

<b>Committee(s):</b>	<b>Date(s):</b>
Police Performance and Resource Management Sub Committee	30 <sup>th</sup> June 2015
Audit and Risk Management Committee	20 <sup>th</sup> July 2015
<b>Subject:</b> HMIC Inspection Update	<b>Public</b>
<b>Report of:</b> Commissioner of Police Pol 33/15	<b>For Information</b>

### Summary

This report provides Members with an overview of the City of London Police response to Her Majesty's Inspectorate of Constabulary's (HMIC) continuing programme of inspections and published reports. During the reporting period HMIC has published five reports (three being joint reports with other agencies) and one assessment letter:

- Joint Inspection of the investigation and prosecution of fatal road traffic collisions;
- Welfare of vulnerable people in police custody;
- Stop and search powers 2: are police using them effectively and fairly;
- Joint Review of Disability Hate Crime follow-up;
- Joint Inspection of the Provision of Charging Decisions; and
- Phase 1 assessment of preparedness to protect victims of so-called Honour Based Violence (HBV), Forced Marriage (FM) and Female Genital Mutilation (FGM).

All five reports are national reports and the City of London Police was not inspected, however, the Force did provide data which has informed three of the five reports' findings (not the Joint Review of Disability Hate Crime follow up or Provision of Charging Decisions reports).

The assessment letter is City of London specific and is based on a desktop inspection (i.e. HMIC did not visit the Force to interview staff or check systems).

This report is supported by Appendix A which provides details of progress against all outstanding HMIC recommendations.

### Recommendation

Members are asked to receive this report and note its contents.

## **Main Report**

1. This report provides Members with an overview of the City of London Police response to Her Majesty's Inspectorate of Constabulary's (HMIC) continuing programme of inspections and published reports. During the reporting period, HMIC, either alone or with other agencies, has published five reports: Joint Inspection of the investigation and prosecution of fatal road traffic collisions (4<sup>th</sup> February 2015); Welfare of vulnerable people in police custody (10<sup>th</sup> March 2015); Stop and Search Powers 2: are the police using them effectively and fairly (24<sup>th</sup> March 2015); Joint Review of Disability Hate Crime follow-up (21<sup>st</sup> May 2015); and the Joint Inspection of the Provisions of Charging Decisions (28<sup>th</sup> May 2015).
2. All five reports are national reports and do not refer specifically to the City of London Police. No fieldwork took place in the City of London for any of the inspections; however, the Force did provide data submissions to HMIC which have informed three of the five reports' findings.
3. On 15<sup>th</sup> May 2015, HMIC wrote to the Force with its draft assessment of the Force's preparedness to protect victims of so called Honour Based Violence (HBV) following a desk top inspection of all 43 police forces.
4. Appendix A to this report provides an overview of progress against all outstanding HMIC recommendations.

### **Joint Inspection of the investigation and prosecution of fatal road traffic incidents**

5. This report, published on 4<sup>th</sup> February 2015, follows a joint thematic inspection by HMIC and the Crown Prosecution Service. Only six forces and CPS areas were inspected, however, all police forces provided data submissions that informed the final report.
6. The inspection had a very broad scope, however, in terms of its application to the police service, its main purpose was to assess the impact of new offences, including causing death by careless driving, measure the quality of service provided to bereaved families (including engagement with victim groups), examine local and regional arrangements between the police and CPS in terms of service level agreements and to identify areas of good practice or innovation.
7. The report's principal findings relevant to the police were:
  - i. Although structures within the six forces varied considerably, they all operated with a core of investigating officers, family liaison officers and forensic collision investigators. The report notes that all shared the characteristics of passion and commitment to the work they were asked to do.

- ii. There were inappropriate levels of variation to those called to be the first response at the scene of a fatal road traffic incident, with officers inexperienced in roads policing being despatched to a scene because they geographically closest.
  - iii. They found forces were not making use of the College of Policing's bespoke training package that includes the investigation of roads deaths.
  - iv. There were generally poor levels of robust quality assurance by supervisors of investigations.
  - v. The dedication, commitment and professionalism of family liaison officers was found to be impressive although their use by forces was occasionally inconsistent,
8. The report made 4 recommendations for the police service, which have been included in Appendix A to this report. The Force already complies with 3 of the 4 recommendations.

