

**Joint Protocol between
The Immigration Service and
The Police Service for the
Removal of Immigration Offenders**

19 July 2001

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Introduction

1

Preamble

1.1

This protocol is the outcome of high level discussion between Home Office, Immigration Service and Police Service representatives to address joint issues arising from challenging Government targets for the removal of failed asylum seekers. It should be regarded as the first stage in developing an integrated and long term working arrangement between the two organisations to meet removal targets.

It is recognised by both organisations that this protocol is an initial framework for action and that not every eventuality will be covered. The protocol is dynamic and initially will be subject to quarterly reviews. The reviews will take into account practical experience within the joint operating environment.

The Government message is clear; that we must achieve a much higher rate of removals, if we are to deliver an effective asylum and immigration system. It is in this context that the protocol has been agreed: Such is the scale and nature of the task that co-operation will be essential to achieve the aims set out below.

Aims

1.2

- ✓ To establish the mechanism by which the Police Service will assist and support the Immigration Service to meet annual government targets for the removal of immigration offenders, with particular regard to failed asylum seekers.
- ✓ To develop the expertise of the Immigration Service in the arrest of immigration offenders without the support of Police, whilst ensuring the safety of immigration officers.
- ✓ To achieve the aims in a manner that maintains and increases the trust and confidence of the public, and particularly members of ethnic communities.

Core Principles

1.3

1. The Immigration Service will retain primacy for the operational development and implementation of plans to identify and remove immigration offenders.
2. The Police Service will commit to support the Immigration Service in meeting the Government's target for the removal of immigration offenders, with particular regard to failed asylum seekers.
3. The Immigration Service will retain full responsibility and liability for the decision making process to identify offenders for removal.
4. The Police Service will retain primacy for maintaining and increasing the confidence of minority communities, and promoting community safety.

5. The implementation of the plans will not detract the Police Service from their published priorities.
6. The Police Service will retain the right of authority and authorisation for immigration activity in light of their duty of care to the community.
7. The Police Service will provide an agreed level of support for Immigration Service operations, unless reasonable grounds can be shown.
8. Operations will be based on confirmed intelligence and executed in consideration of joint assured Risk Assessment. They will meet the provisions and principles enshrined in the Human Rights Act 1998 and Race Relations (Amendment) Act 2000.
9. This protocol only applies to Immigration Officers enforcement activity and will not impinge upon other aspects of activity where the Immigration Service and Police Service have existing effective joint working.

2 Background

Police have traditionally assisted Immigration Officers in the execution of their duty to detect and identify immigration offenders. Limitations in legislation have practically restricted the powers of arrest to police officers.

Since the mid-1980s there has been a sharp increase in the number of people claiming asylum. Increase in demand is starting to impinge disproportionately on police resources, particularly in light of the clarity of published ministerial and police priorities set in consultation with the public. The Macpherson Report enhances police understanding of the public perception of their treatment of ethnic minorities. Consequently, police have become increasingly reluctant to commit resources to Immigration Service law enforcement work.

This has had significant impact on the Immigration Service's operational effectiveness, particularly in the Metropolitan Police area. These difficulties can be broadly divided into three categories:

- Ø The Immigration Service's operational effectiveness is sometimes hampered by the periods of notice required to secure police assistance. This can lead to lost opportunities that present at short notice;
- Ø In some cases immigration operations are cancelled at short notice due to competing police priorities;
- Ø In some locations police feel unable to offer assistance to the Immigration Service.

The large increase in Immigration Service enforcement staffing, coupled with the challenging Government removal targets, will stretch the gap between the amount of police assistance the Immigration Service requires and the amount the police can provide.

Part VII of the Immigration and Asylum Act 1999 provides new powers of entry, search and seizure to Immigration Officers, enabling properly trained officers to use their existing powers of arrest without a police presence. A pilot scheme was established at Becket House in February 2000 to increase the number of removals and test the new powers. Seventeen Immigration Officers were trained to police standards. The scheme is successful and a further 48 Immigration Officers will be trained to work in London and the Home Counties over the next few months with further implementation around the country.

But this in itself will not be enough for the Immigration Service to deliver its removals targets in the short to medium term. The Immigration Service therefore needs to address the issues that arise from:

- Ø an obligation to effect more removals; and
- Ø competing police priorities.

