



Briefing: Schedule 7 to the Terrorism Act 2000

This briefing outlines the changes that the coalition government are proposing to Schedule 7, the widest ranging stop power in the UK. First, the current powers available to officers at ports under Schedule 7 are outlined before a discussion on the data of its use is included followed by an account of the impact it has had on communities. The proposed changes to the power under the Anti-Social Behaviour, Crime and Police Bill are then outlined before StopWatch's own proposals for changes on the power. An appendix is included at the end of this briefing which contains more detailed data on use and convictions.

Current powers

Schedule 7 is a highly intrusive stop power which operates outside of the regulatory framework that covers other police powers of stop and search. Individuals stopped under the power are not under arrest but may be examined for up to 9 hours wherein they may be questioned, searched (as well as their belongings), strip-searched and have samples of their biometric data including DNA & fingerprints taken from them regardless of the outcome of the encounter and in the absence of a lawyer. People stopped under it are obliged to cooperate or face an arrest, a period of imprisonment and/or fine. In addition, there is no right to compensation or assistance in rearranging any flights missed or other transportation as a result of a Schedule 7 examination or detention.¹

Data on use

In 2011–12, 63,902 stops were carried out under Schedule 7, of which 2,240 lasted over an hour and 680 (less than 1%) resulted in a detention. Although no information has been provided on the number of people convicted and on what charges, there were just 10 total terrorism-related convictions since 2009-12 (see Appendix).²

Black and minority ethnic groups make up the majority of those subject to Schedule 7 stops (56%) even though they account for approximately 14% of the national population.³ Asians accounted for 27% of Schedule 7 stops in 2011/12 (and 7.5% of the national population), Blacks accounted for 8% of stops (and 3.3% of the population), people from mixed backgrounds accounted for 3% of stops (2.2% of the population) and people from other ethnic groups (including Chinese and 'other') accounted for 18% of stops (but only 1% of the population). The targeting of black and minority ethnic groups continues to be even more marked when we consider the most intensive Schedule 7 stops. Of those stops which lasted over an hour, 36% were of Asians, 14% were of blacks, 3% were of people from mixed backgrounds and 24% were of 'other' ethnic groups. Fewer than 12% of stops over an hour were of whites.

1 A full outline of the power is outlined here: <http://www.legislation.gov.uk/ukpga/2000/11/schedule/7>

2 This figure includes convictions for multiple charges of individuals convicted of direct terrorism-related offences arising from a Schedule 7 encounter. Therefore it does not represent the number of people convicted.

3 Based upon 2011 census data produced by the Office of National Statistics.

Impact

A number of communities in the UK are affected by the use of Schedule 7 although most research and media reports highlight the impact of these powers on people from Muslim backgrounds. For example, the Equality and Human Rights Commission (EHRC) found that Schedule 7 was having “the single most negative impact” on Muslim communities and also reported that:

“[f]or some Muslims, these stops have become a routine part of their travel experience” and that “—this power is silently eroding Muslim communities' trust and confidence in policing.”⁴

Another set of studies conducted with British Muslims in Scotland revealed that respondents had a strong British identity and that encounters with officers at ports, on both sides of the border, were places where they felt that this identity was undermined by counter-terrorism officers and damaged their perceptions of fairness and faith in counter-terrorism measures.^{5 6 7}

In particular, the taking of people's DNA and fingerprint information has caused the greatest discontent amongst travellers, most of whom were not suspected of any wrongdoing. As has been reported by a number of media outlets, not only has this made people feel criminalised but it has significantly undermined faith in counter-terrorism and perceptions of fairness.^{8 9}

Meanwhile, politicians such as David Lammy MP, Lord Nazir Ahmed and Humza Yousaf MSP and civic groups like StopWatch have a long history of raising concerns on the use and impact of this power which remain unaddressed by the Bill. The United Nation's Human Rights Committee also expressed “grave concerns” over the use of counter-terrorism measures in the UK, with particular concern over what they judged to be religious and ethnic profiling in the use of those powers.¹⁰ In a review of the utility of the Schedule 7, David Anderson QC, the UK's terrorism watchdog, concluded that:

4 Choudhury, T. & Fenwick, H. (2011) *The Impact of Counter-Terrorism Measures on Muslim Communities*. London: The Equalities and Human Rights Commission.

5 Hopkins, N. (2011) *Dual Identities and Their Recognition: Minority Group Members' Perspectives*. *Political Psychology* 32(2) pp.181–367.

6 Blackwood, L., Hopkins, N. & Reicher, S. (2012a): *I Know Who I Am, But Who Do They Think I Am? Muslim perspectives on Encounters with Airport Authorities*, *Ethnic and Racial Studies*. Published online at [DOI:10.1080/01419870.2011.645845](https://doi.org/10.1080/01419870.2011.645845)

7 Blackwood, L. M., Hopkins, N. & Reicher, S. D. (2012b) *Divided by a Common Language? Conceptualizing Identity, Discrimination, and Alienation* in Jonas, K. J. and Morton, T. A. [eds] *Restoring Civil Societies: The Psychology of Intervention and Engagement Following Crisis*. West Sussex: John Wiley & Sons, Inc

8 Verkaik, R. (2010) *They asked me where Bin Laden was, then they took my DNA*. *The Independent Newspaper*. [21 Sept 2010]. Available at: <http://www.independent.co.uk/news/uk/home-news/they-asked-me-where-bin-laden-was-then-they-took-my-dna-2084743.html>

9 MPA (2011) *Protecting the Innocent: The London Experience of DNA and the National DNA Database*. Report by the MPA Civil Liberties Panel. London: The Metropolitan Police Authority. June 2011.

