

# Stop and search powers 2: are the police using them effectively and fairly?

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## Executive summary

In 2013, HMIC published *Stop and Search Powers: Are the police using them effectively and fairly?*<sup>1</sup> The report concluded that stop and search powers were rarely targeted at priority crimes in particular areas and there was very little understanding in forces about how the powers should be used most effectively and fairly to cut crime.

Of the records HMIC examined in 2013, 27 percent did not include sufficient grounds to justify the lawful use of the power. Fewer than half of forces complied with the requirements in Code A of the Code of Practice governing the use of stop and search powers<sup>2</sup> (hereinafter referred to as Code A) for their use to be monitored by the public<sup>3</sup>.

HMIC made 10 recommendations in the 2013 report and made a commitment to revisit the subject 18 months later to assess progress against those recommendations.

Additionally, in 2014 the Home Secretary commissioned HMIC to:

- *review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly;*
- *provide analysis of how forces in England and Wales compare with overseas jurisdictions, both in terms of the powers available and the way they are used; and*
- *examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.*

This report sets out findings from the resulting 2014/15 inspection.

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<sup>1</sup> *Stop and Search Powers – are the police using them effectively and fairly?*, HMIC, July 2013  
[www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

<sup>2</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A,  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

<sup>3</sup> Code A, 5.4: *In order to promote public confidence in the use of the powers, forces in consultation with police authorities must make arrangements for the records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level.*  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/117611/pace-code-a-2011.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117611/pace-code-a-2011.pdf)

## Methodology

HMIC required all 43 forces of England and Wales, as well as the British Transport Police, to complete a self-assessment of progress against the recommendations of the 2013 report, and to submit data on the powers under scrutiny. During January 2015, we also visited nine forces and carried out in-depth inspection work. In addition, we surveyed the police and public. We asked the police about their use of relevant powers and the public about the police use of stop and search and section 163 of the Road Traffic Act.

## Part 1 findings: Progress against the 2013 report's recommendations

We found insufficient progress has been made in relation to:

- establishing Authorised Professional Practice<sup>4</sup> – a clear specification of what constitutes effective and fair exercise of stop and search powers (Recommendation 1);
- designing national training requirements to improve officers' skills, knowledge and understanding of the legal basis for their use of stop and search powers (Recommendation 4);
- improving officers' understanding of the impact that stop and search encounters can have on community confidence and trust in the police (Recommendation 5);
- providing a route for people who are dissatisfied with the way they are treated during stop and search encounters to report this to the force and make a formal complaint quickly and easily (Recommendation 8); and
- introducing a nationally agreed form (paper or electronic) for the consistent recording of stop and search encounters (Recommendation 9).

Some progress has been made in relation to:

- monitoring the way officers stop and search people so supervisors can be satisfied their officers are acting in accordance with the law (Recommendations 2 and 3);

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<sup>4</sup> *Best Use of Stop and Search Scheme*, College of Policing and Home Office, August 2014  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/346922/Best\\_Use\\_of\\_Stop\\_and\\_Search\\_Scheme\\_v3.0\\_v2.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf)

- ensuring that relevant intelligence gleaned from stop and search encounters is gathered and analysed to assist the broader crime-fighting effort (Recommendation 6); and
- explaining to the public the way stop and search powers are used in their areas and making arrangements for stop and search records to be scrutinised by community representatives (Recommendation 7).

Good progress has been made in relation to:

- making better use of technology to record relevant information about stop and search encounters which complies with the law and reveals how effectively and fairly the power is being used (Recommendation 10).

### **Part 1 Recommendations**

- 1. With immediate effect, while changes to the Authorised Professional Practice are being considered, the College of Policing should publish a working definition of what constitutes an effective and fair stop and search encounter.**
- 2. Chief constables should, with immediate effect, develop plans that set out how each force will complete the action required to make good progress in relation to the recommendations in HMIC's 2013 report, and publish these plans so that the public can easily see them on their websites. These plans should include the action forces are taking to comply fully with the Best Use of Stop and Search Scheme, initiated in April 2014 by the Home Secretary.**

## **Part 2 findings: How effectively and fairly do the police use section 163 of the Road Traffic Act 1988 and Police Reform Act 2002?**

### **How effectively and fairly do the police use section 163 of the Road Traffic Act 1988?**

We encountered severe difficulties in obtaining sufficient information from forces to assess how effectively and fairly officers use the Road Traffic Act<sup>5</sup> power to stop motor vehicles.

Forces do not have in place policies to guide officers on how to use the Road Traffic Act power effectively and fairly and too few forces show any commitment to collecting information and using this to oversee the use of this power.

In our survey, 47 percent of the 10,094 respondents reported being in a vehicle stopped by the police at some point in their lives, with 5 percent saying they had been stopped within the previous 12 months as a driver or passenger.

Our survey also found that:

- black and minority ethnic respondents were more likely than white respondents to believe that the power is unfairly targeted at people from ethnic minorities;
- as a proportion, more black and minority ethnic drivers recalled being stopped in the last two years than white drivers. Of those drivers who responded, the survey indicated that 7 to 8 percent of white drivers were stopped in their vehicles in the last two years, compared with 10 to 14 percent of black and minority ethnic drivers;
- black and minority ethnic drivers are more likely to not be provided with a reason for the stop, more likely to have their vehicle searched, and may be more likely to be subject of a person search; and
- white drivers are disproportionately more likely than black and minority ethnic drivers to be arrested, given a fixed penalty notice, issued with a summons or be informed of an intended prosecution.

These results are consistent with the findings from several academic studies in the US. Our survey also suggests that, when stopped using this power, white drivers are disproportionately more likely than black and minority ethnic drivers to be arrested,

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<sup>5</sup> Section 163 of the Road Traffic Act 1988 specifies that A person driving a mechanically propelled vehicle on a road must stop the vehicle on being required to do so by a constable in uniform or a traffic officer [www.legislation.gov.uk/ukpga/1988/52/section/163](http://www.legislation.gov.uk/ukpga/1988/52/section/163)

given a fixed penalty notice, issued with a summons or be informed of an intended prosecution. This suggests that black and minority ethnic drivers are more likely than white drivers to be stopped in situations where the stop does not result in any prosecution, and this suggests to us that they are more likely to be stopped for no reason.

There has been no attempt by police forces in England and Wales to determine the fairness of the application of vehicle stop powers, despite the fact that a significant number of people are stopped in their cars every year. When this was last measured by the British Crime Survey 2010/11, nine percent of people in England and Wales had been in a car or motorcycle which was approached or stopped by the police in the preceding 12 months.

### **How effectively and fairly do police community support officers use their powers to search for and seize alcohol and tobacco?**

The consultation we carried out to help us plan the scope of this inspection suggested that the public, and young people in particular, would expect us to examine how fairly and effectively police community support officers (PCSOs) use the powers they have to search for and seize alcohol and tobacco from young people under the Police Reform Act 2002.

Only a small number of forces reported that they collected, recorded and used information to assess how well their PCSOs used the Police Reform Act powers, and fewer had conducted audits to determine whether or not their use of the Police Reform Act powers was effective. Only 14 forces reported that they had a requirement for supervisory oversight of the use of Police Reform Act powers. In the seven forces in which the PCSO powers are used, there was far less supervision by sergeants of the way the powers were being used, compared to the supervision in place for the use of stop and search powers.

Both these powers have a disproportionate impact on specific groups of people; the Police Reform Act power because it can only be used on young people, and the Road Traffic Act power because our survey and international studies indicate a disproportionately high use on black and minority drivers. Therefore, there should be a national requirement to record each occasion when the powers are used - as is the case for stop and search encounters. At present, the level of scrutiny and accountability to which the officer is subjected when using these powers is significantly less than is the case for stop and search encounters.

It is difficult to see how forces would be able to assess levels of disproportionality if they do not know anything about who is being stopped in any particular situation because no records are made.



The absence of reliable data about the use of the Road Traffic Act and Police Reform Act powers means that forces cannot demonstrate to us that they are using these powers effectively and fairly.

## **Part 2 Recommendations**

- 3. Within twelve months, chief constables and the College of Policing should agree and implement a set of minimum recording standards for the police use of the Road Traffic Act 1988 power to stop motor vehicles, and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people, for the purpose of assessing their effective and fair use;**
- 4. Within twelve months, the Home Office should establish a requirement for sufficient data to be recorded and published in the Annual Data Requirement to allow the public to assess how effective and fair the police are when they use these powers.**
- 5. Within twelve months, the Home Office should incorporate the Road Traffic Act power to stop motor vehicles and the Police Reform Act Powers to search for and seize alcohol and tobacco into Code A, so that officers are provided guidance about how they should use these powers in the same way that Code A provides guidance about stop and search powers.**
- 6. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how officers should use the Road Traffic Act 1988 power to stop motor vehicles and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people in a way that is effective and fair.**

## **Part 3 findings: Searches involving removal of more than an outer coat, jacket or gloves**

When exercising the power to stop and search, there is no power requiring a person to remove any clothing in public other than an outer coat, jacket or gloves (except where a constable requires a person to remove any item worn to conceal identity<sup>6</sup>).

Where it is considered necessary to conduct a more thorough search, this must be done out of public view unless consent is given. This type of search may only be carried out by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex (unless the person being searched specifically requests it).

In short, Code A specifies three levels of search characterised by their increasing level of intrusion: a search involving the removal of no more than an outer coat, jacket or gloves; a search involving removal of more than an outer coat, jacket or gloves but not exposing intimate parts of the body; and a search involving exposure of intimate parts of the body, commonly referred to as a 'strip search'.

In England and Wales, almost all forces have a policy on the use of stop and search powers. However, fewer than half of forces reported that they provided guidance about stop and search where there is a need to remove more than a person's outer coat, jacket or gloves, including strip searches.

In addition, most forces do not record which stop and search encounters involve removal of outer clothing. Therefore, they were not able to provide us with information about how often, and on whom, these highly intrusive searches are carried out. However, it is clear from speaking to officers and from the results of our survey that these intrusive searches are carried out in such numbers as to suggest there should be rigorous oversight. From our survey of police officers we found that 355 of the 980 constables (36 percent of respondents) and 174 of the 775 sergeants (22 percent) who responded to this part of the survey stated that they had conducted a search that involved more than the removal of an outer coat, jacket or gloves in the past month.

The absence of official records means that we have no way of knowing how many children undergo these more intrusive searches, and whether or not they are being conducted lawfully and in a fair and proportionate manner. We believe it is necessary for officers to seek the authority of a supervising officer before strip searching children.

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<sup>6</sup> Section 60AA of the Criminal Justice and Public Order Act 1994  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/346922/Best\\_Use\\_of\\_Stop\\_and\\_Search\\_Scheme\\_v3.0\\_v2.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf)

### **Part 3 Recommendations**

- 7. Within three months, chief constables should require their officers to record all searches which involve the removal of more than an outer coat, jacket or gloves. This record must specify: the clothing that was removed; the age of the person searched; whether the removal of clothing revealed intimate parts of the person's body; the location of the search including whether or not it was conducted in public view; and the sex of the officers present.**
- 8. Within twelve months, the Home Office should incorporate into Code A a requirement for the recording of all searches which involve the removal of more than an outer coat, jacket or gloves and a requirement for officers to seek the authority of a supervising officer before strip searching children.**
- 9. Within twelve months, the Home Office should work with forces to establish a requirement for sufficient data to be published in the Annual Data Requirement to allow the public to see whether or not the way that police conduct searches that involve the removal of more than an outer coat, jacket or gloves is lawful, necessary and appropriate.**
- 10. Within three months, chief constables should put in place a process to report, at least once a year, the information they get from recording searches that involve the removal of more than an outer coat, jacket or gloves to their respective police and crime commissioners<sup>7</sup> and to any community representatives who are engaged in the scrutiny of the use of stop and search powers to help them assess whether these searches are lawful, necessary and appropriate.**
- 11. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how to make sure that searches that involve the removal of more than an outer coat, jacket or gloves are conducted in a way that are lawful, necessary and appropriate.**

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<sup>7</sup> The term 'police and crime commissioners' is used as shorthand to make reference to police and crime commissioners, the Mayor's Office for Policing and Crime in the Metropolitan Police District and the Common Council of the City of London.

## Introduction

In 2013, HMIC published its report, *Stop and Search Powers: Are the police using them effectively and fairly?* The report concluded that stop and search powers were rarely targeted at priority crimes in particular areas and there was very little understanding in forces about how the powers should be used most effectively and fairly to cut crime.

Of the 8,783 stop and search records HMIC examined in 2013, 27 percent did not include sufficient grounds to justify the lawful use of the power. The reasons for this included low levels of understanding of what constituted reasonable grounds, poor supervision and an absence of oversight by senior officers.

Fewer than half of forces complied with the requirement in Code A of the Code of Practice governing the use of stop and search powers (hereinafter referred to as Code A) for the use of stop and search powers to be monitored by the public<sup>8</sup>.

When officers use the power to stop and search they must always have reasonable grounds for the search and they must inform the person of those grounds. They should also treat the person being searched with respect and courtesy. Apart from being unlawful, stopping and searching people without reasonable grounds can inflame an angry response, and lead to resentment and a loss of trust in the police<sup>9</sup>.

The police use of stop and search powers had, since the 1970s, been cited as a major concern for police legitimacy and public trust in most of the public inquiries into policing, and it was therefore surprising that it had not been afforded a higher priority by chief officers.

HMIC made 10 recommendations in the 2013 report and made a commitment to assess the progress made by forces and the College of Policing in carrying out the recommended actions 18 months later. Our assessment of progress in relation to these recommendations is reported in Part 1 of this report.

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<sup>8</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 5.1, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

<sup>9</sup> *Procedural justice and professional policing in times of austerity*, Hough, M., April 2013, *Criminology and Criminal Justice*, volume 13, edition 2, [http://eprints.bbk.ac.uk/5196/1/CCJ\\_article\\_Procedural\\_Justice.pdf](http://eprints.bbk.ac.uk/5196/1/CCJ_article_Procedural_Justice.pdf)

Additionally, the Home Secretary commissioned HMIC to:

- *review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly;*
- *provide analysis of how forces in England and Wales compare with overseas jurisdictions, both in terms of the powers available and the way they are used; and*
- *examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.*

Our inspection of these matters is reported in Parts 2 and 3 of this report.

## Methodology

In 2013, HMIC conducted extensive fieldwork in all of the 43 police forces of England and Wales and examined at least 200 stop and search records from each force to assess compliance with Code A. A similar exercise will be conducted in the Legitimacy inspection of all police forces as part of the annual PEEL inspections carried out by HMIC.

In April 2014, the Home Secretary announced the Best Use of Stop and Search Scheme. The principal aims of the scheme are to achieve greater transparency, increase community involvement in the use of stop and search powers and to support a more intelligence-led approach, leading to better outcomes, for example, an increase in the stop and search to positive outcome ratio.

The scheme was officially launched in August 2014 with all forces providing an assurance that they would implement the scheme. Because some forces needed to adapt to how they would administer the scheme, it was felt unfair to inspect against it as part of this inspection. The Best Use of Stop and Search Scheme will therefore be examined as part of the annual PEEL Legitimacy inspection later this year.

In this inspection, all 43 Home Office forces in England and Wales and the British Transport Police were required to complete a self-assessment of their progress against the 2013 recommendations. They also submitted supporting documents including relevant policies and reports.

In January 2015, we carried out fieldwork in nine forces where we conducted:

- interviews with community representatives;
- interviews with senior managers;
- focus groups with 50 operational sergeants and inspectors;
- focus groups with 100 operational constables and police community support officers (PCSOs); and
- 237 knowledge checks.<sup>10</sup>

In order to verify and strengthen our findings, we carried out visits to police stations where we spoke with officers in intelligence units, investigation units, response teams, neighbourhood teams and custody suites. We observed briefings to see the information officers received before going out on patrol and attended management meetings to observe how resources were deployed and managed.

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<sup>10</sup> A short test of five questions on the application of the PACE Codes of Practice, Code A

As part of the inspection, a survey was completed to ask the police about their use of relevant police powers (see Annex A for methodological details). A survey was also completed to ask the public about the police use of stop and search and section 163 of the Road Traffic Act (see Annex B for methodological details).

We asked several overseas police forces to provide us with information in order to analyse and compare their jurisdictions with England and Wales and, where appropriate, we conducted interviews to gain a greater understanding.

The inspection was also greatly supported by an independent reference group<sup>11</sup> which met regularly; its members contributed advice and guidance on the inspection methodology and helped review our inspection findings.

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<sup>11</sup> The independent reference group included: Baroness Lawrence, the national policing lead on stop and search, and representatives from the Independent Police Complaints Commission, Release, StopWatch, the College of Policing, Metropolitan Police Service, Birkbeck College, University of London, London School of Economics and Saima Afzal Solutions.

## Part 1: Progress on recommendations made in HMIC's 2013 report, Stop and search powers: Are the police using them effectively and fairly?<sup>12</sup>

This section sets out our findings from the self-assessments provided by forces, the evidence collected from fieldwork in the nine forces and the results from our survey of police officers.

### Recommendation 1 from 2013

Chief constables and the College of Policing should establish in the stop and search Authorised Professional Practice a clear specification of what constitutes effective and fair exercise of stop and search powers, and guidance in this respect. This should be compliant with the Code of Practice.

#### Grounds for Recommendation 1

In our inspection in 2013 we found that, with a few exceptions, forces were not able to demonstrate how effective and fair their use of stop and search powers had been. Forces were unclear about what 'effective' and 'fair' meant in the context of stop and search encounters, and there was little evidence that officers were provided with guidance or instruction to assist their understanding.

#### Progress of chief constables and the College of Policing regarding Recommendation 1

*The College of Policing and chief constables have made insufficient progress in relation to this recommendation.*

The College of Policing has started a project to design and develop a national training package for the use of stop and search powers (see progress on Recommendation 4 below). This includes an analysis of learning and identification of learning standards. Towards the end of 2015, the College of Policing intends to pilot the training package in a small number of forces with a fully randomised control trial to assess the effectiveness of the training. Once the pilots have been completed and the national training package is finalised, the knowledge gained will be used to inform the development, in 2016, of Authorised Professional Practice<sup>13</sup> for the use of stop and search powers.

