



## BRIEFING PAPER

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# Police powers: stop and search

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## Summary

### This briefing provides information for England and Wales only

This briefing paper is part of a series which discuss police powers in England and Wales. The series is introduced by the briefing [police powers: an introduction](#).

The police have a variety of legislative powers to stop and search those they suspect have certain items. Their stop and search powers allow them to “ally or confirm” their suspicions without making an arrest.

There are three types of stop and search powers:

- powers which require officers to have “**reasonable grounds**” to conduct the search, sometimes known as ‘section 1’ searches;
- a power which allows officers to search without reasonable grounds, sometimes known as ‘no suspicion’ or ‘section 60’ search. This power can only be used when authorised by a senior officer based on certain ‘**pre-conditions**’.
- a power officers can use to search those they ‘reasonably suspect’ are terrorists. This **terrorism power** is *not* discussed in this briefing.

Officers must use a specific legislative power every time they carry out a stop and search. They must be able to demonstrate they used the correct power for the circumstances of each search. They cannot rely on someone’s consent alone to search them.

The Home Office maintains statutory guidance on the most frequently used stop and search powers in [PACE Code A](#). The College of Policing (the body responsible for professional standards in policing) maintains an Authorised Professional Practice (APP) on [stop and search](#). All English and Welsh police forces have subscribed to follow, at least in part, additional Home Office guidance on the [best use of stop and search](#).

### Use of stop and search

Police forces have reduced their use of stop and search over the past ten years, but the number of searches has recently increased. The number of searches conducted across England and Wales in 2018/19 was 73% lower than in 2009/10 but 36% higher than in 2017/18.

The reduction in the use of stop and search was the result of reforms to the power brought forward between 2013 and 2016. At the beginning of the 2010s there were concerns that the police were overusing their stop and search powers and conducting poorly targeted searches. This was resulting in some ineffective and unlawful use of stop and search. Reforms were introduced to police guidance which encouraged forces to ensure their use of stop and search was based on robust intelligence and information.

The current Government and policing leaders have argued that stop and search should form part of the response to violent crime. The Home Office has relaxed voluntary guidance on the use of pre-condition

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search introduced during the 2013-2015 reform period and encouraged forces to use their search powers more frequently.

The use of pre-condition search has increased over the last two years. Most searches are still conducted using reasonable grounds powers (97% in 2018/19) but the number of pre-condition searches has increased in the last two years: from 631 in 2016/17 to 13,175 in 2018/19. Pre-condition searches accounted for around 10% of the overall increase in the use of stop and search between 2017/18 and 2018/19.

### **Tactical use**

A small number of forces conduct most stop and searches. The Metropolitan Police Service (MPS) conducted almost half of all searches in 2018/19 (48%). 64% of all searches were conducted by just five forces: the MPS, Merseyside, West Midlands, South Wales and West Yorkshire.

Most searches are conducted to find drugs. Around 60% of all reasonable grounds searches were conducted to find drugs in 2018/19 with around 15% conducted to find offensive weapons.

### **Fair use?**

Evidence suggests that police practice has been improving but there remain concerns that some searches are not conducted lawfully and effectively. Her Majesty's Chief Inspector of Constabulary, Fire and Rescue Services (HMICFRS) has repeatedly called on forces to do more to monitor and scrutinise their use of the powers.

### **Impact of stop and search**

Those in policing claim that when stop and search is targeted and conducted in line with the law and guidance, they can confiscate dangerous and prohibited items without undermining public trust in the police. Those opposed to stop and search argue that a history of poor use demonstrates it is a fundamentally flawed police power. They note that the long-standing disparity in the search rate by ethnicity continues to ensure that BME people are disproportionately affected by the negative effects of stop and search.

BME people were 4 times more likely to be searched than white people in 2018/19. The difference was particularly pronounced for black people, who were ten times more likely to be searched than white people.

Poorly targeted and conducted stop and search is widely acknowledged to damage police community relations, whilst evidence regarding the impact of stop and search on crime is more mixed. There is little evidence to suggest that stop and search provides an effective deterrent to offending. Stop and search is more effective at detecting criminals. Around a fifth of all searches (22%) in 2018/19 resulted in a criminal justice outcome (an arrest or out of court disposal) linked to the purpose of the search. It is estimated that 8% of all 2018/19 arrests were generated by a stop and search encounter.

# 1. Powers

Police officers<sup>1</sup> have a variety of legislative powers to stop and search those they suspect have certain items. Their stop and search powers allow them to “allay or confirm” their suspicions without making an arrest.<sup>2</sup>

There are three types of stop and search powers:

- powers which require officers to have “**reasonable grounds**” to conduct the search, sometimes known as ‘section 1’ searches;
- a power which allows officers to search without reasonable grounds, sometimes known as ‘no suspicion’ or ‘section 60’ search. This power can only be used when authorised by a senior officer based on certain ‘**pre-conditions**’.
- a power officers can use to search those they ‘reasonably suspect’ are terrorists.<sup>3</sup> This **terrorism power** is *not* discussed in this briefing.

Officers must use a specific legislative power every time they carry out a stop and search. They must be able to demonstrate they used the correct power for the circumstances of each search. They cannot rely on someone’s consent alone to search them.<sup>4</sup>

The Home Office maintains statutory guidance on the most frequently used stop and search powers in [PACE Code A](#).<sup>5</sup> The College of Policing (the body responsible for professional standards in policing) maintains an Authorised Professional Practice (APP)<sup>6</sup> on [stop and search](#). All English and Welsh police forces have also subscribed to follow, at least in part, additional Home Office guidance on the [best use of stop and search](#).

## 1.1 Reasonable grounds searches

The vast majority of stop and searches are conducted using reasonable grounds powers.<sup>7</sup> There are numerous statutory provisions which give police officers powers to search people with reasonable grounds.<sup>8</sup> These

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<sup>1</sup> Stop and search is one of several police powers reserved for police officers. However, PCSOs may have powers similar to stop and search. For example, they may have been designated powers which allow them seize items being used to conduct anti-social behaviour. See: House of Commons Library, Police powers: an introduction, March 2020, section 1.

<sup>2</sup> Home Office, [PACE Code A](#), para 1.4

<sup>3</sup> [Part V](#), *Terrorism Act 2000* [as amended]

<sup>4</sup> Home Office, PACE Code A, para 1.5

<sup>5</sup> [s66](#), *Police and Criminal Evidence Act 1984*

<sup>6</sup> APP is official police guidance. Police officers are expected to have regard to APP when on duty. However, there may be circumstances in which it would be legitimate for them to deviate from it. See: House of Commons Library, [Introduction to police powers](#), section 1.3

<sup>7</sup> See [section 2](#) of this briefing for statistics

<sup>8</sup> See: College of Policing, APP stop and search: [legal basis](#), section 2 [last accessed 10 June 2020]

powers are sometimes collectively known as ‘section 1 searches’ after [section 1](#) of the *Police and Criminal Evidence Act 1984* (PACE).

## Commonly used reasonable grounds powers

Section 1 of PACE and [section 23](#) of the *Misuse of Drugs Act 1971* are the most commonly used reasonable grounds stop and search powers.

**Section 1 of PACE** (as amended) allows officers to stop and search those they have reasonable grounds to suspect have “stolen or prohibited articles”.<sup>9</sup> For the purposes of section 1 “prohibited articles” means [offensive weapons](#), fireworks and any item that has been made or adapted to be used in a burglary, theft or fraud or to cause criminal damage.<sup>10</sup>

A similar power in the *Firearms Act 1968* (as amended) allows officers to stop and search those they have “reasonable cause” to suspect have a firearm or ammunition in a public place.<sup>11</sup>

**Section 23 of the 1971 Act** (as amended) allows officers to search those they have reasonable grounds to suspect have “[controlled drugs](#)”, those drugs that are illegal to produce, supply and possess under the 1971 Act.<sup>12</sup>

## What are reasonable grounds?

Officers have reasonable grounds when they have a “genuine suspicion” they will find the object they are searching for. This suspicion *must* be based on “objective factors”.<sup>13</sup>

There is no definitive list of “objective factors” on which to base a search. Ultimately, it is for the officer conducting the search to be satisfied it has an objective basis. However, objective factors generally fall into one of two categories:

- **Intelligence or information.**<sup>14</sup> For example, the fact that a person matches the description of a suspect in a nearby burglary; or that a gang known to be involved in violent crime is meeting at a specified place for criminal purposes.
- **Suspicious behaviour.**<sup>15</sup> For example, attempting to hide or discard something, behaving nervously, or being seen with something that looks like a controlled drug.

