

Briefing on Serious Violence Reduction Orders (SVROs)



June 2021

Summary

On 12 May 2021, the UK government reintroduced the [Police, Crime, Sentencing and Courts Bill 2021](#) for the 2021/22 parliamentary session. Originally announced on 09 March 2021, the *Bill* is the centrepiece of the ruling Conservative Party's law and order manifesto pledge.

The *Bill* contains a provision granting courts the power to make Serious Violence Reduction Orders (SVROs) 'in respect of offenders convicted of offences involving knives or offensive weapons' and the police stop and search powers 'to target those subject to the orders'.

However, far from acting as a deterrent to future knife-carrying offenders, StopWatch argue that the expansion of stop and search powers ignores the weight of evidence showing that they have a minimal effect on violent crime, while catching many vulnerable young people in the criminal justice system's dragnet. There are also elements of the provision that raise questions over its legality.

Ultimately, we would recommend the *Bill's* provisions relating to SVROs should be withdrawn in their entirety as **we believe that they are neither proportionate nor likely to be effective in combating violent crime.**

At a minimum, there are several points of contention with the SVROs provision that we would like addressed in the following manner:

1. Remove subsection (4) from section 342A ‘Power to make serious violence reduction order’ of ‘Chapter 1A Serious Violence Reduction Orders’

This provision risks extending the potential use of SVROs to secondary parties who themselves may not have been convicted of using or carrying a weapon.

This goes beyond the government’s intended scope stated in its own consultation response on SVROs.

2. Remove subsection (8) from section 342A ‘Power to make serious violence reduction order’ of ‘Chapter 1A Serious Violence Reduction Orders’

This provision permits a court to consider evidence that would have been inadmissible in the criminal proceeding which led to the conviction of the offender being considered for the imposition of an SVRO.

However, it risks lowering the quality of evidence given from admissible statements of fact or reasonable inference to that of hearsay.

3. Amend section 342D subsection (2) to explicitly state that SVROs can only be used once, as per the offender’s original offence

We are concerned by the lack of safeguards preventing forces from abusing their power by successfully applying to rollover SVROs indefinitely, and by the lack of sanctions for officers who wrongly stop and search individuals on the false pretext that they are subject to an SVRO.

The provision should explicitly state the single-use application of SVROs.

4. The Home Office must authorise an independent evaluation of the SVRO pilots

Before proceeding with the rollout of SVROs, the Home Office should permit an independent evaluation of the SVRO pilots judging:

- 1) their effectiveness;
- 2) whether they breach the public sector equality duty; and
- 3) whether they avoid worsening racial disparities in the criminal justice system.

5. The Home Office must provide police forces with guidance over SVRO use, subject to public consultation

If the conditions from the independent evaluation are met, then there should also be a consultation with stakeholders over use guidance for police forces.

Introduction

On 09 March 2021, the UK government brought the [Police, Crime, Sentencing and Courts Bill 2021](#) before the Houses of Parliament. The *Bill* proposes, among other things, ‘to make provision for new offences and for the modification of existing offences; and to make provision about the powers of the police and other authorities for the purposes of preventing, detecting, investigating or prosecuting crime or investigating other matters’.¹ This involves granting courts the power to make Serious Violence Reduction Orders (SVROs) ‘in respect of offenders convicted of offences involving knives or offensive weapons’ and the police stop and search powers ‘to target those subject to the orders’.²

Those who are made subject to such orders will be marked out to be stopped and searched at any time and place, ie, without the standard requirement for the police officer to have ‘reasonable grounds’ of suspecting that the person stopped is in possession of a knife or other offensive weapon at the time. The police currently conduct ‘suspicionless’ searches – known as section 60s – under relatively stringent time and location conditions. By contrast, SVROs will last for a minimum of 6 months and up to a maximum of 2 years and can be renewed and extended further at a court’s discretion.

The Home Office’s justification for introducing SVROs is to deter offenders from carrying weapons ‘as there is a greater likelihood of being caught and brought to justice’. However, the weight of past evidence – including the Home Office’s own findings³ – suggests such a policy will have the opposite effect, by criminalising many more vulnerable young people who need to be protected from dangerous situations. Research investigating 10 years of the policy’s implementation in London – where the most searches are conducted – also found that stop and search had little impact on violent crime, robbery, theft or criminal damages.⁴

Ultimately, we would recommend the removal of the provision in its entirety in the first instance.

¹ *Police, Crime, Sentencing and Courts Bill publications - Parliamentary Bills* [Online]. UK Parliament. Available at: bills.parliament.uk/bills/2839/publications (Accessed: May 2021).

² (2021). *Police, Crime, Sentencing and Courts Bill 2021: Serious Violence Reduction Orders factsheet* [Online]. GOV.UK . Available at: www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-factsheets/police-crime-sentencing-and-courts-bill-2021-serious-violence-reduction-orders-factsheet.

