



A Short-Notice Inspection of a UK Border Agency Arrest Team (Croydon)

8 February 2011

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

Our Purpose

We ensure independent scrutiny of the UK Border Agency, providing confidence and assurance as to its effectiveness and efficiency.

Our Vision

To act as a catalyst for improvement ensuring that the UK Border Agency delivers fair, consistent and respectful services.

All Independent Chief Inspector of the UK Border Agency inspection reports can be found at www.independent.gov.uk/icinspector

Email us: chiefinspectorukba@icinspector.gsi.gov.uk

**Write to us: Independent Chief Inspector of the UK Border Agency
5th Floor, Globe House
89 Eccleston Square
London, SW1V 1PN
United Kingdom**

Contents

	Foreword	2
1.	Summary of Recommendations	3
2.	The Inspection	4
3.	Background	6
4.	Inspection Findings – Operational Planning	8
5.	Inspection Findings – Operational Activity	12
6.	Inspection Findings – Post-Operational Activity	16
	Appendix 1 Inspection Criteria	18
	Appendix 2 Legislation	20
	Appendix 3 Glossary	22
	Acknowledgements	25

Foreword from John Vine CBE QPM



This is the second short-notice inspection of the UK Border Agency that I have undertaken. On this occasion, 24 hours notice was given to the Agency of my intent to inspect an arrest team in the London area. These teams arrest people who are either suspected of immigration offences or are liable to detention. There are currently 53 arrest teams in the UK undertaking approximately 12,000 operations annually.

We observed an arrest team's operational visits for one day, focussing specifically on the police-like powers of arrest and the associated powers of entry, search and seizure. Arrest team operations are one of the most challenging and high profile areas of work undertaken by the UK Border Agency and it is vital that this work is performed consistently and sensitively.

During this inspection, I found significant non-compliance with the Agency's own policy and guidance. This lack of compliance was observed in the briefing before the visit and during the operational activity. However, I was pleased to note that Agency staff acted courteously and clearly identified themselves at all times.

Given these findings, I have made five recommendations to the UK Border Agency and I intend to conduct another similar short-notice inspection of an arrest team within the next six months.

A handwritten signature in black ink that reads 'John Vine' followed by a period.

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 proper written authority for an arrest team visit is obtained in accordance with the Agency's own guidance.
2. Ensures Officers in Charge comply with guidance when preparing and delivering operational briefings.
3. Clarifies the actions immigration officers may take to control the movement of people within a property.
4. Ensures that all arrest teams comply with guidance relating to informed consent.
5. Clarifies, and ensures compliance with, the guidance relating to the records 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. In 2009, the Independent Chief Inspector's remit was extended to include customs functions and the work of the Agency's contractors.
- 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 operational visits 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 of the arrest team and its arrest-trained immigration officers.
- 2.6 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

- 2.7 The inspection methodology was developed using the Independent Chief Inspector's new Inspection Criteria, covering the following three themes:
- Operational delivery;
 - Safeguarding individuals; and
 - Continuous improvement.
- 2.8 Further information about the new Inspection Criteria can be found in Appendix 1 and on the Independent Chief Inspector's website¹.

Methodology

- 2.9 The onsite phase of the inspection took place on 8 February 2011.
- 2.10. Twenty-four hours previously 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.
- 2.11. We arrived at the Croydon Local Immigration Team (LIT) office at 5:15am and announced our arrival to the Officer in Charge (OIC) of the arrest team visits planned for that day.

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

2 The Professional Standards for Enforcement team are a central team responsible for enforcement standards across all Agency arrest teams.

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

- 2.12. Two members of the inspection team observed the arrest team undertaking their planned visits. They were accompanied by two arrest trained immigration officers from the PSE team who acted as their cover officers.
- 2.13. We observed the arrest team (consisting of six Agency staff members) undertake two operational visits. Entry was not gained at the first premises, but was at the second. The arrest team confirmed the immigration status of the five people present at the second address and did not make any arrests. They returned to their office where they held a debriefing meeting.
- 2.14. Following the debriefing, we interviewed all members of the arrest team who had participated in the visits we observed, in addition to speaking to managers and other staff.
- 2.15. We also reviewed Agency guidance, policy documents relating to arrest team visits and the records produced by the arrest team during the two visits.
- 2.16. The inspection identified five recommendations. A full summary is provided on page 3 of this report.