**The smell of cannabis** is sometimes used as an objective factor on which to base a search.<sup>16</sup> Using the smell of cannabis as the sole basis for a search has not been tested in the courts and therefore smelling

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<sup>9</sup> [s1\(2-3\)](#), *Police and Criminal Evidence Act 1984*

<sup>10</sup> [s1\(8-9\)](#), *Police and Criminal Evidence Act 1984*

<sup>11</sup> [s47](#), *Firearms Act 1968*

<sup>12</sup> [s23\(2\)](#), *Misuse of Drugs Act 1971*

<sup>13</sup> Home Office, [PACE Code A](#), para 2.2

<sup>14</sup> *Ibid*, para 2.4-2.6A

<sup>15</sup> *Ibid*, para 2.6B; College of Policing, APP stop and search: [legal basis](#), section 2.2.3 [last accessed 10 June 2020]

<sup>16</sup> HMICFRS, [PEEL: Police legitimacy 2017: A national overview](#), December 2017, p21-22

cannabis can constitute a legal basis for a search on its own.<sup>17</sup> However, there are concerns that basing searches on the smell of cannabis alone is ineffective and may be contributing to disproportionate rates of stop and search by ethnicity.<sup>18</sup> Officers are therefore advised to only search people they can smell cannabis on when they have additional objective factors on which to base their suspicion.<sup>19</sup>

## What are not reasonable grounds?

There are certain things *never* considered to be an objective factor on which to base a reasonable grounds search.

**“Personal factors”** can *never* constitute an objective basis on which to base a search.<sup>20</sup> Officers *cannot* base a search on them, nor can they use them to support another factor. Personal factors include:

- someone’s physical appearance (accept where it matches the description of a relevant suspect),
- an individual’s known past convictions,
- any protected characteristic (age, disability, gender reassignment, pregnancy, race, religion, sex and sexual orientation),
- generalisations or stereotypes about groups of people.

An officer’s **hunch or instinct** is *not* an objective factor on which to base a reasonable grounds search.<sup>21</sup>

Officers can question individuals as part of a stop and search encounter, but they have no powers to require people to answer them.

**Information volunteered to officers during a stop and search encounter** can confirm or dispel an officer’s suspicions. However, officers *cannot* search someone based solely on their answers (or their refusal to answer) because they must have reasonable grounds to initiate a stop and search encounter.<sup>22</sup>

## 1.2 Pre-condition searches

There is a power which allows officers to search people without reasonable grounds. This power is sometimes known as ‘no suspicion search’ or ‘section 60 search’ after the legislation which gives officers this power: [section 60](#) of the *Criminal Justice and Public Order Act 1994* (as amended). Those in policing often call these searches ‘pre-condition searches’ because section 60 of the 1994 Act requires specific pre-conditions to be met before senior officers can authorise their use.

Pre-condition search is a highly controversial stop and search power. Those against its use argue it is ineffective, open to abuse and particularly harmful to police community relations.<sup>23</sup> Those in favour of its use argue it allows the police to better respond to violent crime. The

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<sup>17</sup> Ibid; College of Policing, APP stop and search: [legal basis](#), section 2.2.1

<sup>18</sup> College of Policing, APP stop and search: [legal basis](#), section 2.2.1

<sup>19</sup> College of Policing, APP stop and search: [legal basis](#), section 2.2.1

<sup>20</sup> Ibid, para

<sup>21</sup> Home Office, [PACE Code A](#), para 2.6B

<sup>22</sup> Ibid

<sup>23</sup> See: *The Guardian*, [Police accused of abusing easier stop and search](#), 14 April 2019

current Conservative Government has encouraged the use of pre-condition search as part of its policy on tackling violent crime.<sup>24</sup>

Section 60 of the 1994 Act was challenged at the Supreme Court on human rights grounds in 2015. The Supreme Court unanimously found that safeguards present in both legislation and guidance ensures pre-condition search can be compatible with the right to privacy.<sup>25</sup> However, this challenge highlighted the risks of human rights violations when officers deviate from legislation and guidance.<sup>26</sup>

## When can pre-condition searches be used?

Pre-condition search gives the police an additional search power they can use in response to serious violence. Pre-condition search is designed to help the police confiscate weapons before a violent incident takes place or recover weapons used in a recent violence. The police should only use pre-condition search when their reasonable grounds search powers would not recover weapons associated with violence.<sup>27</sup>

Uniformed officers can conduct pre-condition searches when authorised by an officer of at least the rank of inspector.<sup>28</sup> Authorisations can initially last for up to 24 hours with superintendents having the power to authorise extensions up to 48 hours.<sup>29</sup> Whilst senior officers may authorise pre-condition search for up to 48 hours at a time they are required to authorise it's use for a shortest period necessary.<sup>30</sup>

Pre-condition search can be authorised when senior officers "reasonably believe" that one of the following conditions has been met:

- incidents involving serious violence "may" take place in a locality and that it is "expedient" to give authorisation;<sup>31</sup>
- an incident involving serious violence has taken place, the weapon used is in a locality and it is "expedient" to give authorisation to find it;<sup>32</sup> or
- people are carrying dangerous instruments or offensive weapons in a locality.<sup>33</sup>

A senior officer's reasonable belief that one of the above conditions has been met must be based on objective factors.<sup>34</sup> Senior officers should therefore rely on information and intelligence when deciding to

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<sup>24</sup> See: section 2.3 of this briefing

<sup>25</sup> R( on the application of Roberts) (Appellant) v Commissioner of the Police of the Metropolis and another (Respondents) [\[2015\] UKSC 79](#). Note: The Court did not consider whether pre-condition searches violated the right to liberty and security.

<sup>26</sup> Neil Papworth, [Section 60 and the Supreme Court](#), Police Journal [volume 89, issue 3, pages 174-184], 2016 (Intranet link only. Available through the Library's subscription to Westlaw.)

<sup>27</sup> Home Office, [PACE Code A](#): notes for guidance, note 10 (p21)

<sup>28</sup> [s60\(5\)](#), *Criminal Justice and Public Order Act 1994*; Home Office, [PACE Code A](#), para 2.12

<sup>29</sup> [s60](#), *Criminal Justice and Public Order Act 1994*

<sup>30</sup> Home Office, [PACE Code A](#), para 2.13

<sup>31</sup> [s60\(1\)\(a\)](#), *Criminal Justice and Public Order Act 1994*

<sup>32</sup> [s60\(1\)\(aa\)](#), *Criminal Justice and Public Order Act 1994*

<sup>33</sup> [s60\(1\)\(b\)](#), *Criminal Justice and Public Order Act 1994*

<sup>34</sup> Home Office, [PACE Code A](#): notes for guidance, note 11 (p21)



authorise pre-condition searches. For example, senior officers may authorise pre-condition searches if they have intelligence that rival gangs are planning to meet in a specified place. Senior officers should clearly communicate to those patrolling why they have authorised pre-condition searches.<sup>35</sup>

## What areas can be designated for pre-condition searches?

Senior officers can authorise the use of pre-condition searches in a “locality” within their police force area in which the above conditions have been met.<sup>36</sup> Authorising officers should designate the smallest area necessary to achieve the required results.<sup>37</sup> They should clearly identify the area designated through identifiable boundaries.<sup>38</sup>

Some have argued that the authorisation of pre-condition searches across whole London boroughs is ineffective and risks interfering with the human rights of residents.<sup>39</sup> The Metropolitan Police Service (MPS) has released information on the geographic extent of their pre-condition search authorisations through responses to questions to the London Mayor and FOI requests. The most recent information readily available shows that a quarter of all MPS pre-condition search authorisations between 15 May 2018 and 28 December 2018 applied across a whole borough (42 of 162 authorisations).<sup>40</sup> London Mayor Sadiq Khan has noted that pre-condition search can only be authorised where there is an immediate concern of serious violence or the widespread carrying of weapons which, he said, “might be borough-wide”.<sup>41</sup>

## Who can be searched using pre-condition search powers?

Anyone in a public space in the designated area during an authorisation may be searched using pre-condition powers. However, officers *cannot* search people using the pre-condition search power for reasons unconnected to its authorisation.<sup>42</sup> They should only search those that are likely to be involved in the violence that generated the authorisation.<sup>43</sup> Officers must be careful not to discriminate on the basis of a protected characteristic whilst using their pre-condition search powers.<sup>44</sup>

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<sup>35</sup> College of Policing, APP stop and search: [legal basis](#), section 3.1.2

<sup>36</sup> [s60\(1\)](#), *Criminal Justice and Public Order Act 1994*

<sup>37</sup> Home Office, [PACE Code A](#): notes for guidance, note 13 (p21-22)

<sup>38</sup> College of Policing, APP stop and search: [legal basis](#), section 3.1.2

<sup>39</sup> Sian Berry (Green London Assembly Member), [Policing by consent? Sharp rise in London borough-wide stop and search orders](#), August 2018

<sup>40</sup> Mayor of London, Mayor’s Question Time, [Borough-wide stop and search section 60 \[2019/0255\]](#), 21 June 2018

<sup>41</sup> Mayor of London, Mayor’s Question Time, [Use of borough-wide section 60 \[2018/1434\]](#), 21 June 2018