3 **Joint**
Operational
Agreement
3.1 **Agenda for**
shifting resources
3.1.1 **Phase One (Immediate)**

The background recognises an immediate need for the Immigration Service to undertake activity to such an extent that it out strips their current enforcement capability. Therefore the primary requirement on police resourcing is to supplement immigration capability so that it can meet their targets. It is recognised that this immediate level of support is not indefinitely sustainable and that it is not applicable to the same degree across the country. The Immigration Service will identify and nominate the priority regions and relevant associated forces to be subject of Phase 1.

3.1.2 **Phase Two**
(Transition)

Training is an essential element to ensure that the Immigration Service is able to increase their operational activity with reducing involvement of the Police Service. The 1999 Act bestowed on Immigration Officers, new powers that have been familiar to police officers for many years. It is recognised that co-operative

working between police and immigration over a period of time is the best means of achieving a transfer of skills. This period of time is likely to be five years or more due to the level and volume of training required and experience essential in developing expertise.

Phase Three (Independence)

3.1.3

This will be the long-term framework for establishing necessary police support to experienced immigration officers exercising full powers of search and arrest. It should be based upon the best practice identified from working this protocol and maintain the critical elements of communication and co-ordination. The expectation would be that the Immigration Service has less dependence on police support to implement their operations, yet achieve the balance for police retaining control of the community environment in which they operate. The police will continue to commit their support to the exceptional immigration operations that demands their specific expertise.

Measuring Success

3.2

Phase One

3.2.1

The delivery of immediate support to the Immigration Service measured by:

- Ø The number of occasions in which the police service meets Immigration Service requests for support;
- Ø The number of police officers deployed in support of Immigration Service Enforcement Operations (either by direct secondment to the IS or by attachment to IS duties, whilst remaining within police forces);
- Ø The familiarisation of police officers with the requirements of IS Enforcement Operations (primarily, to be delivered to seconded officers);
- Ø Implementing the core principles for agreement of operations in practice;
- Ø Implementing the mechanism for the provision of adequate support.

Phase Two

3.2.2

The transfer of expertise and skills through bespoke training packages and mentoring measured by:

- Ø The number of Immigration Officers trained in the bespoke package;
- Ø The reduction in police officers as part of enforcement teams;
- Ø Arrests being made by immigration officers with police as mentors or tactical advisers.

Phase Three

3.2.3

Immigration officers arresting all immigration offenders with the exception of high risk or dangerous operations where specialist police support is required.

Organisation

4

Resources

4.1

The Immigration Service recognises the need to employ dedicated police capability and expertise to ensure priority for achieving Government targets in the short term. The support needs to operate at a variety of levels from engendering strategic support from forces nationally to deploying police officers tactically on specific operations. During the current financial year, the Immigration Service will therefore meet the full cost equivalent of 41 police officers; either fully seconded to the Immigration Service or deployed on dedicated IS operations.

In the first instance the support will fall within five distinct categories:

1. **Police officers on full secondment to the immigration service;**
2. **Police officers deployed on dedicated IS operations, whilst remaining within home police forces (i.e. short term attachment);**
3. **Exceptional policing required specifically for the successful implementation of operations;**
4. **Policing for maintaining community normality; and**
5. **Police responding to immediate call for assistance.**

Police Officers on full secondment to the Immigration Service

4.1.1

The exact number and duties of the seconded officers, is under discussion as at the date of this protocol. However, the following seconded post has been created and an appointment made:

Ø One Chief Superintendent (Senior Police Liaison Officer)

The key responsibilities of the Chief Superintendent will be to:

- Ø Provide strategic advice and guidance on police support for operational activity;
- Ø Participate in the tasking and co-ordination process for the deployment of seconded officers and operational activity;
- Ø Liaise with police forces on tactical issues relating to specific operations;
- Ø Provide line management to any additional seconded officers;
- Ø Provide advice and support to the Immigration Service with a programme of change from Phase 1 through to Phase 3 (3.1.1 refers);

- Ø Brief and advise ACPO and senior Home Office officials concerning the protocol and police/immigration issues;
- Ø Chair a protocol review group and make recommendations as necessary.

The key responsibilities for additional seconded police officers will be to:

- Ø Supplement and support immigration arrest teams;
- Ø Transfer their skills and experience to Immigration Officers;
- Ø Deliver specific operational tactical advice;
- Ø Liaise locally with relevant police forces.

