

ACID ATTACKS AND OFFENSIVE WEAPONS

Home Office Consultation Response

December 2017

The Centre for Social Justice Criminal Justice Unit

Response to the Home Office consultation on new legislation on offensive and dangerous weapons

Introduction

Violence in any form must be tackled – and where offensive and dangerous weapons are involved the risks of serious harm increase and the traumatic impact of the offences on individuals, families and communities becomes more pronounced.

The carrying and use of weapons by individuals can contribute to an environment in which other individuals choose to carry and use weapons, whether in order to defend themselves from unlawful violence or to protect a criminal enterprise and the proceeds of that enterprise.

The CSJ has been developing evidence specifically in relation to corrosive substances (used in so-called ‘acid attacks’) to identify current attitudes and evolving norms and codes of behaviour. We have also worked with networks of victims and self-identified at-risk groups (most notably the moped and motorbike-riding communities in east London and across England and Wales). This engagement saw us receive 236 responses to a short survey distributed on the subject.

Some highlights from the results of the survey include:

- 78% said they are in fear of being subject to an acid attack.
- 78% said there are areas they would not go because they fear being attacked with acid/a knife.
- 89% said they do not believe government are taking the issue seriously.
- 75% said they do not believe the police are taking the issue seriously.
- 96% believe the chances of an offender being caught should be increased.
- 89% believe police should routinely test substances being carried by suspects.
- 94% want to see police pursue offenders on mopeds more often.
- 94% want to see tougher penalties for those caught carrying acid.
- 73% state they believe carrying acid should be treated more severely than carrying a knife.
- 90% believe we should also tackle the root causes behind such crimes.

In addition, a charity in our Alliance provided us with information that some of those at greatest risk of being involved in serious youth violence, whether as offender or victim, report that:

- Carrying acid is easier to conceal than carrying a knife, e.g. by transporting in a water bottle.
- Acid can be used at greater distances than knives or other points and blades.
- Acid causes serious and potentially lifelong injury, but is unlikely to result in death.
- An individual can use acid more effectively than a knife against a group of individuals at once.
- Acid is much more of a force equaliser than a knife.

Finally, acid is – like a knife – often readily accessible. While knives may be found by many in their kitchen drawer, acid and corrosive substances can often be found under the kitchen sink, or are otherwise readily available in stores.

We therefore believe that specifically in relation to corrosive substances (aka ‘acid attacks’):

- The Home Office must support police forces most affected by the rise in acid attacks to equip frontline officers with testing kits. The kits should allow for the routine testing of substances carried by suspected offenders or by those who might be at risk of carrying acid in preference to other weapons.
- Sentencing and the burden relating to offences of possessing a corrosive substance should – at a minimum – be in line with those for the possession of knives. We would suggest that in order to send a clear signal and to help curtail any growth in the phenomenon the sentencing for the possession of corrosive substances should be more severe.
- The sale of corrosive substances should be subject to the same standard of checks as that seen for the sale of knives and we would support restrictions, whether through statutory guidance or order, on substances with relevant concentration levels to be restricted for sale to adults.

With respect to the specific questions of the consultation, we set out our responses below.

1. Proposal A: Creating offences to prevent knives sold online being delivered to a private residential address and ensuring the age and identity of the purchaser are checked.

We support further action to ensure knives are not being sold online to under 18s. The sale of knives online should involve reasonable steps to ensure that the recipient is not under 18. We would recommend that any such action is assessed for proportionality, given that those intent on obtaining and carrying a knife can readily do so whether by accessing their own kitchen drawer or by simply shoplifting a knife from a store. We therefore believe that while further action to tackle the supply of knives is to be welcomed, it is likely to yield increasingly marginal returns with respect to a reduction in crime.

2. Proposal B: Making it an offence to possess certain weapons in private

The possession of weapons within private premises – whether a dwelling or other premise – is certainly a potential cause for concern. The police routinely attend addresses to find known violent offenders in possession of offensive and dangerous weapons, but at present no offence exists for tackling the possession of any subset of such weaponry in private.

It is also the case that the police and other emergency services routinely attend private premises where individuals with poor mental health are in possession of offensive and dangerous weapons. Examples may include individuals with multiple and complex needs, being in possession of samurai swords, axes or machetes within their home or other private place. The proposals as outlined would do nothing to reduce the likelihood of this scenario or provide any additional powers to remove such weapons from such vulnerable individuals.

It must however be recognised that virtually every dwelling will have a kitchen containing knives – and that kitchen knives are always going to be accessible within the vast majority of private premises. Therefore, we reiterate the point that targeting a subset of the available weapon supply is likely to be

less effective than more offender-centric activity at changing behaviour or tackling the underlying causes of violence.

Therefore, while we support measures to improve public safety, we believe the current proposals to make it an offence to possess in private those weapons specified in the Criminal Justice Act 1988 (Offensive Weapons) Order 1988, will not, in isolation, go far enough to help safeguard those most at risk from serious violence or do enough to deter, disrupt or detect dangerous offenders.