<sup>42</sup> Home Office, [PACE Code A](#), para 2.13

<sup>43</sup> *Ibid*, 3.1.3

<sup>44</sup> Home Office, [PACE Code A](#), para 2.14A

## Best practice pre-condition search

In August 2014 the Home Office published guidance to police forces on the [best use of stop and search](#) (BUSS). This guidance is specifically designed to promote a targeted approach to stop and search and reduce the use of pre-condition searches.<sup>45</sup>

Forces who follow the guidance commit to comply with more stringent tests for authorising pre-condition searches than they are required to by law (as shown in the table below).<sup>46</sup> They also commit to inform local people when they authorise pre-condition searches.<sup>47</sup>

Since August 2019 it has no longer been Home Office policy to encourage forces to comply with the BUSS guidance on the authorisation of pre-condition searches.<sup>48</sup> However, some forces are still following the guidance.<sup>49</sup>

	BUSS	Legislation
<b>Authorising officer</b>	Assistant Chief Constable/ Commander	Inspector
<b>Likelihood of serious violence</b>	Reasonably believed that serious violence <i>will</i> take place	Reasonably believed that serious violence <i>may</i> take place
<b>Initial maximum duration</b>	15 hours	24 hours
<b>Maximum extension</b>	First extension: 9 hours. Second extension: 15 hours	24 hours

In March 2019 the Home Office announced they were asking the College of Policing to create new guidelines on stop and search community engagement.<sup>50</sup> In August 2019 the College of Policing published draft revisions to its APP guidance on stop and search.<sup>51</sup> One of the proposed revisions appears to incorporate the BUSS guidance which encourages forces to inform local people of a pre-condition search authorisation into the APP. This would require forces to “have regard” to informing local people of a pre-condition search authorisation though it would not make it a legal requirement. A consultation on the proposed APP closed in September 2019.<sup>52</sup> The relevant College of Policing consultation webpage is currently

<sup>45</sup> See section 5.xx of this briefing

<sup>46</sup> Home Office, [Best use of stop and search scheme](#), August 2014, p6

<sup>47</sup> Ibid

<sup>48</sup> See [section 2.4](#) of this briefing

<sup>49</sup> See for example: West Midlands Police, [Stop and search](#) [last accessed 11 June 2020]

<sup>50</sup> [HCWS1497: The Prime Minister’s Serious Youth Violence Summit](#), 1-4 April 2019, 8 April 2019

<sup>51</sup> College of Policing, [Have your say on proposed changes to stop and search guidance for police](#), August 2019

<sup>52</sup> Ibid

unavailable. The College has not announced when it intends to respond to the consultation.<sup>53</sup>

## 1.3 Lawful stop and search

Officers *must* meet certain standards whilst conducting any stop and search. Failure to meet these standards will result in the unlawful use of their stop and search powers. Other standards represent guidance officers *should* follow.

### General principles

Officers *must* complete their search as soon as possible taking no longer than is reasonable without being excessively thorough.<sup>54</sup> If an officer is searching for something large like a bat or crowbar, they cannot spend a long time searching a person's pockets.

Officers *must* treat people with dignity and respect during a stop and search encounter. They are required to consider a person's vulnerabilities before conducting a search and exercise their search powers accordingly.<sup>55</sup> They *should* make every effort to be polite even when those they are searching appear confrontational.<sup>56</sup>

### Information to be given upon stopping someone

Officers *must* give those they have stopped to search certain information. They are *required* to tell them their name (except where officers reasonably believe that giving their name might put them in danger), their police station, the object they are trying to find and the legal basis of the search (including the reason for an authorised pre-condition search). Officers *must* inform those they are searching of their rights to a copy of the search record.<sup>57</sup> Plain clothes officers *must* take reasonable steps to show those they are searching their warrant card.

The mnemonic GO WISELY is used to help officers remember what they *must* say and what it is helpful to say during a stop and search encounter.<sup>58</sup> Officers *should* follow GO WISELY.

<b>G</b>	A clear explanation of the officer's <b>grounds</b> for suspicion, eg, info/intel or specific behaviour of person.
<b>O</b>	A clear explanation of the <b>object</b> and purpose of the search in terms of the article being searched for.
<b>W</b>	<b>Warrant</b> card, if not in uniform or if requested.

<sup>53</sup> See: <https://www.app.college.police.uk/consultation/stop-and-search-consultation-parent-page/>

<sup>54</sup> [s2\(8\)](#), *Police and Criminal Evidence Act 1984*; Home Office, [PACE Code A](#), para 3.3

<sup>55</sup> *Ibid*, para 3.1; College of Policing, APP stop and search: [professional](#), section 2.3.1

<sup>56</sup> College of Policing, APP stop and search: [professional](#), section 2.3

<sup>57</sup> [s2](#), *Police and Criminal Evidence Act 1984*; Home Office, [PACE Code A](#), para 3.8

<sup>58</sup> College of Policing, APP stop and search: [professional](#), section 2.2

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<b>I</b>	<b>Identity</b> of the officer(s): name and number or, in cases involving terrorism or where there is a specific risk to the officer, just warrant or collar number.
<b>S</b>	<b>Station</b> to which the officer is attached.
<b>E</b>	<b>Entitlement</b> to a copy of the search record within 3 months.
<b>L</b>	<b>Legal</b> power used.
<b>Y</b>	<b>You</b> are detained for the purposes of a search.

### Requiring people to remove clothing

Officers can require people to remove their outer coat or jacket, gloves, headwear or shoes in public.<sup>59</sup> Officers may require people to remove more clothing when they have reasonable grounds, but this *must* be done out of public view. Searches *must* also be carried out near to where the person was stopped.<sup>60</sup> This means that officers *cannot* take people to a place unreasonably far away to conduct more thorough searches.<sup>61</sup>

Any search involving the removal of more clothing than an outer coat, jacket, gloves, headwear or shoes *must* be conducted by an officer of the same sex as those they are searching.<sup>62</sup> Searches which expose intimate parts of the body *must* be conducted at a nearby police station. Officers *should* consult their supervisor before taking a person they have stopped to a police station for an intimate search.<sup>63</sup>

### Use of force

Officers *must* seek the cooperation of those they are searching but they may use reasonable force as a “last resort”.<sup>64</sup> This means that they can handcuff people to conduct a search in some circumstances. However, they should not routinely handcuff those they search.<sup>65</sup> Automatically handcuffing someone without seeking their compliance with a search would breach of PACE Code A.<sup>66</sup>

The Library’s briefing [Police powers: an introduction](#) discusses the police’s power to use force in more detail.

<sup>59</sup> s2(9), *Police and Criminal Evidence Act 1984*; Home Office, [PACE Code A](#), para 3.5

<sup>60</sup> Home Office, [PACE Code A](#), para 3.4

<sup>61</sup> *Ibid*, note 6 (page 20)

<sup>62</sup> *Ibid*, para 3.6

<sup>63</sup> College of Policing, Stop and search: [Legal application](#), section 4.2 [last accessed 7 August 2019]

<sup>64</sup> s117, *Police and Criminal Evidence Act 1984*; Home Office, [PACE Code A](#), paragraph 3.2

<sup>65</sup> College of Policing, [Stop and search: legal application](#), [last accessed 7 August 2019]

<sup>66</sup> IOPC, [The Learning Lesson: Stop and Search](#), Issue 33, November 2018, p22

## 1.4 Monitoring

Officers *must* make a written record of every stop and search encounter.<sup>67</sup> Search records *must* state; the self-defined ethnicity of the person searched; the date, time and place of the search; the object that was being searched for; the legal basis of the search (including details of a relevant pre-condition search authorisation); and whether the search resulted in an arrest.<sup>68</sup> Officers *should* turn on their body worn video during a search (if they have it).<sup>69</sup>

Supervising officers *must* monitor their team's written search records to ensure they are conducting lawful searches.<sup>70</sup> They *should* monitor the records to identify evidence of searches are being conducted on the basis of stereotypes or generalisations.<sup>71</sup> Supervisors with concerns about an officer's stop and search records *must* take appropriate action (including formal disciplinary proceedings when an officer's actions constitutes a serious breach of policing standards).<sup>72</sup>

Police leaders must monitor the broader use of stop and search across their force.<sup>73</sup> Force leaders *should* consider how effective their use of the power is, whether it is being targeted appropriately and what is causing any disparities in search rates by ethnicity.<sup>74</sup>

Police forces *must* consult with their Police and Crime Commissioners on arrangements for their stop and search records to be scrutinised by community representatives.<sup>75</sup> Exactly how they do this is up to them. Most police forces operate monitoring panels consisting of local leaders and community volunteers. These panels scrutinise the operational use of stop and search and communicate local experiences to officers.<sup>76</sup>

### Best practice

All police forces in England and Wales have subscribed to Home Office [best use of stop and search](#)<sup>77</sup> guidance on monitoring.