3. Background

UK Border Agency Structure

- 3.1 Immigration Group is the part of the UK Border 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 strengthening 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, with approximately 800 arrest-trained staff.

Arrest Teams

- 3.3 Arrest teams rely on police-like powers to fulfil their duties. Specially trained (or 'designated') immigration officers exercise powers of arrest, and associated powers of entry, search and seizure. Immigration officers may also use force whilst exercising their powers, providing it is both reasonable and necessary.
- 3.4 Every immigration 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.
- 3.5 Arrest teams normally receive intelligence reports from other parts of the Agency. Intelligence reports identify either people suspected of immigration offences or people who are liable to detention.
- 3.6 When conducting an arrest team visit, the team typically consists of between four to twelve members of staff. One officer is nominated the OIC and is responsible for all aspects of the arrest team visit, including planning.
- 3.7 Immigration 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 immigration officers is provided in Appendix 2.
- 3.8 Arrested people who are liable to detention are taken either directly to an Immigration Removal Centre (IRC) or a UK Border Agency holding room. Holding rooms are operated by a contractor, who will then arrange to transport the detained people to the IRC.

- 3.9 Arrested people who are suspected of an immigration offence are taken to a police station for further questioning.
- 3.10 Police are only present on arrest team visits if a risk assessment indicates they are required or the Agency is conducting a joint operation with the police.
- 3.11 The Agency's guidance for arrest teams is contained within its Enforcement Instructions and Guidance (EIG). During this report we make frequent reference to the EIG which is available on the Agency's website⁴.

Croydon Local Immigration Team

- 3.12 The Croydon Enforcement Unit was divided into three separate LITs on 14 September 2009 – one of which is the Croydon LIT. At the time of inspection, the Croydon LIT consisted of:
- an arrest team – deployed to detect and arrest immigration offenders;
 - field intelligence officers – support the development of intelligence in advance of operational visits and liaise with local stakeholders in regard to immigration issues;
 - a number of casework teams – consider representations in regard to removal action, manage cases in detention and progress asylum cases; and
 - workflow teams – responsible for work allocation and prioritisation.
- 3.13 The Croydon LIT is led by an Assistant Director. There were 64 members of staff at the time of the inspection.

The arrest team comprised of:

- 2 Chief Immigration Officers (CIOs)
 - 12 Immigration Officers (IOs)
 - 8 Assistant Immigration Officers (AIOs).
- 3.14 All members of the arrest team were arrest trained with the exception of one Assistant Immigration Officer (who does not take part in arrest team visits).

Management Information

- 3.15 The number of arrest team visits and arrests from April 2010 to January 2011 are shown in Figure 1 below:

Figure 1: Number of Arrest Team Visits and Arrests: April 2010 – Jan 2011

Period	Number of visits	Number of arrests
National	11,913	6,388
London	3,514	1,996
Croydon LIT	460	184

Note: Provisional data. Provided by the UK Border Agency

⁴ <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/>

4. Inspection Findings: Operational Planning

- 4.1 We inspected the actions undertaken by the UK Border Agency prior to the operational visits. These 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. A database listed the personal safety training completed by each member of the arrest team and the date by which they needed to complete their refresher training. We were told that if a member of staff had not completed the necessary training, they were removed from the arrest team duty list and therefore not available to take part in operational duties until they had successfully completed their refresher training.
- 4.3 We confirmed that all members of the arrest team we observed were listed on the database and had received the required training. We were satisfied that appropriate controls were in place to ensure only arrest trained staff were able to take part in arrest team duties.

