



A Short-Notice Inspection of a UK Border Agency Arrest Team (Bexley, Greenwich & Lambeth)

3 August 2011

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Independent Chief Inspector of the UK Border Agency

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Foreword from John Vine CBE QPM



This is the second short-notice inspection of a UK Border Agency arrest team operation that I have carried out in order to assess how enforcement powers are exercised by UK Border Agency staff. There are 53 arrest teams operating within the UK, undertaking approximately 3,500 operations annually. They arrest people who are either suspected of, or liable to detention for, immigration offences, and as such it is important that they are carried out proportionately and within established guidelines.

I observed an arrest team operation for one day in central London. This was a relatively large deployment to commercial premises to arrest suspected immigration offenders. Overall, the operation was well planned and led with a sound formal briefing, proportionate deployment of staff and with people treated with courtesy and respect. There remains room for improvement in post-arrest record-keeping in line with guidance; however, the operation represented a considerable improvement upon my last inspection of this type.

I shall continue to monitor this challenging and high-profile area of the Agency's work with future unannounced or short-notice inspections.

A handwritten signature in black ink that reads "John Vine .". The signature is written in a cursive, flowing style.

John Vine CBE QPM
Independent Chief Inspector of the UK Border Agency

1. Summary of Recommendations

We recommend that the UK Border Agency:

1. Ensures compliance with the relevant legislation, codes of practice and guidance relating to the search of a person following arrest.
2. Ensures compliance with the guidance relating to the records that an arrest team must complete.

2. The Inspection

- 2.1 The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency.
- 2.2 The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.

Purpose and Aim

- 2.3 To assess the efficiency and effectiveness of a UK Border Agency arrest team through a short-notice inspection.

Scope

- 2.4 The scope of the inspection was to assess the activity of a single arrest team over one day.
- 2.5 We selected an arrest team and observed the operation they conducted during the day, including any subsequent actions, such as the arrest and detention of people encountered. We focused specifically on the use of police-like powers of arrest and associated powers of entry, search and seizure by the arrest team and its arrest-trained officers.
- 2.6 The intelligence-gathering process and the outcome of any arrests made were out of the scope of this inspection.
- 2.7 The treatment of people detained in Immigration Removal Centres or police stations is under the remit of Her Majesty's Inspectorate of Prisons and out of the scope of this inspection.

Inspection Criteria

- 2.8 The inspection methodology was developed using the Independent Chief Inspector's Inspection Criteria, covering the following three themes:
 - Operational delivery;
 - Safeguarding individuals; and
 - Continuous improvement.
- 2.9 The inspection particularly focused on the following criterion:
 - Enforcement powers should be carried out in accordance with the law and by members of staff authorised for that purpose.

Purpose: *To place an expectation on the Agency that it complies with the law, safeguarding those arrested/ stopped/ searched and that law enforcement powers are carried out by appropriately trained officers. In addition, to ensure that people are given information about the reason for their arrest promptly and in a language they understand. Furthermore, to ensure that force is used as a last resort and only to the extent required; that authorised staff safeguard the health needs of people in the Agency's custody and take action to secure medical attention whenever required.*

Further information about the Inspection Criteria can be found at Appendix 1 and on the Chief Inspector's website¹.

Methodology

- 2.10. The on-site phase of the inspection took place on 3 August 2011.
- 2.11. Twenty-four hours before the inspection, we announced our intention to inspect an unspecified arrest team in the London region to the Professional Standards for Enforcement (PSE)² team, for the sole purpose of ensuring the availability of the Agency cover officers³.
- 2.12. We arrived at the Bexley, Greenwich and Lambeth Local Immigration Team (LIT) office at 8:30 a.m. and announced our arrival to the senior manager responsible for the LIT.
- 2.13. Two members of the inspection team observed the arrest team undertaking their planned operations. They were accompanied by two arrest-trained officers from the PSE team who acted as their cover officers.
- 2.14. We observed the 11 members of the arrest team undertake one operation on business premises, at which three people were arrested.
- 2.14. After the operation, we interviewed members of the arrest team who played a significant role in the operation. We also reviewed the relevant legislation, Agency guidance and the records produced by the arrest team during the operation.
- 2.15. The inspection identified two recommendations for improvement. A full summary of recommendations is provided on page three of this report.

1 www.independent.gov.uk/icinspector

2 The Professional Standards for Enforcement team are an Agency team responsible for enforcement standards across all Immigration Group arrest teams.

3 Cover officers are responsible for keeping arresting officers or observers safe.

3. Background

UK Border Agency structure

- 3.1 Immigration Group is the part of the Agency responsible for enforcement of the Immigration Rules within the UK and is structured into six regions: London and South East; North West; North East Yorkshire and Humber; Scotland and Northern Ireland; Midlands and East; and Wales and South West.
- 3.2 Enforcement operations within Immigration Group are organised within LITs and involve the arrest, detention and removal of people from the United Kingdom. LITs were established across the UK from the summer of 2008 to undertake a range of functions, including enforcement activity, casework and to strengthen joint working with key partners at the local level. There are currently 53 LITs of varying size and scope operating across the UK, involved in enforcement activity. Of the 2,850 people working in Immigration Group, 681 are arrest-trained⁴.