10 See: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights24May2012am.aspx>

"It is fair to say that the majority of examinations which have led to convictions were intelligence-led rather than based simply on risk factors, intuition or the 'copper's nose'. Indeed, despite having made the necessary enquiries, I have not been able to identify from the police any case of a Schedule 7 examination leading directly to arrest followed by conviction in which the initial stop was not prompted by intelligence of some kind."¹¹

Despite this, official statistics on the use of this power illustrates that it has not been used in an intelligence-led approach and that people from ethnic minority backgrounds are more likely to be subjected to the more extreme aspects of the power, particularly those from Asian backgrounds. This can be seen in the table provided in the Appendix.

Current powers and the Anti-Social Behaviour, Crime and Police Bill

After a recent review of Schedule 7 by the Home Office, the first since it was enacted in 2000, the government proposed some changes to the use of the power under Section 124 and Schedule 6 to the Anti-Social Behaviour, Crime and Police Bill. These changes are outlined below alongside current provisions to provide a comparison.

Current provisions	Proposed changes
A maximum period of examination and/or detention of 9 hours.	A Reduction of the maximum period down to 6 hours.
	A "periodic" ¹² review of the person's detention must take place at certain intervals by a senior officer not already involved in the detention.
The power to take DNA and fingerprint samples regardless of the outcome of the encounter. ¹³	Unchanged.
Intimate biometric data (blood, semen, etc) may be taken from individuals examined or detained.	To be repealed.
Ability to subject the examined or detained individual to a strip search without reasonable suspicion.	Strip searches may only be conducted if the person is detained and they are reasonably suspected of concealing an item.
Only people detained at ports but	Extends this right to any person detained,

11 Anderson, D (2011) Report on the Operation in 2010 of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006. London: The Stationary Office. 18 July 2011.

12 The term 'periodic' remains undefined in the Bill and is left to the Home Secretary to set out in the relevant code of practice as specified under paragraphs 6 of Schedule 6 to the Anti-Social Behaviour, Crime and Police Bill.

13 Biodata taken from people detained under Schedule 7 is stored on the same database as convicted terrorists.

transferred to a local police station may consult a solicitor, although this right can be delayed by a senior officer until the person has already been questioned and searched.	whether at ports or at a police station, to consult a solicitor although this right can still be delayed until the person has already been questioned and searched.
No training is currently required for the use of Schedule 7.	The Home Secretary must set out guidance for the training of officers.

StopWatch's position:

StopWatch welcomes the proposed reforms under the Bill and we believe that it can go much further towards ensuring that this power will be used proportionately, fairly and with greater transparency. Our proposals have been developed from regular contact and discussions with people who have been stopped or detained under Schedule 7 and these include:

- The legal maximum period of detention should be reduced to one hour at which point the person should either be released or arrested. 97.2% of examinations take less than an hour which proves that this is, in fact, practical.
- The power to take non-intimate biometric data, including DNA and fingerprints, should be repealed in light of the huge concerns and impact that this provision is causing. The government has proposed only to repeal intimate samples but will still allow non-intimate samples to be taken.
- Officer training to use Schedule 7 should be developed in consultation with a range of legal, academic and equality and community groups and also subject to independent and public evaluation.
- Advice and assistance should be provided to people who miss their flights or other transportation as a result of an examination or detention.
- There should be a minimum threshold of suspicion upon which individuals can be stopped. This should be based upon objective facts, information, and/or intelligence, so as to minimize the risk of arbitrary or discriminatory application of stop and search powers.
- The PACE Codes, which governs other stop powers, should be extended to cover stop and searches conducted under Schedule 7 of the Terrorism Act 2000. This would require that Schedule 7 stops to be monitored under the same recording framework as all other stop and search powers and that data be shared with community and monitoring groups.

Appendix – Examinations made under Schedule 7 of the Terrorism Act 2000¹

Year and ethnicity	Under the hour examinations	Over the hour examinations	Total Schedule 7 examinations ²	Number of detentions ³	Number of DNA & fingerprints taken	Number of convictions ⁴
2009/10	82,870	2,687	85,557	..		2
2010/11	63,396	2,288	65,684	913	769	2
<i>of which:</i>						
White	26,121	325	26,446	75		
Mixed	1,874	95	1,969	21		
Black or Black British	5,636	338	5,974	194		
Asian or Asian British	18,342	1,032	19,374	407		
Chinese or Other	10,772	461	11,233	188		
Not stated	651	37	688	28		
2011/12	61,662	2,240	63,902	680	592	6
<i>of which:</i>						
White	26,491	266	26,757	55		
Mixed	2,004	70	2,074	23		
Black or Black British	5,068	321	5,389	157		
Asian or Asian British	16,444	810	17,254	237		
Chinese or Other	10,663	527	11,190	155		
Not stated	992	246	1,238	53		

Source: ACPO(TAM) National Coordinator's Office Protect & Prepare.

1. All data, unless otherwise stated, covers the period of April to March of each of the stated years.
2. Does not include examinations of unaccompanied freight.
3. In 2009/10 reliable data on those detained were not recorded separately; estimated data are included in the total of over the hour examinations.
4. This is not the number of people convicted- which remains unknown- but the number of successful convictions including from multiple charges of the same individual. Data covers January-December of the first stated year.