Under BUSS officers now include information on the outcome of searches that do not result in an arrest in their written search records. Officers now record when they issue an out of court disposal and when no further action is taken.<sup>78</sup>

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<sup>67</sup> [s3](#), *Police and Criminal Records Act 1984*

<sup>68</sup> *Ibid*, Home Office, [PACE Code A](#), para 4.3

<sup>69</sup> College of Policing, APP stop and search: [transparent](#), section 2.2.4

<sup>70</sup> Home Office, [PACE Code A](#), para 5.1

<sup>71</sup> *Ibid*

<sup>72</sup> *Ibid*, para 5.6

<sup>73</sup> *Ibid*, para 5.2

<sup>74</sup> College of Policing, APP stop and search: [transparent](#), section 2.1.1.4

<sup>75</sup> Home Office, [Pace Code A](#), paragraph 5.4

<sup>76</sup> See for example: Metropolitan Police, [Stop and search: Your feedback matters](#) [last accessed 7 August 2019], Greater Manchester Police, [Stop and search: Your feedback matters](#) [last accessed 7 August 2019] and West Midlands Police, [Stop and search](#) [last accessed 7 August 2019]

<sup>77</sup> See [section 2.4](#) and [4.4](#) for an explanation of BUSS

<sup>78</sup> Home Office, [Best use of stop and search](#), section 1

Through BUSS forces operate “ride along” schemes which allow members of the public to join officers whilst they conduct stop and searches.<sup>79</sup>

Forces also commit to require officers to inform people of their right to complain during a stop and search encounter. They then pledge to explain how they are using stop and searches when the number of complaints reaches a local threshold.<sup>80</sup>

### Proposed changes to police guidance

In March 2019 the Home Office announced they were asking the College of Policing to create new guidelines on stop and search community engagement.<sup>81</sup> In August 2019 the College of Policing published draft revisions to its APP guidance on stop and search.<sup>82</sup>

The revised APP would provide more advice on how forces *should* operate their local scrutiny panels and monitor body-worn video of stop and search encounters. Forces would be expected to “have regard” to this new guidance but it would not form part of their legal requirements.

A consultation on the proposed APP closed in September 2019.<sup>83</sup> The relevant College of Policing consultation webpage is currently unavailable. The College has not announced when it intends to respond to the consultation.<sup>84</sup>

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<sup>79</sup> Home Office, [Best use of stop and search](#), section 2

<sup>80</sup> Home Office, [Best use of stop and search](#), section 3

<sup>81</sup> [HCWS1497: The Prime Minister’s Serious Youth Violence Summit](#), 1-4 April 2019, 8 April 2019

<sup>82</sup> College of Policing, [Have your say on proposed changes to stop and search guidance for police](#), August 2019

<sup>83</sup> Ibid

<sup>84</sup> See: <https://www.app.college.police.uk/consultation/stop-and-search-consultation-parent-page/>

## 2. Use of stop and search

There are some notable features to how stop and search powers are used in England and Wales.<sup>85</sup>

**Police forces have reduced their use of stop and search over the past ten years, but the number of searches has recently increased.** The number of searches conducted across England and Wales in 2018/19 was 73% lower than in 2009/10 but 36% higher than in 2017/18.

**The use of pre-condition search has increased markedly over the last two years.** Most searches are conducted using reasonable grounds powers (97% in 2018/19) but the number pre-condition searches has increased in the last two years: from 631 in 2016/17 to 13,175 in 2018/19. Pre-condition searches accounted for around 10% of the overall increase in the use of stop and search between 2017/18 and 2018/19.

**A small number of forces conduct most stop and searches.** The Metropolitan Police Service (MPS) conducted almost half of all searches in 2018/19 (48%). 64% of all searches were conducted by just five forces: the MPS, Merseyside, West Midlands, South Wales and West Yorkshire.

**Most searches are conducted to find drugs.** Around 60% of all reasonable grounds searches were conducted to find drugs in 2018/19 with around 15% conducted to find offensive weapons.

**Evidence suggests that police practice has improved but there remain concerns that some searches are not conducted lawfully and effectively.** Her Majesty's Chief Inspector of Constabulary, Fire and Rescue Services (HMICFRS) has repeatedly called on forces to do more to monitor and scrutinise their use of the powers.

**Black, minority and ethnic (BME) people are more likely to be searched than white people.** BME people were 4 times more likely to be searched than white people in 2018/19. The difference was particularly pronounced for black people, who were ten times more likely to be searched than white people. [Section 3.2](#) of this briefing discusses the disparity in stop and search rates by ethnicity and how this affects police community relations.

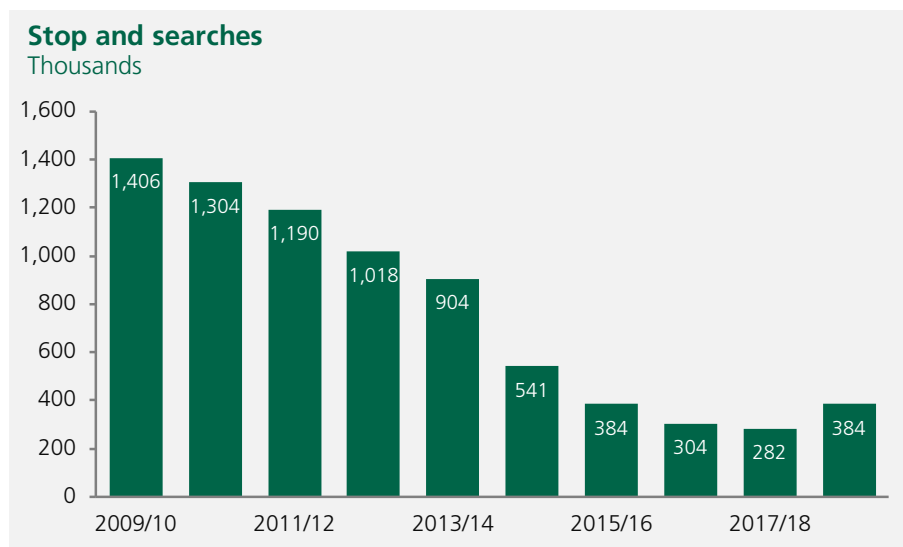
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<sup>85</sup> **Note:** Unless stated otherwise all data in this briefing is sourced from Home Office, [Police powers and procedures, England and Wales year ending 31 March 2019](#), October 2019

## 2.1 Number of searches

Police officers conducted around 384,000 stop and searches in 2018/19. The number of annual searches fell year on year between 2009/10 (the year the current series began) and 2017/18 but the number of searches increased by 36% over the last year.<sup>86</sup>

Police leaders say they have started to increase their use of stop and search as part of their response to rising levels of violent crime, including violent crime connected to illegal drug dealing.<sup>87</sup> Both the previous and current Conservative Government have supported an increased use of stop and search as part of their policy on violent crime. Recent Conservative Governments have pursued a policy of supporting increased police enforcement alongside investing in early intervention projects to support at-risk youth.<sup>88</sup>



## 2.2 Reason for searching

Whilst police leaders say stop and search is being targeted to those that they suspect are carrying knives and weapons<sup>89</sup> this is not reflected in the data. Around 60% of all reasonable grounds searches in 2018/19 were conducted to find controlled drugs.

The high proportion of searches conducted to find drugs is frequently criticised by those that campaign against the use of stop and search. For example, the campaign group Stop Watch argue that it demonstrates that stop and search is used to “over-police vulnerable communities for low level drug possession”.<sup>90</sup>

<sup>86</sup> **Note:** [Section 4.4](#) of this briefing discusses recent reforms why the use of stop and search has reduced since 2010.

<sup>87</sup> Home Affairs Committee, [Oral evidence: Serious Violence, HC 1016](#), 26 March 2019

<sup>88</sup> See: House of Commons Library, [Serious violence and knife crime: Law enforcement and early intervention](#), January 2019

<sup>89</sup> Home Affairs Committee, [Oral evidence: Serious Violence, HC 1016](#), Q312

<sup>90</sup> Stop Watch, Press release: [New report: Drug policing drives racial disparity in the criminal justice system](#), October 2018



Adrian Hanstock, Deputy Chief Constable of the British Transport Police and national lead for stop and search and the National Police Chief’s Council’s, has conceded that the whilst many support the use of stop and search in response to violent crime the police are “faced with a dichotomy in needing to explain why the majority of grounds for search are to find drugs”.<sup>91</sup> He has called on forces to make “determined efforts to explain the findings of crime analysis and intelligence that has prompted [their] operational activity”.<sup>92</sup>