Arrest teams

- 3.3 Arrest teams use police-like powers to fulfil their duties. Specially trained (or 'designated') officers exercise powers of arrest, and associated powers of entry, search and seizure. Arrest-trained officers may also use force whilst exercising their powers, providing it is both reasonable and necessary.
- 3.4 Every officer who works on an arrest team is required to attend a three-week arrest training course, the successful completion of which designates them as being able to use the police-like powers of arrest, and associated powers of entry, search and seizure. They are required to refresh these skills annually by completing a two-day training course. Arrest-trained officers are typically of Assistant Immigration Officer or Immigration Officer grade.
- 3.5 When conducting an arrest team operation, the team typically consists of between four to 12 members of staff. One Immigration Officer is nominated the Officer in Charge (OIC) and is responsible for all aspects of the arrest team operation, including planning.
- 3.6 Arrest-trained officers derive their powers of arrest from either Part III or Paragraph 17(1) of Schedule 2 of the 1971 Immigration Act (as amended). Further information on the powers held by arrest-trained officers is provided in Appendix 2.
- 3.7 Agency arrest teams adhere to the provisions of the Police and Criminal Evidence (PACE) Act and the PACE Codes of Practice⁵ when investigating immigration offences. The PACE Codes of Practice provide the core framework of powers and safeguards around the:
 - arresting, questioning, searching or taking of fingerprints from a person;
 - entry and searching of premises; or
 - seizing of property found on persons or premises.

⁴ Refers to full time equivalent number of staff, figure supplied by UK Border Agency, correct as at February 2011.
⁵ <http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/>

- 3.8 Arrest teams normally receive intelligence reports from other areas of the Agency. Intelligence reports identify people either suspected of immigration offences⁶, people who are liable to detention or people who it is suspected may be liable to detention.
- 3.9 Arrested people who are suspected of an immigration offence are taken to a police station, where an Immigration Officer will interview them on tape and under caution to establish if an immigration offence has been committed.
- 3.10 Arrested people who are liable to detention do not need to be interviewed, as the Agency has already established that they have committed an immigration offence. They are taken either directly to an Immigration Removal Centre (IRC) or a short-term holding facility. IRCs are longer term, residential detention facilities; short-term holding facilities provide a short-term assessment and induction facility prior to transferring people to an IRC.
- 3.11 Police are only present on arrest team operations if a risk assessment indicates they are required or the Agency is conducting a joint operation with the police.
- 3.12 The Agency's guidance for arrest teams is contained within its Enforcement and Immigration Guidance (EIG). During this report we make frequent reference to the EIG, which is available on the Agency's website⁷.

Bexley, Greenwich and Lambeth Local Immigration Team (LIT)

- 3.13 The Bexley, Greenwich and Lambeth Local Immigration Team (LIT) is one of three LITs based at Beckett House in central London – the others are Newham and Waltham Forest LIT and Southwark LIT.
- 3.14 A total of 94.8 staff (full time equivalent) work within the LIT, led by an Assistant Director. Their work covers asylum, casework, enforcement and removals.
- 3.15 The arrest team comprises of 11 arrest-trained officers. Their primary role is to detect and arrest immigration offenders through arrest team operations. A further twelve and eight arrest-trained officers work in the Newham and Waltham Forest and Southward LITs respectively. Resources for larger operations are shared between the three LITs. The operation we observed was resourced by officers representing the three LITs, but was conducted under the name of the Bexley, Greenwich and Lambeth LIT.

Management information

- 3.16 The numbers of arrest team operations and arrests from July 2010 to June 2011 are shown in Figure 1 below:

Figure 1: Numbers of Arrest Team Operations and Arrests: July 2010 – June 2011		
Period	Number of operations	Number of arrests
National	3,554	5,999
London	919	1,848
Bexley, Greenwich and Lambeth LIT	59	126

Note: Provisional data, provided by the UK Border Agency

⁶ People suspected of immigration offences: includes people suspected of entering the UK illegally, for example using a forged passport or concealed in a vehicle; and people who initially entered the UK legally but are now suspected of being in the UK illegally, for example a visitor who was granted entry to the UK for six months but who has remained beyond the permitted six months.

⁷ <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

4. Inspection Findings: Operational Planning

- 4.1 We inspected the actions undertaken by the Agency prior to the arrest team operation. This included mandatory personal-safety training, the preparation of intelligence and the delivery of an operational briefing to members of the arrest team.

Arrest training

- 4.2 We found there were clear processes in place to ensure that all arrest team members had received the required arrest training and refresher training, and that these records were monitored.
- 4.3 A database recorded the personal-safety training completed by each member of the arrest team and the date by which they needed to complete their refresher training. One member of staff had not completed their refresher training and was correctly removed from arrest team duties pending successful completion of their refresher training.
- 4.4 We were satisfied that appropriate controls were in place to ensure that only appropriately trained officers took part in arrest team duties and used law enforcement powers.

Pre-operation checks

- 4.5 A number of police and immigration checks are required prior to any arrest team operation. Typically, an Intelligence Unit will complete background checks, including checks with the police, and prepare an intelligence report containing information on people suspected of immigration offences or who are liable to detention. This intelligence report will then be passed to the OIC, who will complete additional checks (including a risk assessment) before the operation can take place.
- 4.6 We reviewed the intelligence report that contained the immigration history, address, and other information known to the Agency or police, of the people who were the focus of the operation. This information was used by the OIC to plan the observed operation.
- 4.7 There was clear evidence that the appropriate police checks had been carried out on each of the 15 potential offenders. This included checking the Police National Computer and other police systems. These checks are an important safeguard and reveal if the police are aware of other criminal activity. As the Agency's intelligence systems do not hold this type of information, it is important that they contact the police during the intelligence-gathering phase.
- 4.8 We found there was a clear audit trail of intelligence checks. All necessary immigration checks had been carried out by the Agency, including checks of Agency databases in the United Kingdom and overseas. The name of the person completing the checks, and the date of the checks, was clearly recorded. A manager from the Intelligence Unit confirmed that all the required checks had been completed, therefore providing assurance that the report was ready to be passed to the OIC to begin the detailed planning of the operation.