We therefore recommend consideration be given to the introduction of a new post-conviction Serious Violence Reduction Order (SVRO) for application across a range of offences, primarily linked to offences of serious violence, weapon possession, drug supply, drug production and possession.

The Order would reiterate the prohibition on the offender possessing listed weapons (as per Criminal Justice Act 1988 (Offensive Weapons) Order 1988) in private, but would also provide for police, for a specified period, the power to stop and search individuals subject to such an order without suspicion.

The Order would, by default, last for the duration of any sentence imposed by the Court. Thus, where such an offender receives a community sentence, they would face much greater risk of detection by police. For offenders in receipt of a custodial sentence, the portion served in the community on licence, would similarly place the offenders at much greater risk of detection.

The Order would provide a significant basis on which to effect behavioural change and provide a critical means of supporting a move towards desistance. The evidence base already tells us that the risk of detection has a more significant impact on behaviour and, in developing this proposal further, we anticipate such an Order receiving significant public support, particularly from those communities blighted by such serious violence.

3. Proposal C: Making it an offence to possess a knife or an offensive weapon in education institutions other than schools

3. Do you agree that it is in the public interest to extend the offence of possession of offensive weapons/articles with blade or point to further education colleges, sixth form colleges, designated institutions and 16-19 academies?

Please explain your answer and give evidence where possible, including on the scale and nature of this problem and the likely impact of such an offence.

The CSJ considers it to be in the public interest to extend the offence of possession of offensive weapons/articles with blade or point to further education colleges, sixth form colleges, designated institutions and 16-19 academies. Furthermore, the CSJ would wish to reiterate the need to ensure that any place of education – such as pupil referral units and so-called alternative provision – must be covered to ensure that the safety of young people can be ensured to the maximum possible extent.

At present the law hinders both the police and the Crown Prosecution Service in the performance of their duties and in the extent to which they can protect the public and vulnerable young people in particular. The current legislative position is in need of updating to ensure that all young people and educational staff can be assured that the police, CPS and courts are not prevented from or unduly hindered in the performance of their fundamental duties.

For example, a young person who happens to attend a sixth form college should not be entitled to any less protection or safety than another individual who happens to attend a sixth form within an established school. The CSJ is not aware of any compelling reason against the extension of the offence.

Suggestions that such an expansion will see more young people enter the criminal justice system, must be weighed against the fundamental duty the state owes to protect life.

The CSJ would also wish to ensure that the extension in legislation extends to Section 139B of the Criminal Justice Act 1988, which affords police with powers to enter and to search inside schools. The current wording is restrictive, limiting police powers to enter and search:

“(1)A constable may enter school premises and search those premises and any person on those premises for— (a)any article to which section 139 of this Act applies, or (b)any offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953,if he has reasonable grounds for [F2suspecting] that an offence under section 139A[F3or 139AA] of this Act is being, or has been, committed.”¹

We therefore would wish to see Section 139B revised to specifically include the widest possible range of educational establishments and certainly no less than further education colleges, sixth form colleges, designated institutions and 16-19 academies.

4. Proposal D: Amending the offences of threatening with an article with blade or point or an offensive weapon

4. Do you agree that we amend the existing offences on threatening with a knife so that the prosecution must instead prove that the victim would have feared that he/she would be likely to suffer serious physical harm?

The CSJ supports amending the existing offences on threatening with a knife so that the prosecution must instead prove that the victim would have feared that he/she would be likely to suffer serious physical harm.

Amending the offence to employ a reasonable person assessment with respect to the victim fearing that he/she would be likely to suffer serious physical harm would enable threats made with knives or other weapons to be more sensibly dealt with at court and help ensure a greater degree of justice for victims and help ensure that offenders faced a greater risk of successful prosecution.

The change is unlikely to lead to any significant change in the volume of offences investigated by police, but could be expected to increase the proportion of offences resulting in a charge and that are subsequently prosecuted. The change in test can also be expected to increase the proportion of offences resulting in a guilty plea or conviction at trial.

5. Proposal E. Updating definition of a flick knife

The CSJ supports the need to update the definition of a flick knife, removing reference to the blade mechanism being in the handle, in order to help ensure that the prohibition on the sale, manufacture and importing of flick knives cannot be circumvented through changes in their design.

Furthermore, the CSJ would highlight the need for the Home Office to continue to review the increasing array of weaponry that is available to purchase. For example, the development of knives containing compressed air canisters, so-called ‘injection knives’ may attain the same or similar following among gangs and other groups as the use of zombie knives did.

¹ Section 139B, Criminal Justice Act 1988 [Accessed on 5 December 2017 via <https://www.legislation.gov.uk/ukpga/1988/33/section/139B>]

The effects of such compressed air weapons can be readily witnessed in a number of videos online and, as with corrosive substances, the ‘shock’ factor may lend themselves to adoption by those individuals or groups who wish to intimidate or otherwise instil fear in others.

