



news and press releases



25 Victoria Street - London - SW1H 0EX

Q3_2005

[More from this
Quarter](#)

[News Homepage](#)

Press Release

Reference: 55/05 **Date:** July 21, 2005

CHIEF POLICE OFFICERS RECOMMEND CHANGES TO COUNTER THE TERRORIST THREAT

Chief Police Officers today supported several key changes to existing counter terrorist legislation including;

- Acts Preparatory to Terrorism
- Indirect Incitement to Criminal Acts
- Providing or Receiving Training in the use of Hazardous Substances

They also proposed some further changes to law and procedure including;

- a new offence of not disclosing encryption keys
- Extension of maximum pre-charge detention on suspicion of terrorism from 14 days to 3 months
- A review of border security

And focused on several other police issues, including;

- a willingness to discuss further the issue of admission of Interception material as evidence in criminal trials;
- the need for further funding for regional Special Branches capacity
- the need for further funding for national ANPR capacity

Ken Jones, Chairman of the ACPO Terrorism and Allied Matters Committee, and Chief Constable of Sussex, speaking after meeting the Prime Minister this afternoon, commented;

“The terrorist attacks in London on 7 July and today provide an opportunity for us to reflect on our systems and practices to ensure they are sufficient to counter such unprecedented events.

“All police forces in the UK are working closely with the Metropolitan Police in the investigation of the incidents, and our counter terrorism legislation is sophisticated and robust - yet practice and experience shows us that nothing is flawless. We now have an opportunity to examine our system and close loopholes to prevent the recurrence of such acts.

“In considering new legislation we recognise the following as imperatives: -

& #61607; New proposals must enhance an already robust system;

& #61607; Proposed changes must not duplicate existing legislation;

& #61607; Proposals should be measured and necessary and not viewed as a knee jerk reaction to events;

& #61607; New legislation needs to cut across different law enforcement and intelligence agencies to enable collaboration in countering terrorism;

“At this time there are increased levels of concern and feelings of vulnerability within a number of communities, especially Muslim ones. It is important that society is not seen to disengage from their needs and fears by introducing flawed legislation.

“However the evolving nature of the current threat from international terrorism demands that those charged with countering the threat have the tools they need to do the job. Often there is a need to intervene and disrupt at an early stage those who are intent on terrorist activity in order to protect the public. Clearly our legislation must reflect the importance of such disruptive action.

“We have therefore put to Government today the

following views of the police service.”

A. Proposed new legislation

The proposed counter terrorism legislation proposes the creation of three new criminal offences and a number of other changes to close loopholes and improve operational efficiency.

1. Acts Preparatory to Terrorism.

This offence will deal with instances where there is serious criminal intent yet the precise details of the terrorist act are not known. It will allow the police and intelligence agencies to intervene at an early stage early to protect the public and will go some way towards countering the negative messages we receive concerning terrorism arrests and subsequent charging/prosecution figures. This offence has been widely discussed previously and is not unexpected. It will assist in putting the tactic of disruption on a more formal legislative footing.

2. Indirect Incitement to Commit Terrorist Acts.

Direct incitement to commit a violent or criminal act is already an offence. The new proposed offence is intended to capture the expression of sentiments which do not amount to direct incitement to commit terrorist acts but which are made with the intent to encourage others to commit terrorist acts.

This offence will allow the UK to ratify the Council of

Europe Convention on the Prevention of Terrorism which requires parties to have an offence of public provocation to commit a terrorist offence. Public provocation is defined as “inciting the commission of an offence whether or not directly...”

The introduction of this offence will significantly widen the scope of the incitement offence. Clearly there is a Europe wide drive for such legislation to which we would wish to be a key partner.

3. Providing or Receiving Training in the Use of Hazardous Substances.

The purpose of this offence is to cover training undertaken in the UK and abroad. Again this offence complies with the requirements of the Council of Europe Convention for parties to have in place a comprehensive offence to deal with all aspects of terrorist training.

Section 54 of the Terrorism Act 2000 (TACT) provides wide legislative coverage of the issue of terrorist training. However it does not cover issues relating to hazardous substances and methods or techniques. The new offence would address this gap and ensure compliance with other European partners.

The new offence would also incorporate the element of receiving training despite the fact that the Convention only refers to providing training. This would bring the new offence in line with the offences of Section 54 of

TACT.

There are provisos attached to this offence in that the training has to have a potential terrorist use and that the training is given or received with the intention of being used for terrorist purposes. The definitions of hazardous substances may need wider consultation but subject to that, this offence will assist our work to protect the public.