³ 85% of young people who admitted to carrying knives surveyed for the [2006 Offending Crime and Justice Survey](#) found ‘protection’ to be the number one motive given for illegal knife-carrying.

⁴ Bradford, B. and Tiratelli, M., 2019. [Does stop and search reduce crime](#). *UK Justice Policy Review*, 4, pp.1-11.

Are SVROs legal?

StopWatch addressed the question of how the police will detect and stop offenders previously convicted of offences involving knives or offensive weapons in our [open letter to the home secretary in November 2020](#). We wrote that because the primary means for identifying a person of interest to the police will be conviction history rather than ‘reasonable suspicion’, SVROs risk subverting existing legal safeguards designed to limit the kind of power that exacerbates ‘the already egregious racial disparities in stop and search practices’.⁵

We also note similarities with the European Court of Human Rights 2010 ruling that stop and search powers created to target particular individuals without reasonable suspicion under the *Terrorism Act 2000* (s.44) were unlawful because of the ‘clear risk of arbitrariness in granting such broad discretion’ to a police officer.^{6,7} Along with the absence of limitations on renewal of the orders, we believe the government’s SVRO proposals may be at risk of a legal challenge on the grounds of article 14 of the European Convention on Human Rights (ECHR) (prohibition of discrimination), especially with regards to the protection of ex-offenders’ freedom from unreasonable detention (article 5).

We are also concerned that SVROs’ potential to exacerbate racial disproportionality may lead to a breach of the government’s public sector equality duty principle to ‘have due regard to the need to eliminating unlawful discrimination, harassment and victimisation and other conduct’ prohibited by the *Equality Act 2010*.⁸ This could be the grounds for a legal challenge to the UK Supreme Court.

Therefore, in order to avoid potential legal conflict, the government would benefit from removal of the SVRO provision from the overall *Bill*.

At the minimum, we believe there are 5 ways the legislation could be amended to mitigate the most harmful aspects of the SVROs provision.

⁵ The ‘reasonable suspicion’ test for all searches as covered by the *Police and Criminal Evidence Act 1984* and relevant code of practice (Code A). Indeed, previous conviction history is explicitly excluded from what is deemed reasonable grounds for a search.

⁶ A. Travis, (2010). Stop and search powers illegal, European court rules [Online]. The Guardian. Available at: www.theguardian.com/world/2010/jan/12/stop-and-search-ruled-illegal (Accessed: May 2021).

⁷ Hudoc [Online]. European Court of Human Rights. Available at: hudoc.echr.coe.int/eng (Accessed: May 2021).

⁸ (2010). Equality Act 2010 [Online]. Available at: www.legislation.gov.uk/ukpga/2010/15/section/149/enacted (Accessed: May 2021).

1. Remove subsection (4) from section 342A ‘Power to make serious violence reduction order’ of ‘Chapter 1A Serious Violence Reduction Orders’

Subsection (4) of section 342A allows for a court to impose an SVRO on any person convicted of any offence (however minor) who is in some way related to an incident involving the use of a bladed article or offensive weapon, if they are found to have known or ought to have known that such a weapon would be used.

This provision risks extending the potential use of SVROs to secondary parties who themselves may not have been convicted of using or carrying a weapon. This amounts to a *de facto* importation of the concept of ‘joint enterprise’⁹ (guilt by association) into the legislation, resulting in a dragnet provision that has dangerous implications for ethnic minorities in light of emerging evidence of a disproportionate use of the joint enterprise doctrine against ethnic minorities in court cases.¹⁰

Ultimately, the proposal runs contrary to both the government’s stated intention in its response to the consultation held on SVROs and in the ruling Conservative Party’s 2019 election manifesto pledge,¹¹ where it is stated that the orders will help ‘to change the behaviour of known knife and weapon carriers’,¹² with no references to the appearance or involvement of non-carriers. As subsection (4) in the *Bill* extends the reach of the power beyond that of the knife carrying offenders the government wishes to target, we believe it should be rejected.¹³

2. Remove subsection (8) from section 342A ‘Power to make serious violence reduction order’ of ‘Chapter 1A Serious Violence Reduction Orders’

Subsection (8) permits a court to consider evidence that would have been inadmissible in the criminal proceeding which led to the conviction of the offender being considered for the imposition of an SVRO.

⁹ Joint enterprise is commonly used in situations where a group of people are involved or present when an offence is committed in order to hold all members of the group criminally liable for a crime committed by only one or some members of the group.

¹⁰ Williams, P. and Clarke, B., 2016. *Dangerous associations: Joint enterprise, gangs and racism*. Centre for Crime and Justice Studies, pp.1-24.

¹¹ [Online] p. 18. Available at: <http://alturl.com/ikxox> (Accessed: May 2021).

