



**JUSTICE**

## **Crime and Security Bill**

**Briefing and suggested amendments on clause 1  
(stop and search) for  
House of Commons Committee stage**

**January 2010**

**For further information contact:  
Sally Ireland, Director of Criminal Justice Policy  
E-mail: [sireland@justice.org.uk](mailto:sireland@justice.org.uk) Tel: (020) 7762 6414**

## **Introduction and summary**

JUSTICE is a British-based human rights and law reform organisation, whose mission is to advance justice, human rights and the rule of law. JUSTICE is regularly consulted upon the policy and human rights implications of, amongst other areas, policing, criminal law and criminal justice reform. It is also the British section of the International Commission of Jurists.

This briefing is intended to highlight JUSTICE's main concerns regarding clause 1 of the Crime and Security Bill for House of Commons Committee stage. Further briefings will deal with other aspects of the Bill.

## **Police powers of stop and search**

*Clause 1: Records of searches*

### **Amendments**

#### **1**

Page 2, line 3 [*Clause 1*], leave out 'and' and insert:

'(vi) if it appears to the constable that injury to a person or damage to property has resulted from the search, the nature of that injury or damage; and'

#### **2**

Page 2, line 3 [*Clause 1*], leave out 'and' and insert:

'(vi) except in the case of an unattended vehicle, the age of the person searched or the person in charge of the vehicle searched (as the case may be) if it appears to the constable that they may be aged under 25; and'

Page 2, line 11 [*Clause 1*], at end insert:

- (6B) The requirement in subsection (6)(a)(vi) above for a record to state a person's age is a requirement to state –
- (a) the age of the person as given by the person, and
  - (b) if different, or if the person fails to give an age upon request, the age of the person as perceived by the constable.'

### Briefing

These amendments would each add a piece of information to that required to be recorded by officers under s3 Police and Criminal Evidence Act 1984 (PACE) as prospectively amended by the Bill. Currently, section 3 requires that whether, and if so what, injury to a person or damage to property appears to the constable to have resulted from the search. The Bill would remove this requirement entirely. We propose that it be retained, but in amended form so that if no injury or damage is caused no record to that effect is necessary.

We expect that in the majority of cases, no injury or damage would result from a stop and search and therefore that the additional bureaucratic burden would be added by our amendment would be relatively small. Where injury or damage does occur, however, this may be the subject of a future police complaint or litigation, and in these circumstances it is important that the officer has recorded a contemporaneous account of the injury or damage concerned.

Our second amendment inserts a requirement that, if it appears to the constable that a person searched or who is in charge of a vehicle searched may be under the age of 25, their age should be recorded. This suggested amendment arises from our concern that the use of stop and search powers against children and young people under 18 should be monitored. According to a survey by 11 Million (the Office of the Children's Commissioner for England) published in 2009, 11% of white young people aged 12-17 and 22% of BME young people aged 12-17 have been stopped and searched.<sup>1</sup> Monitoring will help to discourage the disproportionate use of these against young people. Excessive use of stop and search against this age group risks creating distrust and/or hostility towards the police that may persist into adulthood. Further, we are aware of recent, disturbing media reports of the use of stop and search against younger children, including a substantial number of children below the

---

<sup>1</sup> 11 Million & YouGov (March 2009) Solutions to Gun and Knife Crime

age of criminal responsibility (10).<sup>2</sup> The use of these powers against young children should be subject to close scrutiny.

**JUSTICE**  
**January 2010**

---

<sup>2</sup> For example, BBC News website, 12 January 2010, 'Kent police admit unlawful stop and search of twins, 11'; Telegraph website, 15 August 2009, 'Police stop and search children as young as two'.