Pre-visit Checks

- 4.4 A number of police and immigration checks are required prior to any arrest team visit. 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 visit can take place.
- 4.5 We reviewed two intelligence reports that contained immigration history, addresses and other information known to the Agency or police of the people who were the focus of the operations. This information was used by the OIC to plan the observed operational visits.
- 4.6 Both intelligence reports contained evidence that checks on the intended targets and property addresses had been undertaken with the Metropolitan Police. 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 taking place at the address or if they are planning to undertake an operation. As the Agency's intelligence systems do not hold this type of information, it is important they contact the police during the intelligence gathering phase.
- 4.7 The intelligence reports were produced by different Intelligence Units and differed in both format and content. In January 2011, a number of different Intelligence Units in the London region were consolidated into a Central Intelligence Unit (CIU). The re-structure introduced new processes and procedures, which accounted for the differences between the intelligence reports.
- 4.8 Both report formats contained sections for the arrest team to record that actions required during the planning phase of operational visits had been completed. We were concerned to find that neither report was fully completed by the arrest team. For example:
- The report produced by the new CIU did not contain any information from the arrest team. The other report contained only limited information, but did state that the operational briefing was contained in a separate document.

- We were able to determine that the police had been informed of both operational visits. However, in both reports it was difficult to clarify at which stage the police had been notified, and if police checks had also been completed.

Authority for the Visit

4.9 Once the OIC has completed all the required checks, a Chief Immigration Officer (CIO) is required to authorise the visit.

4.10 The Enforcement Instructions and Guidance (EIG) states⁵ the following in relation to the levels of authority required for an arrest team visit:

The recording of authorisation for visits based on information known at that time is important as it may subsequently be used to show the legality and proportionality of the visit.

There is a requirement to obtain the following written authorities:

- (1) *Police checks on persons sought and the address to be visited need to be signed and dated as having been conducted.*
- (2) *Community Impact Assessment⁶ or equivalent authorised assessment must be signed and dated as having been conducted and authorised by the CIO.*
- (3) *Immigration checks need to be signed and dated as having been conducted and the minimum authority of an arrest trained CIO as having been granted in writing for the visit to proceed.*

4.11 The EIG states that the OIC ‘*must obtain authority for a visit in advance and in writing from a CIO*’. We were told that one operation had been authorised in writing by a CIO, although we were not presented with this evidence in hard copy.

4.12 The other operation had not been authorised in writing, contrary to guidance. Although the operation had been appropriately authorised for a previous visit in December 2010, the report clearly stated that the authorisation had expired. The intelligence checks were also completed in December 2010 and it was not clear from the documents presented if they had subsequently been re-checked. This lack of a clear audit trail presents an obvious risk; for example, if a person had become known to police after the previous checks, the Agency may not be aware of this. The risks to staff and members of the public of such an oversight are potentially considerable.

4.13 We also noted an inconsistency in the EIG: paragraph 31.5 requires that a CIO provides the authority, whereas paragraph 61.8.5 requires that an ‘*arrest trained CIO*’ provides the authority.

Lack of Available Detention Space

4.14 The arrest team had planned to undertake six arrest team visits on the day of our inspection. However, a decision was taken on the previous day to cancel four of the visits due to the lack of available detention space within the Immigration Removal Centres operated by the Agency. Following this reduction in the number of planned operations, the number of immigration officers in the team had also been reduced.

4.15 There was no capacity for males in the detention space allocated to the Croydon LIT, although some space remained for females. We noted the actions taken by the OIC to proceed with visits where the intention was to arrest a female, thereby ensuring the team were able to complete at least some visits for the day.

⁵ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/> (see Chapter 61.8.5)

⁶ Document which assesses the impact an operation will have on the local community.

- 4.16 The remaining four operations were due to be re-scheduled when detention space became available. However, as intelligence reports are only valid for a period of three weeks, according to Agency guidance, there is a risk that this period might be exceeded. In addition, the efficiency of the team can be compromised when four arrest team visits are cancelled.

Proportionality

- 4.17 We did not see any evidence that either the timing (early morning visits to residential addresses) or the make-up of the team (male/female staffing ratio) was considered or recorded for either visit. The rationale was not covered in the operational order or the briefing.
- 4.18 We noted that, given the intention was to arrest two females, the arrest team contained two female immigration officers. Whilst the Agency may have considered this when allocating staff to take part in the operation, we did not find any documentary evidence to confirm that this had happened.
- 4.19 In our previous report on family removals⁷ we recommended that the Agency should record the rationale for the time of visit and the make-up of the team. This recommendation was specifically for family visits but equally applies to all operational visits.