6. Proposal F: Making it an offence to sell products with certain corrosive substances to under 18s

6. Do you agree that we should make it an offence to sell certain corrosive substances to under 18s?

The CSJ supports proposals to create an offence that brings the sale of products containing certain corrosive substances into line with the restrictions on the sale of knives. Specifically, requiring the sale of such substances to be restricted to adults. We would support the development of a list of corrosive substances (including relevant concentration levels) that are of particular concern in statutory guidance or through an order-making power.

The CSJ also supports the work of the Government and responsible retailers, through the British Retail Consortium and Association of Convenience Stores, in further strengthening the mechanisms to prevent young people from purchasing knives whether online or in physical outlets.

However, the CSJ would also highlight the need to further strengthen the safeguards relating to young people accessing knives and other weapons from retail stores. While the sale of knives may be age-restricted, there are some concerns that retailers, including major high street retailers, may be suffering sizeable volumes of knife theft. This is an issue that merits further exploration as part of efforts to tackle the availability and supply of weapons – including corrosive substances.

It is particularly relevant given the risk of being detected and prosecuted for shoplifting of low-value items, including knives, appears to be significantly reduced in the wake of police force policies on the approach to low value thefts. We would therefore like to see the theft of items such as knives and products containing corrosive substances to be treated more seriously and for the public interest in investigating and prosecuting such offences to be recognised. We would also encourage recognition of the responsibilities of retailers to take reasonable steps to both protect their staff and to prevent crime.

7. Proposal G: Making it an offence to possess a corrosive substance in a public place

The CSJ believes that the rules relating to the possession of corrosive substances should be brought into line with rules relating to pointed and bladed articles, with individuals required to demonstrate a reasonable excuse or lawful authority.

Relying upon offensive weapon legislation to tackle the problem of corrosive substances introduces unnecessary and unhelpful complexities to prosecution, while enabling individuals to carry such substances in preference to a knife and with a real or perceived reduction in risk of detection and successful prosecution.

However, in making it an offence to possess a corrosive substance in a public place, due regard must be given to ensuring that frontline police are equipped with and trained in the use of resources to enable them to reliably detect such substances.

Given the importance of increasing the risk of detection, in order to change behaviour, the solution developed should be of sufficiently low cost that a majority, rather than minority, of frontline officers will have ready access to testing equipment in those areas most heavily affected by the carrying and use of corrosive substances. The proposals published suggest a small number of police cars per area

being allocated test units (estimated to cost approximately £500 each). Such proposals fail to recognise that those vehicles could easily be unavailable due to having to deal with other demand.

We therefore encourage the Home Office to consider creating a prize fund for innovative approaches to testing and identifying corrosive substances that would be economical and practical to issue to a majority, rather than a small minority, of officers. We believe that such an ‘inducement prize’ could help draw new and innovative entrants to the problem of equipping frontline police with the tools they need.

Furthermore, in creating the offence, regard should be given to the method of carriage. For example, the carriage of a corrosive substance in a container that does not accurately describe the contents and highlight the associated safety risks should be recognised as a more serious offence.

This could be achieved either through Sentencing Guidelines clearly articulating such carriage as being an aggravating factor, or through the creation of specific offences with tougher penalties. We believe that an aggravated offence with tougher penalties, rather than recognition in Sentencing Guidelines, would help send a much clearer signal to the offender population and help ensure that this aggravating element was properly and explicitly recognised at court.

In asking what is trying to be achieved, we should wish to see fewer individuals carrying corrosive substances in public places, whether on their person, indirectly or in their vehicles. To that end, we believe it is vital for the risk of detection to be considered significant by those who currently carry or may in future consider carrying acid. We also believe there is merit in ensuring that the sentencing associated with such an offence is at least as serious as that seen for knives. Furthermore, based on our initial survey community opinion strongly supports a much harsher line being taken.

Our own research suggests that the significant potential benefits of carrying acid over carrying a knife in the mind of an offender, must be challenged through an increase in the risk of detection in order for any increase in sentencing to be considered effective.

The proposals as currently published fail to convince us that such a risk will be put in the minds of these key groups. We therefore reiterate our desire to see the development of testing kits that can be carried by the majority, rather than a minority, of police officers, especially in those areas in which the possession of corrosive substances and use of them as weapons is most prevalent or growing most rapidly – and furthermore encourage consideration be given to the development of a Serious Violence Reduction Order (SVRO).

About the Centre for Social Justice

The Centre for Social Justice (CSJ) is an independent think-tank, established to put social justice at the heart of British politics. Moved by shocking levels of disadvantage across the nation, it studies the root causes of Britain’s acute social problems in partnership with its Alliance of around 350 grassroots charities and people affected by poverty.

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