The impact of counter-terrorism measures on Muslim communities

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Concerns have been raised that counter-terrorism laws and policies are increasingly alienating Muslims, especially young people and students, and that counter-terrorism measures may themselves feed and sustain terrorism. This paper relies on extracts from a report on this issue commissioned by the Equality and Human Rights Commission to develop and deepen understanding of the impact of counter-terrorism legislation and policies in general, and on Muslim communities in particular. Building on existing studies, this report contributes to the research and wider public discussion of this matter through an examination of the experiences of counter-terrorism legislation and policies on Muslim communities in four local areas across Britain and interviews with practitioners and officials at a national and local level. The areas focused on relate in particular to various uses of technology to further counter-terror strategies and the reaction to them of those interviewed.

Keywords: Muslim communities; terrorism; counter-productive impacts; 'suspect' communities

1. Introduction

1.1. *Background*

The need to understand the impact of counter-terrorism laws, policies and practices on community cohesion, equality and human rights is critical. Concerns have been raised that counter-terrorism laws and policies are increasingly alienating Muslims, especially young people and students, and that counter-terrorism measures may themselves feed and sustain terrorism.[2] This report was commissioned by the Equality and Human Rights Commission (the Commission) to develop and deepen understanding of the impact of counter-terrorism legislation and policies in general, and on Muslim communities in particular. Building on existing studies, this report contributes to the research and wider public discussion through an examination of the experiences of counter-terrorism legislation and policies on Muslim communities in four local areas across Britain and interviews with practitioners and officials at a national and local level. This is, therefore, primarily a small-scale, in-depth, qualitative study.

Previous research suggests that counter-terrorism policies and practices may create a well of sympathy and silence among sections of society, especially if they increase repression, or stigmatise and alienate these groups.[3] Studies show that Al Qa'ida and organisations closely linked to violent extremism operating in Western Europe use discrimination and the social and political marginalisation of Muslims as part of their

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narrative for recruiting people to violence.[4] The United Kingdom's own experience in Northern Ireland provides significant evidence of the potential ways in which counter-terrorism measures can be counterproductive.[5–9] In June 2008, the then Home Secretary, Jacqui Smith, made a commitment to review the impact of counter-terrorism legislation on communities in the UK.[10] A government review of the existing research base on perceptions of the impact of legislation identified a number of studies, both qualitative and quantitative, that address aspects of this issue, focusing in particular on perceptions of discrimination, human rights and confidence in public bodies. It noted a number of polls and studies that suggest a perception among UK Muslim populations that counter-terrorism laws are applied in an unfair or discriminatory manner. However, it concludes that few firm conclusions can be drawn from the existing research about the perceptions of the impact of counter-terrorism law due to the limitations of the methodology of these studies.[11]

In understanding the impact of counter-terrorism laws on Muslim communities today, parallels are inevitably drawn with the earlier experiences of Irish Catholic communities in Britain and Northern Ireland[12–14]. One starting point for research that seeks to compare the experiences of the two communities is Paddy Hillyard's 1993 study[6] of the impact of the Prevention of Terrorism (Temporary Provisions) Act (PTA) 1974 on Irish communities in Britain. Hillyard noted aspects of the legal and policy framework that contributed to the treatment of Irish communities in Britain as 'suspect communities'. This included: the broad scope of offences and powers created under the PTA; the disproportionate use and focus of anti-terrorism legislation and policy on members of one community; the use of police powers for gathering intelligence and information; and the treatment of terrorism and terrorist suspects as distinct from other crimes and criminal offenders through the creation of different rules and procedures of questioning and detention. Using Hillyard as their starting point, Pantazis and Pemberton[15] have argued that Muslims are the new 'suspect community'. Others, however, suggest that the diversity of Muslims in Britain makes it difficult to talk about the experiences of some Muslims as amounting to treatment of all Muslims as a 'suspect community'.[16] Reflecting the need for an analysis of the differentiated impact of counter-terrorism across diverse Muslim communities, some researchers have focused on the experiences of particular sections and minorities, including Salafi and Islamist groups[17] and Pakistani Muslim communities.[18]

The impacts of a range of specific counter-terrorism laws, policies and practices have also been explored. This includes the use of police stop and search powers, the Preventing Violent Extremism policy,[19,20] control orders[21] and regulations directed at the financing and funding of terrorism.[22–25] There appears to be less attention and focus on the impact of other aspects of counter-terrorism law and policy such as stops at ports and airports, arrests and pre-charge detention, indirect incitement and banning of organisations.

1.2. *Methodology*

This report is largely qualitative in nature, drawing on focus groups in four case study areas and interviews with national and local practitioners and officials. Qualitative research is illustrative, not statistically representative. It provides insight on people's views and perceptions but it is not possible to draw conclusions in the same way that they can from a robust, valid sample.

The four case study areas are Birmingham, East London, Glasgow and Leicester. Two areas, Birmingham and East London, had been the focus of high-profile counterterrorism arrests and raids. Both London and Glasgow had also been the targets of Al-Qa'ida-related terrorist attacks. In each of these areas four focus groups were held with local

residents (both Muslim and non-Muslim) in local areas with significant Muslim populations. These focus groups aimed to explore participants' experiences and perceptions. Three focus groups in each area were with Muslim participants and one with non-Muslim participants. While the focus of the report is on the experiences of Muslims, the inclusion of non-Muslim focus groups allows for a comparison with the experiences of others living in the same local areas. At least one focus group in each area for Muslim participants was female only and one male only. A total of 96 individuals participated in the focus groups.

The research also involved 60 semi-structured interviews with individuals working in civil society and community organisations, as well as practitioners and officials at the local level in each of the four case study areas, and at the national level, in England, Scotland and Wales. All interviews were conducted on the basis that individuals would not be identified. In the report, quotes from the focus group participants only identify the gender, location and whether the quote is from a Muslim participant or not. Quotes from the stakeholder interviews give a broad indication of the professional background of the individual or the nature of the organisation for which they work. The detailed methodology, including the profile of focus group participants and the topic guides used at interviews and focus groups, is in the Appendix to the Report.[26]

2. The security context

2.1. *The threat level*

Perceptions of the threat that Britain faces from terrorism also inform people's evaluation of the necessity and proportionality of counter-terrorism measures. In January 2010, the Home Office announced that the security services' assessment of the UK's threat level had increased from 'substantial' to 'severe'; this means that a terrorist incident is 'highly likely'.[27] According to Jonathan Evans, the Director of MI5, the United Kingdom 'continues to face a real threat from Al Qa'ida-related terrorism' which is 'persistent and dangerous'.[28] In 2006, Evans' predecessor at MI5, Dame Eliza Manningham-Buller, indicated that the security services had identified 1600 individuals who were 'actively engaged in plotting, or facilitating, terrorist acts here and overseas'.[29] By July 2007, the Prime Minster suggested an increase in the number of individuals being tracked by security services to 2000 individuals.[30] In the decade since 9/11, 237 individuals have been convicted of terrorism-related offences. A further 48 individuals have been made the subject of control orders[31] and 228 individuals have been identified as vulnerable to radicalisation and referred to the Channel Programme. As these figures are not disaggregated by religion, and as Britain also faces threats of other forms of domestic terrorism and extremism, it is not possible to say how many of the individuals in these figures have a Muslim background. Data from the prison service which cover religious identity of prisoners show that 87% of terrorism-related prisoners in Great Britain in 2010 identified themselves as Muslim.[32] These numbers, while serious and significant in terms of national security, are small – almost 'invisible' – in the context of a UK Muslim population of over 2.5 million. Much of the work that is being undertaken by security services is, by its nature, closed to the general public. This makes it difficult for individuals to assess whether particular measures or policies are necessary or proportionate.

2.2. *Perceptions of the threat level*

In general, focus group participants, both Muslims and non-Muslim, questioned government information about the level of the threat from terrorism. Most agreed there was a

threat but that it felt exaggerated, as it was amplified by media reporting. Some acknowledged that it was difficult to assess the credibility of the government's assessment of the threat level as much of the information on which it is based is not public. Many, in justifying their scepticism towards the government assessment of the threat level, referred to the way they felt intelligence information was misused by the government to justify the 2003 invasion of Iraq.