### **The welfare of vulnerable people in police custody**

9. This report follows a thematic inspection on the welfare of vulnerable people in police custody, including but not limited to those with mental health issues, those from black and minority ethnic backgrounds and children, Only six forces were inspected although all 43 forces provided data submissions to inform the final findings.
10. The inspection considered the end-to-end process of police custody, from first point of contact to release or transfer to court or prison. It sought an answer to the following question – *how effective are police forces at identifying and responding to vulnerabilities and associated risks to the welfare of those detained in police custody?*
11. The report's findings are presented under 7 headings and are summarised below.
- i. **The nature of vulnerability** – HMIC defined the main areas of vulnerability as being connected to:
    - i. Mental health problems;
    - ii. Learning difficulties;
    - iii. Physical illness or disability;
    - iv. Alcohol and/or substance misuse;
    - v. Age; and
    - vi. Race.

HMIC experienced people from all of these categories being taken into custody in the six forces visited.

- ii. **First point of contact and diversion.** Inspectors found evidence that custody could have been avoided for a number of vulnerable adults and children had other services been available to help them. HMIC found many cases where people had been taken into custody, not because they had committed a crime but because they were a risk to themselves or others.
- iii. **In the custody suite.** Although respondents to HMIC's "Detainee Voice Project" felt that strip searches were often undignified, degrading and unjustified, Inspectors visiting the six forces observed that the majority of people detained were treated respectfully and cared for well. They found examples of custody sergeants taking great care to deal with vulnerable people and children in a sensitive and appropriate way and for the most part use of force was proportionate and strip searches were carried out sensitively. However, HMIC also found that through no fault of their own, police officers are trying to respond to children and those suffering from mental health issues in an environment and with policing tools, skills and knowledge that are unsuited to the task.
- iv. **Release or transfer from police custody.** HMIC found little evidence that custody staff made arrangements for continuing support with any degree of consistency. It was also found that despite a wide range of proactive approaches by forces to divert people away from custody, the number of vulnerable people repeatedly detained was high.
- v. **Black and minority ethnic (BAME) detainees.** The data collection conducted by HMIC indicated a disproportionately high number of people from African-Caribbean groups (compared to numbers in the general population) were both in custody and subject to strip searches. The report noted that during the inspection fieldwork they did not observe any difference in the treatment of BAME and white detainees held in custody.
- vi. **Leadership, governance and accountability.** Although HMIC found that the leadership teams in all forces emphasised the importance of protecting vulnerable people, this was not always bringing about a shared and consistent understanding of vulnerability among police officers and staff across forces. HMIC also found a lack of relevant data collected and used by forces that would enable them to monitor and assess their performance or improve services.
- vii. **Partnership working.** The inspection found that strong partnership arrangements were essential to prevent vulnerable people being taken into custody, ensure appropriate treatment whilst in custody and provide support when leaving custody. It also found that effective work with partner agencies was actually hindered by the range and number of agencies involved with vulnerable people. Police custody provision is designed to meet the requirements of the criminal justice system,

however, HMIC found that it now has a significant role as a function of the health and social care system.

12. HMIC made 18 detailed recommendations as a result of this inspection. Of those recommendations, 6 are for police forces to consider and progress, the remainder being recommendations aimed at the Home Office, College of Policing and other agencies.
13. The recommendations are included in Appendix A together with an initial assessment of work that will need to be done to comply with them.
14. Members are asked to note in particular Recommendation 2 which proposes specific types of custody data are collected and reported to police and crime commissioners. This information will form part of a report that will be submitted to future Sub Committees for oversight.