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<sup>12</sup> *Stop and search powers: Are police using them effectively and fairly?* HMIC, London, 2013. Available from [www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

<sup>13</sup> Authorised Professional Practice (APP) is authorised by the College of Policing as the official source of professional practice on policing. Police officers and staff are expected to have regard to APP in discharging their responsibilities. There may, however, be circumstances when it is perfectly



## Findings from force self-assessments

Notwithstanding the absence of progress on the development of Authorised Professional Practice, many forces have made efforts to define effective and fair stop and search encounters and have provided guidance and instruction to their officers.

We found that in almost all forces (41), a local policy relating to the use of stop and search powers was in place. In almost half of forces a definition existed of what constituted an effective stop and search. These, however, varied. Some forces used information contained in Code A and others defined an effective search as one that results in a positive outcome linked to finding the item for which they were searching.

While these two interpretations are not completely incompatible, Code A says that the primary purpose of using stop and search powers should be to enable officers to allay or confirm suspicions about an individual without exercising their powers of arrest. This was highlighted in our 2013 report and we found that some forces had taken this approach; for example, a good definition in one force stated that:

*“grounds should be fully explained to the person being stopped and searched, and the person should be treated with fairness, courtesy and respect. In such circumstances, finding the item and arresting the offender or, alternatively, eliminating the suspicion and avoiding an unnecessary arrest are both valid and successful outcomes”.*

Most forces reported that they recorded the age of the person stopped and searched, allowing them to assess fairness against age. Most forces also reported that they had conducted work within the past three years to determine the extent to which they were being fair in the way they used stop and search powers. For example, one force innovatively used the internet and social media to encourage members of the public to tell the force about their experiences of being stopped and searched. Other forces had commissioned academic research to help them understand the issues better.

Half of all forces were able to provide us with their definition of what constituted a fair stop and search encounter. Examples include:

*“fair searches are to be carried out in accordance with the code of ethics as a method of eliminating suspicion and avoiding an unnecessary arrest. In the fair application of stop and search there will be no unlawful discrimination, harassment or victimisation”.*

*"one where all legislative requirements have been met, the subject has been treated with respect and dignity and the effect of unconscious bias on the individual and the community has been considered."*

However, there is not yet a national definition of what makes the use of stop and search powers effective and fair within the Authorised Professional Practice - the purpose of this recommendation.

Forces' interpretations vary when defining what effective means in relation to stop and search encounters. The following factors were considered to be measures of effective stop and search encounters:

- any arrest (39 forces use this as a success measure);
- arrest for the item being searched for (30 forces use this);
- arrest for any item found during the search (31 forces use this);
- item searched for was found (28 forces use this); and
- other illegal/prohibited item found (29 forces use this).

Almost all forces reported that they have provided guidance to officers on the effective and fair use of stop and search powers since the HMIC inspection report published in July 2013. All forces also identified other activities undertaken by them to support this recommendation including: updating force policies; improvements to supervision processes; improved training of officers; and improvements in the quality of the information they collect about stop and search encounters and how they use it to help improve the effectiveness and fairness of the use of stop and search powers.

### **Findings from 2015 fieldwork**

During our fieldwork, we found in the nine forces being inspected that they were using the following range of factors to define the effective and fair use of stop and search powers:

- having reasonable grounds to search the person;
- informing the person of those grounds;
- dealing with the person in a polite manner;

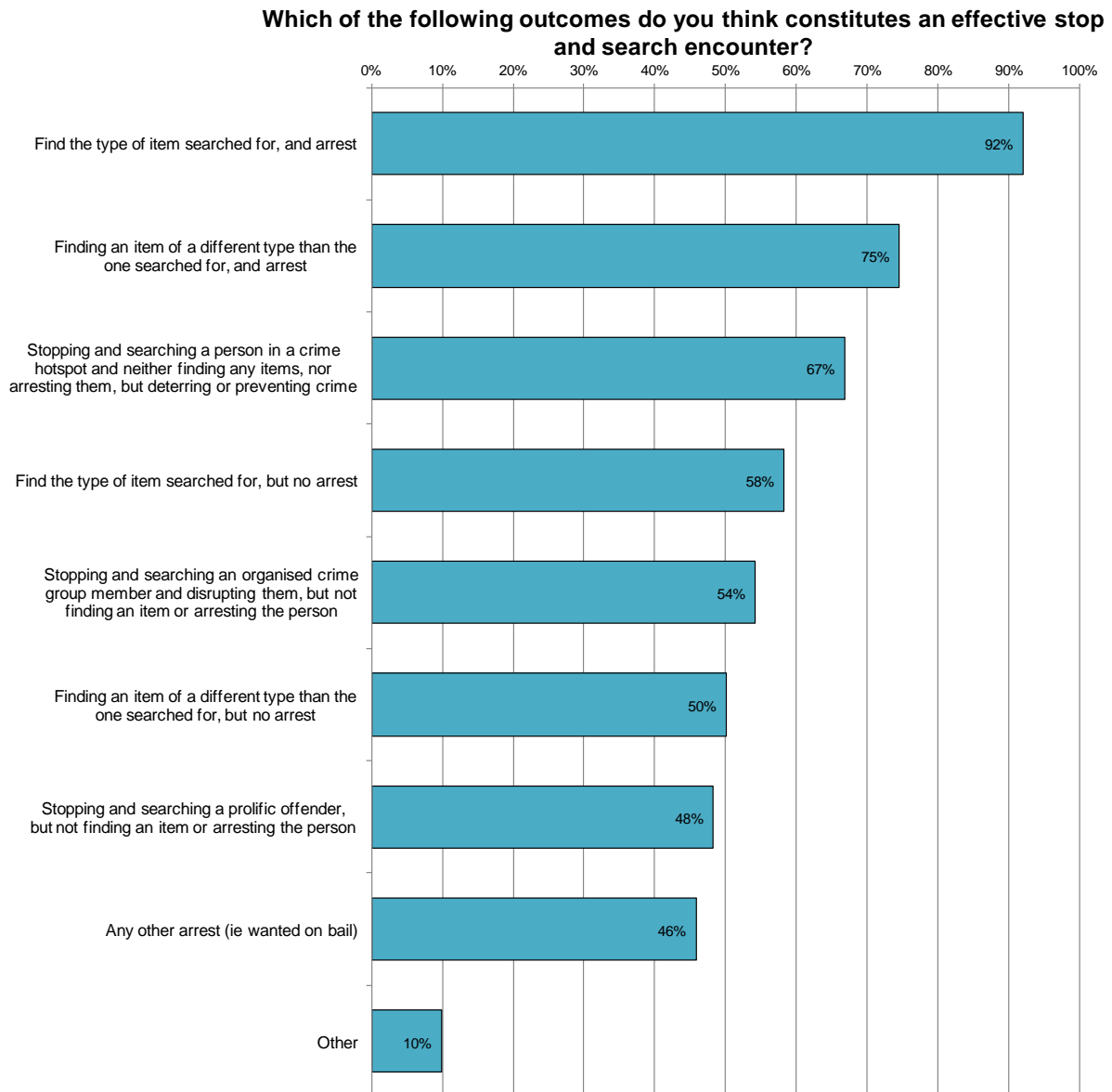
- complying with force policies and Code A; and
- finding what was searched for and then making an arrest.

During interviews, we found that while some forces had deemed that searching for an item and finding it was a measure of success, not all forces could identify that an arrest following a stop and search encounter was related to finding the item originally searched for, or finding another item. For example, having grounds to search for a knife the officer does not find a knife but, in the course of the search, finds a small quantity of drugs.

In focus groups with officers, we found that many of those on the frontline thought either that success meant compliance with Code A or that success was only about finding the item they were searching for and making an arrest. More work needs to be done to help officers understand that compliance with Code A (in particular, having and recording the reasonable grounds to justify the lawful use of the power) is positively related to the likelihood of them finding the item in question. Compliance with Code A is not separate from the effectiveness of their actions.

### **Findings from surveys**

Participants in the police officer survey were asked to say what they thought constituted an effective search. The results are consistent with what forces told us in their self-assessments and what we found in our fieldwork. Making an arrest is still very much at the forefront of officers' minds when conducting stop and search encounters, while compliance with Code A is not. This is despite the fact that one of the main reasons for the introduction of the legislation in the mid-1980s was to prevent unnecessary arrests.



The survey also revealed that, of the respondents, 54 percent felt that a stop and search encounter resulting in a member of an organised crime group being stopped and disrupted is effective, even when no prohibited item is found during the search. Forty-eight percent felt the encounter was effective when it was a prolific offender stopped in a similar situation. In almost all forces (42), officers stated that in the last 12 months, they had been directed to use stop and search powers on members of organised crime groups and prolific offenders.

Code A clearly states that the fact that a person is a member of an organised crime group or a prolific offender cannot, alone, be used as the reason for searching them.

*“... unless the police have a description of a suspect, a person’s physical appearance... or the fact that the person is known to have a previous conviction, cannot be used alone or in combination with each other, or in combination with any other factor, as the reason for searching that person.”<sup>14</sup>”*

However, this should not be read to mean that officers should take no action. The fact that they have no grounds to search should not prevent officers from stopping people believed to be members of organised crime groups to ask them to account for their movements.

## **Recommendation 2 from 2013**

Chief constables should establish, or improve, monitoring of the way officers stop and search people so that they can be satisfied their officers are acting in accordance with the law (including equality legislation and the Code of Practice) and that the power is used effectively to prevent crime, catch criminals and maintain public trust. This monitoring should, in particular, enable police leaders to ensure officers have the reasonable grounds (and, where applicable, authorising officers have the reasonable belief) required by law to justify each stop and search encounter.

### **Grounds for Recommendation 2**

In 2013, HMIC found that very few forces could demonstrate that the use of stop and search powers was based on an understanding of what works best to cut crime, and rarely was it targeted at priority crimes in their areas. Forces had reduced the amount of data collected to reduce bureaucracy, but this had diminished their capability to understand the impact of the use of stop and search powers on crime levels and community confidence. Of the 8,783 stop and search records HMIC examined in 2013, 27 percent did not include sufficient reasonable grounds to justify the lawful use of the power.

### **Progress of chief constables regarding Recommendation 2**

*Chief constables have made some progress regarding this recommendation.*

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<sup>14</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 2.2,

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

## **Findings from force self-assessments**

The vast majority of forces (38) systematically collect information about stop and search encounters in a way that allows them to manage and understand the manner in which their officers use the powers. However, a small number of forces (six) reported that they had not established such arrangements. These forces are unable properly to monitor their officers' use of stop and search powers.

In 2013, we found that 13 forces had designated a senior manager to oversee the use of stop and search powers. This has improved; all forces have now designated a senior manager to oversee the use of the powers.

In 2013, we found that less than half of forces (19) conducted scheduled audits of the use of stop and search powers. This has now risen; about three-quarters of forces (32) reported that auditing the use of the powers to check that they were lawfully carried out now forms part their scheduled programme of audits.

In 2013, only about a quarter of forces (11) included a review of proportionality as part of an audit of the use of the powers, and none of the forces looked at effectiveness. From the self-assessments, well over half (29) now consider the proportionality and (27) the effectiveness of the search as part of their audit programme.

In 2013, less than half of forces monitored the use of stop and search powers carried out under section 60 of the Criminal Justice and Public Order Act 1994. This has now increased and almost all forces (39) reported that they routinely monitor the exercise of stop and search powers under Section 60, and about three-quarters of forces (31) reported that they had reviewed the use of the powers within the last 18 months. In one force, such a review resulted in a reported 97 percent reduction in the number of authorities to conduct searches under section 60 and a 99 percent reduction in the number of searches carried out.

Monitoring stop and search encounters that result in a prosecution or conviction helps to show whether or not the use of stop and search powers is effective in catching criminals. However, only four forces monitor prosecution or conviction rates resulting from the use of stop and search powers.

## **Findings from 2015 fieldwork**

We found that all the forces we visited collected data on the use of stop and search powers and the data collected differed from force to force based on what the force deemed important.

For example, one force makes it clear to its officers which crime types, such as burglary, are a priority in their areas of patrol so that they use their powers of stop and search to best effect. The force closely monitors how officers use these powers and, as a result, is able to show that searching for drugs is least likely to result in

either finding the item originally searched for or making an arrest. This has allowed the force to reduce ineffective drugs searches and increase searches of people in relation to the priority crime types. The force provided supervising officers with the data of how the officers they supervised had performed against those crime types and also the outcomes of the searches they had conducted.

Other forces were not as analytical in their approach and, while they could identify arrests made following a stop and search encounter, they could not identify if finding the item searched for had led to the arrest. This is important because the arrest might not relate to the original grounds for carrying out the stop and search encounter.

In some cases the person is arrested for disorderly or threatening behaviour as a consequence of becoming angry about the experience of being stopped. This type of arrest is a result of the reaction of the person to being searched and not how effective the officer has been in using his or her power.

We also found a variance in the level of detail in the data collected. Some forces could break down their data and show which stop and search encounters individual officers had conducted as well as the subsequent outcomes, whereas others concentrated on a more generalised picture of stop and search encounters and examined total numbers of searches in geographic areas, such as a policing district.

What was consistent across all forces was that the data and the analysis were concentrated much more on the effectiveness of stop and search encounters than fairness. While forces did look at the ethnicity of those stopped and searched, they did not have sufficient measures to judge the fairness of the encounter – for instance by assessing if reasonable grounds existed, and, as importantly, if they were explained clearly to the person being searched.

### **Findings from surveys**

We established from the force self-assessments that all forces now have a senior manager designated as responsible for managing and monitoring each force's use of stop and search powers. In our survey, to test whether this had been effectively communicated to officers, we asked:

*“Is there a senior officer in your force who has been given the role to oversee whether officers are using their stop and search powers properly?”*

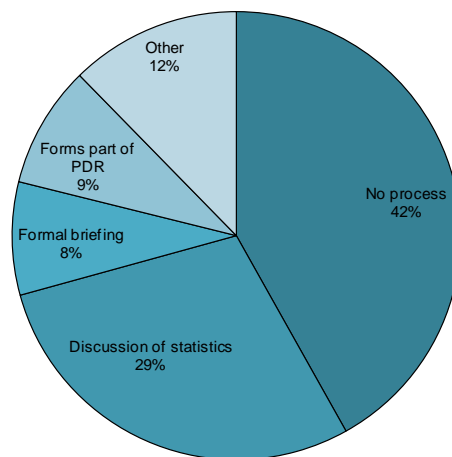
The response from constables showed 72 percent of those who completed the survey said they did not know if a senior officer had been given this responsibility and a further 3 percent saying that no senior officer had a role to oversee stop and search. Sergeants answering the same question were more confident that there was a senior officer in place, although 45 percent answered that they did not know and 2 percent answered that there was nobody performing this role.

It is evident from the survey results that the identity, or even existence, of the senior manager overseeing the use of stop and search powers is not well known. If the intention was for these senior officers to provide visible leadership on this issue, there is significant progress to be made in many forces.

Sergeants were asked whether they felt able to monitor effectively officers' use of stop and search; just under a third of respondents stated that they did not feel they were able to do this effectively.

We also looked at how sergeants were supervised to ensure that they were testing their officers about stop and search and we found that in over 40 percent of responses, no process existed for this supervision to take place.

**How does your line manager ensure that you are testing your officers about stop and search?**

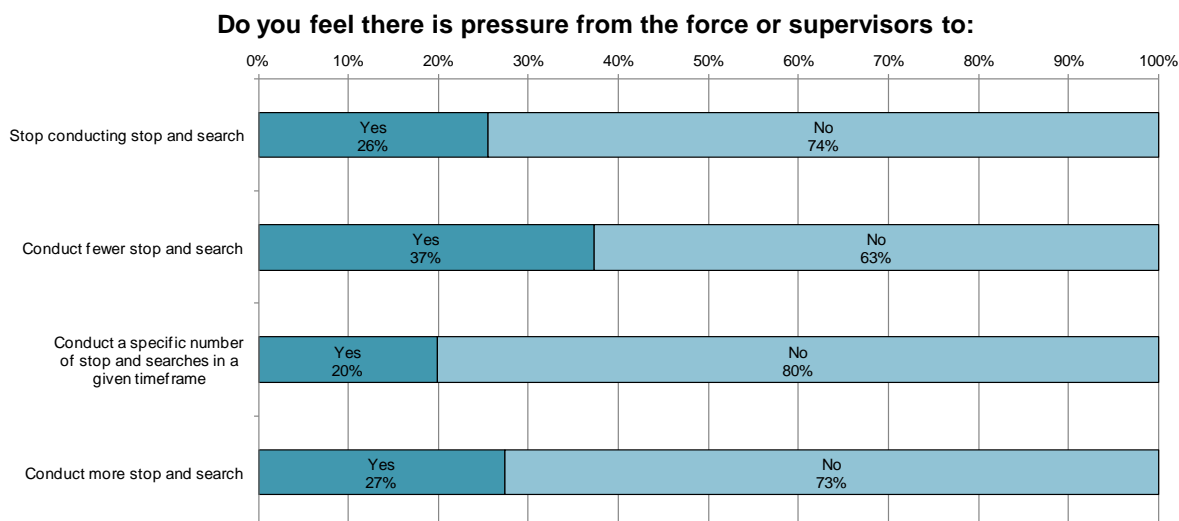


\* 1629 respondents. Some respondents gave multiple answers. Responses as follows: No process 775, Discussion of statistics 534, Formal briefing 151, Forms part of Personal Development Record 163, Other 228.

We also examined how sergeants were supervised to ensure that they challenged officers when a stop search form was not properly completed and found that 34 percent of respondents who were sergeants and inspectors said that there was no process to do this.

We also asked constables whether they felt there was pressure from the force or supervisors to carry out a particular number of stops and searches. Respondents could select multiple options and the results are set out in the following chart.





This shows that just over a quarter of constables who answered the question stated that they feel pressure to carry out more stop and search encounters. However, it was also the case that about a quarter of the constables who answered this question stated that there is now a pressure to stop the use of stop and search powers entirely. Over a third of constable respondents said that they felt there is pressure from the force or supervisors to conduct fewer stop and search encounters.

