

LIBERTY

PROTECTING CIVIL LIBERTIES
PROMOTING HUMAN RIGHTS

**Liberty's response to the Home Office
consultation on extending police stop and
search powers**

October 2018

About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

Liberty Policy

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at
<http://www.liberty-human-rights.org.uk/policy/>

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1. Liberty welcomes the opportunity to respond to the Home Office's consultation on extending police stop and search powers. Liberty recognises the importance of protecting the public from the harm that flows from offences relating to corrosive substances, drones and laser pointers, and supports that aim. However, we are unable to support the extension of stop and search powers at this time and strongly disagree that they should be extended for the investigation or prevention of these offences. The stated purpose of this consultation is to gather views and information as to how effective and proportionate it would be to extend the stop and search powers which presently exist. But given widespread concerns as to how those powers are currently deployed, we do not consider it justifiable to extend those powers unless and until those well-evidenced concerns are investigated and remedied.

2. There currently exists a stark and worrying race disproportionality in police use of existing stop and search powers. Absent decisive action to improve stop and search outcomes, we are gravely concerned that police use of new powers would simply replicate and possibly magnify this race disproportionality, to the detriment of the black and minority ethnic (BAME) communities whose lives are disrupted by disproportionate stop and search, wider police-community relations, and the consequent safety of the public more generally.

3. The 1999 Macpherson Report found that institutional racism was apparent in the country-wide disparity in stop and search figures and reached a core conclusion of racist stereotyping.¹ While stop and search numbers have dropped significantly since that time, government reforms have failed to tackle disproportionality in stop and search, meaning that the remaining use of stop and search is concentrated on BAME communities. You are now eight times more likely to be stopped and searched by police if you are black than if you are white.² This rises to nine times in the case of stops for drugs,³ and 14 times in the case of suspicionless stops under section 60 of the Criminal Justice and Public Order Act 1994.⁴ At the same time, according to a new report by StopWatch, Release, and the London School of Economics, the rate at which stolen or prohibited items are found through stop and search is

¹ The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, February 1999, paragraph 6.45. Available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

² Home Office Statistical Bulletin 20/17, *Police powers and procedures, England and Wales, year ending 31 March 2017*, 26th October 2017.

³ Michael Shiner, Zoe Carre, Rebekah Delsol and Niamh Eastwood, *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, October 2018, pg vi. Available at:

<https://www.release.org.uk/sites/default/files/pdf/publications/The%20Colour%20of%20Injustice.pdf>

⁴ Home Office Statistical Bulletin 20/17, *Police powers and procedures, England and Wales, year ending 31 March 2017*, 26th October 2017.

similar for all ethnic groups,⁵ and in the case of drugs, black people are actually less likely to be found carrying drugs than white people.⁶

4. The impact of discriminatory stop and search on communities is deep and enduring. Earlier this year, research by Dr Patrick Williams with young people on the Metropolitan Police Service's 'Gangs Matrix' found that respondents identified stop and search as "*the catalyst for the onset of their negative relationship with the police.*"⁷ Only last year, the Criminal Justice Alliance spoke to young BAME people with first-hand experience of stop and search. They described feeling harassed, targeted, provoked, and even violated by these coercive encounters.⁸ What also emerges from these interviews is a long-term sense of anger and hostility towards the police. The results of a poll released last year show that 74 per cent of young BAME people believe that those from ethnic minorities are unfairly targeted by stop and search.⁹ They are not alone. The Independent Police Complaints Commission identified stop and search as the leading cause of tension between young people and the police.¹⁰ As David Lammy pointed out in his recent report on the treatment and outcomes for BAME people in the criminal justice system, this drains trust in the whole system.¹¹ It also undermines public safety by making it harder for the police to work effectively in the communities they serve.

The Best Use of Stop and Search scheme (BUSS)

5. The Best Use of Stop and Search scheme (BUSS) was announced by then Home Secretary - Theresa May - in April 2014.¹² BUSS promised greater transparency, community involvement and improved stop and search outcomes. Among the scheme's provisions are requirements to collect more data about stop and search, to monitor its impact on black and minority ethnic groups and involve the community in scrutiny of this sensitive area of

⁵ Michael Shiner, Zoe Carre, Rebekah Delsol and Niamh Eastwood, *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, October 2018, pg vii.