For most in the case study areas, the high threat level generally from international terrorism claimed by government, although significant and obviously real, did not resonate with their everyday experience of living in their local area. In the case study areas where there had been only a small number of terrorist-related arrests, those who felt that there was a threat, suggested that it was located in other cities or communities:

> I think it could go anywhere; I don't feel at all threatened in Britain, I don't know anyone who personally feels they are threatened by terrorism but there is a general fear . . . it may be different in Bradford; but in Leicester we feel very blest [sic] and lucky. . . We are supposed to feel that the hammer could fall and crush our heads at any time. Just this week we are told that if Britain were to withdraw from Afghanistan then this would happen or that would happen, before a bomb has even gone off. We are supposed to be revved up; the climate of terror is not something that terrorists create, we do that ourselves. (Non-Muslim, male, Leicester)

> Maybe we are cocooned. Everybody else thinks we're terrorists and yet we can't find them in our areas. (Muslim, male, Birmingham)

The diversity of the Muslim population may play an important role here. While many Muslims identify themselves as being part of a 'Muslim community' and the threat of terrorism is also identified as coming from 'the Muslim community', in their everyday lives Muslims live in specific localities and through networks based on family, work, education and connections, developed through more particular ethnic and religious ties:

> People don't think there is that much of a problem. I don't know whether people are in denial of it, or whether, because it doesn't happen in their social circle, they don't see it as a problem. (Volunteer, Muslim youth organisation)

> The general Muslims in this area just want to try and get a job, earn money, get through life and practise their faith, this idea that people are extremists is I think so, so, minuscule, it's so, so minuscule that it doesn't translate to the reality of what's being perceived. (Youth worker)

The lack of contact between most Muslims and extremists is highlighted in the response by Muslims to a YouGov poll in 2005.[33] Forty-seven percent of Muslims in the poll believed that radicalising imams existed. At the same time, 69% had never come across one, whereas 22% had heard one once or twice and only 5% reported coming across them frequently. A counter-terrorism officer interviewed for this report found there was little pressure from communities to take action as 'so much of the activity appears to be unknown to the community'. Interviewees who worked with young Muslims also argued that claims that Muslim communities were in denial about violent extremism and radicalisation needed to be placed in the broader context of the disconnection between young Muslims and their parents across a range of social and cultural issues:

> Yes, there is denial about extremism, but it sits alongside denial about pre-marital sex, drugs, gangs, domestic violence, abuse and all the other things parents find too difficult to talk about. (Youth worker)

A government official also drew an analogy between the lack of acknowledgement about the threat of violent extremisms to the denial, in some Muslim communities a decade ago, about problems of drug addiction. The issue of drug addiction, he argued, was acknowledged as it reached a scale where the problem could not be ignored by communities. By contrast, shifting community perceptions of the threat from radicalisation is more difficult because, in his view, it is never going to reach the same scale. Among focus group participants, those who were willing to trust the government's assessment of the threat level were generally more supportive of the measures that are being taken.

> I prefer it: to know that government is taking measures; it makes you feel more secure. I was in London on the anniversary of 7/7; I have felt a bit scared. To know the government is taking measures, you know you can sleep peacefully at night. [Compared to] living in a country where nothing is being done. I've spoke to people who have come here to live in England after they've lived in such a country where there is so much terrorism that's been imposed on them that they can't even sleep and they feel so much happier to know that there are measures, there are police, and there are people that they can go to, to feel that protection. We are getting it right. If there was nothing being done you wouldn't feel safe in your community. (Muslim, female, Leicester)

2.3. *The legal and policy context*

A large number and range of counter-terrorism legislative measures and policies have been introduced in the UK in recent years[34] in response to a perceived heightened risk of terrorist attack. The starting point for this legislation is the Terrorism Act 2000 and its definition of 'acts of terrorism'. The definition in Section 1 of the Act is broad; it includes the use or threat of action that involves serious violence against a person, serious damage to property, endangering another person's life, creating a serious risk to the health and safety of the public or a section of the public and action designed seriously to interfere with or seriously disrupt an electronic system.[35] These actions become 'acts of terrorism' where two conditions are met. First, the use or threat of action is designed to influence the government or to intimidate the public or a section of the public. Secondly, the use or threat of action is designed to further a political, religious or ideological cause.[36] The broad nature of the definition of 'acts of terrorism' in the Terrorism Act was justified on the basis that its primary role was to provide a platform for allowing the use of investigative police powers, and was not a term on which a criminal offence is based.[37] Since then there have been a number of other statutes or related pieces of legislation.

Two of the main issues to emerge from this research concern the use of counterterrorism legal powers. The first is the use of powers under the Terrorism Act Schedule 7 to stop, search and examine people at ports and airports in order to determine whether they are concerned with the commission, preparation or instigation of an act of terrorism. The second concerns the powers under s44 of the Terrorism Act to stop and search individuals in designated locations in order to look for articles which could be used for the commission of acts of terrorism. Both these powers can be used without the need to have any reason to suspect the person being stopped. The scope and nature of these powers is discussed in further detail below.

The period of pre-charge detention was also raised as an issue of concern in focus groups. The maximum period of detention, applicable to a person arrested under s41 of the Terrorism Act, was seven days; it was extended to 14 days by amendment to s41(7) and Schedule 8 of the Terrorism Act under the Criminal Justice Act 2003, and then, after the July 2005 bombings in London, it was extended again, by further amendment under the Terrorism Act 2006, to 28 days. The government sought to extend the period of time

to 90 days but was defeated in the House of Commons. The government sought to bring forward the 90-day period once again in the Counter-Terrorism Bill 2008 but was again defeated. Thus terrorism suspects could be held in detention for almost a month, in strong contrast to non-terrorist suspects, who can only be held for up to 72 hours, even for the most serious offences. The power allowing for up to 28 days pre-charge detention was subject to an affirmative order of up to one year. If no order was made, the maximum period returned to 14 days. In July 2010, the government renewed this power for six months pending the outcome of a review of counter-terrorism and security powers. This order expired on 24 January 2011 and was not renewed so the maximum period for pre-charge detention returned to 14 days.

Both s44 and the period of pre-charge detention were part of the government's review of counter-terrorism and security powers. The government's Protection of Freedoms Bill includes provisions for repealing the powers contained in the Terrorism Act 2006, allowing the extension of the period of pre-charge detention from 14 to 28 days, and replacing these with a permanent provision for up to 14 days pre-charge detention. At the same time, the government has published draft emergency legislation to allow the period of pre-charge detention to return to 28 days for a period of three months, where there are circumstances that require this.

Following the review, the Protection of Freedoms Bill contains provisions for the repeal of s44 with new powers that allow persons or vehicles to be stopped and searched, without the need for any reasonable suspicion in a specified area or place. CONTEST, the name given to the government's overarching counter-terrorism strategy, provides a wider policy context for understanding the use of specific legal provisions. This is a multi-dimensional strategy corresponding to the multi-faceted nature of terrorism. The strategy has four strands – Prevention, Pursuit, Protection and Preparedness. Prevention takes in long-term goals, such as working to reduce tendencies leading to 'radicalisation', through, for instance, helping to resolve international disputes which terrorists can exploit; addressing issues of inequality and discrimination, thus ensuring that all citizens in the UK 'feel fully part of our society'; fighting the 'battle of ideas'; deterring those who facilitate terrorism and those who encourage others to become terrorists, thus 'changing the environment within which extremist and those radicalising others can operate'. Pursuit goes wider than actually seeking to prevent terrorist attacks, and includes: the disruption of terrorist activities, through better understanding of their capabilities and intentions; prosecutions, deportations, control orders and proscriptions of organisations; working with communities; making it harder for terrorists to operate domestically and abroad; and targeting their funds. Protection entails working to safeguard critical national infrastructure and other sites at risk and maintaining border security. Preparedness means ensuring effective contingency arrangements are in place for dealing with terrorist attacks.[38]

2.4.   *The policing context*

2.4.1.   *Experiences of policing*

Attitudes towards counter-terrorism policing are shaped by experiences of policing and the criminal justice system in other areas. The young demographic profile of the Muslim population, its ethnic composition, and the over-representation of those who are poor means that Muslims are at greater risk of being victims of crime than the general population.[39] Their experiences of interactions with the police as victims of crime can, therefore, be an important influence on trust and confidence in the police. Pakistanis and Bangladeshis are the group most likely to be victims of household crime and racially motivated crime, and

report the highest levels of anxiety about crimes such as burglary and robbery. They are more likely than the general population to believe that the police will treat them worse than people from other racial groups.[40] Poor relationships between local Muslim youths and the police underpinned the tensions that existed in Oldham, prior to the riots that took place there in the summer of 2001.[41]

Across all the focus groups, individuals reported both negative and positive experiences of policing. Positive experiences were discussed in terms of individual officers that were particularly helpful, courteous, or viewed as going out of their way to address a situation. The negative experiences ranged from a failure of police to respond to reports of crime or to take such reports seriously, through to instances of bullying or abuse from individual officers. The ways in which police deal with hate crimes are particularly important, as they are identified as 'signal crimes' that have a major effect on Muslim community perceptions of safety and an 'important role in stimulating processes of radicalisation'.[42] Evidence from the focus groups suggests that where such crimes are not always taken seriously by the police, they severely undermine trust and confidence in the police and criminal justice process. One woman recalled her experience after youths threw down a lit cigarette on to her headscarf in a shopping mall shortly after 7/7:

> It was such as traumatic experience, because we've been spat at before, we've been sworn at, but this is physical harm; somebody actually physically harming you. And my daughter was with me as well. But what happened was eight hours I had to wait to be interviewed and even during that process the police kept saying that they're just young lads and trying to discourage me; that they are maybe just playing around. But it's the principle of the matter ... in the end the case was dropped; it didn't go as far as the court but nobody informed me. It was only when we chased it up that they said that it was too far ahead and there is nothing we can do. There wasn't sufficient evidence. They made excuses ... The legal remedy wasn't there for me. I'm quite angry actually. (Muslim, female, London)

2.4.2. *Co-operation and partnership*

Community engagement is said to be the cornerstone of effective counter-terrorism policy.[43] The need to build trust and support with communities is recognised in the National Policing Plan 2005–2008. It provides that the counterterrorism strategy of government is underpinned by 'strong community ties to build and increase trust and confidence within minority faith communities'.[44] The importance of trust and confidence has contributed to the application of models of community and neighbourhood counter-terrorism policing.[45,46] They also serve several purposes: improving communication with Muslim communities, marginalising extremists and promoting social integration.[47] Perceptions of procedural justice – whether participants think the police will treat them fairly, with dignity and respect – are important predictors of cooperation in relations between the police and British Muslim communities.[48]

Community participation and empowerment are critical elements of successful partnerships between the police and Muslim communities.[49] Building trust and developing effective partnerships is, however, more difficult in the context of counter-terrorism policy and practice. Initiatives and activities aimed at building trust may be seen as a mechanism for gathering intelligence and may take place alongside the use of other measures, such as covert surveillance, stop and search, arrests and lengthy periods of pre-charge detention.[50] Across all the case study areas a consistent theme was the extent to which relationships of trust between the police and communities are often critically dependent on relationships with particular individuals, and are shaped by the personality and commitment of individual officers. In some cases, individuals remain a central contact point for communities in their

interaction with the police, even after they retire. In two case study areas, relationships with individual police officers were sufficiently strong that they were called on to mediate internal community or organisational disputes or disagreements. However, officers who work with local communities recognise that even where there is a high level of trust, challenges remain in gaining information. This, however, is not necessarily because people are not willing to provide information, but because most people are unaware that the information they have is relevant or important.

2.4.3.   *Counter-terrorism policing*

Both police officers and interviewees from Muslim community organisations suggest that some features of counter-terrorism policing make it different from other areas of policing. This includes the difficulties that arise from a perceived lack of a clear line between lawful and unlawful activity. In interviews, police officers referred to the importance of the wider social, political, religious and cultural context in evaluating the significance of information, particularly where the focus is on preventing violent extremism:

> Around intelligence you have to understand the context … we think we can interpret the context but can we? It's about being able to place groups, and people affiliated to different groups. We need a knowledge level that is quite sophisticated … if I think of our policing organisation we are quite clinical … you work in the actual. Whereas [in counter-terrorism], to a certain degree, you are dabbling in ideology, beliefs, capability. All of these are in the melting pot and at what point does somebody's curiosity turn into a belief? When does that belief turn into some extremism? When does extremism turn into violent extremism? (Senior police officer)

An experienced counter-terrorism officer is harsher in her assessment: 'We're not good at context,' she argues, 'partly because we don't understand what the context is and we are reluctant to get involved; because it is political.'

2.5.   *Summary*

There is no single monolithic Muslim community and, therefore, no single monolithic Muslim experience of counter-terrorism policing. The experiences and impact of counter-terrorism policing are likely to be shaped by a range of characteristics, including ethnicity, citizenship status, age, gender, and socio-economic position. This diversity also affects perceptions of the threat level. Muslims are told there is a severe threat from international terrorism that they must help prevent and yet, for most in this study, this does not resonate with their everyday experience in their communities. This contributes to a disconnection between state insistence on the primacy of the threat from international terrorism, and communities, where a wider range of social issues are identified as posing a more real and concrete threat to society. The state needs to acknowledge that communities' perceptions of threat are genuine and engage with these in their approach to working with communities.

3.   Ports and airports

The British government's national security strategy cites the maintenance of 'strong borders' as 'essential to protect against terrorism'.[51] Ports and airports are, therefore, an important place where individuals have direct experience of policies, practices and powers relating to counter-terrorism. This section explores two specific ways in which counter-terrorism powers are experienced at ports and airports. The section begins with

an examination of the experiences and views of focus group participants towards the range of security measures that have been introduced at airports to ensure the safety and security of flights. It then focuses on the impact of stops under the Terrorism Act Schedule 7.

3.1. *Security measures*

The use of airplanes in the 9/11 attacks, and subsequent attempts and plans to detonate explosives on airplanes in the UK and elsewhere, have led to more stringent security checks at airports. Restrictions on the quantity of liquids that can be carried on to flights in cabin luggage were introduced in response to a plot in Britain to blow up trans-Atlantic flights. Following the attempt by Umar Farouk Abdul Muttalib to blow up Northwest Airlines Flight 253 in December 2009 using explosives sewn into his clothing, the UK government began trials on the use of body image scanners at some UK airports. An interim Code of Practice on the use of body scanners was introduced, which provides that individuals may not be selected for scanning on the basis of personal characteristics which may constitute discrimination.[52] The Code also provided that a passenger can request, but not require, that the person viewing the image be the same gender as him/her. Since its introduction, there have been two reported cases of Muslims who refused to undergo a body scan and were, therefore, denied boarding on to their flight.[53]

In focus groups and interviews, there was broad support from Muslim and non-Muslim participants for security measures that are necessary and important in ensuring the safety of flights. The security checks at airports (that is, the process of putting luggage, shoes and clothes through scanners, stepping through metal detectors and having pat-downs) were viewed as fair and carried out with respect, because it was clear that the measures were applied to all passengers equally. In the experience of most participants, selection of passengers for enhanced checks was random:

> A man in front, who wasn't Muslim, was asked to take off his shoes, while I wasn't. And he said, why isn't she being asked? She looks more like someone who is going to blow someone up than me. I don't mind to take my shoes off, but the security guard said we don't want her to take her shoes off, it's random. I was embarrassed. (Muslim, female, Leicester)

A few participants reported feeling singled out, but even here most recognised that there was a need for the measures:

> I fly to London once a month and I don't wear a single piece of jewellery, nothing, and I still beep [going through security machine] . . . but I'm calm I let them do [a pat down] and I fly . . . and yeah, there is an element of me that thinks why me every time, but then on the flip side of it I think what if there is someone dressed like me, who looks like me, who is doing something illegal, who is jeopardising safety on the flight, I wouldn't want that on my shoulder just because they didn't check. (Muslim, female, Glasgow)

There was, however, considerable concern among focus group participants about the use of body image scanners at airports. None of the focus group participants had personal, direct or indirect experience of the use of body scanners. Concern focused on the nature of the images that the scanners would produce, who would view these images and how they would be stored. Several Muslim participants referred to the possibility of being subjected to scanners as 'humiliating'. For some, it reinforced a sense that there was a significant difference between Muslims and other members of British society on issues of modesty in relation to clothing, while others recognised that concern about the use of scanners

was not limited to Muslims. Many questioned the necessity of scanners and wanted alternatives to be considered for those who were uncomfortable with scanners:

> Is there a better way of doing it [than body scanners]? We don't mind people being strip searched, do it woman to woman or man to man; why have men looking at women; it raises the heart beat of the Muslims. (Muslim, male, Leicester)

> Full body scanners, the idea is disgusting, it's like pornography. I would rather be taken into a separate room and strip searched. (Muslim, female, Leicester)

In some areas, police responded to concerns about the use of body image scanners by arranging visits to airports for individuals from local community groups.

3.2. Schedule 7

3.2.1. *The use of Schedule 7*

Schedule 7 of the Terrorism Act 2000 gives 'examining officers' at ports and airports the power to stop, search and examine an individual in order to determine whether or not a person is concerned in the commission, preparation or instigation of an act of terrorism. The examining officer does not need to have any reasonable suspicion in order to question or examine an individual under this power. A person may be detained for up to nine hours for the purposes of a stop. This was described by one interviewee as amounting to a 'de facto arrest'. Several interviewees viewed Schedule 7 as equivalent to a s44 stop and search at the airport, as both allowed individuals to be stopped without any need for grounds of suspicion.

A statutory Code of Practice for Examining Officers provides guidance on the application and interpretation of Schedule 7 powers.[54] The Code provides that an examining officer should 'make every reasonable effort to exercise the power in such a way as to minimise causing embarrassment or offence to a person who is being questioned'. The power must be 'used proportionately, reasonably, with respect and without unlawful discrimination'. Furthermore, examining officers should take particular care to ensure that the selection of persons is not 'solely based on their perceived ethnic background or religion' and 'a person's perceived ethnic background or religion must not be used alone or in combination with each other as the sole reason for selecting the person for examination.' While the examining officer can stop a person without any suspicion, the Code makes it clear that decisions should not be arbitrary but based on the nature of the threat posed, including information on the origin or location of terrorist groups, and the trends of travel patterns of those linked to terrorist activity.