### 2.3 Stop and search use by police force

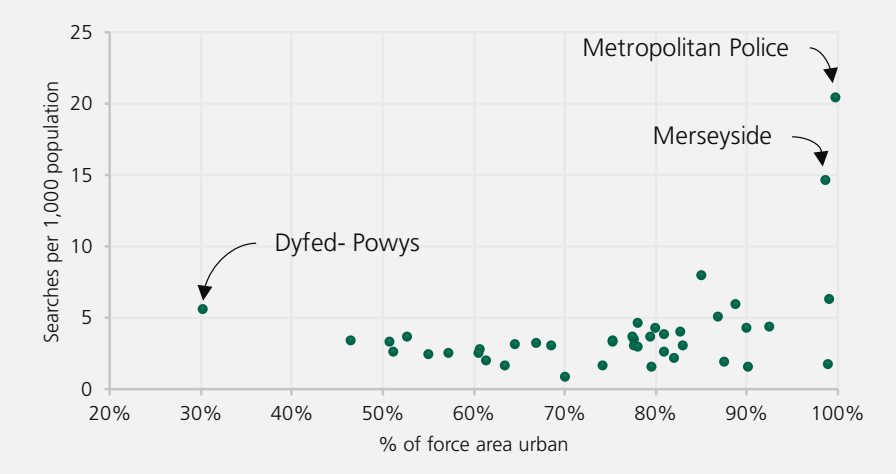
There is little correlation between the type of area a force polices (urban/ rural) and the number of searches it conducts. Most forces conduct between two and five searches for every 1,000 people who live in their police force area. However, there are two notable outliers, the Metropolitan Police Service (MPS) and Merseyside Police, both of which police very urban areas. The MPS and Merseyside conducted 20 and 16 searches respectively for every 1,000 people who live in their police force areas.<sup>93</sup>

#### Reasonable grounds searches by reason for search

	Number (thousands)	%
Drugs	225	61%
Offensive weapons	60	16%
Stolen property	39	11%
"Going equipped"	30	8%
Other	9	2%
Firearms	4	1%
Criminal damage	2	1%
<b>Total</b>	<b>370</b>	<b>100%</b>

Note: "Going equipped" designates searches conducted to find items suspected for use in a burglary, theft or fraud.

#### Stop and search rate by police force



### 2.4 Use of pre-condition search

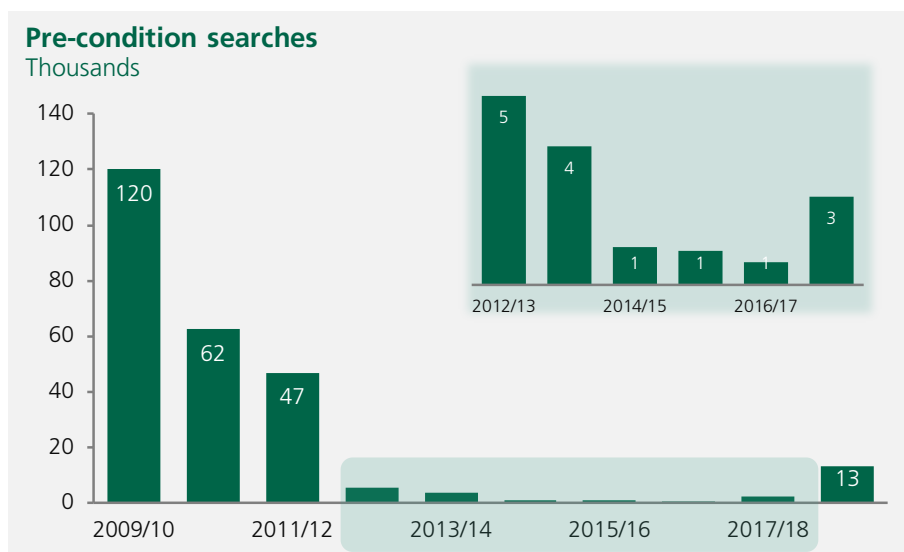
Just 3% of the all searches in 2018/19 were conducted using the pre-condition search power (roughly 13,000 of 384,000). The number of pre-condition searches has increased over the last two years after falling

<sup>91</sup> Adrian Hanstock writing in IOPC, [The Learning Lessons: Stop and search: Issue 33](#), November 2018, p5

<sup>92</sup> Ibid

<sup>93</sup> House of Commons Library analysis using ONS urban classification data. ONS, [Rural Urban Classification \(2011\) of Output Areas in England and Wales](#), March 2019

year-on-year between 2009/10 and 2016/17. Despite recent rises, the number of pre-condition searches remains well below its 2009/10 level.



The recent increase in the use of pre-condition searches might be linked to a decision by the 2017-19 Conservative Government to relax voluntary guidance which encouraged forces to comply with stricter criteria when authorising them.

In March 2019 the Government announced that it was no longer asking the eight forces listed in the table below to follow [best use of stop and search guidance](#) (BUSS) on the authorisation of pre-condition searches.<sup>94</sup> In April 2019, following Boris Johnson's appointment as Prime Minister, this was extended to all English and Welsh forces.<sup>95</sup> Whilst no force is now being encouraged to follow BUSS guidance some are still choosing to.

Forces that do not follow BUSS guidance can authorise pre-condition searches at a lower rank and with a lower degree of certainty that they are needed to prevent violence.<sup>96</sup>

Almost all the increase in use of pre-condition searches between 2017/18 and 2018/19 can be attributed to the MPS and West Midlands Police. These forces accounted for nine in every ten pre-condition searches in 2018/19. Whilst the MPS has stopped following the BUSS guidance on authorising pre-condition searches, the West Midlands has continued to adhere to these BUSS requirements.

Pre-condition searches			
Force	2017/18	2018/19	increase %
Metropolitan Police	1,836	9,599	423%
West Midlands	103	2,041	1882%
Merseyside	149	143	-4%
South Yorkshire	48	15	-69%
City of London	2	15	650%
West Yorkshire	0	0	*
South Wales	0	0	*
Greater Manchester	1	1	*
Other forces	364	1,361	274%
<b>Total</b>	<b>2,503</b>	<b>13,175</b>	<b>426%</b>

<sup>94</sup> Home Office, [Greater powers for police to use stop and search to tackle violent crime](#), March 2019

<sup>95</sup> Home Office, [Government lifts emergency stop and search restrictions](#), 11 August 2019

<sup>96</sup> See [section 1.2](#) of this briefing.

## 2.5 Compliance with law and guidance

There has been a recent drive to improve standards in stop and search practice. This was in response to growing concerns at the end of the last decade that stop and search was being overused and poorly targeted. In 2013 HMICFRS published an inspection of stop and search commissioned by then Home Secretary Theresa May. The inspectorate was highly critical of how forces were using stop and search. They were particularly concerned with evidence of non-compliance with the law and guidance in police stop and search records. HMICFRS (then HMIC) examined records of 8,783 searches and found that 27% did not include reasonable grounds to justify them.<sup>97</sup>

The 2013 inspection led to reforms in police guidance and training on stop and search and a consequent reduction in its use by police forces (discussed in [section 4.4](#) of this briefing). Since these reforms evidence suggests that compliance with the law and guidance has improved. In 2017, the last time a thorough examination of stop and search records was published, the proportion of records HMICFRS examined without reasonable grounds had reduced to 6% (of 8,574 records). The inspectorate said it was “encouraging” that “the hard work carried out across the police service has resulted in sustained improvement”.<sup>98</sup>

It is difficult to provide a more up to date assessment of police compliance with the law and guidance on stop and search. Complaint data does not provide an accurate assessment because we know many people do not complain when they are mistreated.<sup>99</sup> HMICFRS has however, been repeatedly critical of how forces monitor their own records. They argue that forces could do more to further improve and maintain standards. In their latest assessment of stop and search (published February 2020) they reported on the use of the powers by nineteen forces. Of these nineteen forces the inspectorate found that<sup>100</sup>:

- Five were not monitoring a “wide enough range of data” to allow them to “fully understand” how their officers are using stop and search.
- Six had “insufficient external scrutiny arrangements”; and,
- “Only ten forces reviewed body-worn video footage of stop and search encounters as part of either their internal or external scrutiny”.

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<sup>97</sup> HMIC, [Stop and Search Powers: Are the police using them effectively and fairly?](#), 2013, p8

<sup>98</sup> HMIC, PEEL: [Police legitimacy 2017: a national overview](#), December 2017, p22

<sup>99</sup> Note: In 2017/18 (latest available data) there were 152 complaints relating to the breach of PACE Code A of which 131 were upheld. See: IOPC, [police complaints: statistics for England and Wales 2017/18](#), figure 5, p10

<sup>100</sup> HMICFRS, [PEEL spotlight report: Diverging under pressure](#), February 2020 p17

## 3. Impact

Those in policing claim that when stop and search is targeted and conducted in line with the law and guidance, they can confiscate dangerous and prohibited items without undermining public trust in the police. Those opposed to stop and search argue that a history of poor use demonstrates it is a fundamentally flawed police power. They note that the long-standing disparity in search rates by ethnicity continues to ensure that BME people are disproportionately affected by the negative effects of stop and search.