Briefing for the First Visit

- 4.20 The OIC delivered a briefing attended by all members of the arrest team. The OIC had written a briefing document, known as an 'operational order' and read from this document. However, other members of the team were not given a copy of this. Although the Agency's guidance does not explicitly state that all members of the team should receive a hard-copy of the operational order, this would be good practice.
- 4.21 The briefing communicated some of the relevant information to the team. For example, details of the names, immigration status, and addresses of the intended targets were presented clearly.
- 4.22 Effective communications in the team, with senior managers and the police, were covered in detail in the briefing. Individual radios were assigned, and reference made to the fact that the operation had been logged with the Metropolitan Police and the police reference number provided.
- 4.23 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 they had been provided with a copy of the briefing prior to the operations taking place.
- 4.24 However, the briefing lacked formality and structure and, significantly, failed to present all relevant information. For example:
- The OIC initially did not state that the person who was the focus of the visit was four months pregnant. An immigration officer who had previously attended the address was aware of this information and told the team. It was unclear to us if the OIC had been aware of this information, but significantly there was no mention of this important fact in the written operational order, nor was there any consideration of the impact this might have had on risk assessment. Such an oversight could have had significant negative consequences, both for the woman in question and the Agency. The OIC did not specify how the risk assessment might have been affected by a pregnant woman. We would have expected the OIC to have considered this aspect of the operation in considerably more detail. The absence of specific reference to a pregnant female is unacceptable and is a significant failing of the briefing.
 - The OIC reminded the team of the 'no chase policy' (the Agency policy relating to the pursuit of people who attempt to leave the premises), but did not follow this with any summary or explanation of the policy. We would have expected the OIC to provide the team with, at least, an overview of the Agency's guidance on this matter.

⁷ <http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Family-Removals-A-Thematic-Inspection.pdf>

- No reference was made to the immigration powers that the arrest team were likely to rely on during the visit. Guidance states this should be an integral part of any briefing, as the OIC must satisfy themselves that all members of their team are aware of, and acting under, the correct legislation at all times.
- No reference was made to the address being previously visited by the arrest team. We were told the arrest team had only recently visited the property and would have expected this information to have been shared with the team and recorded in the operational order.
- The OIC asked all staff to ensure they were wearing full protective clothing and equipment, but did not undertake a physical check to confirm this. It is the responsibility of the OIC to ensure all staff are wearing the correct clothing and equipment.
- 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 resident permits access once asked). However, the OIC did not explain how to obtain informed consent. We consider this in further detail in paragraph 5.2.
- The operational briefing had not been updated to reflect the change of officers involved and listed a member of staff who did not take part in the operation.
- The operational order made reference to UKIS (the UK Immigration Service) which ceased to exist in August 2008.

Briefing for the Second Visit

- 4.25 After the arrest team concluded their first visit, the OIC delivered the briefing for the second visit outside the first premises. This briefing followed the same format as before.
- 4.26 The briefing, outside the first premises, contained personal and sensitive information about people suspected of immigration offences. This was potentially audible to people in the nearby premises. We did not observe any members of the public listening and staff later informed us they were looking out for people who might be nearby. However, the risk remained that personal information could have been overheard. This should not have happened and was easily avoidable.
- 4.27 The briefing would have been more appropriately delivered in the secure environment of the office or in one of the arrest team vehicles. The OIC stated it was local practice not to deliver consecutive briefings in the office due to the risk of confusing the information. We believe the need to avoid disclosing sensitive information in a public place outweighs any such concerns.
- 4.28 Overall, the briefings for both operations were too informal and key information was omitted. These failings could cause significant risks to the public, arrest team and the Agency as inappropriate actions could be taken during the visit. In particular, the briefing for the second operation potentially exposed the Agency and the public to unnecessary risk on a number of different levels.

We recommend that the UK Border Agency:

- Ensures proper written authority for an arrest team visit is obtained in accordance with the Agency's own guidance.
- Ensures Officers in Charge comply with guidance when preparing and delivering operational briefings.

5. Inspection findings – Operational Activity

- 5.1 We inspected the actions taken by the arrest team whilst they were on the two operational visits. We focussed on their interactions with people and their compliance with guidance and legislation.