- 4.9 All relevant information was recorded in one intelligence report, with 15 annexes for each of the potential offenders. This was logical and organised, and ensured that the OIC of the operation had all the information required to plan the operation. Where checks revealed traces of the person, the relevant information was printed off and recorded in the annex. This included detailed immigration histories and copies of documents such as passports.
- 4.10 The intelligence report contained sections for the arrest team to record that actions required during the planning phase of operation had been completed. The OIC had completed all the required sections, including a full health and safety assessment and preparation of a detailed briefing.
- 4.11 Overall, the intelligence report contained an accurate audit trail, information was presented in a logical order, appropriate pre-operation checks were conducted and Agency guidance and process were complied with.

Authority for the operation

- 4.12 Police had been notified of the date of the intended operation and provided their authorisation for it to proceed. This was clearly recorded in the report, and ensured the Agency did not undertake an operation at a time of community tensions or when the police were conducting an operation. This also ensured that the police were aware of the details of the Agency operation and would therefore be able to respond more promptly in the event of an incident occurring.
- 4.13 Due to the large number of potential offenders at the premises, Agency guidance required a senior manager, of Inspector grade, to authorise the operation. The written authority of an Inspector was clearly recorded in the pack.
- 4.14 The arrest team comprised 11 arrest-trained officers. Given the potential presence of 15 immigration offenders, we were satisfied that the size of the arrest team was proportional and appropriate.
- 4.15 Overall, Agency guidance was complied with, the operation was appropriately authorised and the size of the arrest team was proportional to the number of potential offenders.

Briefing

- 4.16 Immediately prior to leaving the office, the OIC delivered a briefing attended by all members of the arrest team. It was delivered in a professional and formal manner by the OIC, who presented the information in a concise and logical order. It communicated all the relevant information in the format required by Agency guidance.
- 4.17 The intention of the operation was made explicitly clear, namely to identify and arrest immigration offenders. Clear reference was made to the immigration legislation that the arrest team might rely upon. The OIC was careful not to prescribe what powers must be used, as the circumstances of arrests might differ from those expected.
- 4.18 As there were 15 potential offenders, the OIC explained that detailed information packs were available on each of the individuals who might be encountered on the operation. These packs contained information and copies of documentation found during intelligence checks. The OIC did, however, provide specific details of people who presented a potential risk, including the possible presence of a 75-year-old man with medical needs and an individual with the potential to be aggressive.
- 4.19 Other risk factors were explained to the team, including the confined layout of the premises that would restrict movement and access. The OIC provided detailed instructions as to how the team could mitigate against this.

- 4.20 Effective communications in the team, with senior managers and with the police were covered in detail in the briefing. Individual radios were assigned, and reference was made to the fact that the operation had been logged with the Metropolitan Police and the police reference number provided.
- 4.21 The critical incident management structure (the hierarchy of command in the event of a serious incident) was made clear to the team, including the names and contact numbers of all relevant staff. The most senior officer in the incident management structure confirmed that they had been provided with a copy of the briefing prior to the operation taking place.
- 4.22 The OIC informed the team that no warrant was held for the operation and that they would be required to gain entry by informed consent (where the premises' owner permits access once asked). The process for obtaining informed consent, particularly the need to record it in writing before entry is gained, was made clear to the person responsible for carrying out this task.
- 4.23 The entire team wore the correct protective clothing and equipment, although we did not observe the OIC to undertake a physical check to confirm this. It is the responsibility of the OIC to ensure that all staff are wearing the correct clothing and equipment.

Conclusion

- 4.24 Overall, we were satisfied with the quality of the operational planning undertaken by the Agency, and that it was completed in line with its guidance. The size of the arrest team was proportional to the number of potential offenders, staff were appropriately trained to use their powers of arrest, all the appropriate pre-operation checks and authorisations were carried out and the professionally delivered briefing provided the arrest team with all the relevant information.

5. Inspection Findings: Operational Activity

- 5.1 We inspected the actions taken by the arrest team while they conducted the operation. We focused on their interactions with people and their compliance with guidance and legislation.

Entry using informed consent

- 5.2 Arrest teams most commonly gain lawful entry to premises either using a warrant or through informed consent. With a warrant, the arrest team may, if unable to obtain entry through consent, force entry into the premises. This is typically used as a last resort. If no warrant is held, the arrest team must obtain entry with the informed consent of the owner or occupier. This requires the Agency to explain to the owner or occupier that they are not obliged to provide their consent and can withdraw it at any time. The informed consent must be recorded.
- 5.3 Entry to the premises was gained in accordance with the Agency's own guidance and the requirements of the PACE Codes of Practice. The arrest team did not hold a warrant and were therefore obliged to gain entry by informed consent. We observed a member of the arrest team explain the principle of informed consent, and obtain the correct authority in writing, before the arrest team entered the premises.
- 5.4 The arrest team gained entry to the premises in an efficient and appropriate manner that was in accordance with the law and complied with Agency guidance.

Securing the premises

- 5.5 The operation took place on business premises. The intelligence available to the Agency stated that the 15 potential offenders would be on a training course that was taking place inside a small room at the rear of the office. Intelligence available to the OIC on the day of the operation indicated that only three of the 15 potential offenders had attended the training course. Other staff were also working in the office – these individuals were not suspected of immigration offences.
- 5.6 The OIC made the decision to leave four of the eleven officers in the vehicles outside the premises. If these additional officers were required, the OIC ensured they were in radio contact and available to assist. This was a proportionate decision by the OIC. The number of potential offenders likely to be present had decreased, so the size of the arrest team was reduced. We were satisfied that seven officers remained an appropriate number for three potential offenders, especially as the OIC did not know for certain that only three people were present.
- 5.7 The OIC had explained the layout of the office and allocated clear roles and responsibilities to their team in the briefing. We observed the arrest team as they secured the premises in an efficient and professional manner. They promptly identified the training room, in which people were seated. An officer entered the room and clearly identified themselves as being from the UK Border Agency. All staff also had clearly identifiable markings on their anti-stab vests that identified them as being from the UK Border Agency.