It concerns us to find that a notable proportion of officers feel they are under pressure to stop using stop and search powers entirely. Forces need to take care in helping officers to focus on using the powers in an effective, fair and lawful way – rather than focusing on the number that they conduct.

Our survey of officers also indicates that a small minority of officers, instead of using stop and search powers, arrest the person in order to search them. This allows them to use post-arrest search powers that do not need to be recorded in the same way as the use of stop and search powers do. If they find nothing, they then de-arrest them.

This might be an unintended consequence of increased scrutiny of the use of stop and search powers and, given that stop and search powers were introduced with the principle aim of avoiding unnecessary arrests, this concerns us gravely. Using this approach instead of properly using stop and search powers will almost certainly hide the true level of searches taking place. It could falsely indicate that stop and search encounters are reducing and almost certainly place more strain on the fragile relationships that the public have with the police when it comes to being stopped and searched.

## Recommendation 3 from 2013

Chief constables should ensure that officers carrying out stop and search encounters are supervised so that they can be confident that the law is being complied with and that the power is being used fairly and effectively. Particular attention should be given to compliance with the Code of Practice and equality legislation.

### Grounds for Recommendation 3

Code A places a specific obligation on supervisors to monitor the use of stop and search in order to prevent its misuse, and directs that:

- *“supervisors must monitor the use of stop and search powers and should consider, in particular, whether there is any evidence that the powers are being exercised on the basis of stereotypes or inappropriate generalisations;*
- *supervisors should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with the code; and*
- *supervisors must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address them.”<sup>15</sup>*

In 2008, HMIC highlighted that there were *“widespread fundamental skills gaps at frontline sergeant level”<sup>16</sup>*. Five years on, in 2013, HMIC’s stop and search inspection identified that this had not changed when examining the use of stop and search powers.

In 2013 we found little evidence that supervisors observed their constables using stop and search powers. There were inconsistencies in the recording of searches, evidence that people searched were not always provided with the information required by Code A and that they were not always fairly treated.

Many of the stop and search records examined by HMIC in 2013 did not contain reasonable grounds to search people even though many of these records had been endorsed by supervisors. Supervisors were not doing what was required of them in Code A; these requirements are designed to protect the public from the misuse of these intrusive powers.

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<sup>15</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 5.1, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

<sup>16</sup> *Frontline officers supervision: Learning From the Front Line*, HMIC, May 2008, page 7, [www.justiceinspectrates.gov.uk/hmic/media/leading-from-the-frontline-20080530.pdf](http://www.justiceinspectrates.gov.uk/hmic/media/leading-from-the-frontline-20080530.pdf)

### **Progress of chief constables regarding Recommendation 3**

*Chief constables have made some progress regarding this recommendation.*

#### **Findings from force self-assessments**

Since our 2013 inspection, the vast majority of forces (37) have issued new instructions to supervisors to improve the supervision of the encounters and how they are recorded.

In 2013, 32 forces required a supervisor to endorse the stop and search record. Almost all forces (39) now require supervisors to do this.

Examples of work to improve supervision include the introduction of:

- a digital stop and search recording system with enhanced data management and interrogation capabilities;
- stop and search ‘champions’ to work with local supervisors to improve performance; and
- a mobile application that provides supervisors with the ability to review and endorse search forms.

#### **Findings from 2015 fieldwork**

As in 2013, we found that supervisors rarely observed their officers carrying out stop and search encounters. Supervisors explained how they were responsible for making sure that the record created from a stop and search was correctly filled in and had reasonable grounds recorded on it. However, they expressed concern that this did not allow them to confirm if these grounds existed at the time and whether they were provided to the person being searched, and how the officer treated the individual. In some specialist units in which supervisors patrol with their staff, such as firearms teams, there was evidence that some officers were regularly observed by their supervisors while carrying out stop and search encounters.

HMIC found that some forces are attempting to improve the real-time supervision of the stop and search encounters using technology. For instance, in one force that we visited, the officer conducting a stop and search encounter contacts the control room while the encounter is taking place and provides the explanation of the grounds to the radio operator in hearing distance of the person being searched. This is recorded in the control room and the recording is sent to the officer’s supervisor. However, when we spoke to officers, we found they could not always get through to the radio operator at the time of the stop and search encounter resulting in the record being made some time later so preventing an opportunity for real-time supervision.

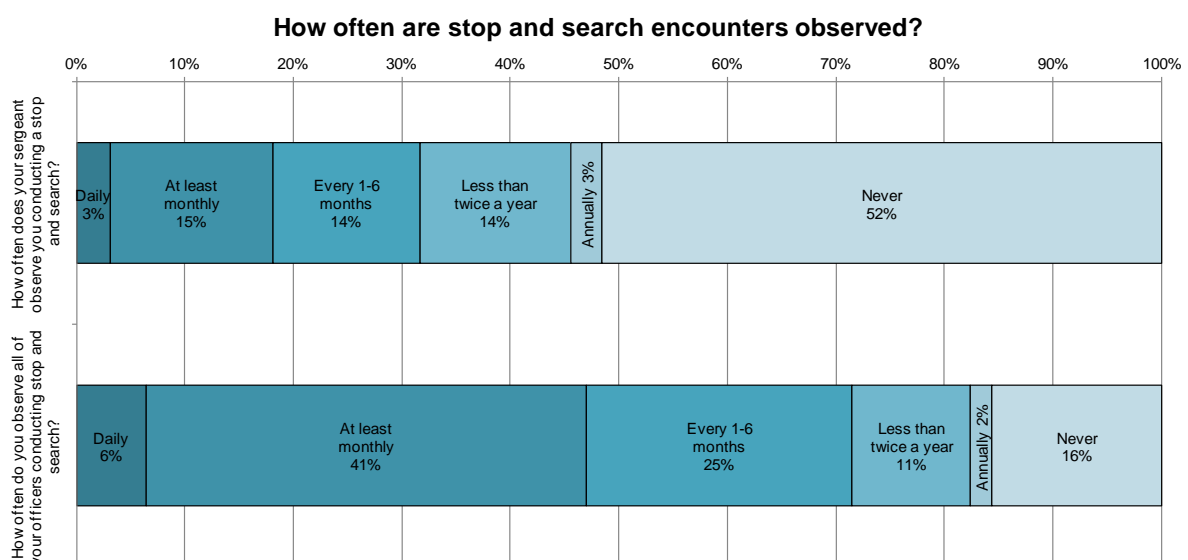
One development that was universally welcomed by supervisors and seen as a way to overcome these problems was the use of body worn video. We found that many forces are exploring how best to provide supervisors with access to the recordings made of their officers' stop and search encounters. Forces are also exploring ways of sharing these recordings with community groups for independent oversight.

In four of the forces visited, officers in focus groups explained that they were no longer expected to use stop and search powers routinely. We were told of some cases where officers had previously been given a target number of searches that they were expected to conduct; this practice appears to have been stopped. Instead, there existed an understanding that the organisation had changed its culture and approach and that the power would only be used when absolutely necessary; indeed there was some evidence that police officers were nervous of using the power, fearing criticism from supervisors.

In one force, an assistant chief constable had written personally to every constable, sergeant and inspector to provide them with guidance about how to use the powers along with a summary of the Home Office Best Use of Stop and Search Scheme. We think this is good practice.

### Findings from survey

We asked constables how often they were observed by a supervisor when they conducted a stop and search encounter and found over half (52 percent) stated that they are never observed. Fifteen percent said they are observed carrying out encounters at least once a month, 14 percent at least once every one to six months, and 14 percent at least once every six to twelve months.



Interestingly, when sergeants were asked how often they observed their constables conducting stop and search, the answers were very different. Only 16 percent of those responding to the question stated that this was never done. Forty-one percent

of supervisors said they observed encounters at least once each month, 25 percent at least once every one to six months and 11 percent at least once each six to twelve months.

## **Recommendation 4 from 2013**

The College of Policing should work with chief constables to design national training requirements to improve officers': understanding of the legal basis for their use of stop and search powers; skills in establishing and recording the necessary reasonable grounds for suspicion; knowledge of how best to use the powers to prevent and detect crime; and understanding of the impact that stop and search encounters can have on community confidence and trust in the police. Specific training should also be tailored to the supervisors and leaders of those carrying out stops and searches.

### **Grounds for Recommendation 4**

In 2013, we found that training, where it was given, was focused almost exclusively on law, procedure and officer safety and very little on what works best to catch criminals, or how officer behaviour can affect the way the encounter is experienced by the person being stopped and searched. We were worried that little was being done by forces to help officers understand how they should judge when they have reasonable grounds to stop and search, how they communicate these grounds to the person being searched and how they record them in accordance with the Police and Criminal Evidence Act 1984.

Twenty-one forces did not carry out stop and search training or provide opportunities for learning beyond that delivered on recruitment. Where further training was carried out later in the officer's service we found it to be, in the main, neither mandatory nor checked to ensure officers understood it.

For these reasons we recommended that the College of Policing should work with chief constables to develop national training.

### **Progress of chief constables and the College of Policing regarding Recommendation 4**

*Chief constables and the College of Policing have made insufficient progress regarding this recommendation.*

The College of Policing was commissioned by the Home Office in April 2014 to establish stop and search training and development. A project team was established in October 2014 to design the national curriculum and this is expected to be completed and ready for trial in a small number of forces by September 2015.

The College of Policing intends to evaluate the outcomes of the trials with a view to publishing the national stop and search curriculum by March 2016. The college is confident that it has devoted sufficient resources to the project to ensure it delivers the required training curriculum by March 2016.

### **Findings from force self-assessments**

Despite the absence of a national training package, many forces have meanwhile made changes to the stop and search training they provide to officers.

While, since the 2013 inspection, almost all forces (41) reported that they provide training on the use of stop and search powers to frontline officers, only 32 forces reported that they had provided stop and search training to sergeants. There are now 26 forces which provide refresher training after recruitment to frontline officers; this is a slight improvement on the 21 forces in 2013.

In respect of the training provided since the last inspection:

- 36 forces reported that they now provide training to help officers understand how to comply with Code A, and in particular the need for reasonable grounds for suspicion;
- 11 forces reported that they included training to improve awareness of unconscious bias;
- 17 forces reported that they included behavioural detection training<sup>17</sup>;
- 30 forces reported that they included training to improve officers' understanding of procedural fairness; and
- 19 forces reported that community groups had contributed to the design of their training.

In 2013, we found little evidence that training included a check to ensure that officers had understood what they had been taught and there has been improvement in this area. The vast majority of forces (36) reported that they now test that officers have understood the training. The majority of these forces (30) reported that they had revised or introduced these processes as a result of the 2013 inspection.

### **Findings from 2015 fieldwork**

We asked officers what training they had received about how to use stop and search powers. Their responses varied widely. At one end of the spectrum, officers reported that their force had relied purely on the input provided to officers when they first

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<sup>17</sup> Behaviour detection training is used to assist officers in developing reasonable grounds for suspicion based on a person's behaviour to help them identify the right people to be stopped and searched and helping them to conduct effective and fair stops and search encounters.

joined the service, along with computer-based training provided by the National Centre for Applied Learning Technologies, which they did not feel was as effective as face-to-face training. At the other end of the spectrum, officers had received numerous training packages that were linked to the use of stop and search powers such as behavioural detection training, understanding unconscious bias, the Code of Ethics, bespoke stop and search training as well as computer-based training. Encouragingly, one force, in response to the 2013 HMIC report, designed and delivered a face-to-face training programme to 97 percent of its operational frontline officers. This training is mandatory for all officers up to the rank of inspector.

One force provides psychometric testing for officers, exploring attitudes and the impact of their actions on others.

During our visits to forces we asked officers to complete a short knowledge check. The knowledge check was based on questions used in examinations of police officers as part of the initial foundation training they receive when joining the police service. The questions tested the officers' knowledge of Code A. We found that, overall, 82 percent of the questions were answered correctly by the officers we asked.

### **Findings from surveys**

Eighty-three percent of officers who responded to our survey said that they had received sufficient training to use stop and search powers effectively and fairly and only seven percent (268 officers) said the training was not sufficient. However, while seven percent is a relatively small proportion, when we examined the responses these officers gave to the question about how many stop and search encounters they carried out, we estimate that they are responsible for stopping and searching about 500 people between them per week.

## **Recommendation 5 from 2013**

Chief constables should ensure that officers and supervisors who need this training are required to complete it and that their understanding of what they learn is tested.

### **Grounds for Recommendation 5**

In 2013 we found that supervisors were given little or no training about how to supervise, or to help them understand what is expected of them. We found many examples of supervisors reviewing and signing stop and search records that clearly did not include a description of reasonable grounds for suspicion. For example, on one record signed by a supervisor, the grounds had been recorded as 'Parked in a remote car park after dark'.

## **Progress of chief constables regarding Recommendation 5**

*Chief constables have made insufficient progress regarding this recommendation.*

### **Findings from force self-assessments**

Addressing Recommendation 5 is dependent on the development of a national training package which is not yet available (see Recommendation 4 above).

However, as we say above, many forces have taken steps to introduce or enhance training for supervisors in the use of stop and search powers.

While almost all forces (41) reported that, since the 2013 inspection, they provided training on the use of stop and search powers to frontline officers, only 32 forces reported that they had provided such training to sergeants. The results of our officer survey show that supervisors rarely observe their officers carrying out stop and search encounters and, as a result, supervisors' understanding of the effective, fair and lawful use of stop and search powers may erode more quickly than that of the constables they supervise who use the powers more frequently. In that context, training supervisors becomes even more important if they are to have a positive influence on the behaviour of their constables.

## **Recommendation 6 from 2013**

Chief constables should ensure that relevant intelligence gleaned from stop and search encounters is gathered, promptly placed on their force intelligence systems, and analysed to assist the broader crime-fighting effort.

### **Grounds for Recommendation 6**

Intelligence is a valuable by-product of stop and search encounters, but cannot be the purpose of a stop and search encounter as this would be unlawful. HMIC believes that operational officers need the right information and real-time intelligence to be effective.

However, in 2013 we were surprised at how little effort was given to monitoring how effectively stop and search powers were used to prevent crime and catch criminals. Only five forces had an intelligence field included on their stop and search record and in a further eight it was noted on the record that a separate intelligence submission had been made. In those forces that did gather intelligence, there was confusion as to whether the stop and search record acted as an automatic intelligence submission or whether a separate intelligence form should be submitted, and we saw evidence of delays in placing the intelligence onto computer systems. This reduced the quality of the intelligence available to officers. Very few forces carried out sufficient analysis to map the locations of stops and searches against recorded crime, or to link stop and search encounters to prosecutions and convictions.



## **Progress of chief constables regarding Recommendation 6**

*Chief constables have made some progress regarding this recommendation.*

### **Findings from force self-assessments**

Only six forces reported that the details of stop and search encounters were recorded automatically onto the intelligence database. The remainder relied on officers either entering data directly onto intelligence databases (or into stop and search databases which were then transferred to intelligence databases) or submitting a separate intelligence report. In either case, the gathering of intelligence and prompt submission of it is left to the discretion of the officer who carried out the search.

The instructions to officers on how promptly they should submit stop and search data varies from force to force, ranging from before the end of the tour of duty in which the stop and search encounter occurred to within 72 hours of the encounter.

Late submission of intelligence remains a concern as some forces reported in their self-assessments that late submission still occurred, and one force reported that it had a four-month backlog of stop and search records awaiting entry onto the intelligence system.

Of the forces that do not automatically record details of stop and search encounters onto intelligence databases, one force reported that intelligence officers checked the timeliness of intelligence submissions and another force reported that it checks stop and search records to ensure the intelligence has been entered onto the intelligence database. This is good practice.

One force reported that its use of mobile data termini in cars means that information is automatically placed onto the force's intelligence database. Several other forces reported that they would be introducing mobile data termini during 2015, enabling the automatic submission of information from stop and search encounters.

In relation to analysis, about a half of forces (24) reported that they map the locations of stop and search encounters to assist with analysis, but only about a third (16) reported that they mapped this data against crime patterns.

### **Findings from 2015 fieldwork**

In the nine forces we visited, we found that they did not record the intelligence from stop and search encounters directly onto the intelligence systems. Several forces are developing technological solutions with this capability and expect them to be available in the next 12 months.

In interviews with officers from the intelligence units and those on the frontline, we found that many forces were requiring officers to enter the information either by the end of the shift in which the encounter occurred or within 24 hours of the encounter.

Of concern was that, in one force which had such a requirement, not all the officers we spoke to were aware of this.

We also found that the way in which a force recorded stop and search encounters had a bearing on its ability to gain meaningful intelligence. One issue was the use of mobile data termini or personal digital assistants to record automatically the time and location of the stop and search. While in theory this seems an effective way of mapping when and where stop and search encounters occur, in practice it depends upon the record being made at the scene and time of the stop and search. If the record is made later at the police station, this becomes the recorded time and location of the encounter.

## **Recommendation 7 from 2013**

Chief constables should, in consultation with elected policing bodies, ensure that they comply with the Code of Practice by explaining to the public the way stop and search powers are used in their areas and by making arrangements for stop and search records to be scrutinised by community representatives. This should be done in a way that involves those people who are stopped and searched, for example, young people.

### **Grounds for Recommendation 7**

In 2013 we found that less than half of forces (19) complied with the requirement in Code A to make arrangements for the public to scrutinise the use of stop and search powers. Almost half of forces did nothing to understand the impact of stop and search encounters on their communities, with only a very small number proactively seeking the views of the people and communities most affected.

On 30 April 2014, the Home Office published its response to the consultation on the powers of stop and search<sup>18</sup>. The response set out a number of national measures designed to ensure these powers are used effectively, fairly and in a way that strengthens community confidence. One of the measures announced involved the publication of data on each police force's use of stop and search. The publication of these data<sup>19</sup> on <http://data.police.uk/data/stop-and-search/> is designed to increase transparency and accountability of stop and search at a national and force level.

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<sup>18</sup> *Best use of stop and search scheme*, HM Government, London, August 2014, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/346922/Best\\_Use\\_of\\_Stop\\_and\\_Search\\_Scheme\\_v3.0\\_v2.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf)

<sup>19</sup> Stop and search data presented on <http://data.police.uk/data/stop-and-search/> are taken from the annual Home Office Statistics release *Police Powers and Procedures, England and Wales 2012/13* and cover stops and searches conducted by police under Section 1 of PACE 1984, section 47 of the Firearms Act 1968, section 23 of the Misuse of Drugs Act 1971, section 43 of the Terrorism Act 2000, and section 60 of the Criminal Justice and Public Order Act 1994.