Data on the extent and use of Schedule 7 is limited. A distinction is made in recording data, between a stop and an examination. There is no recording of data on stops. Data on all examinations of less than one hour are kept locally. However, the Code of Practice only requires data on examinations of more than one hour to be collected centrally. As a consequence, until recently, the Home Office only provided data on Schedule 7 examinations that last for more than one hour. Requests for information about examination of less than one hour from individual ports and airports are refused on the grounds that such information would reveal the pattern of use across particular locations. It is, therefore, not possible to have a full picture of the extent to which Schedule 7 has been used in Britain since 2001. In 2010, for the first time, the Home Office published figures for the total number of Schedule 7 examinations in 2009/10. This revealed that 85,557

examinations took place in ports in Great Britain in 2009/10; of these, 2687 lasted for more than one hour.[31] Between 2001 and 2009, 272 Schedule 7 examinations lasting over one hour were made. There is no data on the number of individuals that have been convicted following these Schedule 7 examinations. Data from the Home Office only states that Schedule 7 examinations between 2004 and 2009 resulted in 99 arrests, this resulted in 17 people being charged under the Terrorism Act and 31 under other terrorism-related offences and 43 convictions. However, this does not mean that 43 individuals have been convicted, as some individuals may have been convicted of more than one charge17.

The Home Office data, for Schedule 7 examinations of over one hour for the period April 2009 to March 2010, is disaggregated into five broad ethnic/racial categories. Based on the perceived ethnicity of the respondent as defined by the examining officer, the data show that the largest group to be stopped is defined as White (46%). This is followed by Asian (27%); Chinese and Other (19%); African/Caribbean (7%), and Mixed Race (2%).

3.2.2. *Reasons for Schedule 7 stops*

Officials have argued that arrest and convictions should not be the primary measure of the success of Schedule 7. In his review of the use of counter-terrorism powers, Lord Carlile maintains that the 'obvious presence of port officers is a deterrent to terrorists ... knowledge, on their part, that a port is manned efficiently and the subject of strong and well-informed vigilance is a significant inhibition against targeting that port' (Lord Carlile, 2010: 39). He has, however, repeatedly argued that 'the number of random or intuitive stops could be reduced considerably' without undermining national security.[55]

In interviews, police officers indicate that Schedule 7 stops serve a variety of purposes, including information and intelligence-gathering, questioning persons of interest or persons who may be of interest, and recruiting informants. A senior counter-terrorism police officer insisted that the recruitment of informants was not the primary purpose but 'an important by-product' of the stops. He maintained that the primary role of Schedule 7 is deterrence:

> If I were to claim a value for [Schedule 7] it would be deterrence. I think it's just the same as customs. You and I know we will probably not ever be stopped if we go through the green channel but the minute there is a chance that you might be and you might be examined and your belongings might be examined ... that a significant number will be stopped and will be examined is [a deterrence]. Again, proving that, research wise or academically, is very difficult. (Senior police officer)

Police interviewees argue that decisions on Schedule 7 stops are not based on ethnic profiling but can be based on risk assessment around specific routes and in response to intelligence and information they receive:

> The airports present, for us, a filter point for people accessing the country ... intelligence feeds will give us, if not specific individuals using certain flights going to and from certain destinations, at least a profile, which isn't just racially based but can be seen that way so that people that present the highest threat and risk of harm in terms of radicalisation and extremism will be coming and going from certain countries ... the intelligence may well be that someone will be coming on this flight from whichever country, but more often than not, the intelligence falls short of that. It will be, something has been picked up somewhere that a someone is coming from this destination or on a certain route, the day of the week may not even be

known... In order to maintain some security there is a feeling that a general approach is needed, a general approach leads to suggestions and feelings of stereotyping and all the rest of it ... flights and routes are risk assessed, it's not that every flight is stopped. (Senior police officer)

They acknowledged that the use of flight risk assessments meant that those travelling on particular routes were more likely to be stopped. This creates an impression of racial profiling. The interviews with community groups and civil society organisations suggest a significant concentration of Schedule 7 stops among individuals of Afghan, Pakistani and Somali background. While the interviews suggest that most relate to flights to and from South Asia, the Middle East or East Africa, there are also examples of Muslims who have been stopped on domestic and European flights.

3.2.3   *Experience of Schedule 7*

Non-Muslim participants in the focus groups did not recall any experiences of Schedule 7 stop at ports or airports. By contrast, the indications from Muslim participants across the focus groups and interviews with community groups and practitioners in the case study areas were that Schedule 7 stops at airports are perceived to have a widespread negative impact on Muslim communities. Interviews with those working in Muslim communities suggest that the prominence of this issue reflects the profile of those stopped. As Schedule 7 stops involve airline passengers, they have a greater impact on businessmen and professionals. In several areas, the stops have involved imams and those working in local community organisations, including those working with the police. Furthermore, when one person is stopped, it impacts on those travelling with them.

Focus group participants suggested that for some Muslims, stops have become a routine part of their travel experience:

I went to Turkey recently with my uncle, and he always gets stopped. Every single time he comes to the UK he gets stopped. The business that he is in is import and export. (Muslim, female, Leicester)

The first thing you always ask your friend when they come from travelling is, did they stop you ... it's not how was the holiday, it's did you get stopped and what did they ask you. That is the first question people ask each other now. (Muslim, male, Glasgow)

If you look at Schedule 7 there is barely a family in the community that will not have been affected by it ... to varying degrees but people will have been offended by it ... they get picked out they get asked this set of questions that other passengers don't get picked out ... there is no reason to stop innocent people that you have no information on at an airport. (Muslim civil society activist, Glasgow)

The one that captures the attention is Schedule 7 ... that is the one that is most felt ... everybody, but everybody knows somebody that has been stopped ... not just stopped but also hassled at the same time ... it comes back and permeates though the community' (Civil society practitioner, Leicester)

Stopping at the airport that has caused a lot of resentment, not only the young people but older people, families coming back from India and Pakistan or flights from Dubai, they are singling out either the parent, the father or a brother, and it means the rest of the family is kept waiting for five hours. You are not just alienating that individual, you've got a family and the family go into the community; they then tell their community and before you know it you've got the community saying what's happened to you. (Local police officer)

The interviews suggest that the experience of being stopped and questioned at an airport is often more stressful than a stop in the street. This may be a function of the general stress of travelling; individuals are with families or may have families or friends awaiting their arrival. Added to this are concerns about missing flights or connections and losing baggage if a flight is missed. For those who are not British citizens, there are additional concerns and feelings of vulnerability that arise from their less secure immigration status, for example, those who are arriving to join family, on holiday or as students.

Taken together, interviews and focus groups reveal two distinct experiences of being stopped. In the first group are individuals who are stopped at airports and find themselves questioned on a range of issues that to them seem, at best, irrelevant and, at times, provocative. Focus group participants in this category who had been stopped under Schedule 7 are particularly surprised by the nature of the questions they were asked. Questioning under Schedule 7 is not related to the safety or security of a particular flight but aims to determine whether a person is concerned with the commission, preparation or instigation of acts of terrorism. In many cases, anger arises from the nature of the questions asked as these intensify their sense of being targeted because they are Muslim. Individuals recalled being asked questions relating to their religious and political beliefs, as well as their personal activities in their communities. One interviewee recalls being questioned about his understanding of jihad; another about polygamy and his views of different political Islamic organisations and Muslim community groups. Such questions led most to feel that they were being targeted as Muslims, and that the questions were being used to build up profiles of them and to gather information in general about Muslim communities.