- 5.8 The small size of the room limited the number of officers who were able to enter the room. A total of six arrest team officers were in the room; the OIC remained outside and spoke to the office manager. We observed that at all times the arrest team were in control of the room and therefore able to assure the safety of the three people and the arrest team. The other officers remained outside of the training room.
- 5.9 The people were courteously moved to separate corners of the room, in order to respect their privacy during interviews and to reduce the potential health and safety risks of keeping them together. The three people were then asked, in a calm and polite manner, that they remain seated while being asked some questions, which demonstrated that the arrest team were mindful of potential health and safety risks.
- 5.10 The person identified as being potentially aggressive in the briefing was identified at a very early stage by the officer speaking to him. After the operation, we interviewed the officer, who stated that they became aware of this the moment the person gave their name. The officer demonstrated a clear understanding and consideration of the potential risk factors, including risks to the people being interviewed in the room, the arrest team and other people in the building. However, given the calm demeanour of the person and lack of any other warning signs, they 'did not feel alarmed' and did not feel the need to take any further action at that time. We were satisfied this was a considered and proportional decision based on good principles of risk assessment.
- 5.11 The arrest team were efficient and professional while entering and securing the premises. They were calm and polite in their dealings with all people they encountered, demonstrated a clear understanding of their respective roles and responsibilities and were mindful of health and safety considerations.

Interviews

- 5.12 We observed officers as they conducted brief interviews with the three people in the room to establish their identity, nationality or citizenship and immigration status. The officers were polite and respectful at all times.
- 5.13 A handheld device used to check the fingerprints of people against Agency records did not function correctly. This device is typically used during interviews to identify if the person has previously had their fingerprints taken by the Agency, usually indicating that a claim for asylum has been made⁸. The device relies on a mobile network signal, which the officer was unable to obtain, even upon leaving the building. We do not make any judgement on the efficacy or otherwise of this equipment based on one failure to work.

Use of 'caution plus two'

- 5.14 Two of the three people were issued with a caution known as 'caution plus two'. This is a form of the standard caution, with two additional clauses that state that the person is not under arrest and is free to leave at any time. Agency guidance states that it can be used when, 'during the initial few questions, the individual states something that suggests they may be a person to whom removal directions can be given... A 'caution plus two' interview is only appropriate in straightforward immigration cases where the sole intention is to administratively remove.'⁹

⁸ The provision of fingerprints is done on a voluntary basis and is not underpinned by any legislative power.

⁹ Chapter 37.2 of the EIG

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectione/>

'Caution plus two': 'You do not have to say anything but it may harm your defence if you do not mention, when questioned, something which you later rely on in court. Anything you do or say may be given in evidence. You are not under arrest and you are free to leave at any time'.

- 5.15 We were satisfied that in both cases the use of ‘caution plus two’ was in accordance with the guidance and appropriate in the circumstances.
- 5.16 However, one officer delivered the ‘caution plus two’ extremely quickly, albeit accurately. The officer asked if the person understood the caution and the person appeared not to understand. The officer proceeded to ask further questions, but was then interrupted by their colleague who was standing next to them. This officer had noticed the lack of understanding and advised the arresting officer of this. The officer then explained the caution again and checked understanding. We were satisfied that the person understood the ‘caution plus two’ and the interview continued.
- 5.17 In the remaining case, we were also satisfied that the decision of the other officer not to administer ‘caution plus two’ was appropriate. According to Agency guidance¹⁰, the ‘caution plus two’ interview may be dispensed with when...there is firm evidence of the offence’. The officer who did not administer ‘caution plus two’ did have firm evidence of the offence and was therefore correct in their decision.

Arrests

- 5.18 All three people were arrested under Paragraph 17(1) of Schedule 2 of the 1971 Immigration Act (as amended). This is an administrative power that allows officers to arrest ‘without warrant, a person liable to be detained’.¹¹ This typically means a person who has committed an immigration offence and whom the Agency could remove from the United Kingdom.
- 5.19 Key to the decision-making process were the detailed information packs produced on each potential offender prior to the operation. Officers established that each of the three people was liable to be detained, having made effective use of the information in these packs, in conjunction with information obtained from the interviews.
- 5.20 Each of the arresting officer’s pocket notebooks contained notes that justified their decision to arrest. This included questions and answers during the interview, reference to the documents seen in the packs and the outcomes of any checks they had made.
- 5.21 We observed that each of the arresting officers explained to the person they were dealing with why they were being arrested, gave a summary of the power of arrest used, applied the correct caution and verified the arrested person’s understanding of the caution. We were therefore satisfied that all of the decisions to arrest under Schedule 2 of the 1971 Immigration Act (as amended) were lawful and in accordance with the relevant guidance and legislation.
- 5.22 The intelligence report for the operation listed 15 potential offenders, of whom three were present on the premises and subsequently arrested. We noted that the intelligence on the three arrested people was accurate and delivered tangible results for the Agency.
- 5.23 We did not investigate the reasons why 12 of the potential offenders did not attend their place of work, as the intelligence-gathering process was out of the scope of this short-notice inspection. The reasons for this disparity may be something the Agency wishes to investigate.

¹⁰ Chapter 37.2.2.1 of the EIG <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectione/>

¹¹ Chapter 16.3 of the EIG <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectionc/>

See Appendix 2 for the full power of arrest under Paragraph 17(1) of Schedule 2.