Poorly targeted and conducted stop and search is widely acknowledged to damage police community relations, whilst evidence regarding the impact of stop and search on crime is more mixed. There is little evidence to suggest that stop and search provides an effective deterrent to offending. The use of stop and search appears to cause only marginal positive effects on levels of some crime types. Stop and search may be more effective at detecting criminals, but most searches result in officers finding nothing. Officers found nothing in 72% of searches in 2018/19 whereas 22% of searches resulted in a criminal justice outcome linked to the purpose of the search. It is estimated that 8% of all 2018/19 arrests were generated by a stop and search encounter.<sup>101</sup>

### 3.1 Impact on Black, Minority and Ethnic Communities

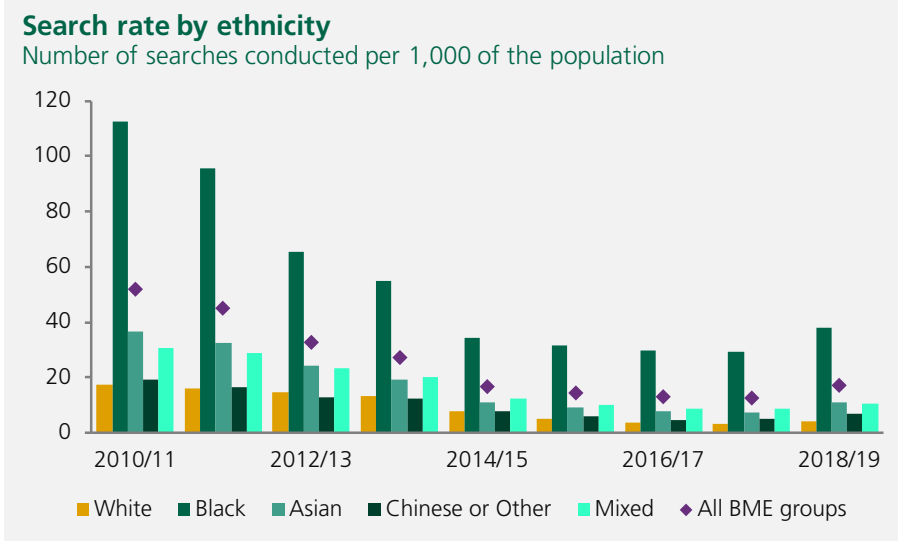
Black, Minority and Ethnic (BME) people have been consistently more likely to be stopped and searched than white people. BME people were four times more likely to be searched than white people in 2018/19. The disparity is particularly pronounced for black people who were ten times more likely to be stopped and searched than white people.

The disparity between the search rate for black and white people has recently increased. This is the result of a larger reductions in the number of white people searched than black people.<sup>102</sup> Between 2009/10 and 2017/18 the rate for white people fell by 84% whilst the rate for black people fell by 75%. Both the rate for white and black people increased by around 30% between 2017/18 and 2018/19.

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<sup>101</sup> Ministry of Justice, [Statistics on race and the criminal justice system 2018, November 2019](#), p20 [note: where ethnicity is known for the stop and search]

<sup>102</sup> **Note:** Unless stated otherwise all data in this briefing is sourced from Home Office, [Police powers and procedures, England and Wales year ending 31 March 2019](#), October 2019:



It is not disputed that unfair and poorly targeted stop and search creates and reinforces mistrust between those subjected to it and the police.<sup>103</sup> The persistent disparity in stop and search rates by ethnicity can therefore be linked to the lower confidence in the police felt by BME people.<sup>104</sup> A lack of confidence will make people less willing to report crime, undermining the police's ability to protect them.

Policing leaders recognise that they must continually monitor their use of stop and search in order to better understand the causes and consequences of disparities in search rates by ethnicity.<sup>105</sup> However, poor monitoring has been a consistent cause for concern for Her Majesty's Inspectorate of Constabulary, Fire and Rescue Services (HMICFRS).<sup>106</sup> The inspectorate has also been critical of police training in unconscious bias. In February 2020 they reported that only nine of nineteen forces they inspected for stop and search had adequate training on unconscious bias. Five forces were found to not be monitoring a wide enough range of stop and search data.<sup>107</sup>

## What is causing the disparity in ethnic search rates?

There is no evidence to suggest that BME people are more likely to carry items that officers have powers to search for. Neither is there evidence that suggests they are more likely to be involved in criminality associated with stop and search enforcement.<sup>108</sup> Other suggested reasons for disparities in ethnic search rates (like black people spending more time in public spaces, or the under recording of searches conducted on white

<sup>103</sup> College of Policing, APP stop and search: [professional](#), section 1; Home Office, [PACE Code A](#), para 5.1; Home Office, [Equality Impact Assessment: Relaxation of section 60 conditions in the best use of stop and search scheme](#), August 2019

<sup>104</sup> Gov.uk: Ethnicity facts and figures, [Confidence in the local police](#), March 2020; Ministry of Justice, [The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System](#), September 2017

<sup>105</sup> College of Policing, APP Stop and search: [transparent](#), section 2.2.1 [last accessed 7 August 2019]

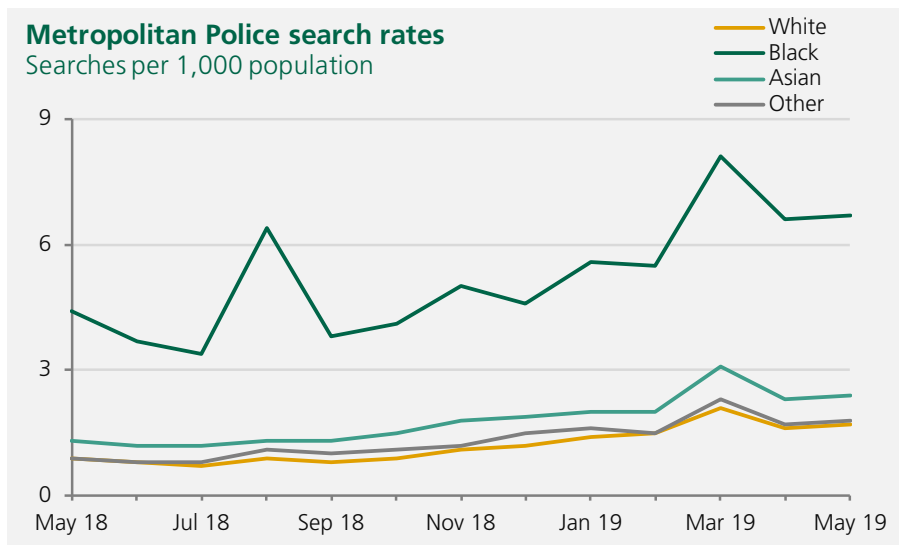
<sup>106</sup> HMICFRS, [PEEL: Police legitimacy 2017- A national overview](#), December 2017

<sup>107</sup> HMICFRS, [PEEL spotlight report: Diverging under pressure](#), February 2020 p17

<sup>108</sup> Home Office, [Serious Violence Strategy](#), April 2018, p35.

people) have also been shown to have no credible basis.<sup>109</sup> Societal racism and its effects (including unconscious bias in some officers) appears to explain most of the disparity in stop and search rates by ethnicity.<sup>110</sup> However, a tactical decision by the Metropolitan Police Service (MPS) to use stop and search more frequently may explain some of the disparity.

The disparities in ethnic stop and search rates for England and Wales are primarily influenced by stop and search activity in London because the MPS conducts more searches than any other force.<sup>111</sup> London has a diverse population (around 40% of people living in the capital are from BME backgrounds).<sup>112</sup> The search rates for Asian Londoners are similar to those for white Londoners. However, black Londoners are subject to a disproportionate number of searches compared to white Londoners. Black people were around four times more likely to be searched than white people in the capital between May 2018 and May 2019.<sup>113</sup> The proportion of MPS searches conducted on black people has recently increased. Between 2014/15 and 2018/19 the proportion of MPS searches conducted on black people rose from 30% to 37% whilst the proportion conducted on white people fell from 48% to 37%.<sup>114</sup>



<sup>109</sup> EHRC, [Stop and think: A critical review of the use of stop and search powers in England and Wales](#), March 2010

<sup>110</sup> EHRC, [Stop and think: A critical review of the use of stop and search powers in England and Wales](#), March 2010, p58; Home Office, [Equality Impact Assessment: Relaxation of section 60 conditions in the best use of stop and search scheme](#), August 2019, p7.

<sup>111</sup> Ministry of Justice, [Statistics on Race and the Criminal Justice System 2018](#), November 2018 p17

<sup>112</sup> Gov.uk ethnicity facts and figures, [Regional ethnic diversity](#), July 2019

<sup>113</sup> MPS, [Stop and search dashboard](#) [last accessed June 2020]

<sup>114</sup> Ibid

### 3.2 Impact on crime

There is some evidence that the targeted use of stop and search might be associated with marginal reductions in local crime. This association appears strongest with certain types of crime. Available statistical analysis does not show a consistent link between the increased use of stop and search and levels of violence. The College of Policing (the body responsible for professional standards in policing) has concluded that stop and search should be used 'carefully' in response to knife crime.<sup>115</sup>

There is limited available statistical evidence on the impact of stop and search on levels of crime in England and Wales. The most robust studies look at Metropolitan Police Service (MPS) data.