The Use of Informed Consent

- 5.2 Arrest teams may gain lawful entry to non-commercial premises by one of two methods: either using a warrant or through informed consent. With a warrant, the arrest team may, if required, 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.
- 5.3 The arrest team did not hold a warrant for either premises and were therefore obliged to gain entry by informed consent.
- 5.4 At the second premises we observed the team gain entry at 6:28am. The immigration officer who gained entry identified the team as being from the “UK Border Agency” and obtained permission to enter from the person who opened the door. Whilst permission to enter was obtained, this did not meet the requirements of informed consent.
- 5.5 The EIG states:⁸
- *If officers propose to search premises with the consent of a person entitled to grant entry they must obtain consent, if practicable, in writing;*
 - *Before seeking consent, the OIC must state the purpose of the proposed search and its extent. ... Officers must clearly inform the person concerned that they are not obliged to consent;*
 - *Officers cannot enter or continue to search premises ... if consent is given under duress or withdrawn before the search is completed.*
- 5.6 We observed that:
- written consent was not recorded before entering;
 - the purpose and the extent of the search were not explained to the person who opened the door; and
 - the right to withdraw informed consent was not explained.
- 5.7 At 6:45am, immediately prior to departing the premises, we observed an immigration officer ask the person (who had initially opened the door) to sign the ‘informed consent’ form. A copy of the form was left with the occupier. The immigration officer recorded in their notebook ‘consent form signed left property 6:45 hrs’.
- 5.8 This was inappropriate and did not afford the occupant the rights they are entitled to – namely that if immigration officers enter a premises under the informed consent of the occupier, the occupier can ask them to leave the premises at any time. This should have been explained to the occupant prior to entering the premises, and clearly documented by the arrest team. This explanation and documentation of the informed consent should take place before the arrest team enter the premises, not immediately before they leave.

⁸ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/enforcement/detentionandremovals/> (see Chapter 61.9.6)

- 5.9 We noted the guidance allows for circumstances where informed consent is not required. However, none of these circumstances applied to the operation we observed. Nor did we see any practical reasons why written consent could not have been obtained before entering the premises.

Conduct Inside Premises

- 5.10 We saw immigration officers identify themselves clearly and professionally to all people in the premises. We observed variances in how staff identified themselves, for example staff told us that some people understand terminology such as the Home Office, whilst others might understand the phrase 'immigration'. A member of the arrest team stated "we say we are from the UK Border Agency, but if people look puzzled we say 'immigration'". We were nonetheless satisfied that the immigration officers ensured the people they spoke to knew that they represented the UK Border Agency.
- 5.11 All staff had clearly identifiable markings on their anti-stab vests that identified them as being from the UK Border Agency. We also observed that staff showed their identification to people unprompted.

Searching and Control of the Premises

- 5.12 The arrest team gained entry to the second premises and proceeded to search the area for people. This was to secure the premises and reduce the health and safety risks to the public and the arrest team.
- 5.13 There were six officers on the team and a total of five people found at the premises. The OIC maintained control of the arrest team and effectively secured the premises. Immigration officers ensured they remained in close contact with each other and no officers were left isolated.
- 5.14 Immigration officers proceeded to speak to all people on the premises to establish their immigration status. One male person was established as having valid leave to remain in the United Kingdom. This meant the arrest team had no powers in law to restrict his freedom to move around the property, unless he obstructed immigration officers from carrying out their lawful duties. He was asked to remain in his room until the arrest team had left the premises. However, he asked if he could return to the kitchen to continue making his breakfast and was allowed to do so.
- 5.15 The guidance available to immigration officers does not provide sufficient clarity on this matter. For example, the EIG states:

When officers' enquiries show that occupants of premises are of no legitimate interest the OIC should take care that these persons do not affect the overall safety of the visit, obstruct officers in their duty or interact with suspected offenders.⁹

- 5.16 However, the EIG fails to provide any specific guidance as to how immigration officers might prevent a person from affecting the overall safety of the operation or interact with suspected offenders.
- 5.17 The law was applied correctly; in this case the arrest team had no powers to restrict the movement of the person in the property. However, immigration officers elsewhere in the property (who were unaware of the immigration status of the person) told us they were concerned at seeing a person move around the premises unaccompanied by an immigration officer. It should be noted that immigration officers told us they did not perceive any threat from the person.
- 5.18 The inability of immigration officers to effectively secure a premises by controlling the movement of all people within it, places them at a potentially significant risk. A person who is free to move around the premises may still present a risk to themselves, other members of the public and immigration officers.