Searching people after arrest

- 5.24 Arrest-trained officers have the powers to search people following arrest. These powers are modelled on those held by the police under section 32 of PACE. The powers of search vary depending on the power of arrest used and the location of the search.
- 5.25 All the arrests we observed were made under Schedule 2 to the 1971 Immigration Act (as amended). The guidance that applies to the power of search held by officers using this power of arrest states:

'An Immigration Officer may search the arrested person if he has reasonable grounds for believing that the arrested person may present a danger to himself or others.'

The guidance further states:

*'An Immigration Officer may also search the arrested person for anything which he might use to assist his escape; or any document which might establish his identity, nationality or citizenship; or indicate the place from which he has travelled to the United Kingdom or to which he is proposing to go.....and the search must go no further than is reasonably required for the purpose of discovering any such thing.'*¹²

This means the officer must have reasonable grounds to search the person following arrest.

- 5.26 We observed officers search each of the arrested individuals in an effective and dignified manner. Searches took place out of the view of other people in the office and no items of clothing were removed. The searches were conducted in a logical and organised manner and in accordance with the training given to officers. Any items found were placed in a sealed bag.
- 5.27 The guidance does not stipulate a need to provide the person being searched with the reasons for the search. Indeed, there may well be justifiable operational reasons for not providing a full explanation while the search is ongoing; for example, if the person to be searched is being aggressive or presenting a risk. However, the principle is that the officer must hold reasonable grounds to believe that the person may present a danger or is concealing items or documents. One person being searched asked if it was necessary to be searched. The officer replied, 'We have to do it, procedure.' We were not satisfied that this was an accurate response to the question asked.
- 5.28 After the operation, we read officers' notes and asked them the grounds on which they searched the person following arrest. One officer made reference to the risk factors presented in the briefing, and that they were therefore aware the person did present a danger. The officer explicitly linked these risk factors to their decision to search the person following arrest. We were satisfied that this decision was justifiable and in accordance with the guidance.
- 5.29 The officer who had stated it was 'procedure' to search made reference, in interview, to the person's previous history of deception and absconding from the UK Border Agency. They stated that, while the person was compliant, there remained the possibility of an escape risk. The officer did not explicitly link this statement to their decision to search, and while it did suggest a consideration of the factors required to search, we did not believe that this met the requirements specified in the guidance.
- 5.30 The third officer stated, 'Anyone arrested needs to be searched; it is the policy to search people.' We were not satisfied that this comment amounted to sufficient justification according to the standards required by legislation and the Agency's own guidance.
- 5.31 We found no written evidence whatsoever that recorded the grounds officers used to justify their search of the person following arrest.

¹² Chapter 36.2 of the EIG <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/oemsectione/>

5.32 We would expect all officers exercising powers of arrest, and the associated powers of entry, search and seizure, to be fully aware of their obligations when exercising these powers. While we noted that one officer did fulfil their obligations, the other two officers did not demonstrate sufficient awareness of their obligations when undertaking a search of person following arrest. There was some evidence to suggest that officers treated the power to search as a procedural requirement that automatically followed arrest, contrary to the guidance and the PACE Codes of Practice.

We recommend that the UK Border Agency:

- Ensures compliance with the relevant legislation, codes of practice and guidance relating to the search of a person following arrest.

Use of handcuffs

5.33 Officers are lawfully allowed to use force when exercising their powers, including applying handcuffs to arrested people. Any force used must be both reasonable and necessary. This means that officers must therefore have grounds for applying handcuffs.¹³

5.34 None of the arrested people forcefully resisted arrest at any point. Two men were placed in handcuffs; the 75-year-old man was not.

5.35 The two arresting officers applied the handcuffs using the prescribed techniques. We heard both officers check the tightness and application of the handcuffs. We also heard an officer tell a person how to hold their arms in order to reduce the discomfort caused by the handcuffs and make it 'more comfortable'.

5.36 After the operation, we read officers' notes and asked them the grounds on which they had, or had not, applied handcuffs. One officer stated that they applied handcuffs because the arrested person had previously employed deception and absconded from the UK Border Agency. It was recorded that handcuffs were therefore applied 'to prevent further flight attempts'. During interview, the officer further explained that they were mindful of the risk presented by walking through the confined space in the office.

5.37 The other officer was dealing with the person who was known to be potentially aggressive. The officer recorded that handcuffs were applied following arrest 'for officer safety reasons'. In interview, the officer confirmed that handcuffs were applied because of the information provided in the briefing, even though the person had displayed no signs of becoming aggressive. We were satisfied that the use of handcuffs was appropriate. Despite the calm demeanour of the person and the absence of any warning signals, the previous adverse history of the arrested person justified the arresting officer's decision to apply handcuffs.

5.38 Both officers removed the handcuffs when the people were secured in the vehicle transporting them to the short-term holding facility.

5.39 The officer who arrested the 75-year-old man stated that they considered that the situation did not justify applying handcuffs. The officer considered the age and demeanour of the person – they were compliant and unlikely to resist arrest. This was a sensible and proportionate decision that respected the dignity of the arrested person.

13 See Appendix 2 'Enforcement Powers' for more information.

- 5.40 We were satisfied that the decision to apply handcuffs in both cases was proportionate and justifiable, given the information available to the officers at the time. It was also appropriate that, given the circumstances, the handcuffs were removed for the journey to the short-term holding facility. The decision-making and risk assessment that took place regarding the decision not to apply handcuffs to the 75-year-old man was good.