> My husband and I were stopped at the airport . . . They asked him, if somebody gave him a gun would he be likely to carry it. And has he ever been offered one. They asked him ridiculous childish questions . . . to stop a plane being blown up you need me to take my clothes off, and you've got to search me. I've not got a problem with that. But to put me in a room and ask me do I want to buy a gun and how did your wife buy a ticket, is kind of daft. (Muslim, female, Leicester)

> I don't mind them stopping people but they are trying to get people on any issue: their financial situation; their marriage. I understand your concern is terrorism, check on that, but why go through their lives? I don't mind. But, to ask whether a person takes the dole, or not, is that their business? (Muslim, male, Leicester)

> A big complaint is the kind of questions that were being asked, like do you know where Osama Bin Laden is? Which mosque do you pray at? In one meeting [with the police about Schedule 7] it led to comical moments with someone asking 'Which mosque don't you want us to pray at? Which are the problem mosques?' To which the answer was, none. . . If you have information you should question them at any point . . . to have a special regime that you have to wait for someone to go on holiday to question them doesn't make sense. It's just a fishing expedition . . . in that respect it's a complete waste of time. (Muslim civil society activist)

Interviews with police officers suggest that screening questions asked by port officers include asking individuals which mosque they attend, the number of times a day they pray and whether they know the whereabouts of Osama bin Laden:

> One individual from Afghanistan, an asylum seeker, was asked, 'do you know the whereabouts of Osama bin Laden?' He said, 'If I did I would be claiming a reward' . . . he was held for 4 or 5 hours . . . mobile phone taken off of him . . . SIM card taken . . . all his credit cards taken. (Local police officer)

A senior counter-terrorism officer suggests that the implementation of questions at airports is a challenge because of the level of knowledge of the wider context that is needed to use them effectively:

> I always worry about the level of training you need to give an officer; at the end of the day I could probably engage with you about world affairs, about politics, about Egypt just now. I could have a chat about all aspects of the Muslim religion. I could probably understand the values that you have. Now that has come from many years of exposure … It's the ability to have a sensible conversation. My worry is that some clever person is given a series of questions [the Schedule 7 screening questions], all of which I think I could probably use, cause I'm experienced quite well … and we've made it tick box, and of course it looks stupid … but how do you overcome that. Its huge training; it's asking police officers to read papers, to understand about cultural issues. It's asking a lot. (Senior police officer)

There is a second group of individuals who face questioning which suggests that they, or an organisation or institution with which they are connected or affiliated, have been under surveillance. Here, the interest may not be in the individual directly but a particular mosque, community organisation or student Islamic society that the individual is associated with. Some mosques also feel that their congregations are the targets of Schedule 7 stops. The impact of Schedule 7 stops on individuals in this group is perhaps more profound:

> People definitely think they are being targeted because they are from a particular Muslim background. As a result of that it is definitely having a knock-on effect; it is definitely affecting a lot of people. People feel they are being targeted, that they are the victims of what is going on … close to one hundred of our congregation have been stopped, including imams and mosque committee members. (Mosque official)

An interviewee who works for a civil society organisation reported coming across examples of refugees, asylum seekers and those seeking citizenship or permanent residency being targeted for recruitment as police informants in the course of Schedule 7 examinations, with promises that their applications would be dealt with favourably if they cooperated.

An interviewee who works with young people explains the impact of Schedule 7 stops on some students:

> The kinds of questions that are asked make them [Muslim students] really feel that they are targeted, marginalised. Also, it's reduced their trust in the police to keep them safe; it's made them feel less safe. And, in the longer term, a lot of them feel as if they are constantly under surveillance … It has left some feeling paranoid as well … it may be an exaggerated feeling to think that you are being watched but that is the impact that this is having on people. (Student officer)

Furthermore, for some individuals, the perception that they are under surveillance that arose from the questions they were asked during their Schedule 7 stop has led to a withdrawal from wider social participation:

> A lot of them, before they were involved in social events, organising charity work and stuff; they have now stopped that completely, or reduce that to a huge extent … Police say if you have nothing to hide you have nothing to fear, that is not right, in fact, people who have nothing to hide have been given something to fear by all the stops and searches. (Student officer)

Police and Muslim civil society organisation interviewees suggest that the likelihood of being stopped, and the experience of individuals when stopped, differs between airports.

Such information appears to gather credibility within communities, and leads some to re-route their flights away from airports where they feel they are more likely to be stopped, or poorly treated when they are stopped. In one area, a local travel agent began to route flights from Pakistan through airports in other areas as passengers preferred this to the inconvenience of a Schedule 7 examination. Individuals who discussed Schedule 7 examinations suggested a lack of consistency in the approach taken by examining officers. When an individual misses their flight as a consequence of a Schedule 7 examination, the examining officer retains discretion over whether to assist them in rebooking their flight. The interviews suggest that in most cases, they will do so, but the practice is not consistent and there are instances recalled where the examining officer has agreed to contact the airline to explain the situation but then failed to do this. Furthermore, while the police are able to help, for example by contacting the airline to explain why a passenger missed their flight, the decision of whether to provide them with a seat on the next available flight or require them to rebook their ticket remains with the airline. Depending on availability of seats on flights, the delay to travel plans can be far longer than the examination itself. The interviews suggest the need for greater consistency and clarity around the help and support that is needed for those who, as a consequence of the examinations, have their travel plans disrupted.

Among the concerns of those examined under Schedule 7 is a fear that their names are retained on a database which will affect their future travel. An MP in one of the local case study areas, who has had to deal with a number of Schedule 7 cases, raised this issue with the police and asked for clear confirmation that this information would not be retained, but has not been able to obtain that assurance, characterising the answer received from the police as 'at best evasive'.

3.2.4. *Responses to concerns about Schedule 7 stops*

The impact of Schedule 7 stops on communities is usually picked up by police in local areas rather than by port officers. This has led local police officers in some case study areas to take action to address community concerns. However, officers in one case study area felt that the first time they raised their concerns with ports' examining officers it was not taken seriously, as the impact on community trust and confidence was, at that time, not regarded as a significant consideration: '. . .we facilitated a meeting between ports' police and key [community] individuals so that they knew what it felt like . . . but at that [time] there was no interest in what they called this "pink and fluffy stuff"' (local police officer).

The interviewee notes, however, that these attitudes have now changed; they feel that there is now far greater recognition of the need to understand the impact of policing on the wider context and on local communities. Another experienced counter-terrorism officer, weighing up the benefits from Schedule 7 stops against its impact on trust and confidence of police in Muslim communities, argued that overall, 'in terms of balance we lose more then we gain', although he acknowledged that 'port officers wouldn't agree . . . they would say we are doing a very valuable job'. In another case study area, a local police officer refers to Schedule 7 stops as something that is 'bubbling under the surface . . . eroding trust'. A senior officer acknowledged that it was an issue that was 'festering' in communities. Senior government officials and local police officers are aware that the scale and nature of Schedule 7 stops are a significant source of discontent in some Muslim communities.

Local police officers who are aware of the impact of Schedule 7 stops in undermining trust and cooperation in their local area point to the difficulties in addressing these issues, as

priorities differ across different parts of the police force. In particular, the impact of a port stop on relations between the community and police in a local area may not be the primary concern of port officers:

> [Port officers] were looking to gather intelligence . . . so while they may have hit their target of the number of people from a particular region that they need to stop and question (and I don't know that they have such a target) they have no consequence of the damage to our reputation when the person they stopped passes through the gates, comes home and retells the story that 'I was stopped for three hours and one of the questions was, what do I think of President Bush'. And that was one of the questions that people were routinely being asked. So it's really damaging. (Police officer)

One response to Muslim community concerns by local police forces has been the creation of advisory or reference groups around Schedule 7. In one of the case study areas, all individuals who made complaints about Schedule 7 stops were contacted to participate in the group, while in others, members of key community institutions such as mosques which have raised concerns about the stops were invited to participate. Police interviewees, nevertheless, acknowledge that there are difficulties in establishing the legitimacy of any group that is formed by the police. A key function of the advisory and reference group, from the perspective of the police, is to observe the stops and dispel what they feel are community myths about them. In the experience of Muslim civil society organisations, compared to other areas of policing, including s44 and PVE, Schedule 7 stops remain an area where there is limited community engagement. Their key concerns included the lack of data on the use of Schedule 7 powers and the perceived lack of effective accountability mechanisms to oversee the use of the powers. In relation to data, Muslim civil society groups have called for more comprehensive data to be collected and released, showing the extent and ethnic background of those who are examined under Schedule 7. Data, based on the examining officers' perception of a person's ethnicity, are now published. However, data based on the self-defined ethnicity of those subject to a Schedule 7 examination, while collected, are still withheld from publication on the grounds of national security. Most also felt that there was limited awareness in communities about the rights individuals had when they were stopped and questioned.

Some community activists have argued for greater democratic and political accountability of the use of Schedule 7 stops. Given the sensitive nature of information that informs decisions to make stops, one suggestion is for greater parliamentary oversight and scrutiny of their use. Other suggestions include the use of an independent body to carry out post-interview surveys on passengers who have been stopped. Others have focused on the need to change the scope of Schedule 7 powers. One Muslim civil society group, while recognising that Schedule 7 stops are an important tool for disrupting would-be terrorists, maintains that examinations of several hours should only be possible if there is 'reasonable suspicion' of an individual.[56]

3.3. *Summary*

Muslims in this study are supportive of a wide range of the measures that have been introduced at airports in response to the threat from international terrorism, where it is clear that they are treated in the same way as other passengers and are not subjected to discrimination on the basis of their religion. There is concern about the violation of norms of privacy and modesty that arise from the use of body scanners; however, the research did not pick up any examples of individual adverse experiences in relation to the use of scanners. By contrast,

where Muslim participants feel that the state is using its powers to target them because of their religious identity, this becomes a source of intense resentment and anger. Schedule 7 stops fall into this category. The interviews suggest that this power is silently eroding Muslim communities' trust and confidence in policing. It was raised as an issue in focus groups and interviews across all four case study areas. Many individuals were particularly outraged by the nature of the screening questions posed, which intensified a feeling of religious profiling. Police forces are increasingly aware of the impact it is having and there are efforts in some areas to address concerns; however, so far most seem to concentrate on explaining rather than changing the use of this power. Evidence suggests there is a need for greater transparency and accountability around its use, and that data on the precise scale of the use of Schedule 7 is needed.