⁹ <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/> (See Chapter 61.10.5)

We recommend that the UK Border Agency:

- Clarifies the actions immigration officers may take to control the movement of people within a property.

Decision Making

- 5.19 We observed officers conducting brief status interviews with the people in the premises, in order to establish their immigration status.
- 5.20 Immigration officers verified the information provided to them by calling a communications officer who remained in the office. The checks were completed against the Agency databases and the results were promptly relayed back to the arrest team. Officers recorded the details provided by the people and the communications officer in their pocket notebooks.
- 5.21 The decision making process was efficient and accurate, and allowed immigration officers to gather sufficient information to make an informed decision on the immigration status of all the people encountered. They established that none of the people were suspected of immigration offences or were liable to detention, which meant there were no grounds to arrest people and the arrest team could leave the premises.

Documenting the Visit

- 5.22 Arrest teams are required to record their actions on an operational visit. In the event of a complaint or incident this provides a clear audit trail of events. The main tools for documenting the visit are the Premises Search Book (PSB) and pocket notebooks. The PSB is a detailed document containing details of all the people on the premises and the actions taken by the arrest team. Each officer also has their own individual pocket notebook in which to record notes.
- 5.23 The EIG states that a PSB must be opened in the following circumstances:¹⁰
- *when an arrest is made;*
 - *when an incident occurs;*
 - *when a search is made under PACE¹¹ or by consent;*
 - *when a warrant is executed;*
 - *when the officers believe it is appropriate, for example during contentious operations or where a complaint may be made later on.*
- 5.24 On the first visit, the arrest team did not complete a PSB. This was in accordance with guidance. On the second visit, the arrest team did not complete a PSB contrary to guidance.
- 5.25 We were told the OIC nominated an officer to complete the PSB as and when required, and that the team carried the PSB with them. We were told that the arrest team “[did] *not routinely designate* [an officer to complete the PSB] *and will only do so if arrests are made, a complaint is made or there is an incident*”.
- 5.26 An immigration officer informed us that if they were asked to begin a PSB by the OIC, they would only start it from the time of the instruction. This could mean potentially important information might not be recorded. If a PSB is not completed there is no clear trail of what took place on the arrest team visit.

¹⁰ <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/> (see Chapter 61.11.5)

¹¹ Police and Criminal Evidence Act (see Glossary)

- 5.27 We found officers had misinterpreted Agency guidance and did not believe that a PSB needed to be opened when it should have been. The guidance states that a PSB should be started when “*a search is made*”. Officers interpreted this as only referring to a search for property following arrest. However, the guidance requires that a PSB is started whenever an arrest team search for people or property.
- 5.28 Officers have individual pocket notebooks to record events during the visit as necessary. Two officers on the visit did not complete pocket notebook entries, contrary to guidance.
- 5.29 We observed some officers completing pocket notebook entries on the premises, primarily recording the personal details of the people. The entries in one notebook were to a reasonable standard. However, the other three notebooks contained inadequate information compared to that stipulated in the EIG.

We recommend that the UK Border Agency:

- Ensures that all arrest teams comply with guidance relating to informed consent.
- Clarifies, and ensures compliance with, the guidance relating to the records an arrest team must complete.

6. Inspection Findings – Post Operational Activity

6.1 We inspected what happened once the arrest team had returned to the office. We assessed the debriefing, record keeping and the accuracy of the intelligence report that initiated the visit.

Debriefing

6.2 The EIG states¹² that the purpose of the debriefing is to identify and address good practice, problems or incidents arising and new intelligence. It also states that a debriefing is not mandatory for all arrest team visits apart from family detention visits or where a critical incident occurred.

6.3 Although it was not mandatory, the arrest team held a debriefing on returning to the office. It achieved some of the aims as specified in the guidance. For example when asked if there were any issues, a number of officers voiced their concerns about the unaccompanied person. However, they also stated they had confidence that their colleagues were managing the situation.

6.4 However, the debriefing did not address issues we would have expected to have been included. For example, no officer:

- questioned the appropriateness of the briefing that took place outside the first premises, and within potential earshot of adjacent houses; and
- raised the failure to start a PSB. This confirmed the view that members of the arrest team, and managers present, did not believe that they were required to complete one.