Treating people with dignity and respect

- 5.41 At all times the arrest team treated the arrested individuals with dignity and respect. The arrest team were polite and courteous in their interactions, including when they first entered the premises and needed to rapidly secure the room. The individuals were spoken to in a respectful manner, and officers regularly referred to people as 'Sir'. Officers provided explanations for what they were doing and clarified their understanding.
- 5.42 The 75-year-old man was treated with dignity and respect by the officer dealing with him. The officer did not apply handcuffs and also asked about any mitigating circumstances. This enabled the officer to learn about a medical condition. The officer considered this information when deciding upon the course of action to be taken and ensured that the medical needs of the person were met.
- 5.43 The operation took place on a particularly hot day. We noted that officers were mindful of the need to reduce the time the arrested individuals spent in a hot vehicle.

Documenting the operation

- 5.44 Arrest teams are required to record their actions on an operation. In the event of a complaint or incident, this provides a clear audit trail of events. The main tools for documenting the operation are the Premises Search Book (PSB, also known as 'Book 101') and officers' pocket notebooks. Following the operation, officers may also, in certain circumstances, be required to complete a detailed witness statement form, known as Form MG11.

Premises Search Book

- 5.45 The PSB is a detailed document containing details of all the people on the premises and the actions taken by the arrest team.
- 5.46 In the briefing, the OIC nominated an officer, known as the Premises Search Officer (PSO) to be responsible for completion of the PSB. The PSO does not have any other responsibility on the operation other than ensuring that an accurate and detailed account of events is recorded in the PSB.
- 5.47 The PSB was correctly opened by the PSO and accurately listed the significant events from the moment the arrest team entered the premises at 12:23 p.m. until the time the team left the premises at 13:08 p.m. We observed that the PSO completed the PSB on the premises, and recorded events as they happened.
- 5.48 It listed which officers were on the operation and made clear who was on the premises at any one time, including the movements of the arrested people. We observed officers to call out significant events, such as the issuing of a caution or the time of arrest, to the PSO. This was good practice and enabled the PSO to keep track of multiple events at once.
- 5.49 It was also the document used to record the informed consent of the company director. We observed that the PSO handed a copy of the section containing the informed consent to the company director.
- 5.50 In each of the three arrests, the PSB accurately recorded the issuing of 'caution plus two', the time and power of arrest used, the time of search of person and the application of handcuffs. However, it only recorded the issuing of one caution prior to arrest.

5.51 Overall, the PSB listed most significant events, was an accurate, contemporaneous record of the operation and complied with Agency guidance.

Pocket notebooks

5.52 In relation to pocket notebooks, Agency guidance¹⁴ states:

- All officers must ensure they maintain full and, where possible, contemporaneous records of all operational activity.
- Notes should be written, therefore, as soon as possible after the event and while the events are still fresh in your mind.
- In completing your notes, you must include not only the facts but also your honestly held beliefs about an incident in order to justify your actions.

5.53 Of the 11 officers taking part in the operation, four did not complete a pocket notebook entry on the day of the operation, contrary to guidance. We would expect every officer to complete an entry that, as a bare minimum, recorded their presence on the operation regardless of whether they played an active role or not.

5.54 Seven officers did complete pocket notebook entries. The quality of entries was variable, with some comprehensive entries and others that contained only very limited information.

5.55 We noted that the officer speaking to the potentially aggressive man only recorded the issuing of 'caution plus two' and interview notes in their pocket notebook. Given that the officer told us they were mindful of the risk factors, we find it reasonable that notes were not completed contemporaneously due to the potential health and safety risks of writing whilst conducting an interview or arrest.

5.56 The other two arresting officers both recorded time of arrest and the power of arrest used. The medical requirements of the 75-year-old man were recorded in the notebook of the arresting officer.

5.57 No arresting officer recorded the issuing of the caution in their notebook. In two cases this information was recorded in the PSB, but in one arrest there is no record of a caution being issued.

5.58 The overall standard of the pocket notebooks was inconsistent, with most failing to meet the requirements stated by the Agency in their guidance. We were particularly disappointed to find that four officers did not make any notebook entry on the day of the operation.

Witness statements

5.59 As the employer of the three arrested people had been served with a notice of potential liability,¹⁵ officers were required to complete a more detailed witness statement. This is not a routine requirement of officers who take part in arrest team operations.

¹⁴ Chapter 61.11.2 of the EIG <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/>

¹⁵ When Agency officers encounter illegal migrant workers, a 'Notice of Potential Liability' (NOPL) must be completed and issued to the employer or representative of the company. The company may be liable for a fine of up to £10,000 per employee under the Civil Penalty Scheme.

- 5.60 All arresting officers completed a witness statement, in addition to the OIC and one other officer. Each of the arresting officers' statements recorded detailed information on the power of arrest and justification for using handcuffs.
- 5.61 However, whilst each statement was factually correct, each arresting officer recorded different facts. For example, two did not record the time of arrest, one failed to record the caution and another did not record the search of a person.
- 5.62 The statements did not contain all the significant events and did not comply with Agency guidance.

Overall audit trail

- 5.63 We considered the overall audit trail of the operation, as provided by the PSB, pocket notebooks and the witness statements.
- 5.64 The Agency's records presented a generally clear audit trail of the operation. The PSB was correctly opened and contained an accurate record of events. Officers' pocket notebooks provided a less thorough record of events. More detail was contained in the witness statements, but these were not completed to a uniform standard.
- 5.65 Most significant events of the arrest process were recorded in each of the three arrests. The 'caution plus two', time of arrest, power of arrest used, time of the search and application of handcuffs were (where appropriate) recorded in each case.
- 5.66 However, there were omissions of significant events. There was no record of the justification used to search the people following arrest, and in one arrest there was no record that the caution had been applied (even though we observed it being delivered). Therefore, the Agency was unable to provide a complete audit trail for any of the three arrests.
- 5.67 The Agency did not document good practice on the operation. We noted above that a caution was applied but not recorded. Equally, the decision not to apply handcuffs was not documented anywhere. If there was a complaint or subsequent incident, there was no documented evidence that confirmed whether handcuffs had, or had not been, applied to the 75-year-old and the reason for this decision.
- 5.68 Compared to our previous inspection of an arrest team¹⁶, the quality of the audit trail was considerably better. However, the work of arrest teams is one of the most high-profile and sensitive areas of Agency work and it is vital that there is an accurate and complete audit trail.
- 5.69 Therefore we repeat the recommendation made in our last inspection of an arrest team and expect to see continued improvement in this area.