⁶ Michael Shiner, Zoe Carre, Rebekah Delsol and Niamh Eastwood, *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*, October 2018, pg vi.

⁷ Dr Patrick Williams/StopWatch, *Being Matrixed: The (Over)Policing of Gang Suspects In London*, August 2018, pg 6. Available at: http://www.stop-watch.org/uploads/documents/Being_Matrixed.pdf

⁸ Criminal Justice Alliance, *No respect: Young BAME men, the police and stop and search*. Available at: <http://criminaljusticealliance.org/wp-content/uploads/2017/06/No-Respect-290617-1.pdf>.

⁹ Criminal Justice Alliance, *No respect: Young BAME men, the police and stop and search*, pg 20.

¹⁰ See the London Assembly's, *Stop and search: An investigation of the Met's new approach to stop and search*, available at: https://www.london.gov.uk/sites/default/files/14-02-06-Stop%20and%20search%20FINAL_1.pdf.

¹¹ David Lammy MP, *The Lammy Review: An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System*, September 2017, pg 17.

¹² Rt Hon Theresa May, Oral Statement to Parliament, *Comprehensive package of reform for police stop and search powers*, available at: <https://www.gov.uk/government/speeches/stop-and-search-comprehensive-package-of-reform-for-police-stop-and-search-powers>.

policing.¹³ However, BUSS has failed to provide the promised improvements in stop and search outcomes and community monitoring. In addition to a failure to reduce disproportionality, in its latest police effectiveness, efficiency and legitimacy (PEEL) legitimacy inspection report, Her Majesty's Inspector of Constabulary expressed surprise and disappointment that *"a small number of forces have no external scrutiny arrangements at all. Only a minority of forces had very effective and independent groups."*¹⁴

6. BUSS is an administrative exercise without any sanction if forces do not meet standards. Additionally, forces need only demonstrate that they have the provisions of the scheme *in place* and not the quality of those provisions and their outcomes. Forces have failed to take BUSS seriously. Beyond being publicly suspended from a voluntary scheme, there are no repercussions for forces' failure to meet the low standards of this scheme and, if they were suspended, no obvious incentive for them to then meet these standards and re-join. In April 2014, Theresa May promised that if BUSS failed to deliver the necessary results, she would bring forward primary legislation. With race disproportionality in stop and search at its highest in 20 years, it is clear that membership of a voluntary scheme has not driven the desired change.

7. Liberty recommends that the Government introduce a new mandatory scheme aimed at improving stop and search outcomes. A meaningful consultation exercise should be conducted to determine the scope of a revised scheme. As a minimum it should:

- include sanctions for individuals and forces failing to meet prescribed standards
- require recording of traffic stops which target an individual, including ethnicity data and the outcome of a stop¹⁵
- provide for an individual to receive a record of a stop, including the name and badge number of the officer involved
- require forces to collate and publicly share data regarding the use of the traffic stop power
- place a responsibility on police leaders to monitor the use of these powers and involve local communities in that scrutiny, and

¹³ Home Office and College of Policing, *Best Use of Stop and Search Scheme*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf.

¹⁴ HMICFRS, *PEEL: Police legitimacy 2017 A national overview*, December 2017, p.27. Available at: <https://www.justiceinspectorates.gov.uk/hmicfrs/wp-content/uploads/peel-police-legitimacy-2017-1.pdf>.

¹⁵ E.g. a search, an arrest, a complaint. Stops of individuals should be covered as opposed to roadblocks which may see numerous drivers stopped, for example at the scene of an accident.

- require police leaders to scrutinise complaints made by members of the public and their representatives arising from stop and searches to consider patterns of concerns, and for that data to be published in anonymised form.

Far from consulting on proposals to extend stop and search, the Government should instead prioritise decisive action to remedy the long-standing injustice of race disproportionality in police use of existing powers.

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