

POLICE, CRIME, SENTENCING AND COURTS BILL AMENDMENT TO REPEAL S.60 CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994 (SUSPICION-LESS STOP AND SEARCH)

Part 10, Chapter 1 of the Police, Crime, Sentencing and Courts Bill (PCSC Bill) establishes Serious Violence Reduction Orders (SVROs). An SVRO is a civil order that can be imposed on any individual over the age of 18 on the basis of a previous conviction. It can include a range of requirements and prohibitions (such as reporting requirements) that the Secretary of State can expand on by way of regulation. Part 10, Chapter 1 gives a new power to the police to stop and search anyone subject to an SVRO whenever they are in a public place, without needing to form reasonable suspicion of criminal wrongdoing – effectively an individualised, suspicion-less stop and search power.

Given the PCSC Bill's expansion of existing suspicion-less stop and search powers, the Government's recently-announced 'Beating crime plan' that will permanently roll back the existing, minimal safeguards for stop and search (that were created in recognition of the ways that such powers entrench inequality in the criminal justice system),¹² and the Criminal Justice Alliance's (CJA) recently-issued super-complaint against section 60 of the Criminal Justice and Public Order Act 1994 (CJPOA),³ a debate on suspicion-less stop and search powers is extremely timely.

What is Section 60 CJPOA/suspicion-less stop and search?

Unlike other forms of stop and search which require reasonable suspicion, s.60 CJPOA gives the police the power to stop and search people **without reasonable grounds** if it has been approved by a senior police officer and if it is suspected that incidents involving serious violence may take place, an incident involving serious violence has taken place and that a weapon used in the incident is being carried in the area, and/or someone is carrying a weapon in the area.

Multiple policing bodies (including HMICFRS⁴ and the College of Policing⁵) and former police chiefs and frontline officers,⁶ former Prime Minister and Home Secretary Theresa May,⁷ parliamentarians,⁸ and countless community groups⁹ have highlighted issues with s.60 suspicion-less stop and search, including its ineffectiveness, contribution to racial disproportionality and erosion of trust in the criminal justice system.¹⁰

What are the problems with these powers?

1. Suspicion-less stop and search powers are ineffective and liable to misuse.
 - **Does not correlate with less crime:** In 2012, the Metropolitan Police reduced no-suspicion stop and search by 90% and stabbings and shootings fell by a third and 40% respectively.¹¹

¹ Stopwatch (represented by Liberty) is bringing a legal challenge against the Government's announcement that it will relax the BUSSS safeguards for s.60 suspicion-less stop and search.

² UK Government, Beating Crime Plan: Fewer victims, peaceful neighbourhoods, safe country, July 2021, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1015382/Crime-plan-v10.pdf

³ Criminal Justice Alliance, *CJA calls for government to repeal section 60 stop and search power*, 20 May 2021, available at:

<https://www.criminaljusticealliance.org/blog/cja-calls-for-government-to-repeal-section-60-stop-and-search-power/>

⁴ HMICFRS, *Disproportionate use of police powers - A spotlight on stop and search and the use of force*, 26 February 2021, available at:

<https://www.justiceinspectors.gov.uk/hmicfrs/publications/disproportionate-use-of-police-powers-a-spotlight-on-stop-and-search-and-the-use-of-force/>

⁵ College of Policing, *Stop and search: Transparent*, available at: <https://www.app.college.police.uk/app-content/stop-and-search/transparent/>

⁶ ITV News, *Policing bill 'disproportionately impacts black men' and 'exacerbates violence', ex-chiefs warn*, 25 October 2021, available at:

<https://www.itv.com/news/2021-10-25/policing-bill-could-undermine-trust-and-exacerbate-violence-ex-chiefs-warn>

⁷ Home Office and The Rt Hon Theresa May MP, *Oral Statement to Parliament: Stop and Search: comprehensive package of reform for police stop and search powers*, 30 April 2014, available at: <https://www.gov.uk/government/speeches/stop-and-search-comprehensive-package-of-reform-for-police-stop-and-search-powers>

⁸ Liberal Democrats, *Ending suspicion-less Stop and Search: your questions answered*, 17 July 2020, available at: <https://www.libdems.org.uk/stopandsearch-ona>; Lammy, D., *Stop and search is inherently unfair, unjust and ineffectual*, The Guardian, 13 October 2018, available at:

<https://www.theguardian.com/law/2018/oct/13/stop-and-search-is-unjust-unfair-ineffectual-david-lammy>

⁹ See for example: Eugene K., *A sus law by any other name stinks as much*, Stopwatch, 19 March 2021, available at: <https://www.stop-watch.org/news-opinion/a-sus-law-by-any-other-name-stinks-as-much/>; Hackney Account, *Policing in Hackney: Challenges from youth in 2020*, 2020, available at:

<https://static1.squarespace.com/static/5d234a046f941b0001dd1741/t/5f77795b9e2fdb6bf67d3c7d/1601665467995/Final+Draft+-+Report+-+Account+%28Online%29.pdf>

¹⁰ Ali A. and Champion, N. for the Criminal Justice Alliance, *More harm than good - A super-complaint on the harms caused by 'suspicion-less' stop and searches and inadequate scrutiny of stop and search powers - Annex 1: Supporting statements/comments*, May 2021, available at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988390/Annex_1_Supporting_statements_comments.pdf

¹¹ Ibid.

- **Does not result in further action:** In the year ending March 2020, there was a 35% increase in suspicion-less searches compared to the previous year, with a total of 18,081 people stopped and searched. Of those, no further action was taken after the search in 17,383 cases.¹²
 - **A blunt and ineffective tool:** Recent Home Office data shows that, only 13% of ‘suspicion-based’ stop and searches (i.e. not s.60 stop and searches), result in an arrest. It is understood that this figure includes arrests for offences which do not relate to the object of the search (such as ‘assault/ resist/ obstruct PC’, Public Order Act offences, etc.) and so the percentage of these stop and searches that results in an arrest linked to the object of the search will be even lower than 13%. The arrest rate is even lower for suspicion-less stop and searches: in the year ending March 2020, only 4% of s.60 stop and searches resulted in an arrest, and **just 1% of s.60 stop and searches resulted in an arrest for possession of weapons (i.e. the intended object of such searches).**¹³
 - In recognition of the fact that police use of stop and search was liable to be “misused” with the resulting impact of this power being “counter-productive,” “a waste of police time,” and “hugely damaging to the relationship between police and the public,”¹⁴ former Prime Minister and Home Secretary Theresa May brought in the Best Use of Stop and Search Scheme, which are a set of voluntary safeguards to improve police accountability for the use of these powers.
2. **Stop and search, especially s.60 suspicion-less stop and search, is a major contributor of racial disproportionality in the criminal justice system.**
- There are clear racial disparities in standard stop and search under PACE (stop and search with reasonable grounds), resulting from severe bias. As of 2021, **Black people are 9 times more likely to be stopped and searched than white people;** ‘Asian’ people and people of ‘mixed ethnicity’ are 3 times more likely; and ‘other White’ people are twice as likely.¹⁵ Under s.60 CJPOA, the racial disparity is even more acute. When the ‘reasonable grounds’ requirement is removed, **Black people are 18 times more likely to be stopped and searched than white people;** people of ‘mixed ethnicity’ are 4 times more likely; and ‘Asian’ people and ‘other White’ people are 3 times more likely.¹⁶
 - Evidence shows that the overuse and misapplication of stop and search can damage trust and confidence in policing. This undermines efforts to build constructive relationships between the police and Black, Asian and minority ethnic people.¹⁷
3. **Being stopped and search is a traumatic experience.**
- The experience of being stopped and searched can be a mentally and physically traumatising one – for some people, it takes place frequently, even daily.¹⁸
 - Hackney Account – a youth-led social action project – conducted participatory research with young people in Hackney, and found that the practice of stop and search can have “a damaging impact on mental wellbeing, causing feelings of embarrassment, humiliation or anger”.
 - In particular, stop and search can constitute an attack on young people’s dignity: “Whether being stereotyped as a gang member or treated in a dehumanising manner Stop and Search could be seen as a way that *young people are made to feel they do not ‘matter.’*”¹⁹
 - This is further exacerbated by the fact that the police are empowered to use reasonable force to carry out a stop and search if necessary, including using taser, firearms, batons, and handcuffs.

