry.

## References

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- <sup>i</sup> [Statement from the Children's Commissioner on strengthened strip search proposals | Children's Commissioner for England \(childrenscommissioner.gov.uk\)](#)
- <sup>ii</sup> [Criminal Justice Alliance](#)
- <sup>iii</sup> [The CJA's response to HMICFRS' report on our super-complaint on Section 60 of the Criminal Justice and Public Order Act 1994 | Criminal Justice Alliance](#)
- <sup>iv</sup> [More harm than good | Criminal Justice Alliance](#)
- <sup>v</sup> [PACE Code changes- Letter to Consultees \(003\).pdf](#)
- <sup>vi</sup> [Police must apply safeguards and improve scrutiny to minimise harm when using stop and search - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(justiceinspectrates.gov.uk\)](#)
- <sup>vii</sup> [Strip search of children in England and Wales | Children's Commissioner for England \(childrenscommissioner.gov.uk\)](#)
- <sup>viii</sup> [The CJA's response to HMICFRS' report on our super-complaint on Section 60 of the Criminal Justice and Public Order Act 1994 | Criminal Justice Alliance](#)
- <sup>ix</sup> [Stop and Search, National recommendations - April 2022 | Independent Office for Police Conduct \(IOPC\)](#)
- <sup>x</sup> [The Police Race Action Plan \(npcc.police.uk\)](#)
- <sup>xi</sup> [The Independent Scrutiny & Oversight Board \(policeisob.co.uk\)](#)
- <sup>xii</sup> [CJA response: APCC, NPCC and Home Office accept HMICFRS recommendations following super-complaint investigation | Criminal Justice Alliance](#)
- <sup>xiii</sup> [Responses to the super-complaint from the Criminal Justice Alliance - His Majesty's Inspectorate of Constabulary and Fire & Rescue Services \(justiceinspectrates.gov.uk\)](#)
- <sup>xiv</sup> [Review published into Operation Span and non-recent child sexual exploitation in Rochdale - Greater Manchester Combined Authority \(greatermanchester-ca.gov.uk\)](#)