## **Progress of chief constables regarding Recommendation 7**

*Chief constables have made some progress regarding this recommendation.*

### **Findings from force self-assessments**

Over half of forces (28) now publish information to the public which would help to explain the use of stop and search powers in their area. We were encouraged to find that 14 forces publish maps of the locations of stop and search encounters. The Home Office anticipates that all forces will publish maps of locations of stop and search encounters by April 2015<sup>20</sup>. In one force the independent advisory group regularly audits a sample of stop and search records and publishes the results on the force website. We consider this to be good practice.

Additionally, about a quarter of forces (10) report that they publish the meeting minutes from community meetings about stop and search encounters, and four forces hosted public discussion forums in 2014 about the use of stop and search powers on their websites. It is not clear, however, how information and views included in online forums are then used by these forces.

Twenty-four forces reported that they ensure that at least some stop and search records are scrutinised by the public. The frequency and depth to which scrutiny took place differed between forces. Only nine forces reported that stop and search records are scrutinised by young people.

All forces reported that they have carried out work to understand how the use of stop and search powers affects public trust. Approximately three-quarters (32) reported that this included seeking the views of young people and slightly fewer (28) reported that this included efforts to seek the views of people who had been stopped and searched.

### **Findings from 2015 fieldwork**

Five of the nine forces we visited had implemented independent scrutiny panels although these were at varying degrees of maturity. Two had specific panels looking exclusively at the use of stop and search powers whereas others who were more advanced in their use of community engagement included the use of stop and search powers within their local community panels.

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<sup>20</sup> *Crime and policing news*, Home Office, 2015, London [www.gov.uk/government/publications/crime-and-policing-news-update-january-2015/crime-and-policing-news-update-january-2015#fourteen-forces-start-publishing-stop-and-search-data](http://www.gov.uk/government/publications/crime-and-policing-news-update-january-2015/crime-and-policing-news-update-january-2015#fourteen-forces-start-publishing-stop-and-search-data)

We also found varying degrees of independent scrutiny. For example, while one panel had representatives from the community as well as from organisations such as StopWatch<sup>21</sup>, the Independent Police Complaints Commission and Release<sup>22</sup>, another had a single independent member on its panel with the rest of the membership made up predominantly of police officers.

Forces were still exploring how they could systematically involve young people. At the time of the field work, the independent scrutiny panels were just beginning to formulate their terms of reference. They were exploring how they could review individual officers' performance and review complaints that arose from stop and search encounters. Forces already using body worn video were also exploring how they could provide the video footage to the panels for additional scrutiny.

## **Recommendation 8 from 2013**

Chief constables should ensure that those people who are dissatisfied with the way they are treated during stop and search encounters can report this to the force and have their views considered and, if they wish, make a formal complaint quickly and easily. This should include information about dissatisfaction reported to other agencies.

### **Grounds for Recommendation 8**

In 2013 we carried out a survey of people who had been stopped and searched<sup>23</sup>. Of the 391 respondents, there were too many occasions when people felt that the police had not treated them with respect (47 percent) or had not acted reasonably (44 percent). Thirty-nine percent said their experience of being stopped and searched lowered their opinion of the police. Of those people who said they were unhappy with the way they were treated by the police during the stop and search encounter, only 16 percent made a formal complaint. Many of those who did not complain, when asked why they had not done so, expressed a lack of faith in the complaints system.<sup>24</sup>

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<sup>21</sup> StopWatch is a coalition which works to promote effective, accountable and fair policing, inform the public about the use of stop and search, develop and share research on stop and search and alternatives, organise awareness raising events and forums and provide legal support challenging stop and search [www.stop-watch.org.uk](http://www.stop-watch.org.uk)

<sup>22</sup> Release is the national centre of expertise on drugs and drugs law. The organisation, founded in 1967, is an independent and registered charity [www.Release.org.uk](http://www.Release.org.uk)

<sup>23</sup> *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, 2013, [www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

<sup>24</sup> *IPCC position regarding police powers to stop and search*, IPCC, June 2009, [www.ipcc.gov.uk/sites/default/files/Documents/guidelines\\_reports/stop\\_and\\_search\\_policy\\_position.pdf](http://www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/stop_and_search_policy_position.pdf)

People who are dissatisfied about the way they were stopped and searched will sometimes report this to other agencies such as youth groups or housing associations rather than making a complaint directly to the police. It is important that forces identify, and engage with, the agencies in their area that may receive information about dissatisfaction in this way, and ensure it is gathered and considered.

### **Progress of chief constables regarding Recommendation 8**

*Chief constables have made insufficient progress regarding this recommendation.*

### **Findings from force self-assessments**

We were disappointed that 23 forces reported that they do not gather information about dissatisfaction related to stop and search encounters. Some forces reported that they have developed facilities on their website for people to leave feedback about their experience of policing, including that of being stopped and searched. However, this is dependent on the person stopped and searched taking the initiative and visiting the site. Our 2013 survey results suggest that very few are likely to do that and so forces must take the initiative and put in place proactive measures to seek their views.

While the majority of forces provide routes for people to report their dissatisfaction (for instance, at community meetings) and several forces include on their stop and search records an invitation to the person searched to provide feedback on the force website, we were disappointed to find that only four forces reported that they actively seek information about dissatisfaction felt by people who had been stopped and searched, whether or not they made a complaint.

A good example of actively seeking feedback was provided to us by a force which sends letters to a proportion of the total number of people, and all the black and minority ethnic people, who have been stopped and searched. The letter invites the recipients to use the force website to provide feedback on their experience.

In another force, the person stopped and searched is invited to indicate on the stop record whether he or she understood why he or she was searched and whether he or she was treated professionally, respectfully and with dignity. Each record is checked by a sergeant and if this information is absent, the sergeant sends a letter to the person asking him or her for views about the stop and search encounter.

Responses from forces, in the main, suggested that they still see the low complaint numbers as a reason not to take action to find out how people feel about being searched, and to reduce resentment and increase trust. Very few people who are unhappy about their stop and search experience will make a complaint (as low as 16 percent in our 2013 survey); this is still not understood by forces. This is very disappointing, especially since we know all forces have signed up to the Home Office/College of Policing Best Use of Stop and Search Scheme in which they

commit to establishing '*...appropriate mechanisms for members of the community to raise any concerns or complaints...*'. We will examine how well forces are practising their commitment to this scheme in our PEEL Legitimacy inspection later this year.

While many forces reported that they were able to gather information about dissatisfaction reported to other agencies when it was volunteered at regular stop and search meetings, only one force reported that it has processes to gather dissatisfaction information proactively from other agencies.

We were disappointed to find that 32 forces reported that they do not take account of the information they gather about dissatisfaction and use it as part of a structured process to inform future learning and improvement.

### **Findings from 2015 fieldwork**

The way in which complaints should be recorded is contained within statutory guidance<sup>25</sup> and overseen by the Independent Police Complaints Commission. A complaint category exists for a breach of Code A. However, few complaints that arise from stop and search encounters are recorded under this category and we found a poor level of understanding of how complaints about stop and search should be handled. We found that other categories of complaint such as incivility, oppressive conduct, harassment, and lack of fairness and impartiality are more likely to be used to categorise complaints from stop and search encounters as these are often the behaviours that give rise to the complaint. We found that forces did not routinely scan all complaints to see if they arose from stop and search encounters and thus were unable to establish if there were any trends.

Some forces provide information on how to contact the force if someone is dissatisfied and this information was often contained on the copy of the stop and search record given to the person searched at the conclusion of the encounter. However, it was concerning that some officers in these forces did not know of this information and had been given neither instruction nor training on how best to explain this to the member of the public at the time of the stop and search encounter.

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<sup>25</sup> *Statutory Guidance to the police service on the handling of complaints*, IPCC, 2013, [www.ipcc.gov.uk/sites/default/files/Documents/statutoryguidance/2013\\_statutory\\_guidance\\_english.PDF](http://www.ipcc.gov.uk/sites/default/files/Documents/statutoryguidance/2013_statutory_guidance_english.PDF)

## **Recommendation 9 from 2013**

Chief constables should introduce a nationally agreed form (paper or electronic) for the recording of stop and search encounters, in accordance with the Code of Practice.

### **Grounds for Recommendation 9**

In 2013, we found a variety of forms used to record stop and search encounters in use by forces. They differed substantially in terms of layout and the type of detail to be recorded. One force had five different stop and search forms in circulation at the time of our inspection.

### **Progress of chief constables regarding Recommendation 9**

*Chief constables have made insufficient progress regarding this recommendation.*

### **Findings from force self-assessments**

This recommendation has been discussed on several occasions at the Police Public Encounters Board<sup>26</sup>, chaired by the national policing lead for the use of stop and search powers. It has been established that all forces currently comply with the recording requirements of code A. Forces use a variety of processes to record encounters, for example, paper forms, Airwave radio transmissions and electronic recording devices.

Many forces record stop and search encounters on a multi-purpose form which is also used to record other types of encounter, for instance, confiscation of alcohol or tobacco. There are also various methods used to enter details from forms onto electronic databases including wireless input, scanning, and manual input.

Police forces across England and Wales have already invested, or are in the process of investing, large amounts of funding in technological data capture and/or data recording systems for stop and search and (to a lesser extent) the authorisation of stop and search under section 60 Criminal Justice and Public Order Act 1994. Due to the potentially substantial additional cost to the majority of forces, chief constables are reluctant to agree to the introduction of a new national form.

However, chief constables are willing to address our recommendation by agreeing minimum recording standards for stop and search encounters, including those for recording authorisations under section 60 Criminal Justice and Public Order Act 1994, supplementing those shown in Code A.

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<sup>26</sup> Police Public Encounters Board is chaired by the national policing lead for stop and search and brings together stop and search force leads from across England and Wales to improve further the way in which the stop and search powers are used.

Nationally agreed minimum recording standards would involve minimal cost compared to introducing a national form and the majority of forces would be able to continue to record stop and search encounters using their existing processes.

## **Recommendation 10 from 2013**

Chief constables should work with their elected policing bodies to find a way of better using technology to record relevant information about stop and search encounters which complies with the law and reveals how effectively and fairly the power is being used.

### **Grounds for Recommendation 10**

Our 2013 inspection found that technology had the potential to improve the effective, lawful and fair use of stop and search powers. However, although there were a number of interesting developments, limited use was being made of technology to record stop and search encounters at that time.

### **Progress of chief constables regarding Recommendation 10**

*Chief constables have made good progress regarding this recommendation.*

### **Findings from force self-assessments**

The 2013 inspection noted that 15 forces had equipped some or all of their officers to record stop and search encounters on the street using personal data applications or mobile data termini. We refer to these as mobile devices in this report. Since 2013, 11 forces now report that some of their officers have this facility (in one of these forces this facility was only available in vehicles). A further four forces report that all their operational officers can now use mobile devices to record stop and search encounters. A further six forces intend to introduce such devices within the next year. Another seven aim either to roll out these devices or conduct trials using them but have not yet set out a timescale.

In 2013, only two forces reported that some or all of their officers were able to record stop and search encounters on the street using Airwave, which provided an audio record of the stop and search and its grounds with automatic geo-location. This number of forces has risen to eight, with five of these forces reporting that all of their operational officers had this facility. However, two of those forces reported that they had encountered significant technical and data quality difficulties with this process which they were working hard to resolve.

Other methods to improve the quality of stop and search encounters and the recording of them have been introduced since our last inspection. Five forces now use the mobile telephony capability of Airwave to make calls from the scene of a stop and search to a force control room or Police National Computer (PNC) bureau



to record these encounters. Additionally, one force is running a trial using iPads to record stop and search encounters in one of its policing areas.

In 2013 we found that, in some forces, some officers were using body worn video to record stop and search encounters.

Research<sup>27</sup> suggests that the use of body worn video may have a positive effect on both the behaviour of the officer conducting the search and the behaviour of the person being stopped and searched. There has been a notable expansion in the use of body worn video with 23 forces reporting that some of their officers are now able to use this technology to record stop and search encounters. However, of these forces, only nine reported that they systematically used the footage to check for compliance with Code A.

The College of Policing is working together with a force to conduct an extensive controlled trial of body worn video devices. This force is also discussing with community monitoring groups how to share with them the footage captured by body worn video during stops and searches.

In 2013, only seven forces had custody systems that included a field for completion by custody staff to show whether an arrest has resulted from a stop and search encounter and thereby help to assess effectiveness of the use of the powers. Encouragingly, 37 forces now have this facility.

### **Findings from 2015 fieldwork**

HMIC found that forces are trialling technology solutions with the objective of achieving reliable, electronic and legally compliant records of stop and search encounters, and providing data to establish how effective and fairly the powers are used.

At present, there are different measures of success being used by forces and there was no reliable system that was completely accurate that also readily enabled supervision. For example, in one force the details of the stop and search encounter were transmitted via Airwave radio to an operator who records the encounter onto a computer system for transfer onto the stop and search database. Officers are sometimes unable to access the Airwave channel because it is busy and have to transmit the details at a later time, and usually at a different location. This can lead to inaccurate recording of the location as well as the time of the encounter. We did not find an electronic system through which the person searched could be provided with

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<sup>27</sup> *Guidance for the police use of body-worn video devices*, Police and Crime Standards Directorate, Home Office, July 2007, <http://library.college.police.uk/docs/homeoffice/guidance-body-worn-devices.pdf> ; *Picture This: body worn video devices ('headcams') as tools for ensuring fourth amendment compliance by police*, Harris, D., Legal Studies Research Paper Series Working Paper No. 2010-13, April 2010, [www.nlg-npap.org/sites/default/files/Harris-Video.pdf](http://www.nlg-npap.org/sites/default/files/Harris-Video.pdf) and others.

a copy of the record. Instead, the person had to apply later online for a copy or take a photograph of the record held by the officer with his or her own mobile telephone.

## Overview of progress on 2013 recommendations

Overview of progress on 2013 recommendations	
<p><b>Recommendation 1</b> - Chief constables and the College of Policing should establish in the stop and search Authorised Professional Practice a clear specification of what constitutes effective and fair exercise of stop and search powers, and guidance in this respect. This should be compliant with the Code of Practice.</p>	Insufficient progress
<p><b>Recommendation 2</b> - Chief constables should establish, or improve, monitoring of the way officers stop and search people so that they can be satisfied their officers are acting in accordance with the law (including equality legislation and the Code of Practice) and that the power is used effectively to prevent crime, catch criminals and maintain public trust. This monitoring should in particular enable police leaders to ensure officers have the reasonable grounds (and, where applicable, authorising officers have the reasonable belief) required by law to justify each stop and search encounter.</p>	Some progress
<p><b>Recommendation 3</b> - Chief constables should ensure that officers carrying out stop and search encounters are supervised so that they can be confident that the law is being complied with and that the power is being used fairly and effectively. Particular attention should be given to compliance with the code of practice and equality legislation.</p>	Some progress
<p><b>Recommendation 4</b> - The College of Policing should work with Chief Constables to design national training requirements to improve officers': understanding of the legal basis for their use of stop and search powers; skills in establishing and recording the necessary reasonable grounds for suspicion; knowledge of how best to use the powers to prevent and detect crime; and understanding of the impact that stop and search encounters can have on community confidence and trust in the police. Specific training should also be tailored to the supervisors and leaders of those carrying out stops and searches.</p>	Insufficient progress
<p><b>Recommendation 5</b> - Chief constables should ensure that officers and supervisors who need this training are required to complete it and that their understanding of what they learn is tested.</p>	Insufficient progress

<b>Overview of progress on 2013 recommendations (continued)</b>	
<b>Recommendation 6</b> - Chief constables should ensure that relevant intelligence gleaned from stop and search encounters is gathered, promptly placed on their force intelligence systems, and analysed to assist the broader crime-fighting effort.	Some progress
<b>Recommendation 7</b> - Chief constables should, in consultation with elected policing bodies, ensure that they comply with the Code of Practice by explaining to the public the way stop and search powers are used in their areas and by making arrangements for stop and search records to be scrutinised by community representatives. This should be done in a way that involves those people who are stopped and searched, for example, young people.	Some progress
<b>Recommendation 8</b> - Chief constables should ensure that those people who are dissatisfied with the way they are treated during stop and search encounters can report this to the force and have their views considered, and if they wish, make a formal complaint quickly and easily. This should include information about dissatisfaction reported to other agencies.	Insufficient progress
<b>Recommendation 9</b> - Chief constables should introduce a nationally agreed form (paper or electronic) for the recording of stop and search encounters, in accordance with the Code of Practice.	Insufficient progress
<b>Recommendation 10</b> - Chief constables should work with their elected policing bodies to find a way of better using technology to record relevant information about stop and search encounters, which complies with the law and reveals how effectively and fairly the power is being used.	Good progress

## Part 1 conclusion

The College of Policing has yet to specify in Authorised Professional Practice what constitutes the effective and fair use of stop and search powers. We understand the need to establish sufficient evidence of what works best in relation to stop and search, but the prospect of not having any national definition until 2016 means that there will continue to be different approaches used across forces. We believe that there is sufficient written in Code A and our 2013 report for the College of Policing to publish a 'working' definition of what constitutes an effective and fair stop and search encounter.

Meanwhile, many frontline officers continue to think either that success means compliance with Code A or that success is only about finding the item they were searching for and making an arrest. A national definition is urgently needed to help officers understand that compliance with Code A, in particular having and recording the reasonable grounds to justify the lawful use of the power, is positively related to the likelihood of them finding the item they are searching for.

We were also disappointed to find that there remain a small number of forces which do not collect information about stop and search encounters in a way that allows them to manage and understand the manner in which their officers use the powers. These forces are unable to monitor whether stop and search encounters are carried out lawfully, fairly and effectively.

More work needs to be done to make sure that officers are supervised when they use stop and search powers. Almost half of constables surveyed said that their supervisor had never observed them carrying out a stop and search encounter. On the other hand, the supervision of records has improved and we were encouraged to find that some forces are trying to improve the supervision of the encounter by reviewing body worn video or listening to the grounds as they are relayed to the control room by the searching officer.