## **Stop and Search Powers 2: Are the Police using them effectively and fairly**

15. In 2013 HMIC published Stop and Search Powers: Are the police using them effectively and fairly. That report concluded that stop and search powers were rarely targeted at priority crimes. It also found that fewer than half of forces complied with the requirements of Code A of the Code of Practice governing the use of stop and search. HMIC made 10 recommendations and committed to revisit the subject 18 months later to assess progress against those recommendations.
16. Additionally, in 2014 the Home Secretary commissioned HMIC to review other powers that police can use to stop people (such as s.163 of the Road Traffic Act 1988), provide analysis of how forces compare with overseas jurisdictions and examine the use of search powers involving the removal of more than a person's outer clothing to assess the extent to which such searches are lawful, necessary and appropriate.
17. All 43 forces were contacted and asked to supply data. Only 6 forces were actually visited by HMIC, City of London was not one of those forces.
18. The report presents its findings split into three sections:
  - i. **Progress against the 2013 report's recommendations.** HMIC found that insufficient progress has been made in the following areas:
    - i. Establishing authorised professional practice specifying what constitutes effective and fair stop and search powers (College of Policing);
    - ii. Designing national training to improve officers' skills and knowledge (College of Policing);
    - iii. Improving officers' understanding of the impact stop and search can have on community confidence;
    - iv. Providing a route for people to make a formal complaint quickly and easily; and

- v. Introducing a nationally agreed form for the consistent recording of stop and search encounters.

HMIC did find evidence of progress against recommendations, particularly in the areas of using intelligence from stop and search encounters to inform the response against crime fighting generally, allowing stop and search records to be scrutinised by community representatives and in the better use of technology to record relevant information about stop and search encounters.

- ii. **Effectiveness of use of s.163 Road Traffic Act 1988<sup>1</sup> and Police Reform Act 2002<sup>2</sup>.** HMIC encountered significant difficulties in obtaining sufficient information from forces to assess whether these powers were being used effectively or not, with very few forces collecting this data. That also means that forces do not have data available which demonstrates the powers are being exercised fairly and proportionately.
- iii. **Searches involving removal of more than an outer coat, jacket or gloves<sup>3</sup>.** Whilst almost all forces have procedures governing the exercise of stop and search, fewer than half of forces provide guidance about searches involving the removal of more than an outer coat, jacket or gloves. Most forces do not record which stop and search encounters involve more than the removal of those items. As at ii above therefore, HMIC found they have no way of assessing whether or not these more intrusive searches are being conducted lawfully and in a fair and proportionate manner.

19. The report makes 11 recommendations. Of those, only 3 are for forces to address directly, the remainder are directed at the Home Office, the National Police Chiefs' Council and the College of Policing either individually or jointly. All the recommendations are included in Appendix A to this report.

### **Joint review of Disability Hate Crime follow up.**

20. This joint<sup>4</sup> follow up review, published on 22<sup>nd</sup> May 2015, considered how the police, Crown Prosecution Service and national probation service providers have responded to the 7 recommendations made by the Criminal Justice Joint Inspection (CJJI) review of disability hate crime published in March 2013. 6 police forces were inspected as part of the review; the City of London Police was not one of them.

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<sup>1</sup> S.163 RTA 1988 relates to the power to stop and search vehicles by any constable in uniform

<sup>2</sup> Specifically powers exercised by PCSOs to seize alcohol and tobacco from young people

<sup>3</sup> Code A specifies three levels of search: a search involving removing no more than an outer coat, jacket or gloves; a search involving more than the removal of those items but not one exposing intimate parts of the body; and a search exposing intimate parts of the body (commonly referred to as a strip search).

<sup>4</sup> Conducted by HMIC, HMCPSI and HMI Probation

21. The 2013 review highlighted the need for the 3 agencies to take appropriate steps to ensure that the public and those working in the criminal justice system understood disability hate crime. Of the 7 recommendations made as a result of the 2013 review, 3 were joint actions for all three agencies (at national association level), 1 was directed solely at the police service, 2 were for the CPS and 1 was for the national probation service providers. Only those areas relevant to policing are included below.