¹² (2021). Summary of consultation responses and conclusion (accessible version) [Online]. GOV.UK, para 25. Available at: www.gov.uk/government/consultations/serious-violence-reduction-orders/outcome/summary-of-consultation-responses-and-conclusion-accessible-version (Accessed: May 2021).

¹³ Another suggestion may be to limit the offences to which subsection (4) applies: for example, if someone in the vicinity when the bladed instrument offence occurred is convicted of obstructing the police of some other minor offence, they should not be a risk of an SVRO.

This is an extraordinarily broad provision which risks jeopardising the fairness of representations made to a court over whether an offender should receive an SVRO, by lowering the quality of evidence given from admissible statements of fact or reasonable inference to that of hearsay, especially relating to alleged gang membership. It is for this reason that subsection (8) should be rejected.

3. Amend section 342D subsection (2) to explicitly state that SVROs can only be used once, as per the offender's original offence

The police can apply to renew and extend SVROs for offenders. However, we are concerned at the lack of safeguards preventing forces from abusing this situation. Individuals placed under the order are at risk of persistent harassment by the police (from which there is no protection in the *Bill*) and of having their rehabilitation and reintegration into the community being undermined, not least because of the indirect effects of being legally labelled as 'persistent knife carriers' on their access to employment, education and other social opportunities.

The *Bill* is also silent on what legal remedies will be available to those who are wrongly stopped and searched (whether by mistake or deliberately) on the pretext that they are subject to an SVRO. As Nina Champion of the Criminal Justice Alliance told a parliamentary committee: 'For young people who are trying to move away from crime, set up a new life and develop positive identities, to be repeatedly stopped and searched, labelled and stigmatised as someone still involved in that way of life could have adverse impacts.'¹⁴

At the minimum, the legislation should avoid the kind of outcome where an individual who has served their prison sentence is prevented from fully exercising their liberties because the threat of SVROs rolling over indefinitely (renewed every 6 months to 2 years) hangs over them. This means replacing the option for courts to impose extensions on ex-offenders with an explicit instruction that they can only be used once per offence.

¹⁴ Hansard – Examination of Witnesses: Police, Crime, Sentencing and Courts Bill – in a Public Bill Committee (4th sitting). Link: [https://hansard.parliament.uk/commons/2021-05-20/debates/b3f3bcaa-d48a-415c-8ea1-b35d19d9f184/PoliceCrimeSentencingAndCourtsBill\(FourthSitting\)](https://hansard.parliament.uk/commons/2021-05-20/debates/b3f3bcaa-d48a-415c-8ea1-b35d19d9f184/PoliceCrimeSentencingAndCourtsBill(FourthSitting)).

4. The Home Office must authorise an independent evaluation of the SVRO pilots

On 16 March 2021, the Home Office announced SVRO pilots for four police forces.¹⁵ It is necessary to not only monitor the progress of each pilot, but for the home secretary to allow for independent oversight and research of the results. Furthermore, we believe that the pilots should meet three tests proving their usefulness before SVROs come into force nationwide. In keeping with the promise of ‘effective and robust local and national monitoring of SVROs’,¹⁶ the Home Office should permit an independent evaluation of the SVRO pilots judging: 1) their effectiveness; 2) whether they breach the public sector equality duty; and 3) whether they avoid worsening racial disparities in the criminal justice system.

5. The Home Office must provide police forces with guidance over SVRO use, subject to public consultation

The home secretary should also hold a consultation with stakeholders over use guidance for police forces before proceeding with the rollout of SVROs. We suggest that the guidance itself should include instructing officers to record the details of each search of an individual who is subject to an SVRO, including the time and date, location, what (if anything) was found and retained, and the identity of the officer(s) conducting the search, and that these records be made available to the individual stopped, while forming the basis for a thorough analysis of SVRO use.

In addition, the Home Office should be required to produce regular data, relating both to the pilots and to any further rollout of SVROs, showing the ethnic breakdown of all persons convicted of carrying or using a knife or other offensive weapons within each police force area, the proportion of those persons who were subject to an application for an SVRO, and the outcome of such applications (numbers approved or rejected and the relative length of such orders).

We believe that this level of scrutiny would amount to an accountable oversight of the orders.

¹⁵ (2021). Serious Violence Reduction Orders to be piloted in 4 police forces [Online]. GOV.UK. Available at: www.gov.uk/government/news/serious-violence-reduction-orders-to-be-piloted-in-4-police-forces (Accessed: May 2021).

¹⁶ (2021). Summary of consultation responses and conclusion (accessible version) [Online], para 89. GOV.UK. Available at: <https://www.gov.uk/government/consultations/serious-violence-reduction-orders/outcome/summary-of-consultation-responses-and-conclusion-accessible-version#annex-a-the-consultation-analysis-methodology> (Accessed: May 2021).

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About StopWatch

StopWatch is a coalition of legal experts, academics, citizens and civil liberties campaigners. We aim to address excess and disproportionate stop and search, promote best practice and ensure fair, effective policing for all.