The training of officers is paramount in assisting them to use stop and search powers effectively and fairly and we are of the opinion that progress on developing national training requirements has been far too slow.

Notwithstanding the lack of a national training approach, forces have themselves made some progress in the improvement of stop and search training for officers. More forces than in 2013 now provide training to staff beyond that delivered as part of recruitment. Almost all forces are now training all of their frontline constables, although too few are training supervisors.

It is encouraging to find that almost half of forces report that community groups are now involved in developing their stop and search training, thereby helping to make sure that the training deals with public concerns.

However, still too few forces check that intelligence is submitted promptly to their intelligence databases and, additionally, too few are analysing the intelligence from stop and search encounters to assist the broader crime-fighting effort.

Public scrutiny of the way forces use stop and search powers has improved since 2013, and more forces report that they carry out work to understand how the way stop and search encounters are conducted affects public trust. More forces now report that they arrange for members of the community to oversee the use of stop and search powers, in the main by allowing the review of stop and search records and statistics.

Perhaps the most concerning finding in this part of the inspection was that many police leaders still see the low complaint numbers as a reason not to take action to find out how people feel about being searched, and to use this to reduce resentment and increase trust. The fact that very few people who are unhappy about their stop and search experience make complaints (as low as 16 percent in our 2013 survey) is still not understood by leaders. This is very disappointing and must be urgently addressed.

We are also not convinced by the reasons given for delays in achieving national standards for the recording of stop and search encounters. We were told that progress on establishing national standards has been delayed pending the outcomes of Home Office work on the Police.uk website and the findings in this follow-up inspection. We cannot see any good reason why a national set of recording standards cannot be agreed and implemented forthwith, notwithstanding the ongoing Home Office and HMIC activity.

Many forces have made good progress in adopting new technologies to support the effective and fair use of stop and search powers and to improve the recording of these. Most of the remaining forces aim to adopt these new technologies over the next year.

## Recommendations

Recommendations relating to the progress forces and the College of Policing have made in taking the action recommended in HMIC's 2013 report, *Stop and search powers: Are the police using them effectively and fairly*:

- 1. With immediate effect, while changes to the Authorised Professional Practice are being considered, the College of Policing should publish a working definition of what constitutes an effective and fair stop and search encounter.**
- 2. Chief constables should, with immediate effect, develop plans that set out how each force will complete the action required to make good progress in relation to the recommendations in HMIC's 2013 report, and publish these plans so that the public can easily see them on their websites. These plans should include the action forces are taking to comply fully with the Best Use of Stop and Search Scheme, initiated in April 2014 by the Home Secretary.**
  - HMIC expects chief constables to use the self assessments they completed as part of this inspection to formulate their plans, alongside any other relevant information. We expect all forces to have completed, or to be making good progress in relation to, the recommended actions by November 2015.**

## Part 2: How effectively and fairly do the police use section 163 of the Road Traffic Act 1988 and Police Reform Act 2002?

### How effectively and fairly do the police use section 163 of the Road Traffic Act 1988?

In addition to requesting HMIC to inspect further on the progress that police forces had made since the 2013 inspection, the Home Secretary commissioned HMIC to:

*“Review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly.”*

HMIC was also asked to analyse “...how forces in England and Wales compare with overseas jurisdictions, both in terms of the powers available and the way they are used.”

### Powers to stop vehicles

In our 2013 report, we highlighted that some people believed that they had been stopped and searched when, in fact, they had been stopped and spoken to by an officer or stopped in their car under the Road Traffic Act – without a search taking place<sup>28</sup>.

In England and Wales, police officers’ powers to stop motor vehicles are enshrined in section 163 Road Traffic Act 1988, which states:

*“A person driving a motor vehicle on a road must stop the vehicle on being required to do so by a constable in uniform”<sup>29</sup>*

In *Lodwick v Sanders* [1985], the court determined that this clause (at the time, enshrined as s.159 of the Road Traffic Act 1972) gives constables the power to require a driver to stop and does not simply impose a duty on the motorist to stop.<sup>30</sup>

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice<sup>31</sup>, this power does not require an officer to have any particular

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<sup>28</sup> *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, July 2013, Page 18, [www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf](http://www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf)

<sup>29</sup> *Road Traffic Act 1988* s.163, [www.legislation.gov.uk/ukpga/1988/52/section/163](http://www.legislation.gov.uk/ukpga/1988/52/section/163)

<sup>30</sup> *Textbook on Civil Liberties and Human Rights*, Stone, Richard, 2012, Oxford University Press: Oxford. p102

reason to stop a motor vehicle and there is no requirement for the officer to explain why he or she has carried out the stop.

Once a vehicle has been stopped, an officer can require the driver to produce their driving licence<sup>32</sup>. Beyond this, the officer can ask the driver or passengers to account for themselves and question them about issues pertaining to crime prevention and detection. The officer can also search the vehicle and its occupants where reasonable grounds exist to suspect that the person is carrying prohibited items.

Police powers to search vehicles and their occupants are, with one exception, enshrined in the same legislation as pedestrian stop and searches. The most commonly used powers are:

- Police and Criminal Evidence Act 1984 – provides officers with powers to search a vehicle, or anything on or in a vehicle, for stolen or prohibited goods, offensive weapons and articles for use in certain theft offences or criminal damage<sup>33</sup>.
- Misuse of Drugs Act 1971 – provides officers with powers to search a vehicle for a controlled drug.<sup>34</sup>
- Firearms Act 1968 – provides officers with powers to search a vehicle for firearms.<sup>35</sup>

In addition, vehicle searches can also be undertaken for: stolen or illegally obtained items from HM Stores<sup>36</sup>; crossbows or parts of crossbows<sup>37</sup>; game or poaching equipment<sup>38</sup>; evidence of offences under the Deer Act 1991<sup>39</sup> or Protection of

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<sup>31</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

<sup>32</sup> *Road Traffic Act 1988* s. 164, [www.legislation.gov.uk/ukpga/1988/52/section/164](http://www.legislation.gov.uk/ukpga/1988/52/section/164)

<sup>33</sup> *Police and Criminal Evidence Act 1984* (1) (2) [www.legislation.gov.uk/ukpga/1984/60/section/2](http://www.legislation.gov.uk/ukpga/1984/60/section/2)

<sup>34</sup> *Misuse of Drugs Act 1971* (23) (2) (a) [www.legislation.gov.uk/ukpga/1971/38/section/23](http://www.legislation.gov.uk/ukpga/1971/38/section/23)

<sup>35</sup> *Firearms Act 1968* (47) (4) [www.legislation.gov.uk/ukpga/1968/27/section/47](http://www.legislation.gov.uk/ukpga/1968/27/section/47)

<sup>36</sup> *Public Stores Act 1875* (6) [www.legislation.gov.uk/ukpga/Vict/38-39/25/section/6](http://www.legislation.gov.uk/ukpga/Vict/38-39/25/section/6)

<sup>37</sup> *Crossbows Act 1987* (4) [www.legislation.gov.uk/ukpga/1987/32/section/4](http://www.legislation.gov.uk/ukpga/1987/32/section/4)

<sup>38</sup> *Poaching Prevention Act 1862* (2) [www.legislation.gov.uk/ukpga/Vict/25-26/114/section/2](http://www.legislation.gov.uk/ukpga/Vict/25-26/114/section/2)

<sup>39</sup> *Deer Act 1991* (12) [www.legislation.gov.uk/ukpga/1991/54/section/12](http://www.legislation.gov.uk/ukpga/1991/54/section/12)

Badgers Act 1992<sup>40</sup>; and wildlife offences<sup>41</sup>. Police officers also have the powers to search vehicles – but not people – for seals, and hunting equipment and goods.<sup>42</sup>

To conduct vehicle searches under any of the aforementioned legislation, officers must have reasonable grounds for suspicion which could arise from the officer's observations or interactions with the vehicle's occupants after a stop has been undertaken. Additionally, officers have the 'non-suspicion power' to search vehicles in designated areas under the Criminal Justice and Public Order Act 1994<sup>43</sup>.

## A review of powers in other countries to stop vehicles

There are many other countries which provide powers for their police officers to stop motor vehicles without any suspicion of wrongdoing. In Ireland, the Garda Síochána has the power to stop vehicles without suspicion of any wrongdoing<sup>44</sup> and police have similar powers in many other countries. These include: Denmark<sup>45</sup>, Hungary<sup>46</sup>, Croatia<sup>47</sup>, Poland<sup>48</sup>, New Zealand<sup>49</sup>, Norway<sup>50</sup>, Slovenia<sup>51</sup>, Luxembourg<sup>52</sup>, Kazakhstan<sup>53</sup>, Germany<sup>54</sup>, Nigeria<sup>55</sup>, South Africa<sup>56</sup> and Cyprus<sup>57</sup>.

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<sup>40</sup> *Protection of Badgers Act 1992* (11) [www.legislation.gov.uk/ukpga/1992/51/section/11](http://www.legislation.gov.uk/ukpga/1992/51/section/11)

<sup>41</sup> *Wildlife and Countryside Act 1981* (19) [www.legislation.gov.uk/ukpga/1981/69/section/19](http://www.legislation.gov.uk/ukpga/1981/69/section/19)

<sup>42</sup> *Conservation of Seals Act 1970* (4) [www.legislation.gov.uk/ukpga/1970/30/section/4](http://www.legislation.gov.uk/ukpga/1970/30/section/4)

<sup>43</sup> *Criminal Justice and Public Order Act 1994* (60) [www.legislation.gov.uk/ukpga/1994/33/section/60](http://www.legislation.gov.uk/ukpga/1994/33/section/60)

<sup>44</sup> Ireland: *Road Traffic Act 1961* s. 109, [www.irishstatutebook.ie/1961/en/act/pub/0024/sec0109.html#sec109](http://www.irishstatutebook.ie/1961/en/act/pub/0024/sec0109.html#sec109)

<sup>45</sup> Denmark: *Færdselslovens* § 77, [www.retsinformation.dk/forms/r0710.aspx?id=158005](http://www.retsinformation.dk/forms/r0710.aspx?id=158005)

<sup>46</sup> Hungary: *Police Act* § 44

<sup>47</sup> Letter to HMIC from Head Europol Liaison Bureau, Croatia

<sup>48</sup> Email to HMIC from Europol, Warsaw

<sup>49</sup> *Police and your Rights*, Citizens Advice Bureau, Auckland, New Zealand, [www.cab.org.nz/vat/gl/roi/Pages/Policeandtheindividual.aspx](http://www.cab.org.nz/vat/gl/roi/Pages/Policeandtheindividual.aspx)

<sup>50</sup> *Politiet stoppet 340 biler i Midtbyen* [www.adressa.no/nyheter/trondheim/article9535019.ece](http://www.adressa.no/nyheter/trondheim/article9535019.ece)

<sup>51</sup> Email to HMIC from Europol, Ljubljana.

<sup>52</sup> Email to HMIC from Europol, Luxembourg.

<sup>53</sup> Клеменкова, К. "Что нужно знать при разговоре с сотрудником дорожной полиции". *365Info.kz*. Almaty, <http://365info.kz/2014/07/что-нужно-знать-при-разговоре-с-сотрудником-дорожной-полиции/>

<sup>54</sup> *Was darf die Polizei?*. AutoBild. Axel Springer AG: Berlin, 25 April, 2006, [www.autobild.de/artikel/verkehrskontrolle-55125.html](http://www.autobild.de/artikel/verkehrskontrolle-55125.html)



The powers granted to a police officer under section 163 Road Traffic Act 1988 in England and Wales, and under corresponding legislation in these other countries, to stop a driver without any suspicion of wrongdoing is in contrast to the United States of America where law enforcement officers can only require a driver to stop a vehicle if they reasonably suspect criminal activity or a traffic violation. However, the very long list of these traffic violations, which includes very minor traffic infringements, provides many opportunities for the police to have a reason to stop a vehicle in the US. Officers in the US are allowed to conduct what are known there as 'pretextual stops' of vehicles.<sup>58</sup>

As the name suggests, a pretextual (or 'pretext') stop is when an officer stops a vehicle for one reason (where they observe a traffic or vehicle violation), but where his or her real motivation is to investigate for evidence of other crime.<sup>59</sup> The US Supreme Court, in the case of *Whren v United States*<sup>60</sup>, ruled that such stops do not violate the Fourth Amendment and are, therefore, lawful. In fact, the ability to conduct a pretextual stop, it has been argued, gives the police virtually unlimited authority to stop and search any vehicle they want<sup>61</sup>.

As Professor David A Harris – Toledo School of Law – outlines:

*“Every driver probably violates some provision of the vehicle code at some time during even a short drive, because state traffic codes identify so many different infractions. For example, traffic codes define precisely how long a driver must signal before turning, and the particular conditions under which a driver must use lights. Vehicle equipment is also highly regulated. A small light bulb must illuminate the rear license plate. Tail lights must be visible from a particular distance. Tire tread must be at a particular depth. And all equipment must be in working order at all times.*

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<sup>55</sup> *What to do when stopped by the Nigerian Police*, Premium Times, 25 September 2013, [www.premiumtimesng.com/news/145357-stopped-nigeria-police.html](http://www.premiumtimesng.com/news/145357-stopped-nigeria-police.html)

<sup>56</sup> *What Are My Rights When Stopped By A Traffic Officer?*, AA.CO.ZA, [www.aa.co.za/technical-services/legal-advice/legal-questions/what-are-my-rights-when-stopped-by-a-traffic-officerij.html](http://www.aa.co.za/technical-services/legal-advice/legal-questions/what-are-my-rights-when-stopped-by-a-traffic-officerij.html)

<sup>57</sup> Europol reply

<sup>58</sup> *Whren v. United States*, 517 U.S. 806 (1996), [www.law.cornell.edu/supct/html/95-5841.ZO.html](http://www.law.cornell.edu/supct/html/95-5841.ZO.html)

<sup>59</sup> *ibid*

<sup>60</sup> *ibid*

<sup>61</sup> See, for example, *Constitutional Roadkill in the Courts: Looking to the Legislature to Protect North Dakota Motorists Against Almost Unlimited Police Power to Stop and Investigate Crime*, Lockney TM & Friese MA., *North Dakota Law Review* v 86, 1 (2010), page 1, <https://law.und.edu/files/docs/ndlr/pdf/issues/86/1/86ndlr1.pdf>

*If the police target a driver for a stop.., all they have to do to come up with a pretext for a stop is follow the car until the driver makes an inconsequential error or until a technical violation is observed.”<sup>62</sup>*

Officers from a number of US police departments interviewed by HMIC agreed that *Whren v United States* allows them to stop virtually any vehicle they want, given the voluminous nature of traffic legislation.

In practice, therefore, the powers of an officer to stop a vehicle in the US are not dissimilar to those in England and Wales, in that reasonable suspicion of criminal activity is not required in order to stop a vehicle with the intention of speaking to the occupants about criminal offences.

In the US, officers have similar powers to their UK counterparts to search vehicles that have been stopped. However, in contrast to the UK, officers in the US are entitled to search vehicles with the consent of the driver and there is much debate about whether the consent is willingly given. If a US officer wishes to search a driver or occupant of a stopped vehicle, they can only do so to frisk for weapons and must have reasonable grounds to suspect that the person is armed.<sup>63</sup>

### **Findings from force self-assessment**

HMIC found from the self-assessments completed by all forces that, while significant work had been undertaken by forces to understand how well they used powers of stop and search, less had been done to understand how well they used the Road Traffic Act power to stop vehicles.

Only three forces have a policy on the use of the Road Traffic Act power and only two forces have designated a senior officer to oversee its use. Two forces reported that they collected and recorded information about the use of the Road Traffic Act power. On closer examination these records were not sufficiently accurate for us to assess how their officers used the power to stop vehicles. None of the 43 forces had conducted any audits to determine whether or not their use of the power was fair and effective.

This lack of oversight at the senior level of police forces was replicated on the frontline. Only one force reported that it had a requirement for supervisory oversight of Road Traffic Act stops.

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<sup>62</sup> *Driving While Black: Racial Profiling On Our Nation's Highways*. Harris, David A., American Civil Liberties Union, 7 June 1999, [www.aclu.org/racial-justice/driving-while-black-racial-profiling-our-nations-highways](http://www.aclu.org/racial-justice/driving-while-black-racial-profiling-our-nations-highways)

<sup>63</sup> *Terry v. Ohio*, 392 U.S. 1 (1968), [www.law.cornell.edu/supremecourt/text/392/1](http://www.law.cornell.edu/supremecourt/text/392/1)

## Findings from fieldwork 2015

In our fieldwork we found that none of the nine forces that we visited required officers to record the fact that an individual had been stopped using this power and, as a consequence of this, there was no central record and no scrutiny of the way the power was being used. However, this is not to say that individual officers never record these encounters. From our interviews with officers, we found that in addition to those stops that were not recorded, the use of this power was sometimes recorded in a pocket note book; on a fixed penalty notice where an offence was alleged; or on the Police National Computer if the officer had conducted a check of the person or vehicle concerned. On those occasions when a stop was recorded, it was done so in an ad hoc manner and not according to any particular system to allow effective oversight of the use of the power.

We also found that officers would sometimes register that they had used the Road Traffic Act power in records they made of occasions when they stopped a vehicle and then asked the occupant(s) to account for their presence in a particular area. The recording of these 'stop and account' encounters, the result of a recommendation made in the Stephen Lawrence Inquiry Report in 1999, is now left to the discretion<sup>64</sup> of each force after it ceased to be a mandatory requirement<sup>65</sup> following concerns about the unnecessary bureaucracy it caused. The discretionary aspect of the recording of stop and account encounters, combined with the absence of any direction to indicate whether or not the encounter resulted from the use of the Road Traffic Act power, makes this a very unreliable way to understand how the power is being used by officers.

During our interviews of police officers, we explored what they thought about the fact that there was no system for the recording and oversight of the use of the Road Traffic Act power. They raised concerns about how any requirement to record the use of the power to stop vehicles would result in an increased burden of unnecessary bureaucracy. Many argued that such a requirement would run counter to the recent removal of the requirement to record stop and account encounters. They were also concerned about how feasible it would be to make records in cases where, for example, officers stop large numbers of vehicles to protect the scene of a road traffic collision.