Keeping Accurate Records

6.5 It is important that the Agency keeps accurate records of arrest team visits. This ensures there is a clear audit trail and the information gained can be used in future operational visits.

6.6 We accessed the National Operations Database (NOD – a record of all operational visits) to confirm it had been updated following the visit. The OIC had listed all officers who took part, recorded the times they left, and returned, to the office. This is used centrally by the Agency for management information.

6.7 However, there were inaccuracies and omissions in the information entered into the database:

- The NOD is used to collate intelligence gathered by arrest teams. This includes the requirement to provide information on all people identified on a visit (including people who are not of interest to the Agency, for example people with valid leave, or British and European Union nationals). However, of the five people identified in the property, only four names were entered into the database. This oversight limits the potential intelligence value of the information and could impact upon future operations.
- The records for both operational visits listed the incorrect lead officer for the critical incident management structure.

6.8 We were told that the records for each visit are stored locally. However, the records presented to us following the visits were difficult to follow and lacked clarity. The documents retained by the Agency did not present a clear audit trail of events that took place during both visits and lay the Agency open to accusations of poor professional standards.

¹² <http://www.ukba.homeoffice.gov.uk/policyandlaw/guidance/enforcement/> (see Chapter 61.13.3)

- 6.9 The pocket notebooks completed by immigration officers were incomplete, of variable quality and did not provide a clear audit trail. One officer recorded the justification for their actions in their notebook, but other officers simply listed the briefest of details about the visit and the people encountered.
- 6.10 The failure of the arrest team to complete a PSB and detailed notebook entries were the main reasons for the lack of a clear audit trail. As a result, the records held by the Agency in relation to both the operations observed were insufficient.
- 6.11 We were told by a CIO that they *“try to go out with the arrest team at least once a week to observe operations”* and that *“any areas to address or learning points are raised either at the debrief, individually with staff or in team meetings”*.
- 6.12 This level of quality assurance should have ensured the deficiencies we observed were addressed. This strengthened our view that the members of the arrest team, including managers, did not feel there were quality issues to address. We would have expected such a level of quality assurance to have addressed the quality of the briefings, incorrect use of informed consent and most of all the failure of the team to complete a PSB.

Accuracy of Intelligence Reports

- 6.13 We were unable to establish the accuracy of the first intelligence report as the arrest team did not gain entry to the premises.
- 6.14 The intelligence report for the second premises visited was inaccurate. It specified one person was resident at the address, whereas in fact five people were present, none of whom were included on the intelligence report.
- 6.15 We understand the difficulty in obtaining accurate and up to date intelligence, especially concerning people who live at a property but are not listed on Agency or police systems. Nonetheless, we were disappointed to find that intelligence reports, and the work developing them, did not achieve any tangible results for the Agency.
- 6.16 We repeat the recommendation made at the end of chapter 5.

We recommend that the UK Border Agency:

- Clarifies, and ensures compliance with, the guidance relating to the records an arrest team must complete.

Appendix 1

Inspection Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Inspection Criteria. They provide a clear set of criteria against which we conduct our inspections, ensure inspectors are working to a common set of standards and allow the UK Border Agency to know exactly what is expected of them.

We have 10 criteria under the themes of:

- Operational Delivery
- Safeguarding Individuals
- Continuous Improvement

They are shown below.

OPERATIONAL DELIVERY

1. **Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration.**

Purpose: To place an expectation on the Agency that decisions to grant or refuse permission to enter the UK, to grant or refuse permission to remain in the UK, to provide asylum support, to certify asylum or human rights claims as clearly unfounded, to remove people and to grant or refuse British citizenship are made consistently in accordance with legislation and the principles of good administration – getting it right, putting it right, being 'user'-focused, being open and accountable, acting fairly and proportionately.

2. **Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted to ensure the law is upheld.**

Purpose: To place an expectation on the Agency that it prevents, detects, investigates and prosecutes customs and immigration offences efficiently and effectively thereby ensuring that the law is upheld. In particular to ensure that the Agency is using its powers effectively and that communities are protected from the smuggling of prohibited or restricted goods or the unlawful presence of individuals.