A widely cited study published in the *British Journal of Criminology* analysed London data from 2004 to 2014. This study concluded that the effect of stop and search on crime is "likely to be marginal, at best".<sup>116</sup> The research found "some association between stop and search and crime (particularly drug crime)" but concluded that the use of the powers "has relatively little deterrent effect".<sup>117</sup> Further analysis of the same data has identified that "stop and search may be more strongly associated with crime at a more local level, assuming it is targeted appropriately in crime hot spots."<sup>118</sup>

An analysis of Operation BLUNT 2, an MPS initiative to tackle knife crime run between 2008 and 2011, commissioned by the Home Office found no "discernible crime-reducing effects from a large surge in stop and search activity at the borough level".<sup>119</sup> However, positive impacts of stop and search at a lower level might have been "masked" by this borough level analysis. Operation BLUNT 2 involved officers working across London, but its activity was concentrated in ten boroughs deemed to be most affected by knife violence. The increased use of stop and search, particularly pre-condition search, was "central" to the operations strategy to create a 'hostile environment' for those who routinely carry knives.<sup>120</sup> Analysis of ambulance call outs associated with weapons-related injuries during Operation BLUNT 2 showed larger reductions in call outs in boroughs with smaller increases in weapons searches.<sup>121</sup>

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<sup>115</sup> College of Policing, [Knife crime evidence briefing](#), February 2019, p5

<sup>116</sup> Matteo Tiratelli, Paul Quinton, Ben Bradford, [Does Stop and Search Deter Crime? Evidence From Ten Years of London-wide Data](#), *The British Journal of Criminology*, Volume 58, Issue 5, September 2018, Pages 1212–1231,

<sup>117</sup> Ibid

<sup>118</sup> College of Policing, [Does more stop and search mean less crime? Analysis of Metropolitan Police Service panel data, 2004–14](#), 2017

<sup>119</sup> Home Office, [Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation BLUNT 2](#), March 2016, p2

<sup>120</sup> Ibid, p13

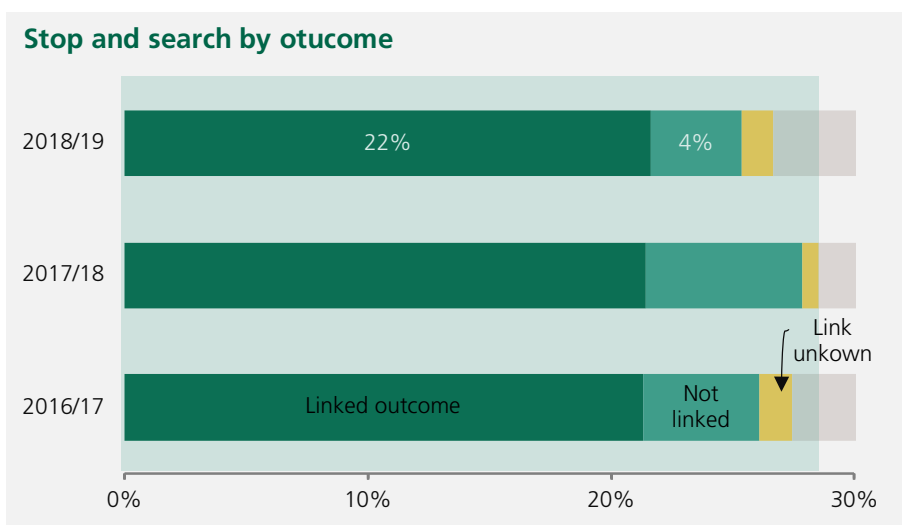
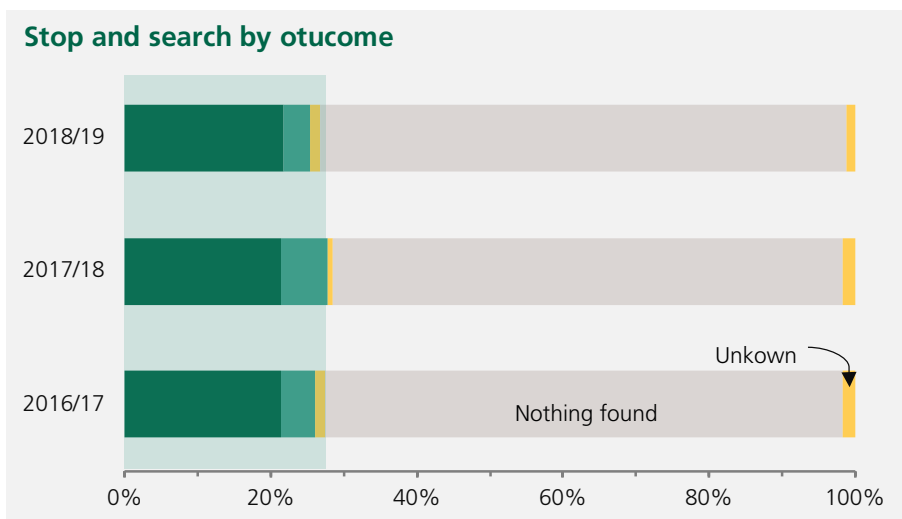
<sup>121</sup> Home Office, [Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation BLUNT 2](#), March 2016, p3

### 3.3 Search outcomes

It is argued that stop and search can be effective at detecting crime even if it is not particularly effective at deterring it. The success of stop and search is therefore frequently measured by counting the number of times a search results in a ‘criminal justice outcome’ (an arrest or “out of court disposal”).<sup>122</sup> The Government has favoured measures that count when criminal justice outcomes are linked to the reason for the search because they exclude instances when officers detected criminality by chance.<sup>123</sup> Measuring linked outcomes is said to encourage compliance with the law and guidance.

#### Linked outcomes

Most searches result in officers finding nothing. Officers found nothing in 72% of all searches in 2018/19, whilst 22% resulted in an outcome linked to the search. This proportion of searches resulting in a linked outcome has been consistent for the last three years (all available data).



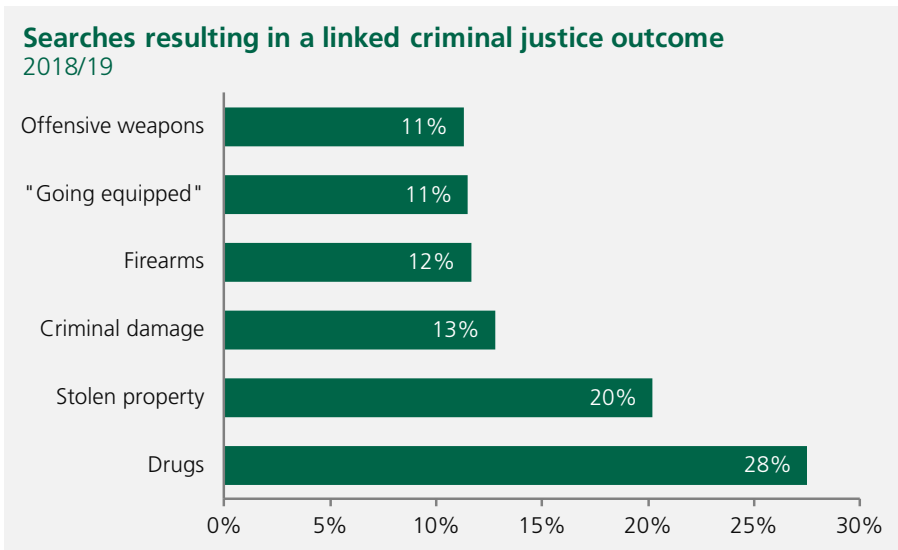
Officers are more successful at finding certain things. Searches for drugs were more successful than average, with 28% resulting in a linked

<sup>122</sup> See: House of Commons Library, [Police powers: An introduction](#), March 2020 for an explanation of arrest and out of court disposals.

<sup>123</sup> Home Office, [Best use of stop and search scheme](#), August 2014, para 1.4



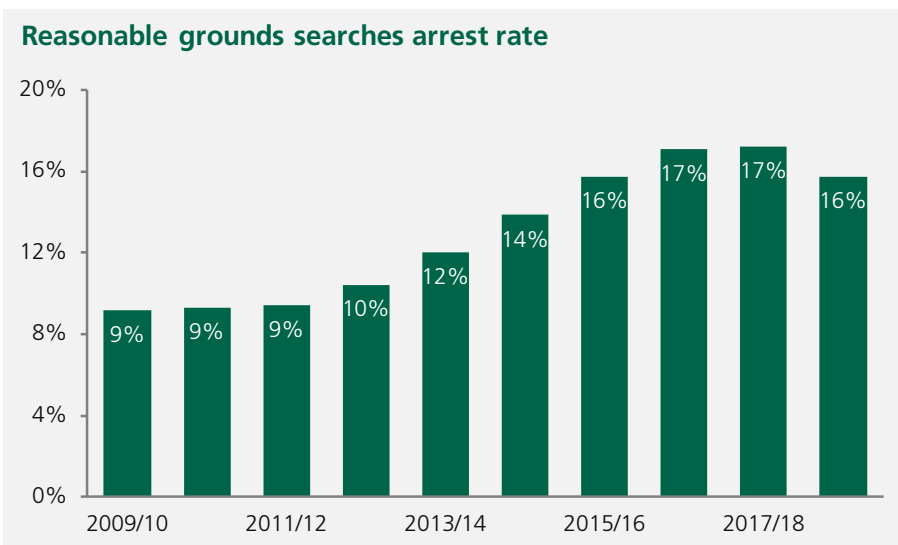
outcome. Searches for offensive weapons and items suspected for use in a burglary, theft or fraud were the least successful, 11% resulted in a linked outcome.