2. Proposed changes to existing legislation

1. Introduce “all premises” warrants in terrorist legislation.

This would enable police to obtain search warrants covering any property owned or controlled by terrorist suspects. It would increase efficiency and reduce time wasted applying for warrants during post arrest phase. It may in fact lead to suspects spending shorter periods in custody.

2. Give the Security Service the ability to seek warrants authorising activities overseas.

Currently the Security Service has to rely on the Secret Intelligence Service to act on its behalf.

3. Allow a one day period of grace on warrants under Section 7 of the Intelligence Services Act 1994 if a person enters the United Kingdom.

This will ensure there is no loss of coverage of a target

coming to the UK.

4. Allow initial cash seizure hearings to take place in closed session.

This will allow hearings concerned with the seizure of terrorist cash to be heard in closed court session and follows on from the Newton Committee recommendations on the Anti Terrorism, Crime and Security Act 2001.

5. Ratification of the UN convention on the suppression of nuclear terrorism.

Various minor changes are required to enable the UK to ratify this convention.

6. Amendments to the Explosive Substances Act 1883.

Amendments should ensure that it is an offence to plan an explosion which takes place overseas. This would appear to be a logical development of the legislation.

7. Extending terrorism stop and search powers to cover bays and estuaries.

Currently stop and search powers under Section 44 of the Terrorism Act 2000 are linked to geographical police boundaries and effectively apply on land. An extension to include bays and estuaries, so called internal waters, would be a step forward. This is a quick measure that would afford added protection.

However there is a consensus within the police service

that we would wish this power to be extended further. If we take party conferences as an example then there is no power to interdict or stop vessels offshore as Section 44 authority ends at the low water mark. The extension of the power to include the 12 mile coastal limit would be welcome by police forces.

Current legal advice is that such powers cannot be extended without the “reasonable suspicion” test as they interfere with international law and freedom of passage at sea. International agreement for something that falls between internal waters/low water and the 12 mile mark may be the way forward.

8. Increased flexibility of the proscription regime.

This will prevent organisations from evading the proscription regime by changing their name.

9. Improved search powers at ports.

Strengthen the legislation to make it clear that examining officers at ports have powers to search vehicles as part of their examining officer functions.

10. Control Orders.

The Home Secretary has told Parliament that there would be time to consider this issue again. The police approach remains supportive of the need for a form of scrutiny for individuals in order to disrupt terrorist activity without criminal proceedings. Suitable

legislation will continue to assist the police and intelligence agencies to better contain the terrorist threat.

C. New Police Proposals

1. Extension of pre charge detention from 14 days to 3 months

The complexity and scale of current counter terrorist operations leave the current 14 day maximum detention period often insufficient. The complexities and timescales surrounding forensic examination of scenes etc merely add to the burden and immense time pressures on investigating officers. A judicially supervised process to allow detention to be authorised from 14 days up to 3 months would assist in the efficiency and preparation of evidence to sustain charging.

2. Offence not to disclose encryption keys etc

Recent investigations have been made more complex by difficulties for investigating officers in ascertaining whereabouts of encryption keys to access computers etc. An amendment to part 3 of the Regulation of Investigatory Powers Act (RIPA) to make it an offence to fail to disclose such items would provide some sanction against suspects failing to cooperate with investigations.

3. Use of the internet to prepare, encourage, facilitate

acts of terrorism.

The creation of an offence to suppress inappropriate internet usage is necessary in respect of today's global communication capability. This preventative measure may well be catered for within the proposed new offence of acts preparatory to terrorism.

4. Powers to attack identified websites.

This power has significant benefits for counter terrorism and overlaps with other police priorities namely domestic extremism and paedophilia/child pornography. This issue goes beyond national borders and requires significant international cooperation. The need for appropriate authority and warrantry is implicit.

5. Cross Border Authorisations

The office of the National Coordinator Special Branches (NCSB) has a key role in driving forward the ACPO(TAM) theme of building regional capability and capacity. Currently RIPA does not allow for Covert Human Intelligence Source or Directed Surveillance authorities to be authorised by an officer from one force area for implementation in another force area. The advent of regionalisation of Special Branch working processes means that this could become a significant hurdle to operational effectiveness. The introduction of a regional authorisation process would assist this development.

6. Cross border property warrants.

This proposal could link directly with the desire for cross border authorisations.

Clearly the development of our regional investigative capability will make this a potential issue for the future.