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<sup>64</sup> *Police and Criminal Evidence Act 1984*, Code A, note 22A, "where there are concerns which make it necessary to monitor any local disproportionality, forces have discretion to direct officers to record the self-defined ethnicity of persons they request to account for themselves in a public place or who they detain with a view to searching but do not search."

<sup>65</sup> *Crime and Security Act 2010* [www.legislation.gov.uk/ukpga/2010/17/contents](http://www.legislation.gov.uk/ukpga/2010/17/contents)

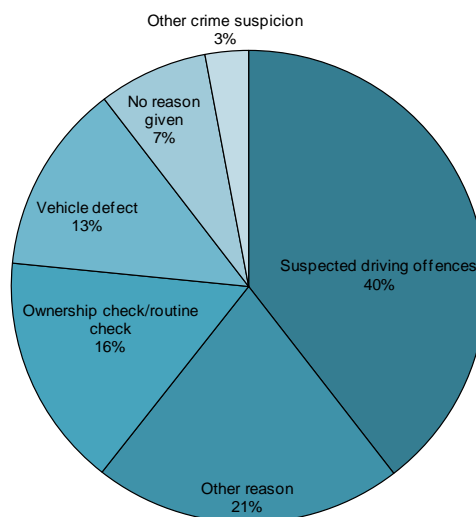
## Findings from surveys

HMIC commissioned an online survey of members of the public, with 10,094 respondents – 7,501 of whom were drivers – to ask about their experience of being stopped in their motor vehicle by officers using the Road Traffic Act power.<sup>66</sup>

The survey found that 47 percent of respondents reported being in a vehicle stopped by the police at some point in their lives, with approximately 5 percent of all respondents saying they had been stopped within the last 12 months as a driver or passenger.

As can be seen in the following chart, respondents were asked to state the reason given by the officer on the most recent occasion they were stopped, within the last two years.

**Reason given for Section 163 stops in the last 2 years\***



Unweighted data

\*When reason remembered: 777 stops in total

The highest proportion of stops was for suspected driving offences, with fewer for ownership checks, routine checks and vehicle defects. It is of some concern that 7 percent of respondents said that no reason was given. A surprisingly large proportion (21 percent) of respondents said that some other reason had been given for the stop. It is not possible to establish from the survey responses what those reasons were, but one possible explanation might involve stops occurring at road traffic collisions.

In the research we carried out to plan this inspection, we heard many people – particularly those in non-government organisations such as StopWatch – express a firmly held view that the use of the Road Traffic Act power to stop vehicles is being

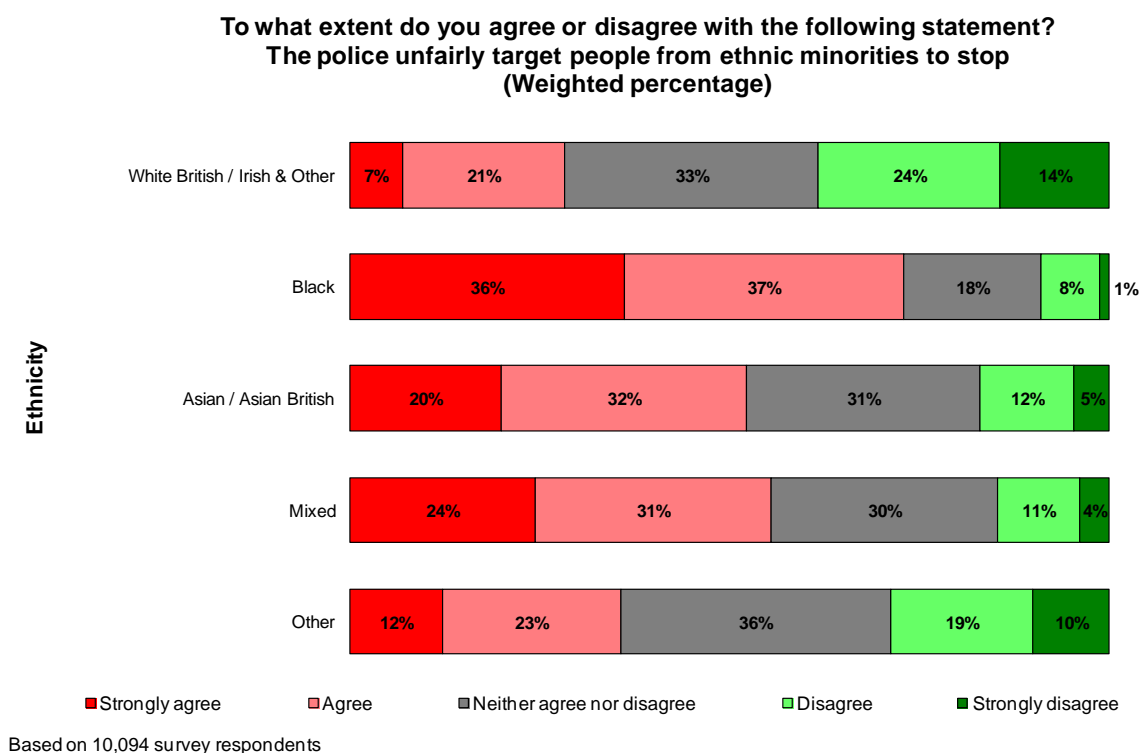
<sup>66</sup> To ensure that the 10,094 sample was not skewed, the sample was weighted to reflect the different sampling probabilities. Where the sub-sample of 7,501 is used, unweighted figures have had to be used.

disproportionately and unfairly used against black and minority ethnic people<sup>67</sup>. As a result, in the survey we asked questions of all respondents (i.e. drivers and non-drivers) about whether or not they thought the use of the Road Traffic Act power was fair and proportionate.

The results showed that there was a clear difference in perception between white and black and ethnic minority respondents when answering the question:

*“To what extent do you agree or disagree with the following statement; the police unfairly target people from ethnic minorities to stop?”*

When all black and ethnic minority responses were grouped together, more agreed than disagreed that ethnic minorities were unfairly targeted. For black respondents, 36 percent strongly agreed and 37 percent agreed that the police unfairly targeted ethnic minorities, with only 9 percent disagreeing. For Asian/Asian British and mixed categories, the response showed over 50 percent of respondents either strongly agreeing or agreeing with the statement.



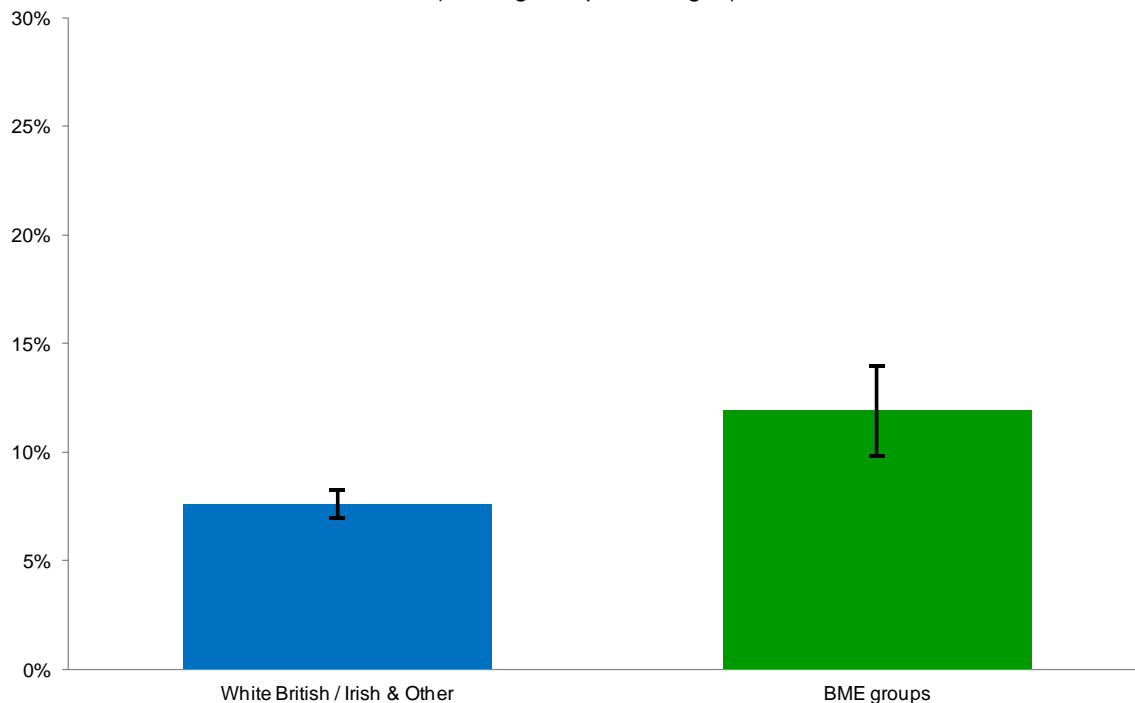
<sup>67</sup> See, for example, *Research and Policy*, StopWatch, [www.stop-watch.org/about-us/stream-of-work/research-policy](http://www.stop-watch.org/about-us/stream-of-work/research-policy)

Of the 7,501 drivers who responded to our survey, 949 were from a black or minority ethnic background. The survey asked drivers to recall whether they had been stopped in the last 2 years.<sup>68</sup>

The survey indicates that 7-8 percent of white drivers who responded were stopped in their vehicles in the last two years compared with 10-14 percent of black and minority ethnic drivers.

The British Crime Survey 2010/11<sup>69</sup> showed that around one in ten people (nine percent) in England and Wales had been in a car or motorcycle which was approached or stopped by the police in the last twelve months<sup>70</sup> (most commonly, so that the police could carry out routine checks on the vehicle or to check ownership).

**Drivers stopped by ethnic group in the last 2 years**  
(Unweighted percentages)



Based on 7,500 respondents who stated their ethnicity

<sup>68</sup> As with any survey, there are limitations in the level of accuracy we can assign to what the results tell us. Our analysis of the results has a 95 percent confidence level. This means that 95 times out of 100 we would expect to see the same result falling within the range quoted. It should also be noted that the sub-sample of drivers is unweighted.

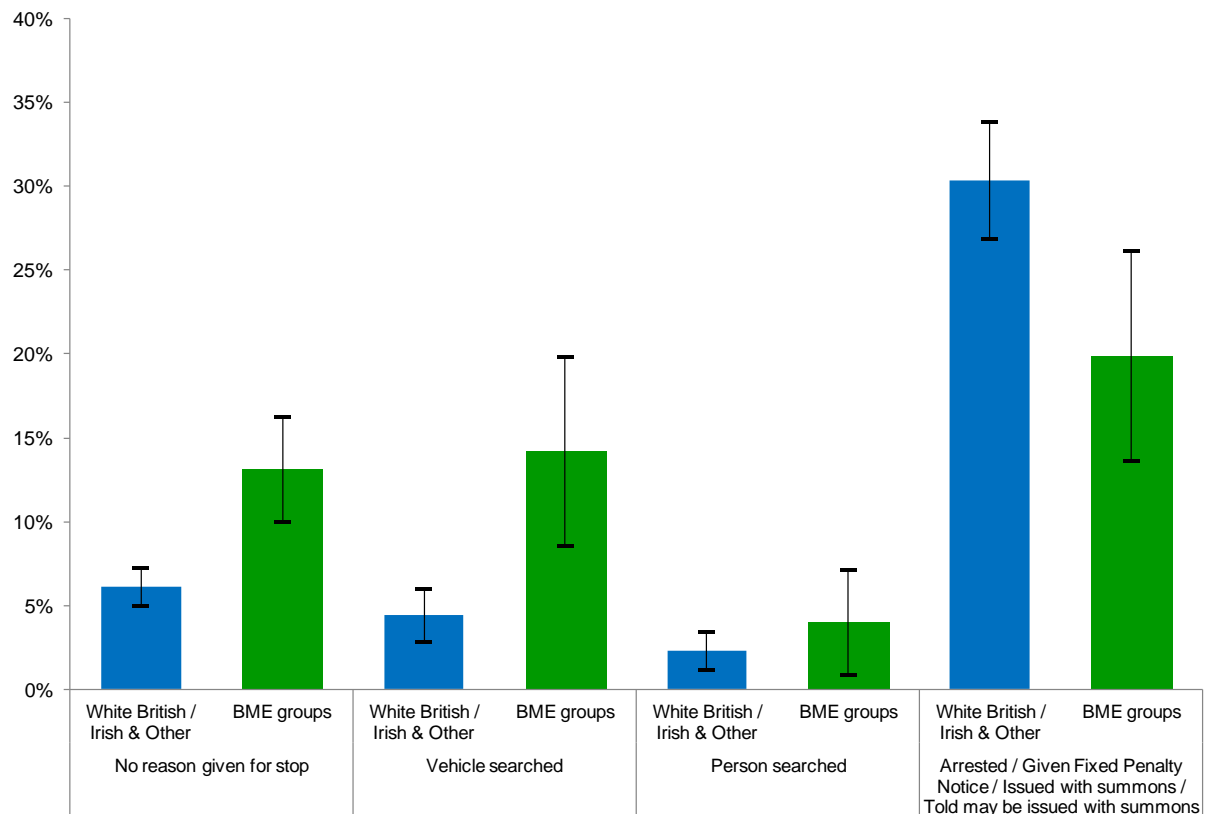
<sup>69</sup> Questions on police stops of people were discontinued in the *British Crime Survey in 2011/12*, see *Home Office Statistical Bulletin 18/11: Perceptions of Crime, engagement with the police, authorities dealing with anti-social behavior and Community Payback: Findings from the 2010/11 British Crime Survey: Supplementary Volume 1 to Crime in England and Wales 2010/11*. Moon D & Flatley J (ed). Home Office, London, November 2011, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/116293/hosb1811.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116293/hosb1811.pdf)

<sup>70</sup> *Home Office Statistical Bulletin 18/11*, Moon D & Flatley J (ed).

Furthermore, our survey revealed that, where the police use the Road Traffic Act power to stop a driver, the way in which he or she will be treated is also likely to be different based upon their ethnicity. The survey suggests that black and minority ethnic drivers are more likely not to be provided with a reason for the stop and are more likely to have their vehicle searched. The survey also suggests that black and minority ethnic drivers may be more likely to experience a person search, but the difference is well within the margin of error.

There have been several similar academic studies in the US. For example, a national survey conducted by the US Department of Justice in 2011 showed that only 2.3 percent of stops of white drivers resulted in a search, while the figures for black and Hispanic drivers were 6.3 percent and 6.6 percent respectively<sup>71</sup>.

**Further details of stops under section 163 over last 2 years**  
(Unweighted percentage of vehicles/drivers stopped)



Based on 611 respondents. 498 were white and 113 were non-white ethnic minority.  
Data is indicative only

Our survey suggests that, when stopped using this power, white drivers are disproportionately more likely than black and minority ethnic drivers to be arrested, given a fixed penalty notice, issued with a summons or be informed of an intended prosecution. This suggests that black and minority ethnic drivers are more likely than white drivers to be stopped in situations where the stop does not result in any prosecution which might suggest that they are more likely to be stopped for no reason.

<sup>71</sup> U.S Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report NCJ 24937: *Police Behavior during Traffic and Street Stops*, Langton, L & Durose M., 2011, [www.bjs.gov/content/pub/pdf/pbtss11.pdf](http://www.bjs.gov/content/pub/pdf/pbtss11.pdf)



# Use of powers to stop vehicles: comparison with the United States

## Recording of vehicle stops

As discussed above, vehicle stops are not routinely documented and reported in England and Wales unless it results in a further law enforcement action (for example a search, breath test, warning, fixed penalty notice or arrest).

However, in our international comparison we found that there are some jurisdictions in the US which have ruled that all incidents where law enforcement officers use powers to stop vehicles must be documented. The issues of fairness and of racial profiling in traffic stops have been among the most controversial issues in US law enforcement in recent years.

In the US, the Traffic Stops Statistics Bill was introduced into Congress in 1997. This would have provided for the collection of data on traffic stops, including the race of the driver and whether and why a search was performed<sup>72</sup>. Under this legislation, a robust nationwide annual report on the data would then have been published by The United States Attorney General, in order, primarily, to determine whether racial profiling was occurring. However, the bill failed to pass Senate and similar subsequent federal bills have failed to be passed into law.

Although there is still not a national requirement for law enforcement agencies to record traffic stop data, since 2000 many states have considered the introduction of similar laws. There are also eight states that have taken the step to mandate all law enforcement agencies to record traffic stop data: Missouri, Illinois, Maryland<sup>73</sup>, Rhode Island, Nebraska, North Carolina, South Carolina and Connecticut.

As concerns about potential racial profiling were the primary driver for legislation, the one common feature across the eight statutes is a requirement for race and/or ethnicity data to be recorded.<sup>74</sup>

Outside these eight states, an unknown number of other US law enforcement agencies collect traffic stop data. Many of these, like San Francisco, began recording stops voluntarily.

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<sup>72</sup> United States. *H.R. 118 - Traffic Stops Statistics Study Act of 1998* [introduced in the House; 1 July 1997], Congressional House. 105<sup>th</sup> Congress, [http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp105dq0gC&r\\_n=hr435.105&dbname=cp105&&sel=TOC\\_1&](http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp105dq0gC&r_n=hr435.105&dbname=cp105&&sel=TOC_1&)

<sup>73</sup> Maryland statute states that recorded traffic stops should exclude those generated from the use of radar or laser guns, by VASCAR technology, or by license plate recognition readers. These are presumed not to be influenced by any officer bias.

<sup>74</sup> The issue of racial profiling and the difficulties in assessing the fairness of traffic stops is discussed below, at page 60

Some, including Philadelphia, started recording as part of legal settlements with the American Civil Liberties Union while others, such as Pittsburgh, were ordered to start recording as part of federal consent decrees.

### **Volume of vehicle stops**

It is clear, therefore, that Britain is not alone in finding it difficult to measure the volume of vehicle stops each year because of the absence of a national recording requirement. However, the 2010/11 British Crime Survey<sup>75</sup> did examine this issue and showed that around one in 10 people (9 percent) in England and Wales had been in a car or motorcycle which was approached or stopped by the police in the last twelve months<sup>76</sup>.