¹² Pg. 10, Ali A. and Champion, N. for the Criminal Justice Alliance, *More harm than good - A super-complaint on the harms caused by ‘suspicion-less’ stop and searches and inadequate scrutiny of stop and search powers*, May 2021, available at: https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search_FINAL.pdf

¹³ Ibid.

¹⁴ Home Office and The Rt Hon Theresa May MP, *Oral Statement to Parliament: Stop and Search: comprehensive package of reform for police stop and search powers*, 30 April 2014, available at: <https://www.gov.uk/government/speeches/stop-and-search-comprehensive-package-of-reform-for-police-stop-and-search-powers>

¹⁵ *No respect: Young BAME men, the police and stop and search*, Peter Keeling, 2017 <http://criminaljusticealliance.org/wp-content/uploads/2017/06/No-Respect-290617.pdf> as at 17 September 2021

¹⁶ Ibid. at fn16

¹⁷ Gov.uk, *The Lammy Review*, 8 September 2017, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

¹⁸ Ali A. and Champion, N. for the Criminal Justice Alliance, *More harm than good - A super-complaint on the harms caused by ‘suspicion-less’ stop and searches and inadequate scrutiny of stop and search powers*, May 2021, available at: https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search_FINAL.pdf

¹⁹ Hackney Account, *Policing in Hackney: Challenges from youth in 2020*, 2020, available at: <https://static1.squarespace.com/static/5d234a046f941b0001dd1741/t/5f77795b9e2fdb6bf67d3c7d/1601665467995/Final+Draft+Report++Account+%28Online%29.pdf>

5. Notwithstanding the extent of racial disproportionality and ineffectiveness of s.60 stop and search, use of these powers is on the rise.
 - Between April and June 2020, stop and search was used 104,914 times, equating to more than 1,100 times a day.²⁰ Home Office data reveals that from 2016/17 to 2019/20 there was a **2800% increase** in the number of people stopped and searched under s.60.²¹
 - As noted by the Criminal Justice Alliance in its recent super-complaint regarding s.60, the proliferation in the use of this tactic, which restricts the liberties of thousands of people each year, *“is highly questionable given the given the very low percentage success rate in finding weapons.”*²²
6. Ultimately, not only is suspicion-less stop and search ineffective and a major contributor to racial disproportionality in the criminal justice system, it may actually be **counterproductive in terms of exacerbating alienation, isolation, and exclusion – and many of the other root causes of serious violence.**

What is the Government doing to address the problems with s.60 suspicion-less stop and search?

In 2019, the Government launched a pilot which removed the BUSSS safeguards for s.60 suspicion-less stop and search. In July 2021, despite failing to publish any assessment of the impact of the pilot, the Government announced its ‘Beating crime plan’, which will permanently relax the BUSSS safeguards. As of the date of publication of this briefing, in spite of a FOI request by the Criminal Justice Alliance and an intervention on the part of the Information Commissioner’s Office, the Government has yet to provide any evidence of why the permanent relaxation of safeguards is necessary and what effects this withdrawal of restrictions has had on racial disproportionality.²³

We are extremely concerned that the Government is trying to reduce transparency and accountability in an area where more scrutiny, rather than less, is needed – including about whether such police powers are proportionate and fundamentally necessary in the first place.

What can be done?

We urge parliamentarians to support Amendment 276 to repeal s.60 CJPOA in the name of Lord Paddick and to put in to speak during this debate.

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²⁰ Beckford, M., *Stop-and-search use in London rose 40% in lockdown, figures show*, The Guardian, 25 August 2020, available at: <https://www.theguardian.com/uk-news/2020/aug/25/stop-and-search-use-in-london-rose-40-in-lockdown-figures-show>

²¹ Ali A. and Champion, N. for the Criminal Justice Alliance, *More harm than good - A super-complaint on the harms caused by ‘suspicion-less’ stop and searches and inadequate scrutiny of stop and search powers*, May 2021, available at: https://www.criminaljusticealliance.org/wp-content/uploads/CJA-super-complaint-into-section-60-and-scrutiny-of-stop-and-search_FINAL.pdf

²² Ibid.

²³ Criminal Justice Alliance, *Government fails to produce evidence behind expansion of stop and search*, 1 November 2021, available at: <https://www.criminaljusticealliance.org/blog/government-fails-to-produce-evidence-behind-expansion-of-stop-and-search/>