We recommend that the UK Border Agency:

- Ensures compliance with the guidance relating to the records that an arrest team must complete.

¹⁶ A Short Notice Inspection of a UK Border Agency Arrest Team (Croydon)
<http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/A-short-notice-inspection-of-a-UK-Border-Agency-Arrest-Team-Croydon.pdf>

6. Inspection Findings: Post Operational Activity

- 6.1 We inspected what happened once the arrest team left the premises. We assessed how the arrested people were booked into custody and the accuracy of the intelligence report that initiated the operation.

Booking into custody

- 6.2 The offices of the Bexley, Greenwich and Lambeth LIT contain a short-term holding facility that is operated by a sub-contractor to the Agency. We considered the treatment of the people while they were being booked into this facility; however, the treatment of people within short-term holding facilities, and any other detention facility, is under the remit of HM Inspectorate of Prisons.
- 6.3 The booking-in process was efficient and people were treated with dignity and respect. We observed the individuals being provided with water, which was particularly necessary given the hot conditions on the day. We observed one person asking for their mobile telephone. The officer returned this to the person and allowed them to make a telephone call.
- 6.4 Officers clearly explained what was happening to each of the arrested people and fully explained the forms used, despite some language barriers. We noted that an officer was explicit in explaining to one person that their removal from the United Kingdom was imminent. This was done in a professional and responsible manner and we felt it was entirely appropriate that the man was made aware of what was happening, and likely to happen.
- 6.5 We were pleased to observe that risk factors were appropriately highlighted, including one officer who made explicit reference to the medical situation of the 75-year-old man.

Appendix 1: Inspection Criteria

The Independent Chief Inspector of the UK Border Agency's inspection criteria are:

- Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration.
- Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.
- Complaints procedures should be in accordance with the recognised principles of complaints handling.
- All people should be treated with respect and without discrimination except where the law permits difference of treatment.
- Decisions to detain people must be lawful.
- Enforcement powers should be carried out in accordance with the law and by members of staff authorised for that purpose.
- Functions should be carried out having regard to the need to safeguard and promote the welfare of children.
- Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.
- The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.
- Risks to the efficiency and effectiveness of the Agency should be identified, monitored and mitigated.

For more information, visit our website:

<http://icinspector.independent.gov.uk/inspections/inspection-programmes/>

Appendix 2: Enforcement Powers

Basis of an Immigration Officer's power of arrest

An Immigration Officer's power of arrest comes from either Part III of the 1971 Immigration Act (as amended) or Paragraph 17(1) of Schedule 2 of the 1971 Immigration Act (as amended).

Part III allows an Immigration Officer to arrest under Section 28A, without warrant, a person who is reasonably suspected of having committed, or attempted to commit an offence under the 1971 Immigration Act (as amended).

An Immigration Officer can also arrest under Paragraph 17(1) Schedule 2 of the 1971 Immigration Act (as amended), without warrant, a person who is liable to be detained. This includes (i) a person whose removal directions have been or may be given by an Immigration Officer or (ii) where there are reasonable grounds to suspect that removal directions may be given.

Source: Chapter 16.3 of the EIG

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

Definition of operational arrest activity

Operational arrest activity is defined as, when, in the course of official duty, a suitably trained and accredited officer is deployed with the expectation of exercising powers of arrest under Schedule 2 or Part III of the 1971 Immigration Act (as amended).

In practice, this means the officer may be expected to arrest a suspected immigration offender or person liable to detention under Schedule 2 and exercise the associated powers of entry, search and seizure.

Their powers differ depending on whether they are investigating a suspected immigration offender or seeking to arrest a known offender for removal. Powers are provided under Schedule 2 to the 1971 Act as amended by the 1999 Act (extended also to Schedule 3) to allow Immigration Officers to locate, arrest and detain for removal those in respect of whom there are reasonable grounds for suspecting that removal directions may be given, pending a decision whether or not to give directions.

Powers provided under Part III of the 1971 Immigration Act (as amended) are designed to allow Immigration Officers to investigate immigration-related criminal offences. This will include the arrest of suspected offenders who are not subsequently charged with the offence but who are thereafter dealt with under Schedule 2 powers.

Source: Chapter 61.1 of the EIG

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

Use of force

Section 146 of the 1999 Immigration and Asylum Act provides immigration officers with the power to lawfully use force in the exercise of any power conferred by the 1971 Immigration Act (as amended) 1971 or 1999 Immigration and Asylum Act, providing that the use of force is both reasonable and necessary.

For any use of force to be lawful it must be:

Proportionate

Any force used must have been the minimum level required to achieve the legitimate objective. This must include consideration of impact factors and the officer must demonstrate that he/she understands the effect of his/her actions. Any force used must be via an approved technique as taught during arrest-team officer safety training or shown in some other way to be reasonable.