- i. **Recommendation 1 (Joint)** – to agree and publish a single, clear and uncomplicated definition of a disability hate crime that is communicated effectively to the public and staff. Although a definition was produced only 1 month following the review, the CJI found that communication by forces to the public and to their front lines still requires improvement.
- ii. **Recommendation 2 (Joint)** – the 3 agencies, when developing their strategic aims, should consider disability hate crime and the need for its reporting to be increased. The CJI found that whilst hate crime generally was mentioned in a number of police and crime plans examined, disability hate was not specifically referred to, nor were forces doing enough to increase awareness amongst the public and consequently the reporting of these crimes.
- iii. **Recommendation 3 (Joint)** – the 3 agencies should consider how their front line staff participate in effective disability hate crime training to improve (as appropriate) investigative, prosecution and rehabilitation skills. The CJI found that although good progress had been made at a national level, training delivered by individual forces remains variable. The report notes that the College of Policing has accepted a commission from the national policing lead to conduct a comprehensive learning needs analysis for hate crime. This will be done with the aim of embedding hate crime as thread throughout all relevant training packages.
- iv. **Recommendation 4 (Police)** – forces should review the methods by which information is received from the public to ensure that every opportunity is being taken to identify victims of disability hate crime. The CJI found no evidence that any of the 6 forces inspected had conducted such a review and none routinely scrutinised the means by which victims of disability hate crime chose to report crimes. There have been no reports of disability hate crime made in the City of London since 2011/12 (when there were 2). However, the Force plans to implement various measures (including training and awareness campaigns for officers and the public) that will assist in identifying victims of disability hate crime.

## **Joint Inspection of the Provision of Charging Decisions**

22. The Provision of Charging Decisions report, which was published on 28th May 2015, details the findings of a joint inspection carried out by Her Majesty's

Crown Prosecution Service Inspectorate (HMCPSI) and HMIC that scrutinised how well the police and CPS ensure quality charging decisions are made. The inspection also looked at progress made since the last full inspection of this area, which was in 2008.

23. The statutory charging scheme requires the CPS to provide charging decisions 24 hours a day, 365 days a year. The report accepts that the charging landscape is now very different from that which existed at the time of the 2008 report. However, something that has not changed is the importance of a decision to charge someone with a criminal offence representing a fundamental stage in the criminal justice process. Getting it right at the outset protects the innocent from enduring the stress of facing a trial and helps to ensure there are just outcomes for the guilty and their victims. The framework for this inspection therefore was to look at the extent to which charging decisions, whether taken by the police or CPS, are timely and of a high quality.
24. The inspectors visited 6 police forces and their aligned CPS areas<sup>5</sup> and examined 650 police and CPS charged cases. The City of London Police was not involved in the inspection.
25. The inspection found:
  - i. There is a renewed national focus on charging at senior level, which was seen as encouraging;
  - ii. Performance information relating to charging is largely absent yet is a key requirement to identifying issues and making improvements;
  - iii. Errors in the way charging decisions are uploaded onto the CPS case management system are leading to under recording;
  - iv. The merging of the supervisory and decision making role could be problematic if the supervisor being required to make a decision was not actively involved in the case;
  - v. In 91.9% of cases examined where the decision to charge had been made by the police, that decision was correct. In 9.6% of cases where CPS Direct (CPSD) directed no further action, the police should have made the decision.
  - vi. There was inconsistency in the approach by police as to when cases of domestic abuse should be referred to the CPS;
  - vii. In some cases, where the police should have taken no further action because of insufficient evidence, cases were referred incorrectly to the CPS for a charging decision;
  - viii. 58.9% of cases examined where no further action was directed by the CPS met the definition of domestic abuse, possibly due to

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<sup>5</sup> Cheshire, Merseyside (CPS Mersey-Cheshire); Devon and Cornwall, Gloucestershire (CPS South West); MPS (CPS London); and South Wales (CPS Cymru-Wales)