The seconded officers working to immigration must be dressed and deployed so that:

1. The targeted immigration suspect can recognise them as police officers in the lawful execution of their duty; and
2. The community will associate them with the immigration enforcement team and not local police maintaining community normality.

4.1.2 Police officers deployed on dedicated IS operations, whilst remaining within home police forces (i.e. short term attachment)

It is envisaged that as an alternative to full secondment some police officers will be deployed on dedicated IS duties, whilst remaining within their home police forces; in effect, short term attachments for the purpose of specific operations.

4.1.3 Exceptional policing required specifically for the successful implementation of operations

This category refers to the provision of wider or additional police operational support to the Immigration Service. For example, where police officers are deployed in close support of Immigration Officers engaged in enforcement operations. In such cases, the level of such support will have been assessed and agreed by the police and IS during the joint planning stages of any operations.

4.1.4 Policing for maintaining community normality

This constitutes normal police business and funding will not be an issue for the Immigration Service.

4.1.5 Police responding to immediate calls for assistance

This constitutes normal police business and funding will not be an issue for the Immigration Service. Local risk assessment may deem it necessary to allocate local band radios available to immigration officers implementing operational plans without dedicated police support (Long term resolution may be achieved as a result of the Immigration Service decision regarding PSRCP).

Meeting the Costs of Resourcing

4.2

Seconded officers (4.1.1 refers)

4.2.1

Police Officers will be seconded to the Immigration Service under the provisions of Section 97, Police Act 1996. Reimbursement of salary, allowances and on costs to parent police forces will be in accordance with the Central Service guidelines set out in the Home Office booklet, A Guide to Conditions of Service for Police Officers Seconded to Central Service .

Officers on dedicated duties (i.e. short term attachment) (4.1.2 refers)

4.2.2

The Immigration Service will meet the full cost of police officers on dedicated IS duties where the officers form part of the cost equivalent of the 41 posts (see paragraph 4.1). At this stage, reimbursement of reasonable costs will be subject to local agreements between the Immigration Service and the relevant police force. As this work progresses it is intended that a formal charging arrangement be agreed, based on the experience of initial attachments.

Officers exceptionally employed (4.1.3 refers)

4.2.3

The cost to the Police Service of the provision of wider or additional operational support to the Immigration Service will continue to be met by the police until such time as the level of that support has been assessed and agreement has been reached between the Immigration Service and the Police Service on where these costs should fall. This assessment will be made over a period of six months, with an initial review at three months. Local agreements may be made between the Immigration Service and the relevant police force to achieve reasonable reimbursement where applicable, until the final assessment subject of this section is complete. The Chief Superintendent seconded to the Immigration Service will arbitrate these agreements and each will be assessed on their individual merits.

Tasking for Operations

4.3

A national Tasking and Co-ordinating Group (T&CG), which will include the seconded Chief Superintendent, will meet bi-weekly to review previous activity, consider current planned and new activity and deployment set in a context of current capability and priorities. All activity will be based on an intelligence led risk assessment process identifying targeted offenders (Annex A refers).

Custody Capability

4.4

There is an urgent need for a dedicated custody facility in London and negotiations are taking place, outside the scope of this protocol, between the MPS and IS to agree the use of police cells. In due course, the custody arrangements will be incorporated into a review of this protocol.

Communication: Immigration Service and Police Service

4.5

Operational authority

4.5.1

The core principles make explicit that police retain the authority for the implementation of any plan. The process by which the authority is granted and recorded is by:

- Ø Risk assessment – this process will be transparent, auditable, open and available for inspection;
- Ø Authorisation – the justification for any decision will be recorded in writing and open for review;
- Ø Arbitration – should there be any dispute between the services, the Deputy Director Immigration Service and an ACPO ranked officer from the relevant force will jointly review the Authorisation decision.

Information and intelligence exchange

4.5.2

A memorandum of understanding will be agreed which deals with the disclosure of information between Immigration Service and the Police Service. It is anticipated that it will deal with the:

- | | |
|------------------------------|---------------------------------|
| Ø Context of the agreement | Ø Reviewing and weeding of data |
| Ø Legal basis for disclosure | Ø Security of the data |
| Ø Use of the disclosed data | Ø Complaints |
| Ø Data quality | Ø Subject access |

Operational review

4.5.3

Each operation will be reviewed. The T&CG will use this information to improve the quality of operational activity. This will be completed by the Immigration Service operational commander and will be available for review by both services and any agreed independent assessors.