4.   On the streets

This section explores the ways in which counter-terrorism policing and practices affect Muslims in the case study areas as they go about their daily lives in the streets and public spaces of the towns and cities where they live and work. It begins with an examination of, perhaps, the most widely experienced counter-terrorism policing power: the use of powers to stop and search individuals in the street. It then focuses on an issue that is of particular concern in one case study area, the creation of a 'net' of surveillance cameras on the streets in several areas of Birmingham with large Muslim populations. Finally, it looks at how Muslim communities, police and public bodies have responded to anti-Muslim marches and demonstrations by the English Defence League (EDL) and their Scottish and Welsh counterparts through the streets of British towns and cities with significant Muslim communities.

4.1.   *Powers of stop and search under the Terrorism Act 2000*

The right of the police to stop individuals as they go about their lawful business is a significant intrusion on an individual's liberty. The police can stop and search individuals and vehicles under a range of different powers. There are two specific provisions in the Terrorism Act that allow the police to stop a person. The first of these, Section 43 (s43), allows a police officer to stop and search a person (but not a vehicle) where there is a 'reasonable suspicion' that the person is a terrorist. The second, Section 44 (s44), empowers police officers, where an appropriate authorisation has been made, to stop any person or vehicle within the specified locality in order to look for articles that could be used for the commission of acts of terrorism.

Crucially, while the s44 power can only be used to stop and search a person in order to look for articles that can be used for the commission of acts of terrorism, it arises independently of reasonable suspicion relating to objects suspected of being carried, or of reasonable grounds to believe that acts of terrorism may occur in the area covered by the authorisation. Furthermore, if a person fails to stop and submit to a search when asked by a constable acting under s44 of the Terrorism Act to do so, or wilfully obstructs the constable in exercising these powers, he or she will be liable to a fine of £5,000 or a prison sentence of six months, or both, under Section 47. The PACE Code of Practice (Code A) on the use of stop and search powers applies to the use of s43 and s44. In relation to s43, it provides that 'reasonable suspicion can never be supported on the basis of personal factors'; rather it needs to be based on 'intelligence or information about, or some specific behaviour by, the person concerned'. Furthermore, 'it cannot be based on generalisations or

stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity' and the code makes it clear that 'a person's religion cannot be considered as reasonable grounds for suspicion and should never be considered as a reason to stop or stop and search an individual'. However, the discriminatory and disproportionate use of stop and search powers generally against individuals from ethnic minorities has been a widespread concern over the years.[57,58]

4.2. *Use of s44 stop and search*

Since February 2001 when s44 came into force, it has been used to carry out over half a million stops – although the use of s44 stop and search was suspended for individuals in July 2010. The Metropolitan Police Service (MPS) substantially increased their use of s44 powers after the attempted bombings at the Haymarket in London in June 2007. The stops have led to 283 terrorism-related arrests but, so far, no one has been convicted for terrorism-related offences as a result of a s44 stop.[31] Most recent data show that in the year ending September 2010, there were 45,932 s44 stops and searches in Great Britain, a 77% fall over the previous 12 months. The number of stops and searches in the second quarter of 2010/11 (666) was 98% below the same quarter in 2009/10, largely accounted for by the suspension in its use. Nineteen per cent of those stopped and searched under these powers classified themselves as Asian or Asian British.[59]

The extensive use of s44 has been criticised by a range of individuals and organisations including Lord Carlile (2009), the independent reviewer of counter-terrorism legislation, Human Rights Watch (2010), and the Metropolitan Police Authority (2004). This is the counter-terrorism power that the public has most direct experience of and the one that gives rise to the most grievances.[31]

In 2008/09, black people were six and a half times more likely and Asians five times more likely to be stopped under s44 than the white population of England and Wales.[60] Lord Carlile has argued that the impact of the extensive use of s44 is 'undoubtedly negative' (Lord Carlile, 2009: 31). The use of s44 powers varies across Britain and this is observed in its differential use across the four case study areas. The most extensive use was by the MPS in London. The second most frequent use of s44 was by the British Transport Police (BTP). In other case study areas, s44 was used by local police forces for short periods of time, usually in the immediate period after a terrorism-related arrest or incident. In Scotland, the extensive use of s44 stop and search by BTP in the months after the Glasgow Airport bombings, led to criticism of its use by the Scottish Justice Minister, Kenny MacAskill. One senior Scottish police officer felt that BTP appear to have 'their own performance regime dictated by London' which was at variance with the emphasis and importance placed on policing by consent in Scotland. There was nevertheless recognition that the pressures on the BTP and their approach reflected in part the specific threat to transport infrastructure:

> I think [the BTP] were going for big numbers. I'm not saying that was wrong, at the end of the day they don't have all the huge advantages that an airport regime has. They are dealing with a transport network … I can understand their nervousness and unfortunately a lot of the implementation of that sort of terrorism legislation is a bit blanket because it's not really intelligence led, other than there is intelligence in the system. It's not Dr C is coming through here on this day … so I can understand their nervousness after the underground being targeted. I just think, probably, it didn't quite feel right in a Scottish context. (Senior police officer)

Interviews with Muslim community groups in Scotland indicate that the stance taken by the Scottish Government and police in challenging the use of s44 by the BTP was

viewed positively, and contributed to an overall sense that the impact of counterterrorism policing and policies were different in Scotland compared with the rest of Britain.

> In my conversations with police forces they saw great harm in what it [s44 stops by the BTP] did to community relations . . . and no benefit . . . it was like looking for a needle in a haystack when there wasn't any evidence that a needle even existed . . . Strathclyde Police were not particularly amused by BTP and how they were doing this because of its impact on community relations. (Muslim community activist)

A senior police officer in an area that has resisted the use of s44 powers, in recognition of its damage to community relations, and who was critical of its apparently undifferentiated use by the MPS, nevertheless felt that the power was needed in some circumstances:

> I felt even just morally or ethically the non-use of it here was the right thing to do but I also, in many times, considered it . . . on several occasions I saw it as a tactical option . . . if you get a message through on a Friday afternoon of a threat to a public place in [this city] or to the transport system and no further details . . . well you get into trying to police that out and prevent it . . . you can do that with lots of police saturating the areas using Section 43; having Section 44, for a threat that is specific enough to be a concern but not specific enough to go and target the individual whose gonna cause the threat, is useful.

He felt that s44 had been overused due to a failure in the application of principles of proportionality and necessity in authorising its use: 'We should have been using it in a way we were seeking society's approval to use it, rather than using it because parliament said we could.'

In July 2010, following a ruling by the European Court of Human Rights that the use of s44 created a violation of Article 8 of the European Convention on Human Rights (the right to respect for private and family life),[61] the Home Secretary announced the suspension of the use of s44 in relation to individuals. It will continue to be used in relation to vehicles. In stopping individuals the police are henceforth required to rely on powers under s43 of the Terrorism Act 2000, which requires 'reasonable suspicion' before a person can be stopped and searched.

The government review of counter-terrorism and security powers concluded that there remained a need to allow stop and search of people in exceptional circumstances, without the need for reasonable suspicion of the individual. The use of this is, however, to be restricted by limiting the circumstances in which this power can be authorised. In particular, it requires that a senior police officer reasonably suspects that a terrorist attack will take place, and reduces the period of authorisation from 28 to 14 days.[31] Provisions giving effect to these recommendations are contained in the Protection of Freedom Bills 2011.

4.3. *Experiences of s44 stop and search*

For many Muslims in the focus groups, particularly young men, being stopped and searched in the street by the police was one of the most common encounters with counter-terrorism policing. Most Muslims in the focus groups, particularly in Birmingham and East London, had direct experience of being stopped and searched, had close friends and family that had been affected, or had witnessed the police carrying out stops and searches in their local area. Non-Muslims in the focus groups, particularly those from ethnic minority groups and those in London, also had experiences of police stop and searches in the street.

In general, individuals did not make a distinction between stops under s44 relating to terrorism compared with stops under other police powers. Concerns focused around three main issues: the extent of stops (that is, the number of stops being carried out); the

treatment of individuals when they are stopped; and the perceived discriminatory use of the powers. For non-Muslims from other ethnic minority groups, concerns about stop and search were also strong. For other non-Muslim focus group participants, experiences of police stop and search were only reported by those in London. Among Muslim participants, the strongest negative feelings arose from perceptions that individuals were being stopped because of their religion or race. Such perceptions were more likely among individuals who had been stopped, or had observed groups of Muslims being stopped several times in the course of the preceding 12 months.