## Arrests

The proportion of searches resulting in an arrest has more traditionally been used to measure the success of stop and search. However, the "arrest rate" excludes searches which resulted in an out of court disposal and does not take account for officers finding grounds for an arrest by chance.

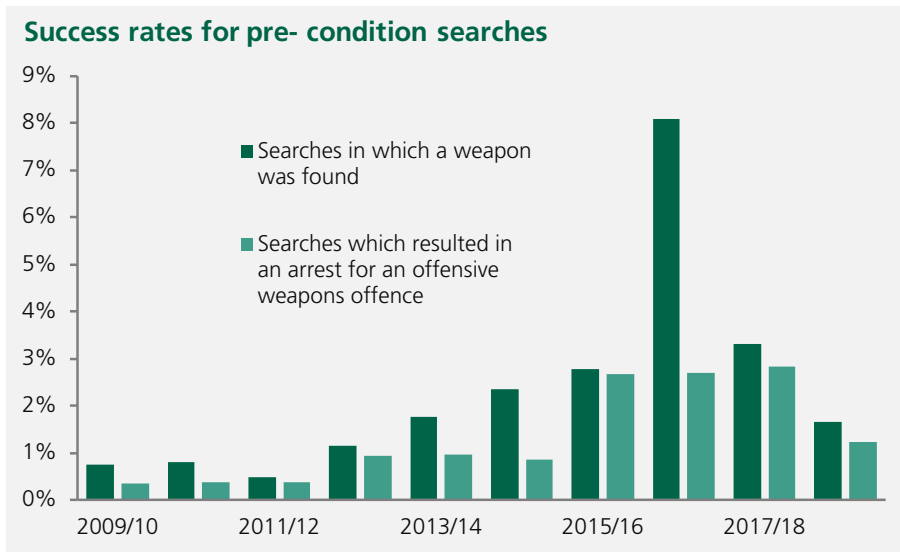
The arrest rate has improved since 2010 but has never been above 20% across the current series. 16% of all reasonable grounds searches resulted in an arrest in 2018/19. It is estimated that 8% of all 2018/19 arrests were as a result of a stop and search encounter.<sup>124</sup>



<sup>124</sup> Ministry of Justice, [Statistics on race and the criminal justice system 2018, November 2019](#), p20 [note: where ethnicity is known for the stop and search]

## Pre-condition searches

Pre-condition searches are, perhaps unsurprisingly given their relatively random nature, less successful than reasonable grounds searches. 2% of all pre-condition searches lead to officers finding a knife or offensive weapon (the only reason officers can use their pre-condition search power). The “find rate” for pre-condition searches since 2009/10 has been typically been between 1% and 3%. The proportion of pre-condition searches resulting in an arrest of an offensive weapons offence did not rise above 3% across the period.



## 4. History

Powers like stop and search have been part of British policing since the Victorian era. Modern-day stop and search powers have been in place since the late 1980s, but their use has continued to evolve through caselaw, legislative amendments and changes to police guidance. The following provides a *very brief* history of the development of stop and search powers in England and Wales.

### 4.1 Pre-1980s

The precursor to modern day stop and search powers were former ‘sus laws’ (notably section 8 of the [Vagrancy Act 1824](#)). These powers were known as ‘sus laws’ because they allowed officers to search anyone, they suspected of being “disorderly” or a “rouge and vagabond”. It is now widely accepted that these powers were open to abuse and their use contributed to poor police community relations.<sup>125</sup>

### 4.2 The Brixton riots and the Scarman Report (1981- 1999)

Three days of severe disturbances in Brixton in August of 1981 caused national concern. The unrest in Brixton (and similar disturbances elsewhere in the country) predominately involved young black Britons clashing with the police.<sup>126</sup> The Government commissioned Lord Scarman to undertake an inquiry into the disturbances. The Scarman Report concluded that the disturbances were an outburst of anger and resentment felt by black youths about how they were treated by police. The Scarman Report recommended replacing the sus laws with new stop and search legislation.<sup>127</sup>

The Government implemented Scarman’s recommendation on the sus laws through the *Police and Criminal Evidence Act 1984* (PACE). PACE (amongst other things) repealed the former sus laws, introduced a power to stop and search people with “reasonable grounds” and required officers to follow PACE Code guidance on its use.

### 4.3 The Macpherson Report (1999- 2012)

Sir William Macpherson’s inquiry into the Stephen Lawrence murder investigation found that the Metropolitan Police was institutionally racist.<sup>128</sup> Macpherson acknowledged that stop and search powers are required to help the police prevent and detect crime, but he called for

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<sup>125</sup> Jones, C. (2007). ‘[Sus Law](#)’. In *The Oxford Companion to Black British History* : Oxford University Press (Intranet link only. Available through the Library’s subscription to Oxford Reference); Police Foundation, [Stop and search](#), March 2012

<sup>126</sup> *BBC News*, [The legacy of the Brixton riots](#), April 2006

<sup>127</sup> Gramaglia, L. (2007), [Scarman Report](#) in *The Oxford Companion to Black British History*, Oxford University Press (Intranet link only. Available through the Library’s subscription to Oxford Reference).

<sup>128</sup> Cm 4262-I, [The Stephen Lawrence Inquiry: A report of an inquiry by Sir William Macpherson](#), February 1999, chapter six: racism, para 6.25

greater scrutiny in how they were being used. He came to a “clear core conclusion” that disparities in stop and search rates by ethnicity demonstrated “racist stereotyping” by the police.<sup>129</sup> Macpherson recommended that all stop and search encounters should be recorded and these records should be monitored by those in policing.<sup>130</sup> PACE Code A was amended and additional guidance was provided to the police on what constitutes “reasonable grounds” for a search.<sup>131</sup>

#### 4.4 Theresa May reforms (2013-2019)

During the 2000s the number of stop and search increased, reaching a peak of around 1.5 million in 2008/09.<sup>132</sup> The rise in the use of stop and search powers led to growing concern that the police were not using stop and search lawfully and effectively. There were again concerns that the persistent disparity between ethnic search rates demonstrated that officers were searching people based on the colour of their skin.

The then Home Secretary Theresa May asked Her Majesty’s Inspectorate of Constabulary (HMIC- now HMICFRS) to look at how forces were using the power. The resulting report, [Stop and Search Powers: Are the police using them effectively and fairly?](#), found worryingly levels on noncompliance with the requirement to have “reasonable grounds” to conduct searches.<sup>133</sup>

In response the Home Secretary brought forward a package of reforms designed to contribute to a

...significant reduction in the overall use of stop-and-search, better and more intelligence-led stop-and-search, and improved stop-to-arrest ratios.<sup>134</sup>

The reforms package included:

- The launch of the [best use of stop and search scheme](#) (BUSSS) to reduce the use of pre-condition searches and better monitor the use of stop and search on BME people.
- The revision of PACE Code A.<sup>135</sup> The new PACE Code A reiterates that a personal factors, including ethnicity, are not reasonable grounds to conduct a search. It also sets new requirements on forces to allow for public scrutiny of their stop-and-search records;
- The commissioning of the College of Policing to develop “robust professional standards” (what would become the current APP on [stop and search](#)) including the introduction of a mandatory assessment for officers on their “fitness to use stop and search powers”; and

<sup>129</sup> Ibid, chapter six: racism, para 6.45

<sup>130</sup> Ibid, chapter forty-seven: recommendations, para 60- 63

<sup>131</sup> Darren Ellis, [Stop and search: disproportionality, discretion and generalisations](#), *Police Journal*, Volume 83, 2010, issue 3, p199-216

<sup>132</sup> **Note:** This figure does not include data from the British Transport Police.

<sup>133</sup> HMIC, [Stop and Search Powers: Are the police using them effectively and fairly?](#), 2013

<sup>134</sup> HC Deb, [Stop and search](#), 30 April 2014, c833

<sup>135</sup> Home Office, [Consultation outcome: Revised PACE Code A](#), December 2014

- incorporating an assessment of stop and search powers into the annual inspections of police forces undertaken by HMICFRS.<sup>136</sup>

The reforms did result in a substantial reduction in the use of stop and search powers and contributed to improved practice amongst police officers.<sup>137</sup> However, the disparity in stop and search rates by ethnicity did not improve as searches of white people fell faster than searches of BME people.<sup>138</sup>

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<sup>136</sup> HCDeb, [Stop-and search](#), 30 April 2014, c831-833

<sup>137</sup> See [section 2](#) of this briefing

<sup>138</sup> See [section 3.1](#) of this briefing

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