Communication: Media Strategy

4.6

Media Strategy

4.6.1

The power of the media, particularly at a local level must not be under-estimated. The majority of media will look to provide balanced reporting of the asylum and immigration issue. A positive, open and factual relationship with the media will prevent salacious reporting that could stir up racial hatred. The strategy will be led by the Immigration Service and be dealt with at two distinct levels:

National Press Strategy

4.6.2

The Immigration Service will actively publicise their robust decision-making policies to ensure enhanced public understanding. The statements should emphasise the distinction of roles between the services, namely that the Immigration Service are retaining the

operational lead in the removal of immigration offenders and the Police Service priority of supporting community safety remains unchanged.

Local Press Strategy

4.6.3

The Immigration Service will make local and timely press statements relevant to the implementation of operations when necessary and appropriate. These will be agreed by both services prior to release. The Police will make timely and relevant press statements in support of their community safety re-assurance. It is essential that the distinction between the two roles is made very clear.

Complaints procedures

4.7

All complaints about the conduct of Immigration Officers made to the police will be forwarded to the designated Immigration Service liaison officer. The Immigration Officer receiving the complaint will complete an immigration complaint form and contact the complainant advising them of the complaint procedure.

Complaints alleging criminal actions by Immigration Officers will additionally be forwarded to the Crime Manager of the relevant division. In such cases the complaint will not be progressed by the Immigration Service until the advice of the Crime Manager has been received in writing.

Advice about the Immigration Service complaints procedure will be made readily available to relevant police officers and also to all members of the public.

5 Immigration Service Levels of Operation

There are three main types of planned operation:

- i. lower-tier operation;
- ii. upper-tier operation (major joint operation with the police) and;
- iii. middle-tier operation.

There are also opportunities that present with little or no notice that must be exploited in short time scales. The Police Service will provide support as required whenever practicable. The Immigration Service will be able to demonstrate the timeliness of the intelligence that has given rise to the spontaneous response.

All levels of operation, including spontaneous, will be subject to the Risk Assessment Authorisation process detailed in Section 8.

Lower-Tier Operations

5.1

The lower-tier operation is mounted to identify and detain either:

- (a) One or two immigration offenders; or
- (b) A family unit, in a single location.

This is the main type of operation conducted on a daily basis by immigration enforcement officers. The number of immigration and police officers required for each operation varies but it would be normal to have up to two Immigration Officers with two police officers. Teams will go out with several files, where addresses are grouped in a limited area, with the aim of visiting addresses until a target is found. The aim is to make the most efficient use of police and Immigration Service resources. When a target is found, he or she is taken to the nearest police station and detained there until collection by Wackenhut (private prisoner conveyance contractor) and transfer to a detention centre, or in certain cases, directly to an airport for removal.

Upper-Tier Operations

5.2

The upper-tier operation, or major joint operation with the police, often involves the participation of other law enforcement agencies, such as the Benefits Agency, HM Customs and Excise, and the Inland Revenue. Typically, it is carried out where intelligence and Risk Assessment indicates that ten or more immigration offenders are likely to be identified simultaneously:

- (a) On the same premises, or;
- (b) In neighbouring sets of premises, or;
- (c) In similar sets of premises (e.g. in a chain of restaurants located throughout a city, or in different towns and cities).

There are strict rules governing the preparation and conduct of major joint operations contained in a Home Office notice.

The required number of Immigration and police officers varies for major operations. The police function will be divided into several different roles (securing the premises, making

the arrests, prisoner escort duties, custody officer duties etc). The requirement will depend upon the number of anticipated arrests and the specific characteristics of the planned operation.

A major joint operation with the police can last all day, or indeed well into the next, but not all the police officers are required throughout.

5.3 Middle-Tier Operations

The middle-tier operation was originally born of the need to ensure that major joint operations with the police were not conducted under the guise of their being lower-tier operations. They are carried out when specific intelligence indicates only one or two offenders, but experience shows the type of premises traditionally contain more. The concept of the middle-tier operation has since widened to encompass any operation likely to yield between three and nine offenders.