   The absence of the need for the police to provide any reason for stopping a person, combined with individual experiences and accounts of stops from friends and family, led most Muslim participants to feel that they are stopped because of their ethnicity or religion:

> A random stop and search is not really that random. If all the people look similar then it's not random . . . black and Asian people get searched more often than white people, Asians are getting searched even more and more now. (Muslim, male, Birmingham)

> Stop and search makes everyone feel very, very, uneasy; very, very unsure of themselves. It's like with every other experience you go through; you are sitting there questioning – is it my hijab? Is it Islam? Or is it just me that they've stopped? It's that uncertainty that I don't think helps. (Muslim, female, London)

> Whenever I'm going into the city centre I always see the police officer stopping a young group of Asian boys. You always see that. At first, I used to think they've done something; but when I realise that you can be stopped without a reason I look at it in a different light. It's given me a negative portrayal of the police. (Muslim, female, Birmingham)

> My experience of stop and search will stay with me. It won't stop me from doing anything, as I wasn't doing anything wrong, but it will create a little bit of ill feeling towards the police. (Non-Muslim, female, Leicester)

> Use of counter-terrorism powers puts people's backs up . . . my son was stopped and searched. It's not a nice experience. You are just going about minding your own business when you are being stopped and searched, there is no other reason you are being stopped and searched . . . if he travels on the underground with a rucksack he gets stopped all the time . . . he accepted the fact that this is going on . . . some people take it nicely . . . a lot of people have come to accept that because of our race and religion we are being targeted. (Muslim, male, London)

The focus groups suggest that perceptions of discrimination or unfair treatment arising from stop and search can affect levels of trust and confidence in the police and in an individual's willingness to report crime to them:

> With like stop and search, the police are . . . we know they're kind of biased in a way as well. So it's like hard for us to go and report it to them when you feel at a disadvantage. (Muslim, male, London)

> These stop and search, all of them have been Muslims, it means when you see a police officer you don't feel safe, you feel endangered by that now. (Muslim, male, Leicester)

The concerns about the impact of stop and search were also shared by practitioners both in the police and local authorities. Across all the case study areas those who work with young people identified police stops as the most regular contact young Muslim men have with the police:

> In this area you have accounts of young people being stopped and searched four or five times in the same day. They come in here [the youth centre] and show us four or five different slips . . .

> The relationships with the police aren't very good because of young people's experiences with the police. (Youth worker)

A senior police officer interviewed in one area said that police were reluctant to use s44 powers in his area because of its potentially damaging impact on relations with local communities. In his experience, where s44 powers are used on a significant scale, they become the main point of contact between the police and local residents. The damage to community relations from poor treatment or profiling can occur because, when large numbers of stops are carried out, it is inevitably, 'the least experienced officers who are then asked to carry out what is, from the perspective of community policing, one of the most important tasks'. The officer who said this had been left with the impression that the actions of some officers may be based on racial or religious profiling or, at the very least, created the perception that they are:

> I was hearing horrendous stories, one particular story was a young professional Pakistani women who I knew who was travelling on a bus with a rucksack, and the bus was stopped and she was asked to get off by a police officer, who got on the bus and took her off, searched her bag and then let her back on. She was the only person of Asian appearance. What we found was that it is very, very, difficult to release notification of a power like that and be on the spot with quite young officers, most of the officers that are driving around in a car have less than four years experience. They have the most responsibility for our force but they are some of our youngest officers, least experienced.

Another referred to s44 as a 'blunt tool' that should not be used unless there was specific intelligence for its need. He explained how the s44 search could escalate tensions:

> We realised the collateral damage of introducing something like [s44 stop and search powers] is quite massive because if you've been encountered a couple of times between college and home and the third one, the cop that's stopping you, he doesn't know this is your third; you get a bit fractious. The cop thinks, why is he being fractious, I've been perfectly polite, has he got something to hide . . . and then all of a sudden people are putting hands on each other. The collateral damage of that encounter – as he goes on to tell everyone else – doesn't add up. (Police officer)

4.4. *Surveillance cameras*

The use of surveillance cameras was of particular concern in focus groups in Birmingham. During the course of the fieldwork for this study, the deployment of surveillance cameras in several areas of Birmingham with significant Muslim populations became a critical issue in relations between the police and local communities. As part of Project Champion, over 200 surveillance cameras, including a number of 'covert' cameras and cameras with automatic number plate recognition systems, were deployed in these areas. Reducing crime and anti-social behaviour appears to have been highlighted as the main reason for the cameras in their discussions with the police authority and elected officials. Protests from local residents, MPs and councillors erupted after it was discovered that the money for these cameras came out of a counter-terrorism funding stream.[62] At a public meeting in July 2010, the Assistant Chief Constable for West Midlands Police accepted that 'the police are going to have to work hard to rebuild trust'.[63] A review into Project Champion carried out in response to community concerns found 'little evidence of thought being given to compliance with the legal or regulatory framework', that consultation over the project was 'too little too late' and 'the lack of transparency about the purpose of the project has resulted in significant community anger and loss of trust'.[64] In response to

the review, the police authority has decided to remove the cameras; although, at the time of writing, while covered and unused, the cameras remain in place.

In the focus groups with Muslims in Birmingham carried out during this period, the cameras were identified as the policy that was having the most impact on people's lives. There was some support for the cameras as a measure that would help reduce crime and anti-social behaviour. But among most participants there was anger that the cameras were a measure that targeted areas with significant Muslim populations and, therefore, Muslims as a group. For many in the focus groups, it reinforced a sense that innocent Muslims were being treated as part of a 'suspect community'. The cameras were seen not only as an invasion of privacy, but as adding to the stigmatisation of Muslim communities and the areas where they lived. Criticism was also directed toward the lack of consultation and openness by the police and local authorities about the reasons for the cameras.

> I'm not saying I've got something to hide but I don't like to be watched. I don't want to step out of my house and have somebody there picking his nose watching me. What's the need for that! (Muslim, male, Birmingham)

> Recently, they've got all these cameras in every street. I don't want somebody watching me, why are they watching me? It's like big brother's watching you. The government's got too much control and too much power. (Muslim, female, Birmingham)

> F1: 'Why do you need to watch people? The crime rates are not high in this area. They want to watch people, they want to keep a tab on people ... cameras are having the major impact as they are watching you all the time.'

> F2: 'I don't have a problem with that. It's better to be safe than sorry.'

> F3: 'Why are they watching me? Why are they targeting me? If I've not done anything why are they stopping me?' (Muslim, female, Birmingham)

> If they did have a consultation it would have been fifty-fifty; some would have agreed to it. But there was no consultation, they expected the community to stay quiet. (Muslim, male, Birmingham)

Among non-Muslim participants in the focus groups there was some opposition to the cameras but there was also more support for them, particularly where it was felt they could be used for deterring crime and anti-social behaviour. The cameras were installed as part of the 'pursue' strand of Contest and were felt to have undermined the work being done in relation to the 'prevent' strand of Contest. In the interviews, anger over the surveillance cameras was particularly intense among individuals from community organisations that had been working closely with the police in the area of counter-terrorism. Many felt that their success in building trust and cooperation between Muslim communities and the police had been undermined by this incident. There was also intense frustration among some working on counter-terrorism in the police and local authority, that the measure had been taken without sufficient thought and consideration of its long-term impact. Several felt that it had undermined years of work in building community trust and confidence in the police. They accounted for this as largely a failure of internal communications and joined-up thinking among various branches of the police, but recognised that members of the public were not going to differentiate between the actions of different branches of the police:

> It destroyed the trust that had been developed over 4–5 years. It means in practice, people will be suspicious of the police; they will always think there is a hidden agenda. They won't think

that they are truthful and obviously it impacts relationships as well. There are members in the police force who would never have agreed to this or who are suffering as a consequence. They did all the hard work, forged the relationships, and now have to justify these actions or apologise for it, which isn't really fair, is it? (Muslim youth organisation worker)

There were, however, indications that the community campaign in opposition to the cameras had some positive outcomes; one activist said that the campaign had 'given ordinary people hope that they can make a change in society' and had 'empowered people . . . this was the people rising and empowering themselves and achieving what they set out to get . . . a lot of people were left with a very happy feeling that they've made a difference'. Another argued that it had led community activists to develop a more nuanced, sophisticated understanding of policing accountability structures, and increased demands for greater accountability of counter-terrorism policing. Interviews in other case study areas indicate that the issue of surveillance cameras has permeated and impacted on trust in the relations between Muslims and public bodies there. As one local authority official explained, 'the suspicion is that if they can do it in Birmingham, they can do it here'.