7. National security equipment at ports.

The urgent expansion of the formal Designation scheme or passenger/cargo hypothecation for security at all air and sea ports is necessary to ensure borders remain properly secured through effective protective security measures. The ACPO preference is the hypothecation model. Currently the ports industry is required to provide accommodation for special branch policing at ports. The standard of provision varies considerably throughout the country and has been highlighted by Lord Carlile as an area requiring constant attention. To raise the bar further it has been identified that a statutory obligation on the ports industry to allow the installation of specific national security equipment (eg ANPR/CCTV) would be particularly helpful. This would ensure that ports operators could not succumb to natural commercial pressure, which might obstruct important additions to the national counter terrorism infrastructure.

8. General aviation powers under the Terrorism Act

2002 (TACT 2000)

The current provisions of TACT 2000 require general aviation to notify the police of flight movements within the common travel area (CTA). We should consider extending this power to include all flights within the CTA and internationally. This would have particular relevance for short flights to and from Europe.

9. Protective security powers.

Government to consider creating a duty on the public and private sector to install and maintain to approved standards protective security in designated locations. Also consideration should be given to creating a duty whereby privately employed security staff are put at the disposal of the police in the immediate aftermath of an outrage.

10. Disclosure in criminal proceedings;

Consideration should be given to developing new rules of disclosure to provide protection from discovery of sensitive tactics and techniques.

11. Compulsory answers to questions.

The obligation placed on company directors in fraud trials to answer questions would have significant benefits if developed into the arena of counter terrorism.

D. Other policy/structural changes

1. Regionalisation

Government should review and reconsider bids already presented for developing regional police capability and capacity to counter terrorism and domestic extremism. ACPO has submitted detailed modest bids to Government to put in place necessary capability and capacity at the regional level. Reconsideration of these bids is essential.

2 Special Branch Capability

The Home Secretary, as he has done with the National Centre for Policing Excellence through the Police Act 1996, should codify activity and mandate the minimum capability and capacity for special branches within police forces. This has a direct link to the principle of scaleability implicit in the ACPO(TAM) proposals for building regional capability and capacity.

3 ANPR - Nationwide

Significant improvement is possible in our ability to contain the terrorist threat and reduce overall crime. The provision of £45.3 million would enhance the capacity of the ANPR data centre, provide a mobile fingerprint capacity to every mobile ANPR intercept team, provide research and development to safeguard against ANPR counter measures and complete an

upgrade programme for ANPR at all sea and air ports and key road linkages.

4. Border Agency

ACPO believes the Government should review its position on a single Border Agency. The current 'e-borders' programme is developing well and we are fully supportive of its development. We believe it would complement such an Agency.

5. National Police Improvement Agency

This new Agency, due to become operational in April 2007, must ensure that its priorities include the police role in countering terrorism.

6. Threat Level Review

Recent changes to the threat level definitions have provided greater clarity for police and intelligence services in fine tuning responses to minor changes in the intelligence picture but such changes are not well understood by the public and consideration ought to be given to developing and delivering this information in a suitable format for public consumption.

7. Admission of Interception evidence

Intelligence gained from the lawful and properly accountable interception of communications is a valuable asset for the intelligence services and law enforcement in terrorist investigations. The arguments for and against its admissibility as evidence in subsequent criminal proceedings are finely balanced, and are subject of regular discussion amongst law enforcement and intelligence professionals. The ACPO view has always been, that on balance the arguments for retaining the current position outweigh those for allowing its admission as evidence in terrorist prosecutions. However we are ready to review that position in consultation with government and security agencies

ends

ends

NOTES FOR EDITORS;

NOTES FOR EDITORS:

The ACPO Press Office can be contacted via 020 7227 3406/3425 (office hours) or via 07803 903686 (out of office hours), or email 'info@acpo.police.uk'. Further information including copies of recent news releases

can also be found on website 'www.acpo.police.uk'.

Through a series of committees and working groups ACPO members, often in consultation with develop policy and guidance for the police service. The Association aims to assist chief officers in providing excellence in leadership of the service; to ensure a professional and ethical service is delivered to all communities; and to provide professional advice to Government. Police Authorities other organisations and individuals with an interest in policing issues.

ACPO's 292 members are; police officers of Assistant Chief Constable rank (Commanders in the Metropolitan Police and City of London Police) and above, and senior non-police managers, in the 44 forces in England, Wales and Northern Ireland, plus national agencies such as NCIS and the National Crime Squad, and other forces such as British Transport Police and States of Jersey Police.