Preparation for middle-tier operations is similar to that for upper-tier operations. And staffing for middle-tier operations is governed by the same considerations as for upper-tier operations.

Next Steps

6

Action by Immigration Service and Police Service

6.1

The following action will be taken by the Immigration Service:

6.1.1

1. Identify key roles for police officers on secondment and fill posts as a priority;
2. Identify the process by which police officers will be deployed on dedicated IS duties (i.e. short term attachment) and pilot attachments. It is anticipated that this work will take place within the priority police force areas set out in Annex B.
3. Establish a T&CG to co-ordinate removals activity within the priority police force areas;
4. Establish a protocol review group;
5. Expand the arrest team pilot scheme within the London region and to the North West District area (see paragraph 2).

The following action will be taken by the Police Service:

6.1.2

Action within the Police Service will depend on the police force area concerned:

1. Priority police force area (as listed in Annex B)

Within the priority police force areas, the Police Service will assist the Immigration Service with enforcement operations as set out in this protocol. Removals activity will be co-ordinated by the T&CG and police forces should nominate a dedicated liaison officer.

2. Police forces outside the priority area

It is not anticipated that Police forces outside the priority area will receive Immigration Service requests for assistance with removals at this stage. However, it should be noted that the protocol does not restrict other activity where the Immigration Service and the Police Service have existing joint working arrangements.

Point of contact

2.1

Enquiries concerning this protocol may be made to the senior police liaison officer seconded to the Immigration Service:

Chief Superintendent David Cooper

Telephone 0208 8760 8602

Fax 0208 8760 8610

Email david.cooper@homeoffice.gsi.gov.uk

Review of protocol

3

This protocol will change with time and during the first year will be subject to a quarterly review that will be agreed by the signatories. Thereafter it will be subject to an annual review. A protocol review group will be established under the chair of the seconded chief superintendent. The purpose of the review is to:

- 1) Ensure continued development for the benefit of both services;
- 2) Ensure the aims set out in paragraph 1.2 are met;
- 3) Monitor and progress the transition from Phase 1 to Phase 3 (paragraph 3.1.1).

for and on behalf of
Director General
Immigration Service

for and on behalf of
Association of Chief Police Officers

Dated:

Dated:

4 Annex A - Risk Assessment Authorisation

The attached matrix forms the foundation for the proposal and endorsement for operations at any level. The result of the assessment will influence the levels of resourcing and the nature of the operation.

There are essentially three categories for resourcing an operation:

1. Immigration Officers only (including the seconded officers referred to in paragraph 4.1.1) with local police awareness;
2. Immigration Officers and police support immediate to the operation;
3. Immigration Officers and police support immediate and ancillary to the operation.

The Immigration Service will have responsibility for completing the operational aspects of the Assessment. The police will have responsibility for completing the community and crime aspects of the Assessment. The final assessment findings will be submitted for the local borough commander s authority .

The Risk Assessment document is recognised as:

1. The Immigration Service endorsement of the intelligence and processes nominating the target, assuring the police of their duty of care for the lawful execution of their duty;
2. The Police Service authority to proceed with the proposed operation at a designated time and distils the core principle of the police service retaining control of the community environment;
3. The agreement between the Immigration Service and the Police for the level of resourcing for each nominated operation;
4. Recording the audit trail commensurate with the requirements of the Human Rights Act 1998 and the Race Relations (Amendment) Act 2000;
5. Transfer of required operational data whilst maintaining individuality confidentiality where necessary in line with the Data Protection protocol.

5 Annex B - Priority Areas for Activity

Phase 1 of (3.1.1 refers) the provision of police support will be prioritised to the following regions:

Metropolitan District
(Status Park, Beckett House, Croydon)

Metropolitan Police
Thames Valley Police
Surrey Police

North West District
(Manchester and Liverpool)

Greater Manchester Police
Merseyside Police

North East District
(Leeds, Hull, North Shields)

South Yorkshire Police
West Yorkshire Police
Cleveland Police
Northumbria Police

Midlands District
(Solihull, East Midlands Airport)

West Midlands Police
Leicestershire Police

South West District
(Bristol, Portsmouth, Southampton)

Avon and Somerset Police
Hampshire Constabulary

South East District
(Dover)

Kent County Constabulary