3. **Complaints procedures should be in accordance with the recognised principles of complaints handling.**

Purpose: To place an expectation on the Agency to develop and maintain a fully accessible complaints handling process, capable of responding to complaints promptly and fairly. In addition, to use complaints to improve service continuously and encourage cost and efficiency savings.

SAFEGUARDING INDIVIDUALS

4. **All people should be treated with dignity and respect and without discrimination in accordance with the law.**

Purpose: To place an expectation on the Agency that it complies with the law on prohibiting discrimination in respect of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation. In addition, treats all people with whom it comes into contact with dignity and respect even where there are no specific legislative duties.

5. **Decisions to detain people must be lawful.**

Purpose: To place an expectation on the Agency that decisions to detain people are in accordance with the law and the Agency's policy and guidance. To further ensure that detention is reviewed fully and regularly, that detainees have access to appropriate legal representation and are treated with dignity and respect whilst cases are considered.

6. **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.

7. **Functions should be carried out having regard to the need to safeguard and promote the welfare of children.**

Purpose: To place an expectation on the Agency that it complies with the law and considers safeguarding and the welfare of children throughout its work. In addition, to assess how far the Agency is proactive in its approach to promoting welfare.

8. **Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.**

Purpose: To place an expectation on the Agency that it complies with the requirements of the Data Protection Act and related legislative frameworks in handling personal data and uses ongoing good practice guidance in treating and storing data.

CONTINUOUS IMPROVEMENT

9. **The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.**

Purpose: To place an expectation on the Agency to collect and analyse information to assess the effective implementation of policies and identify areas for improvement.

10. **Risks to the efficiency and effectiveness of the UK Border Agency should be identified, monitored and mitigated.**

Purpose: To place an expectation on the Agency to be clear about the risks to its efficiency and effectiveness, that it identifies risks accurately, is aware of their potential impact and takes appropriate action to tackle them.

Appendix 2

Enforcement powers

Basis of Immigration Officers' Powers 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 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 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 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 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 officers who conduct operational visits with the intention of arresting people liable to detention or suspected of an immigration offence.
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 the decision making process used to resolve applications (for example applications for asylum or British citizenship).
Central Intelligence Unit (CIU)	A team that collates and disseminates intelligence for LITs across the London region.
Chief Immigration Officer (CIO)	Senior grade above Immigration Officer (equivalent to Higher Executive Officer).
Community Impact Assessment	Document in which the impact an operation will have on the local community is assessed. Produced in conjunction with the police, and considers factors such as proximity to schools or religious buildings, holy days, community standing of the people, etc
Complaint	Defined by the U K Border Agency as <i>'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.'</i>
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.
Debrief	The process by which information is actively gathered and shared following operational work.

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)	Immigration Officers are employees of the UK Border Agency, appointed by the Home Secretary, whose powers are conferred by the Immigration Act 1971 and who also act in accordance with Immigration Rules. They have the power of arrest and detention conferred on them by the Immigration Act 1971, when both at ports and inland.
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.
Independent Police Complaints Commission	The organisation with overall responsibility for complaints against the police, and the use of police-like powers by UK Border Agency staff in England and Wales.
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.
N	
National Operations Database (NOD)	Database used to record all enforcement operations undertaken by the UK Border Agency.
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 a visit. 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 detainees. The UK Border Agency are obliged to adhere to PACE when investigating immigration offences, but they do not apply when powers are exercised under Schedule 2 of the Immigration Act 1971 (as amended).
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 visit. 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	The process by which a person or person(s) voluntarily, through assistance or through enforcement by UK Border Agency staff, physically leaves the UK after a failed asylum application.
Reporting Centre	UK Border Agency office where people who are liable to detention by the Agency (for example, failed asylum seekers) are required to report on a regular basis.
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 the premises 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	Used by UK Border Agency enforcement units to reduce reliance on police facilities and to provide a short term assessment / induction facility prior to moving to a main 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)	Executive 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

Acknowledgements

We are grateful to the UK Border Agency for its help and co-operation 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
Lead Inspector:	Ian Tyldesley
Inspector:	Anita Bhalla
Inspection Officer:	Chris Thompson
Inspection Support:	Charmaine Figueira