There was a similar (but not directly comparable) survey conducted in the United States in 2011. The Police-Public Contact Survey, a supplement to the National Crime Victimization Survey, found that “*ten per cent of the 212.3 million U.S. drivers age 16 or older were stopped while operating a motor vehicle during their most recent contact with police*”<sup>77</sup>.

### **The fairness of vehicle stops**

As our inspection has revealed, there has been no attempt by police forces in England and Wales to determine the fairness of the application of vehicle stop powers. There are, however, concerns voiced by some academics and non-government organisations that black and minority ethnic drivers are stopped disproportionately when compared to white drivers.

In the United States, the issues of fairness and of racial profiling in traffic stops have become been among the most controversial issues in United States law enforcement in recent years, but the question of whether these are actually occurring is subject to significant ongoing academic and political debate. The scale of the challenge inherent in determining whether such racial profiling exists can be summarised thus:

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<sup>75</sup> *Questions on police stops of persons were discontinued in the British Crime Survey in 2011/12, see Home Office Statistical Bulletin 18/11: Perceptions of Crime, engagement with the police, authorities dealing with anti-social behavior and Community Payback: Findings from the 2010/11 British Crime Survey: Supplementary Volume 1 to Crime in England and Wales 2010/11*, Moon D & Flatley J (ed.), London: Home Office, November 2011, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/116293/hosb1811.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116293/hosb1811.pdf)

<sup>76</sup> *Home Office Statistical Bulletin 18/11*, Moon D & Flatley J (ed).

<sup>77</sup> *U.S Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report NCJ24937: Police Behavior during Traffic and Street Stops, 2011*, Langton, L & Durose M. Washington DC: US Department of Justice, September 2013, page 3, [www.bjs.gov/content/pub/pdf/pbtss11.pdf](http://www.bjs.gov/content/pub/pdf/pbtss11.pdf)

*“Studying bias-based policing presents great challenges for researchers. Even researchers with tremendous resources have a hard time coming to definite conclusions. All data collection processes used thus far have flaws. No method of establishing a baseline is exact or without problems either in implementation or for purposes of analysis. Even if the data collection and baseline problems could be easily resolved, effectively isolating racial bias as the primary cause of disparate stop rates, stop dispositions, search rates and rates of the use of force is very difficult.”<sup>78</sup>*

It is now commonly accepted among social scientists in the US that analysis of stops should occur at local level. Conducting analysis on this level enables analysts to consider causality variables including calls for service, deployment, crime rates and socioeconomic factors.<sup>79</sup>

Analyses are also frequently undertaken in the US comparing the disparity in the rates of traffic stops resulting in searches. For example, a 2011 study of traffic stops forms completed by police officers across North Carolina over 11 years showed that black and Hispanic drivers stopped in the state were more than twice as likely to be searched than white counterparts. It also found that, “*Blacks and Hispanics are systematically searched at much higher rates than Whites, given stops for the same purpose*”<sup>80</sup>, for example, where vehicles were stopped for seatbelt violations, black drivers were 223 percent more likely to be searched than white drivers.<sup>81</sup>

Another study in Connecticut echoed these findings by highlighting that of 360,000 traffic stops undertaken in the 7 months to 31 May 2014, searches were twice as likely to occur where black drivers had been stopped than was the case where the driver was white<sup>82</sup>. This racial disparity appears to be a national phenomenon with the US Department of Justice Bureau of Statistics reporting that its national survey showed only 2.3 percent of stops of white drivers resulted in a search, while the figures for black and Hispanic drivers were 6.3 percent and 6.6 percent

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<sup>78</sup> *Bias-Based Policing: a Literature Review*, Miller, C et al., New Mexico Sentencing Commission, September 2007, <http://nmsc.unm.edu/reports/2007/Bias%20Based%20Lit%20Review.pdf>

<sup>79</sup> *By the numbers: A guide for analysing race data from vehicle stops*. Fridell, L., Community Orientated Policing Services, US Department of Justice: Washington DC. [www.justice.utah.gov/Documents/Research/Race/PERF%20by%20the%20Numbers.pdf](http://www.justice.utah.gov/Documents/Research/Race/PERF%20by%20the%20Numbers.pdf)

<sup>80</sup> *North Carolina Traffic Stop Statistics Analysis Final Report To The North Carolina Advocates For Justice Task Force On Racial and Ethnic Bias*. Baumgartner, F and Epp, C. University of North Carolina: Chapel Hill. February 1, 2012, [www.unc.edu/~fbaum/papers/Baumgartner-Traffic-Stops-Statistics-1-Feb-2012.pdf](http://www.unc.edu/~fbaum/papers/Baumgartner-Traffic-Stops-Statistics-1-Feb-2012.pdf)

<sup>81</sup> *ibid.*

<sup>82</sup> *Connecticut takes a deep look at racial profiling in traffic stops*. Pazniokas, M., The CT Mirror, 11 September 2014, The Connecticut News Project: Hartford, <http://ctmirror.org/connecticut-takes-a-deep-look-at-racial-profiling-in-traffic-stops/>

respectively<sup>83</sup>. However, the department explicitly distanced itself from suggesting that these disparities were indicative of racial profiling, stating, “*These differences and similarities in enforcement practices by race or Hispanic origin of the driver and officer may be related to the reason for the traffic stop or other factors and do not necessarily reflect biased or unbiased treatment.*”<sup>84</sup>

## **How effectively and fairly do police community support officers use their powers to search for and seize alcohol and tobacco?**

The consultation we carried out to help us plan the scope of this inspection led us to believe that the public, and young people in particular, would expect us to examine how fairly and effectively PCSOs use the powers they have to search for and seize alcohol and tobacco from young people under the Police Reform Act 2002.

The Police Reform Act 2002 enables forces to designate PCSOs with the power to seize alcohol from any person they reasonably suspect to be in possession of it, who is under the age of 18 and in a public place or place to which the person has gained unlawful access<sup>85</sup>. It also allows forces to designate PCSOs with the power to seize tobacco from any person under 18 they find smoking in a public place<sup>86</sup>. In order to discharge these powers effectively, the Police Reform Act provides PCSOs with the power to search for the items if they reasonably believe the person is in possession of them<sup>87</sup>. Police forces have a choice whether or not to designate these powers to their PCSOs.

HMIC asked all forces to provide a self-assessment of their use of the Police Reform Act 2002 powers to establish if they were making effective and fair use of these. We undertook further testing in this area while conducting fieldwork in the nine forces chosen for the inspection.

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<sup>83</sup> *U.S Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report NCJ24937: Police Behavior during Traffic and Street Stops*, 2011, Langton, L & Durose M. Washington DC: US Department of Justice, September 2013, page 3, [www.bjs.gov/content/pub/pdf/pbtss11.pdf](http://www.bjs.gov/content/pub/pdf/pbtss11.pdf)

<sup>84</sup> *ibid.*

<sup>85</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 6 [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

<sup>86</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7 [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

<sup>87</sup> *Police Reform Act 2002*, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7A [www.legislation.gov.uk/ukpga/2002/30/schedule/4](http://www.legislation.gov.uk/ukpga/2002/30/schedule/4)

## **Findings from force self assessment**

HMIC found from the self-assessments that very little work had been done by forces to understand how effectively and fairly PCSOs used the Police Reform Act powers to search for and seize alcohol and tobacco.

Twenty nine forces told us that they had a policy in place for the seizure of alcohol, 24 had a policy for the seizure of tobacco and 12 forces reported that they had a senior officer responsible for the oversight of Police Reform Act powers.

Only six forces reported that they collected, recorded and used information to assess how well their PCSOs used the Police Reform Act powers. Only three forces had conducted audits to determine whether or not their use of the Police Reform Act powers was effective.

As with the use of the Road Traffic Act power, this lack of oversight at the senior level of police forces was replicated on the frontline. Only 14 forces reported that they had a requirement for supervisory oversight of the use of Police Reform Act powers.

## **Findings from fieldwork 2015**

In interviews, focus groups and visits to stations we found that the way PCSOs used the Police Reform Act powers to search for and seize tobacco and alcohol varied considerably. One force had taken the decision not to designate its PCSOs with these powers and in another we found the power was very rarely used.

Of those forces visited where PCSOs did use these powers, we found that a recording system, similar to that in place for the use of stop and search powers, existed. However, this is where the similarity ended. There was much less supervision by sergeants of the way the powers were being used than is the case for stop and search.

We believe that part of the reason for this is the fact that the power can only be used by PCSOs, meaning that sergeants have no experience of using it themselves (unless they had been a PCSO before becoming a constable) and therefore lack the knowledge and confidence to check properly the work of the PCSOs.

## **Part 2 conclusion**

In Part 2 of this inspection, we experienced severe difficulties in obtaining sufficient information from forces to assess how efficiently and fairly officers use the Road Traffic Act power to stop vehicles and the Police Reform Act powers to search for and seize alcohol and tobacco.

Also, unlike the situation with stop and search, forces do not have in place policies that guide officers about how to use the Road Traffic Act power effectively and fairly. Oversight of the Police Reform Act power is better, with over half of all forces having a policy in place. However, for both powers, too few forces show any commitment to collecting information and using this to oversee their effective and fair use.

As highlighted in our 2013 report, members of the public do not always differentiate between being stopped and searched under powers governed by Code A or being stopped by officers using the Road Traffic Act and Police Reform Act powers. Equally, the police officers and PCSOs who use these powers do not have the benefit of the clear guidance on how to use them that Code A provides for the use of the main stop and search powers.

We know that the power to stop and search is used by the police in England and Wales on more than one million occasions each year because police forces are required<sup>88</sup> to make records of each stop and search encounter. However, we do not have sufficient recorded data to be able to establish how many times the powers to stop vehicles and to stop young people to search for and seize alcohol and tobacco are used each year. The last estimate of this was provided from the 2010/11 British Crime Survey which found that 9 percent of adults in vehicles were stopped that year.

Both these powers have a disproportionate impact on specific groups of people; the Police Reform Act power because it can only be used on young people, and the Road Traffic Act power because our survey and international studies, predominately from the United States, indicate a disproportionately high use on black and minority drivers.

It therefore does not follow that these powers should not have associated with them a national requirement to record each occasion when they are used – as is the case for stop and search. It is certainly the case that many people assume that being stopped by a police officer when they are in their car has the same status as being stopped and searched when, in fact, the level of scrutiny and accountability that the officer is under is significantly less than is the case for stop and search.

However, as the officers we spoke to pointed out, the power to stop vehicles can be used in a wide variety of situations including stopping cars to protect the scene of road traffic collision. Officers are concerned about the unnecessary bureaucracy that a requirement to record stops in such situations would cause, and about the impact that this would have on their efficiency and effectiveness.

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<sup>88</sup> *Police and Criminal Evidence Act 1984*, Code A, paragraph 4.3

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/117611/pace-code-a-2011.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/117611/pace-code-a-2011.pdf)

We do not think that anyone has concerns about the fact that no record is made of a police officer stopping vehicles at the scene of a collision, but this is not the only situation in which the Road Traffic Act power is used. Currently, it can be used to stop a motor vehicle for any reason the officer might have - without any suspicion of wrongdoing, and without any record being made of it.

Officers correctly point out that the mandatory requirement to record stop and account has been reduced to a discretionary one to reduce bureaucracy. This point is then used to further the argument that recording Road Traffic Act stops would be seen as a regressive step.

This viewpoint has a fundamental flaw. It ignores the fact that the police are still required to record stop and search encounters, and that forces are expected to use their discretion to require stop and account encounters to be recorded when there are concerns that officers are acting in a way that has a disproportionate effect on one or more communities<sup>89</sup>. There is no requirement to record Road Traffic Act stops, even if there are concerns about the disproportionate effect it has on communities. In any case, it is difficult to see how forces would be able to assess levels of disproportionality if they do not know anything about who is being stopped in any particular situation because no records are made.

Our survey of over 10,000 members of the public raises serious concerns about there being no requirement to record these stops. It tells us that:

- over 50 percent of black and minority respondents (drivers and non-drivers) thought the police unfairly target ethnic minorities to stop;
- a higher proportion of black and minority ethnic drivers than white drivers who responded reported being stopped;
- when they were stopped, black and minority people were treated differently. They were more likely not to be provided with a reason for the stop, more likely to have their vehicle searched and may be more likely to be subject of a person search; and
- the outcomes were also different with stops of black and minority drivers less likely to result in a prosecution than stops of white drivers.

The absence of reliable data about the use of the Road Traffic Act and Police Reform Act powers has meant that forces cannot demonstrate to us that they are using these powers effectively and fairly.

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<sup>89</sup> *Police and Criminal Evidence Act 1984, Code A, note 22A, "where there are concerns which make it necessary to monitor any local disproportionality, forces have discretion to direct officers to record the self-defined ethnicity of persons they request to account for themselves in a public place or who they detain with a view to searching but do not search."*

## Recommendations

Recommendations relating to the use of the Road Traffic Act power to stop motor vehicles and the Police Reform Act powers to search for and seize alcohol and tobacco from young people:

- 3. Within twelve months, chief constables and the College of Policing should agree and implement a set of minimum recording standards for the police use of the Road Traffic Act 1988 power to stop motor vehicles and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people for the purpose of assessing their effective and fair use;**
- 4. Within twelve months, the Home Office should establish a requirement for sufficient data to be recorded and published in the Annual Data Requirement to allow the public to assess how effective and fair the police are when they use these powers.**
- 5. Within twelve months, the Home Office should incorporate the Road Traffic Act power to stop motor vehicles and the Police Reform Act Powers to search for and seize alcohol and tobacco into Code A, so that officers are provided guidance about how they should use these powers in the same way that Code A provides guidance about stop and search powers.**
- 6. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how officers should use the Road Traffic Act 1988 power to stop motor vehicles and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people in a way that is effective and fair.**



## Part 3: Searches involving removal of more than an outer coat, jacket or gloves.

As part of this inspection, HMIC was commissioned by the Home Secretary to examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.

Code A<sup>90</sup> informs police officers how to conduct stop and search encounters, and makes certain distinctions about what clothing can be removed and where searches can take place. The following extracts from Code A describe what can and cannot be done in relation to the removal of clothing during a search.

- *“There is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves, except under section 60AA of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity).”<sup>91</sup>*
- *“Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby. Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.”<sup>92</sup>*

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<sup>90</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

<sup>91</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraphs 3.5, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)









<sup>92</sup> Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraphs 3.6., [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf)

- *“Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).<sup>93</sup>*

In effect, Code A specifies three levels of search that are characterised by their increasing level of intrusiveness. The most intrusive search is often referred to as a strip search, although the code does not use this term and describes these searches as exposure of intimate parts of the body. For ease of reference we will hereinafter refer to these as strip searches. The following tables summarise the levels of searches contained within Code A.

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<sup>93</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A paragraphs, 3.7, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

	<b>On the Street</b>	<b>Out of public view, for example a police van</b>	<b>Out of public view, in a police station or other location, not a police vehicle</b>
<b>A search involving no removal of clothing other than, an outer coat, jacket or gloves.</b>	 Any sex of police officer can search.	 Any sex of police officer can search.	 Any sex of police officer can search.
<b>A search involving more than removal of an outer coat, jacket or gloves but not revealing intimate parts of the body</b>		 Police officer must be of same sex as person being searched.	 Police officer must be of same sex as person being searched.
<b>A search involving more than the removal of an outer coat, jacket or gloves which exposes intimate parts of the body</b>			 Police officer must be of same sex as person being searched.

While Code A stipulates that there is only a power to require the removal of more than an outer coat, jacket or gloves out of public view, the guidance notes that accompany the code provide the officer with the opportunity to ask the person voluntarily to remove more than an outer coat, jacket or gloves within public view.<sup>94</sup> However it does not give any further guidance about how this should be conducted and we have concerns about how informed any consent would be if the person being searched is not aware of the rules within which the officers have to work.

## **A review of powers in other countries to conduct searches involving the removal of more than outer clothing**

The USA also has three levels of searching:

- Frisk - A frisk constitutes a quick pat down of outer clothing, "*limited in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden instruments for the assault of the police officer*"<sup>95</sup>. It can be conducted in public and does not require any specific authorisation
- Search - A search is defined as going further than a frisk, but not revealing intimate parts of the body. This could include asking a subject to remove their shoes or hat, or a male subject to remove his shirt. This is, usually, not permitted where the subject has not been arrested
- Strip search - A strip search is defined as a search that exposes intimate parts of the body. Such searches have been described in US legal rulings as a "*serious intrusion upon personal rights*" and "*an invasion of personal rights of the first magnitude*"<sup>96</sup> This is not usually permitted where the subject has not been arrested.

The main statute enshrining officers' powers of stop and search in Australia (the equivalent of Police and Criminal Evidence Act 1984 in England and Wales) is the Criminal Investigation Act 2006<sup>97</sup>.

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<sup>94</sup> *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, Notes for Guidance 7, [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/384122/PaceCodeAWeb.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf).

<sup>95</sup> *Terry v Ohio*, [www.law.cornell.edu/supremecourt/text/392/1](http://www.law.cornell.edu/supremecourt/text/392/1)

<sup>96</sup> *Chapman v. Nichols*, 989 F. 2d 393 – 1993, <http://openjurist.org/989/f2d/393/chapman-v-nichols-beaver>

<sup>97</sup> As in England and Wales, there is also other legislation that confers stop and search powers.

This act permits officers to conduct either a basic search or a strip search without a warrant if an officer reasonably suspects that a person has in his or her possession, or under his or her control, anything relevant to an offence.<sup>98</sup>

The definition of a strip search differs from that in England and Wales. In Western Australia, an officer is permitted to remove the person's headwear and footwear, as well as outer clothing (such as a coat or jacket) and gloves as part of the basic search<sup>99</sup>.

### **Findings from force self-assessment**

While most forces (41) have a specific policy or guidance regarding the use of stop and search powers, fewer than half of forces (18) reported that they provided guidance about stop and searches where there is a need to remove more than a person's outer coat, jacket or gloves, including strip searches.

When asked to provide information about searches conducted involving the removal of more than outer clothing, only four forces were able to provide any information. The other 40 forces provided us with no information about these highly intrusive searches – including strip searches. We are not able to report, with any accuracy, how often officers conduct more intrusive searches on the street and are not able to report how many strip searches, in total, are conducted by officers.