- inconsistencies between the Director's Guidance and the CPS guidelines on domestic abuse;
- ix. Effective pre-charge bail management by police had improved since the 2008 inspection, however, some issues remain over the length of pre-charge bail periods (particularly where forensic evidence is required), which could be compounded by the time it took the CPS Area to provide written advice;
  - x. CPSD acknowledged police concerns about the length of time it takes to get through on the telephone;
  - xi. The roll out of the digital file initiative will require a substantial improvement in police file quality negating the need for the CPS to request further evidence;
  - xii. The resources available to CPSD to enable them to meet the demand for charging advice was significantly less than they calculated they need and current structures for out of hours work are unsustainable.
26. The report makes 10 recommendations, reproduced in full in Appendix A. Only 3 recommendations relate to the police service.
27. Due to this report not being received until the 28<sup>th</sup> May, the Force's relevant departments are still considering its detail. However, the City of London Police does maintain a close relationship with its local CPS. That relationship facilitates frequent dialogue between the two organisations so that any issues are addressed in a timely way. The Administration of Justice department reports that there are no current issues outstanding that need to be addressed.

### **Phase 1 Honour Based Violence, Forced Marriage and Female Genital Mutilation Inspection**

28. On the 13<sup>th</sup> May, the HMIC wrote to the Force with a draft assessment of the Phase 1 results from a current series of inspections examining forces responses to so called Honour Based Violence (HBV), Forced Marriage (FM) and Female Genital Mutilation. The Force was not visited by HMIC, relying instead on a standardised response to a request for data. The assessment was in the form of a letter and no recommendations for improvement were made. However, because HMIC have used a strict, standardised methodology to form the overall assessment, the City of London Police has been assessed as not yet prepared across all areas to protect people from harm from HBV. This is a draft assessment and has been challenged by the Force.
29. The assessment has been split under 4 heads, together with a section assessment, as immediately below:
- i. **Leadership** - The City of London Police has prepared its leadership and governance structures in order to support its ability to identify and respond to cases of HBV.

- ii. **Awareness and understanding** - The City of London Police is prepared in respect of its awareness and understanding of HBV, both in terms of ensuring that victims are identified and that officers and staff recognise, understand and identify victims from the first point of contact.
  - iii. **Protection** - The City of London Police are not yet prepared in respect of the levels of protection to be offered to victims of HBV.
  - iv. **Enforcement and Prevention** - The City of London Police is not yet prepared in respect of enforcement against perpetrators of HBV. The force is not yet prepared to prevent offences occurring.
30. To receive an overall assessment of 'prepared' forces must achieve a 75% compliance with the assessment criteria within each of the 4 categories outlined above. However, the Force's particular circumstances do not merit adopting many of the requirements. Since 2011 there have only been 9 reports of HBV, all of which were eventually transferred out of the City because none of the victims were City residents and none of the offences occurred in the City. There have not been any reported instances of FGM.
31. The assessment criteria expect forces to have, amongst other things, a separate performance meeting and officers dedicated to these issues. At a time when forces are having to match carefully available resources to demand based on evidence, to comply with HMIC's requirements in this area would be perverse. The fact that this inspection was a desk top assessment meant that the Force did not have an opportunity to demonstrate to HMIC that the threat from this type of criminality has been fully considered and the Force's response is more than adequate.
32. The Commissioner has written to HMIC to request the assessment is reconsidered as it presents a misleading picture of the actual situation. The assessment also contained a number of factual inaccuracies that have also been pointed out and might have a positive outcome in terms of HMIC reconsidering its assessment.
33. Phase 2 of the inspection will be on risk based basis and HMIC has already confirmed that the City of London Police will not be inspected.

## **Appendix**

34. Appendix A provides a position statement on progress against all HMIC recommendations. Those recommendations that have been implemented and are GREEN and which have previously been reported to Members are not included.

### **Contact:**

**Stuart Phoenix**

*Strategic Development - T: 020 7601 2213*

*E: [Stuart.Phoenix@cityoflondon.pnn.police.uk](mailto:Stuart.Phoenix@cityoflondon.pnn.police.uk)*