Lawful

Force can only be used to enable an arrest-trained officer to carry out a legal function. The officer must be able to demonstrate:

- a. (For arrests made under Section 28A of the 1971 Immigration Act [as amended]), that the officer had reasonable grounds to suspect the subject of having committed a relevant immigration offence for which there is a power of arrest.
- b. (For arrests made under Schedule 2 of the 1971 Immigration Act [as amended]), that the subject is a person for whom removal directions are in place or that the officer believes or suspects that the person is someone for whom removal directions may be given.

Auditable

Any use of force must be recorded and that record kept for seven years in case there is a legal challenge or complaint.

Necessary

The officer must demonstrate that there was no practicable alternative to using reasonable force.

Source: Chapter 61.6 of the EIG

<http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

Appendix 3: Glossary

Term	Description
A	
Agency	Refers to the UK Border Agency.
Arrest Team	A team of UK Border Agency arrest-trained officers who conduct Arrest Team operations with the intention of arresting people liable to detention or suspected of an immigration offence.
Arrest-trained Officer	An officer, typically of Assistant Immigration Officer or Immigration Officer grade, who is designated as being able to use the police-like powers of arrest, and associated powers of entry, search and seizure. Must successfully complete an initial three-week training course and an annual two-day refresher training course.
Assistant Immigration Officer (AIO)	Junior grade, equivalent to an Administrative Officer. Supports immigration officers in carrying out administrative and operational tasks.
Audit trail	Chronological list of events.
C	
Casework	The UK Border Agency term for decision-making process used to resolve applications (for example applications for asylum or British citizenship).
Chief Immigration Officer (CIO)	Senior grade above Immigration Officer, equivalent to Higher Executive Officer.
Complaint	Defined by the UK Border Agency as ‘any expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff, including contractors’.
Cover Officers	Officers on the arrest team who are responsible for keeping arresting officers or observers safe.
Critical Incident	Any incident where the planning, event, outcome or consequence of that incident is likely to result in: <ul style="list-style-type: none"> • serious harm to any individual; • significant community impact; or • a significant negative impact on the confidence of the public in the UK Border Agency.

D	
Data Protection Act 1998	The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.
E	
Enforcement	A UK Border Agency term used to refer to all activity that takes place within the UK to enforce the immigration rules. In addition to the work done by arrest teams, this includes areas such as asylum, citizenship, detention and removal.
Enforcement Instructions and Guidance (EIG)	Guidance and information for officers dealing with enforcement and immigration matters within the UK.
Enforcement Team	A term that is often used to refer to arrest teams.
H	
Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
I	
Immigration Group	The directorate within the UK Border Agency which is responsible for asylum, enforcement and compliance, and nationality. It is structured into six regions: London and South East; North West; North East Yorkshire and Humber; Scotland and Northern Ireland; Midlands and East; and Wales and South West.
Immigration Officer (IO)	Management grade above Assistant Immigration Officer, equivalent to Executive Officer.
Independent Chief Inspector of the UK Border Agency	The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
Immigration Removal Centre	A longer-term, residential detention facility.
Intelligence Unit	A team that collates and disseminates intelligence, usually for LIT arrest teams.
L	
Local Immigration Team (LIT)	A LIT is a local team undertaking as many functions as practicable at a local level within an Immigration Group region. They focus on enforcement work and community engagement, although the functions of LITs can vary between regions.

O	
Officer in Charge (OIC)	Officer who has overall control of the arrest team, must be of at least Immigration Officer grade.
P	
Pocket Notebook	Used by officers to document an operation. Each officer has their own individual pocket notebook in which to record notes.
Police and Criminal Evidence Act (PACE)	PACE and the PACE codes of practice provide the core framework of police powers and safeguards around stop and search, arrest, detention, investigation, identification and interviewing of arrested people.
Police National Computer (PNC)	The PNC holds details of people, vehicles, crimes and property that can be electronically accessed by the police and other criminal justice agencies.
Premises Search Book (PSB)	A detailed document that must be completed for every operation. It contains details of all the people on the premises and the actions taken by the arrest team.
Professional Standards for Enforcement Unit (PSE)	A team within Immigration Group which promotes good practice and adherence to appropriate standards in enforcement operations.
R	
Removal	A person(s) who voluntarily, through assistance or through enforcement by UK Border Agency staff, physically leaves the UK after a failed asylum application.
Risk Assessment	Process by which the Agency assesses the risk an operation poses to the public and staff. Will consider factors such as any history of violence, presence of children, number of people resident at property etc. The risk assessment is then used to introduce mitigation to limit or remove the risk. This may include cancelling the operation if the risk is too great.
S	
Short-term Holding Facility	A short-term, non-residential facility that provides an assessment and induction facility prior to moving to an Immigration Removal Centre.
U	
United Kingdom and Islands	The United Kingdom is made up of England, Scotland, Wales and Northern Ireland. The Channel Islands and the Isle of Man are not part of the United Kingdom. The geographical term 'British Isles' covers the United Kingdom, all of Ireland, the Channel Islands and the Isle of Man.

United Kingdom Border Agency (UKBA)	The agency of the Home Office responsible for border control, enforcing immigration and customs regulations. It also considers applications for permission to enter and stay in the UK, including nationality and asylum applications. The UK Border Agency has been a full executive agency of the Home Office since April 2009.
W	
Warrant	A document issued by a justice of the peace (or a justice of the peace or sheriff in Scotland), authorising officers to arrest a specified person, enter specified premises for the purpose of arresting a specified person or enter specified premises for the purpose of searching for evidence.

Appendix 4: Acknowledgements

We are grateful to the UK Border Agency for its help and cooperation throughout the inspection. In particular, we are grateful to the Professional Standards for Enforcement team for the provision of personal-safety training and our cover officers.

Chief Inspector:	John Vine
Assistant Chief Inspector:	John Furley
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