4.5. *Summary*

Politicians and policymakers invoke the need to 'keep our streets safe' from terrorism in support of counter-terrorism measures. For many Muslims in this study, however, the streets are places where they feel they are likely to be stopped for no reason by the police. Many Muslims, particularly young men, reported that being stopped and searched in the streets, whether under s44 or other policing powers, has became their most frequent and regular contact with the police. For some, the frequency with which they are being stopped or observing others being stopped contributes to a sense of alienation and fuels perceptions of racial and religious discrimination. These dangers are recognised by some police officers and policymakers. The repeal of s44 in its current form is an important step to addressing these concerns; however, careful scrutiny is needed of the proposed powers that will replace this, as well as of the use of other stop and search powers. The case studies illustrate examples of police losing and winning trust and confidence of local communities. Perceptions that the police behave in ways that are consistent with procedural justice by taking their views into account in formulating and implementing decisions can be important to encouraging cooperation.[65] In Birmingham, the lack of consultation and transparency over the decision to place a net of CCTV cameras around several areas with large Muslim populations has significantly undermined trust and confidence in a police force which, until that point, was praised by a wide range of individuals from community and civil society organisations for its handling of some high-profile terrorism arrests. By contrast, early and intense cooperation and discussions with Muslim and other communities in developing the city's response to the EDL demonstrations, turned a situation that posed a real threat to cohesion and safety into an experience from which the city emerged more united and resilient.

5. Police sharing information

Information sharing remains a significant issue in developing trust and confidence in relations between local communities and the police. Even within the police, intelligence and information around counter-terrorism operations are carefully controlled. Much of the direct contact with local communities is through local area-based police officers who

have to explain the necessity of a particular raid or arrest but may not have direct access to the intelligence or evidence on which the decision to make the arrest was made. Local police officers are often only given information about an arrest a few hours ahead of the operation. In some areas where there is a planned raid and arrest, mechanisms are in place for some individuals in the Muslim community to be informed, sometimes just before police action or immediately afterward:

> When we know there is going to be a sensitive arrest, we identify key individuals from that location or position in the community. On the morning of the arrest they are notified and given a number for further information. They can say they are aware of what we are doing. They are briefed at the beginning, and sounded out in the middle and updated at the end. These are individuals that are given information immediately after the arrests. (Police officer)

Such briefings of key individuals, while important, does not address the need to ensure that those who are most directly affected by police operations, those living in the streets where a raid has taken place, should be informed as much as possible about the incident. The lack of direct information to residents following the raids on houses in Forest Gate in East London was an issue that was highlighted by the Newham Monitoring Project. They argued that 'an "information vacuum" was created by the Metropolitan Police Service's refusal to provide any meaningful information to local people' and that 'no efforts were made to communicate with residents whose roads were suddenly closed'.[66]

In the absence of being able to share actual information with communities, police have developed role-play exercises in which members of the public, often those who are viewed as active and key individuals in communities, are given scenarios involving receipt of information and asked to make decisions around how the police should respond. A senior police officer explained that the aim of these is to provide individual participants with an insight into the operating environment of the police and the challenges and difficulties around the judgements they make: 'they hopefully go back into communities as ambassadors . . . they hopefully say they understand the reasons for this'. Interviews with individuals in Muslim communities suggest that while this goal may have been achieved there was also a feeling that this exercise was a one-way process. Communities were asked to understand the complexity and difficulties of the judgements police are required to make without any reciprocal exercise for police to understand the impact of their actions on communities:

> The police have been involved in workshops showing police perspectives . . . the workshop is good but the feedback I've got from women is that it's the police's perspective. They are not asking us what we think. They are showing us, for instance, in the event of a terrorist attack what things do police have to look at . . . it does not show or reflect in any way how us, as individuals or human beings, how it affects us . . . The exercises are useful in showing what the police have to consider and the impact of a terrorist attack but I feel it's one-sided, they also need to consider our side as well. . . unless they can do that they are not going to get the people to open up to them. (Muslim, NGO outreach worker)

6. Conclusion

The report points to the varied and diverse experiences that arise in the context of counter-terrorism. The experiences vary across the four case study areas and also across groups within the case study areas. The starkest difference to emerge from the research is the disparity in the experience of Muslim and non-Muslims who live in the same local areas in terms of their encounters with counter-terrorism policing. Counter-terrorism law and policies are experienced and recalled more intensely, acutely and directly by Muslims than

non-Muslims in the focus groups. Muslims were more likely than non-Muslims to recount incidents around counter-terrorism policing and policies that either involved themselves or concerned close friends, family or neighbours. When it comes to experiences of counter-terrorism policing, particularly of stops at airports, stops on the street and arrests and raids, Muslims and non-Muslims from the same local areas appear to live 'parallel lives'.

There is a damaging disconnect between the state and communities in their conceptions of 'threat'. From the perspective of the state and officials who work in counter-terrorism, the threat from international terrorism is the most significant and real threat that Britain faces today. Given the nature of the actual and planned attacks from Al Qa'ida-inspired terrorism in Britain and elsewhere, the existence of networks and groups involving around 2000 individuals that are involved in planning or supporting attacks in this country or abroad pose a real and grave challenge to national security. From the perspective of a Muslim population of over 2.5 million, however, those individuals are a tiny and virtually invisible minority. In the face of state claims about the threat posed by Al Qa'ida, focus group participants consistently identified a range of other issues, from drugs and gangs to unemployment and racism, that to them posed an equal or more immediate and real threat to their families and local communities.

The research suggests that a state-centric approach to threat that is unable to acknowledge or respond to community conceptions of threat will struggle to attract community acknowledgement and cooperation. For example, it should be recognised that the English Defence League (EDL) are, for many Muslims in this research, a visible and real manifestation of violent extremism and one that many are more likely to encounter than an Al Qa'ida extremist. The research suggests that the policing of EDL marches, if handled correctly, could provide an opportunity for partnership and cooperation between local Muslim communities, the police, local authorities and other communities. Experiences of counter-terrorism policing and practice differ across age, gender and ethnicity. Stops on the street are largely experienced by young men, often when they are alone or with other young men. Stops at airports appear generally to be experienced by men as well, but there is also an impact on those travelling with them, or meeting them, including partners and families. There is greater awareness of incidents, stops, searches, raids and arrests, involving those of the same ethnic background than in relation to those of other such backgrounds. However, where experienced, the impact on those affected and the wider community was significant.

Measures that are perceived as targeting Muslims as a group or community were of greater concern to those in this study than measures that target individual suspects. Measures such as stop and search on the streets or at airports, PVE funding, and the use of surveillance cameras, which bring a wide range of individuals within the ambit of police attention and which rely on the exercise of judgement in an area of wide discretion, were most frequently identified as 'stereotyping' or 'profiling' Muslims. The refrain that such measures are 'affecting ordinary law-abiding Muslims like us' was heard in most focus groups. By contrast, there was less focus in the discussions on laws and policies such as the length of pre-charge detention or control orders, reflecting the fact that they affect a smaller number of people. There are no precise data on the scale of Schedule 7 stops as, prior to 2010, the Home Office only published data for examinations lasting over one hour. However, the research for this report finds that Schedule 7 stops at airports are having the single most negative impact on Muslims across all four case study areas. The nature of the questions asked during the stops and examinations intensify feelings that the stops are based on religious profiling. Senior officials and police officers are aware of the negative impact that Schedule 7 is having on relations with Muslims, and

some have reached the view that the negative impact on communities outweighs the benefits it provides. However, Schedule 7 was not part of the recent review of counter-terrorism and security powers.

The PVE programme was a considerable area of concern in interviews with those who work in Muslim community organisations and civil society, but hardly featured in the focus groups; where few had even heard of Prevent. While mistakes were made in the development and implementation of PVE, much of this reflected the fact that this was a new area where policymakers were starting without any benchmarks and templates to follow and learning has, necessarily, been through trial and error. The targeting of funding to Muslim communities under PVE, particularly where it was directed at capacity-building and community cohesion, contributed towards a sense of being treated as a 'suspect community' and was perceived to generate resentment from other communities. This would appear to suggest that such projects should, therefore, be delivered through mainstream funding mechanisms.

In interviews with key stakeholders from community-based non-government organisations (NGOs) and civil society organisations, the need for more information, transparency and accountability around counter-terrorism policing and policies, was a recurring theme. While it was recognised that an asymmetry of information was inevitable in the area of counter-terrorism policing, many felt that more creativity was needed in developing mechanisms for sharing and disseminating information in relation to counter-terrorism policing.

Counter-terrorism laws are not experienced in isolation but contribute to a wider sense among Muslim participants of being treated as a 'suspect community'. While some Muslims are responding to this through greater engagement, in challenging the misperceptions about them, many more report feeling increasingly alienated and isolated. This research outlines some of the drivers for this and provides the basis for further analysis and action by policymakers.

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Notes

1. Published by Equality and Human Rights Commission, Research report 72, first published Spring 2011, ISBN 978 1 84206 383 5. This article includes selected, edited extracts from the Report.
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Office (2010) table 1.1, table 1.8(a) and table 1.8(b).