In a separate 2015 HMIC inspection of the welfare of vulnerable people in custody<sup>100</sup>, the numbers of strip searches that took place after arrest (as opposed to the 'pre-arrest' searches that are the subject of this inspection) were examined. The inspection found:

*“as well as being disproportionately represented in the custody population, people from African-Caribbean backgrounds were also more likely to be strip searched once in custody. While making up 9 percent of the total number of people detained in police custody, 17 percent of those strip searched in the forces inspected belonged to this ethnic group. From those forces able to provide the data, this disparity was true in all but one force.*

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<sup>98</sup> Western Australia: *Criminal Investigation Act 2006*, s 68, [www.austlii.edu.au/au/legis/wa/consol\\_act/cia2006243/s68.html](http://www.austlii.edu.au/au/legis/wa/consol_act/cia2006243/s68.html)

<sup>99</sup> Western Australia: *Criminal Investigation Act 2006*, s 63 [www5.austlii.edu.au/au/legis/wa/consol\\_act/cia2006243/s63.html](http://www5.austlii.edu.au/au/legis/wa/consol_act/cia2006243/s63.html)

<sup>100</sup> *The welfare of vulnerable people in police custody*, HMIC, March 2015, pg 89 [www.justiceinspectors.gov.uk/hmic/wp-content/uploads/the-welfare-of-vulnerable-people-in-police-custody.pdf](http://www.justiceinspectors.gov.uk/hmic/wp-content/uploads/the-welfare-of-vulnerable-people-in-police-custody.pdf)

*In our report on the welfare of vulnerable people in police custody, we concluded that police forces were at “considerable risk of discriminatory strip search practices.”<sup>101</sup>*

We are unable to calculate the number of strip searches that take place prior to an arrest being made as almost no police forces record this. This is a very serious situation as it does not allow for a proportionate and necessary level of scrutiny of these very intrusive searches.

### **Findings from fieldwork**

Consistent with the results of the self-assessments, we had great difficulty in our fieldwork in identifying what searches had taken place that required more than a person’s outer coat, jacket or gloves to be removed. While forces are recording what the purpose and grounds of a search are, the vast majority are not recording when an outer coat, jacket or gloves are removed and, in those forces where records are kept, they provide an incomplete and confused picture.

It is very worrying to us that the leaders and supervisors of officers using stop and search powers do not know, as a matter of course, when their officers are conducting or have conducted more intrusive searches. The levels of scrutiny and accountability that one would expect to find when a person has his or her clothing removed during a stop and search encounter appears to be very weak indeed – even for strip searches.

In the forces that did have records of the removal of clothing, none could provide more than a partial picture of the extent to which officers removed more than outer clothing or conducted full strip searches.

For example, in one of the forces we visited, there was a system for recording strip searches that had taken place at a police station. However, the force had no records of strip searches that were conducted in a place other than a police station, or of searches that required the removal of more than an outer coat, jacket or gloves but which fell short of a strip search. When we examined if leaders in this force used the information they got from their records, we were disappointed to find that these records were sent to a different department to the one that deals with stop and search records in general, and were not subject to any analysis. This meant that the force was unable to provide the actual number of strip searches conducted in the previous year. Furthermore, the leaders in that force were not provided with any information about these records.

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<sup>101</sup> *ibid*

In another force we visited, we found that, one month before our visit, a new system to record strip searches was introduced. However, this system did not record those searches that required the removal of more than a person's outer coat, jacket or gloves but which fell short of a strip search.

We also inspected a force that included a tick-box on its stop and search form to record whether more than a person's outer coat, jacket or gloves had been removed, and a further tick-box to record if this involved a strip search. These more intrusive searches were not examined with any additional scrutiny by the force but were considered together with all searches.

The remaining six forces we visited had no process for recording which stop and search encounters involved the removal of more than an outer coat, jacket or gloves.

We found that it was too often the case that senior officers had no knowledge or oversight of the searches conducted by their officers involving the removal of more than outer clothing. Even where there was some partial recording, mostly in cases where strip searches were conducted in police stations, there was little evidence of any oversight of the use of this very intrusive power.

When we explored with senior officers how they provided oversight of searches involving the removal of more than outer clothing, we were surprised when some told us that they did not believe that the need for this type of search exists. They told us that it is preferable for officers instead to arrest a person and then conduct a search using post-arrest powers at the custody suite as these have the additional safeguard of an authorisation by a supervisory officer.

In contrast to the views of their senior officers, frontline officers told us that they did indeed conduct searches involving the removal of more than outer clothing, usually when they were searching for drugs that can easily be hidden on the body. When we tested the knowledge of officers about what items of clothing could be removed in public view, 93 percent of them provided the correct answer.

From the evidence we gained during our field work, and from what forces told us, it is clear that these highly intrusive searches, including strip searches, are happening without the proportionate and necessary levels of supervision and scrutiny that they deserve.

We also found a high level of inconsistency and ambiguity among officers in and across forces about how these searches should be conducted. The question of where a strip search should be conducted received many different answers. One force was clear that strip searches should not be conducted in a custody suite, but rather in rooms designated for this purpose; in other forces, officers were directed to conduct strip searches in custody suites.

Even in those forces, it was not always clear if details of the search should be entered onto the custody computer system or if the custody sergeant should have any part in deciding whether there were sufficient grounds for the strip search to take place (as he or she would do in the case of someone brought to the custody suite under arrest).

The very apparent confusion about how officers should conduct strip searches was compounded by the fact that officers told us that they do not receive any training or other professional development about how to conduct these very intrusive searches.

### **Findings from surveys**

From our survey of police officers, we found that 355 of the 980 constables (36 percent of respondents) and 174 of the 775 sergeants (22 percent) who responded to this part of the survey stated that they had conducted a search that involved more than the removal of an outer coat, jacket or gloves in the past month. 150 constables (15 percent) and 66 sergeants (8 percent) also said they had conducted a strip search that resulted in the exposure of intimate parts of the body in the past month.

It is not possible to estimate from these responses how many searches in total take place that involve the removal of more than an outer coat, jacket or gloves. However, the responses to our survey would suggest that these searches are carried out in such numbers as to demand rigorous oversight.

The survey provides interesting results on the locations in which officers stated that they would conduct searches. Of the 2,298 constables and sergeants who responded, 1,475 (64 percent) stated that they would remove more than an outer coat, jacket or gloves on the street, but without exposing intimate parts of the body, with the consent of the person. 151 officers said that they would conduct a search, with the consent of the person, that exposed intimate parts of the body in either a police vehicle or on the street.

However, 133 officers (6 percent) reported they would conduct a search on the street which involved the removal of more than an outer coat, jacket or gloves, without the consent of the person, and 66 (3 percent) said they would conduct a strip search in either the street or a police vehicle without the consent of the person being searched. We are concerned about the number of officers who said they would conduct these searches without consent in breach of Code A.

The survey also asked officers to recall the most recent occasion involving a search which exposed intimate parts of the body. Thirty-six (3 percent) of respondents said the officers present were of a different sex to the person being searched. Code A is explicit in stating that when a search is carried out that exposes intimate parts of the body; the searching officers must be of the same sex. This again suggests that Code A is being breached by officers.



## Part 3 conclusion

HMIC cannot judge if searches that require the removal of more than an outer coat, jacket or gloves are lawful, necessary and appropriate as it is not possible to separate them from stop and search encounters that do not involve the removal of such clothing. As a result, it is also not possible accurately to establish the volume of such searches, or whether or not they are used proportionately across all protected characteristics.

Our fieldwork found that some senior officers we spoke to told us that they did not believe that the need for this type of search exists. They told us that it is preferable for officers instead to arrest a person and then conduct a search using post-arrest powers at the custody suite which include the additional safeguard of an authorisation by a supervisory officer.

However, the results of our survey of officers indicate that a sizeable number of searches involving the removal of more than an outer coat, jacket or gloves, and strip searches, are taking place each month in forces across England and Wales; for example, 36 percent of the constables who responded had conducted a search that involved more than the removal of an outer coat, jacket or gloves, and 15 percent had conducted a strip search in the past month.

The power for a police officer to stop a member of the public in the street and search them is an intrusive one. The power to conduct a search that involves the removal of clothing that exposes the intimate parts of a person's body is extremely intrusive.

HMIC would expect the level of scrutiny that takes place in relation to stop and search encounters to increase in line with the level of intrusiveness. However, this is not the case. Very few forces could provide us with the number of stop and search encounters that involved the removal of more than an outer coat, jacket or gloves, or the number of those that involved a strip search. This means that forces are carrying out no additional scrutiny of these very intrusive searches than they carry out for searches that do not involve the removal of clothing.

Without records of searches involving the removal of more than outer clothing, we cannot provide any assurance to the public that the way the police carry out these searches is lawful, necessary and appropriate. In fact, the opposite is true. Some officers who responded to our survey told us that they carried out searches involving the removal of more than outer clothing in a way that breaches the statutory code of practice that governs the use of this very intrusive power.

The absence of good record keeping also means that forces do not have the information they need to identify officers who may require additional training or advice, or cases where there is misconduct.

In most forces, there is no guidance or training provided to officers about how they should conduct stop and search encounters that involve the removal of more than an outer coat, jacket or gloves. This has led to confusion about how and where these searches should be conducted. We are concerned that the lack of training and guidance allows different interpretations by officers of how these searches should be carried out.

Perhaps most concerning of all is the fact that there is no system for recording when children are strip searched or searched in a way that involves the removal of more than an outer coat, jacket or gloves. We were not, therefore, able to examine how well these searches are carried out. Nor were we able to examine to what extent there might be discrimination in relation to race and other grounds such as gender, disability, sexual orientation, age, and religion or belief.

We know from government statistics<sup>102</sup> that black and Asian people are disproportionately more likely to be stopped and searched (under section 1 Police and Evidence Act 1984) than white people and, if searches involving the removal of more than outer clothing were distributed equally (without good data we do not know whether this is true), black and Asian people would be disproportionately more likely to be subjected to these searches too.

This all suggests that forces may not be complying fully with the requirements of the public sector equality duty<sup>103</sup> which requires them to have due regard to the need to eliminate unlawful discrimination and promote equality of opportunity, foster good relations and to that end, ensure that they are adequately collecting, analysing and publishing data to demonstrate that they have sufficient information to understand the effect of their work.

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<sup>102</sup> *Statistics on Race and the Criminal Justice System 2012*. Ministry of Justice, November 2013,

<sup>103</sup> *Equality Act 2010*, section 149.

## Recommendations

Recommendations relating to the searches involving the removal of more than an outer coat, jacket or gloves. It is important that these are read in conjunction with Recommendation 2 in HMIC's report, *The Welfare of Vulnerable People in Custody* (2015), about the recording of strip searches of people detained in police custody.

- 7. Within three months, chief constables should require their officers to record all searches which involve the removal of more than an outer coat, jacket or gloves. This record must specify: the clothing that was removed; the age of the person searched; whether the removal of clothing revealed intimate parts of the person's body; the location of the search including whether or not it was conducted in public view; and the sex of the officers present.**
- 8. Within twelve months, the Home Office should incorporate into Code A a requirement for the recording of all searches which involve the removal of more than an outer coat, jacket or gloves and a requirement for officers to seek the authority of a supervising officer before strip searching children.**
- 9. Within twelve months, the Home Office should work with forces to establish a requirement for sufficient data to be published in the Annual Data Requirement to allow the public to see whether or not the way that police conduct searches that involve the removal of more than an outer coat, jacket or gloves is lawful, necessary and appropriate.**
- 10. Within three months, chief constables should put in place a process to report, at least once a year, the information they get from recording searches that involve the removal of more than an outer coat, jacket or gloves to their respective police and crime commissioners<sup>104</sup> and to any community representatives who are engaged in the scrutiny of the use of stop and search powers to help them assess whether these searches are lawful, necessary and appropriate.**
- 11. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how to make sure that searches that involve the removal of more than an outer coat, jacket or gloves are conducted in a way that are lawful, necessary and appropriate.**

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<sup>104</sup> The term "police and crime commissioners" is used as shorthand so as to make reference to police and crime commissioners, the Mayor's Office for Policing and Crime in the Metropolitan Police District and the Common Council of the City of London.

## Summary of recommendations

- 1. With immediate effect, while changes to the Authorised Professional Practice are being considered, the College of Policing should publish a working definition of what constitutes an effective and fair stop and search encounter.**
- 2. Chief constables should, with immediate effect, develop plans that set out how each force will complete the action required to make good progress in relation to the recommendations in HMIC's 2013 report, and publish these plans so that the public can easily see them on their websites. These plans should include the action forces are taking to comply fully with the Best Use of Stop and Search Scheme, initiated in April 2014 by the Home Secretary.**
  - HMIC expects chief constables to use the self assessments they completed as part of this inspection to formulate their plans, alongside any other relevant information. We expect all forces to have completed, or to be making good progress in relation to, the recommended actions by November 2015.**
- 3. Within twelve months, chief constables and the College of Policing should agree and implement a set of minimum recording standards for the police use of the Road Traffic Act 1988 power to stop motor vehicles and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people for the purpose of assessing their effective and fair use;**
- 4. Within twelve months, the Home Office should establish a requirement for sufficient data to be recorded and published in the Annual Data Requirement to allow the public to assess how effective and fair the police are when they use these powers.**
- 5. Within twelve months, the Home Office should incorporate the Road Traffic Act power to stop motor vehicles and the Police Reform Act Powers to search for and seize alcohol and tobacco into Code A, so that officers are provided guidance about how they should use these powers in the same way that Code A provides guidance about stop and search powers.**

- 6. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how officers should use the Road Traffic Act 1988 power to stop motor vehicles and the Police Reform Act 2002 powers to search for and seize alcohol and tobacco from young people in a way that is effective and fair.**
- 7. Within three months, chief constables should require their officers to record all searches which involve the removal of more than an outer coat, jacket or gloves. This record must specify: the clothing that was removed; the age of the person searched; whether the removal of clothing revealed intimate parts of the person's body; the location of the search including whether or not it was conducted in public view; and the sex of the officers present.**
- 8. Within twelve months, the Home Office should incorporate into Code A a requirement for the recording of all searches which involve the removal of more than an outer coat, jacket or gloves and a requirement for officers to seek the authority of a supervising officer before strip searching children.**
- 9. Within twelve months, the Home Office should work with forces to establish a requirement for sufficient data to be published in the Annual Data Requirement to allow the public to see whether or not the way that police conduct searches that involve the removal of more than an outer coat, jacket or gloves is lawful, necessary and appropriate.**
- 10. Within three months, chief constables should put in place a process to report, at least once a year, the information they get from recording searches that involve the removal of more than an outer coat, jacket or gloves to their respective police and crime commissioners<sup>105</sup> and to any community representatives who are engaged in the scrutiny of the use of stop and search powers to help them assess whether these searches are lawful, necessary and appropriate.**

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<sup>105</sup> The term "police and crime commissioners" is used as shorthand so as to make reference to police and crime commissioners, the Mayor's Office for Policing and Crime in the Metropolitan Police District and the Common Council of the City of London.

**11. Within twelve months, the College of Policing should make sure that the relevant Authorised Professional Practice and the stop and search national training curriculum include instruction and guidance about how to make sure that searches that involve the removal of more than an outer coat, jacket or gloves are conducted in a way that are lawful, necessary and appropriate.**

# Annex A: Police survey on police powers to stop and search

## Summary

HMIC ran an online survey between 22 December 2014 and 9 February 2015 to gather the views and experiences of the police. HMIC sent the survey to all police forces in England and Wales (including British Transport Police) with a request that they circulate it to serving officers, staff, PCSOs and special constables.

## Survey methodology

HMIC monitored response rates from forces throughout the duration of the survey. Where response rates were low, HMIC made further requests to the relevant force to make officers and staff aware of the survey and encourage their engagement with it.

HMIC received over 12,000 responses (excluding respondents who stated that they were not working for a police force in England and Wales). HMIC is delighted with the uptake from the majority of police forces, with five percent of the service offering us their view.

## Statistical significance

Because the survey was not designed to be statistically representative, the results need to be considered with the following points in mind:

- Completing the survey was voluntary, so there is a risk that those with biased opinions feature disproportionately.
- HMIC does not know how the survey was promoted by forces or to whom it was sent.
- Response rates varied significantly between forces (between 0.1 percent and 13 percent of the workforce) and
- As with all surveys, we cannot guarantee the integrity of each response. In particular, it is possible some respondents completed it several times or answered untruthfully, including about their involvement with the police.

As such, the results should be taken as indication of what is felt by the police, but are not statistically representative.

# Annex B: Public survey on the police use of stop and search and section 163 of the Road Traffic Act 1988

## Summary

HMIC commissioned YouGov to conduct an online survey of 10,094 respondents aged 17 and over. They were asked to respond to questions about whether they had been stopped while in a motor vehicle under section 163 of the Road Traffic Act. The survey also asked for views about how people felt they were treated by the police during the stop.

## Sampling methodology

To obtain national samples, YouGov took a sub-sample from its respondent panel which was representative of adults in terms of age and gender interlocked, social class, ethnicity and region.

Using 'active sampling', only a selected and invited sub-sample was given access to the questionnaire. YouGov has measures in place to ensure that panellists are not invited to respond to surveys too frequently. Respondents are selected using an automated sampling system that invites respondents based on their profile information. To reduce response bias, the invitation to participate does not contain any language about the subject of the survey.

## Statistical significance

Because surveys are subject to sampling error, differences between estimates for sub-groups may occur by chance. Tests of statistical significance are used to identify which differences are unlikely to have occurred by chance. In this report, tests at the 95 percent significance levels have been applied for this survey (the level at which there is a one in 20 chance of an observed difference being solely down to chance). Any differences reported in the text are significant at this level.

Notwithstanding the limitations of the survey sample design, there are a number of findings from the survey that may be indicative of the views of the given population.



## **Survey methodology**

Given timing restrictions, YouGov's recommendation was that the survey was conducted online. Online surveys benefit from respondent anonymity and the lack of an intermediary interviewer. This typically leads to greater honesty, particularly where the survey relates to past behaviour and real attitudes which could be tempered in a survey administered by another person as the respondent seeks to conform to what is considered 'socially acceptable' or where there are concerns about confidentiality.